

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MOEN INCORPORATED,

CASE NO.

Plaintiff,

JUDGE

vs.

PRICE PFISTER, INC.

**COMPLAINT FOR
PATENT INFRINGEMENT**

Defendant.

DEMAND FOR JURY TRIAL

Plaintiff Moen Incorporated files this Complaint for Patent Infringement against Defendant Price Pfister, Inc. as follows:

THE PARTIES

1. Plaintiff Moen Incorporated (“Moen”) is a corporation organized under the laws of Delaware with its principal place of business at 25300 Al Moen Drive, North Olmsted, Ohio 44070.

2. Moen is the owner by assignment and thereby owns all of the rights and interests in and to United States Patent No. 7,854,401 B2 (“the ‘401 Patent”) entitled “Faucet Wand.”

3. Upon information and belief, Defendant Price Pfister, Inc. (“Price Pfister”) is a corporation organized and existing under the laws of the State of Delaware, having a principal place of business at 19701 DaVinci, Lake Forest, CA 92610-2622.

JURISDICTION AND VENUE

4. This is an action for patent infringement under the patent laws of the United States, Title 35, United States Code.

5. This Court has subject matter jurisdiction under 28 U.S.C. §1338(a).

6. This Court has personal jurisdiction over Price Pfister because Price Pfister has conducted, and does conduct, business within the State of Ohio and the Northern District of Ohio. Price Pfister, either directly, or through its distributors and retailers or others, ships, distributes, offers for sale, sells, and advertises its products in the United States, the State of Ohio, and within this judicial district. On information and belief, Price Pfister has offered to sell and sells faucet wands that infringe one or more claims of the '401 Patent, including but not limited to faucet wands distributed or sold under the names: Avalon, Bixby, Clairmont, Elevate, and Rembrandt, to distributors and dealers located within the State of Ohio and the Northern District of Ohio, including but not limited to The Home Depot and Lowe's Companies, Inc. ("Lowe's"), and through Amazon.com and faucet.com, with the expectation that these products will be purchased by consumers in the Northern District of Ohio. On information and belief, these infringing faucet wands have been and continue to be purchased by consumers in the Northern District of Ohio at stores such as The Home Depot and Lowe's and through Amazon.com and faucet.com.

7. Venue is proper before this Court under 28 U.S.C. §1391(b)(2) and (c) and §1400(b).

CAUSE OF ACTION FOR PATENT INFRINGEMENT

8. Moen hereby realleges and incorporates by reference, as if fully set forth herein, the allegations of paragraphs 1-7, *supra*.

9. The '401 Patent was duly and legally issued by the United States Patent and Trademark Office on December 21, 2010, after full and fair examination. A true and accurate copy of the '401 Patent is attached hereto as Exhibit A.

10. By virtue of its ownership of the '401 Patent, Moen has the right to sue for infringement of the '401 Patent and to recover damages for infringement of the '401 Patent.

11. Moen makes, and sells in the United States, faucet wands that embody the invention described and claimed in the '401 Patent.

12. Moen is informed and believes, and on that basis alleges, that Price Pfister has directly infringed the '401 Patent in violation of 35 U.S.C. §271 by making, using, offering for sale, or selling in the United States, or importing into the United States, faucet wands that infringe one or more of the claims of the '401 Patent, both within and outside this judicial district, without authority to do so.

13. Moen is informed and believes, and on that basis alleges, that Price Pfister has actively induced infringement of the '401 Patent in violation of 35 U.S.C. §271 by inducing others to use or offer for sale or sell faucet wands that infringe one or more of the claims of the '401 Patent, both within and outside this judicial district, without authority to do so.

14. Upon information and belief, Price Pfister's infringement has been willful.

15. Upon information and belief, Price Pfister will continue to infringe and willfully infringe the '401 Patent, causing immediate and irreparable harm to Moen, and Moen will continue to be irreparably harmed by Price Pfister's infringement unless this Court enjoins and restrains Price Pfister from continuing its infringement.

16. Upon information and belief, the infringement by Price Pfister has and will deprive Moen of sales, profits, and other related revenue which Moen would have made or

would enjoy in the future, and will cause Moen added injury and damage, including loss of sales, profits, and other related revenue in the future, unless Price Pfister is enjoined and restrained from infringing the '401 Patent.

PRAYER FOR RELIEF

WHEREFORE, Moen prays for the entry of judgment in its favor from this Court as follows:

- a) That United States Patent No. 7,854,401 B2 is valid and enforceable;
- b) That Price Pfister has directly infringed United States Patent No. 7,854,401 B2;
- c) That Price Pfister has actively induced infringement of United States Patent No. 7,854,401 B2 by others;
- d) That Price Pfister's infringement has been willful;
- e) That a permanent injunction be entered against Price Pfister enjoining it, its officers, directors, parent corporation, agents, employees, subsidiaries, successors, assigns, and all persons acting in privity or in concert with Price Pfister from infringing or inducing infringement of United States Patent No. 7,854,401 B2;
- f) That Moen be awarded damages adequate to compensate for Price Pfister's infringement pursuant to 35 U.S.C. §284;
- g) That Moen be awarded prejudgment and post-judgment interest on the damages awarded for Price Pfister's infringement of the '401 Patent;
- h) That Moen's damages be enhanced pursuant to 35 U.S.C. §284 as a result of Price Pfister's willful infringement;

- i) That Price Pfister's infringement has been such as to render this action exceptional, and Moen be awarded reasonable attorney's fees pursuant to 35 U.S.C. §285;
- j) That Moen be awarded such other and further relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff Moen Incorporated hereby makes demand for a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure as to all issues of this lawsuit.

Respectfully submitted,

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