

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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HYDRATIGHT OPERATIONS, INC.,

Plaintiff,

v.

Case No. \_\_\_\_\_

YORK PORTABLE MACHINE TOOLS  
LIMITED,

JURY DEMANDED

Defendant.

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**COMPLAINT**

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Plaintiff Hydratight Operations, Inc., by its attorneys, for its Complaint against Defendants York Portable Machine, alleges as follows:

1. Plaintiff Hydratight Operations, Inc. (“Hydratight”) is a Delaware Corporation having a place of business in Menomonee Falls, Wisconsin and does business as Hydratight and D.L. Ricci, among other names.

2. Plaintiffs are in the business of manufacturing, selling and renting portable machine tools for in-line turning (ILT), also known as portable journal turning lathes. These machine tools can be taken to the place where the workpiece is located to machine the workpiece on-site, in the field. These tools have a frame that is mounted to the exterior of the workpiece. The workpiece is in the form of a cylinder, for example a pipe, and a cutting tool is supported by the frame on a circular clamshell raceway that is slidably supported by guide shafts of the frame to move parallel to the axis of the workpiece as the tool is driven to rotate around the workpiece,

so as to machine the exterior surface of the workpiece. This may be necessary to reduce the outside diameter of the workpiece or true it up to have a common axis along its length. This is useful in chemical and oil refineries, nuclear power plants, or anywhere that the exterior surface of a large cylinder or pipe needs to be machined in the field for repair, maintenance or assembly.

3. York Machine Tools Limited (“York”) is, upon information and belief, a Canadian business entity, with its principal place of business in Campbell River, British Columbia, Canada.

4. Upon information and belief, York is in the business of, among other things, selling portable machine tools for in-line turning under the name of York.

5. This is an action for infringement of U.S. Patent No. 6,901,828 (“the ’828 Patent”) which issued on June 7, 2005. This action arises under 35 U.S.C. §§ 271, 281, 283, 284 and 285.

6. Hydratight is the owner by assignment of the '828 Patent, and Elliott is the exclusive licensee of the '828 Patent. A copy of the '828 Patent is attached hereto as Exhibit A.

7. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

8. Venue in this Court is proper in this district pursuant to 28 U.S.C. § 1400(b) and § 1391(d), since York is an alien.

9. York offers for sale portable ILT machine tools in this judicial district and elsewhere in the United States via its website on the internet, see <http://www.yorkmachine.com/products-in-line-turning.php>. York also offers its products at trade shows throughout the United States. Two models of infringing machines York offers are the ILT-1000 and the ILT-1600. There may be others. In an e-mail communication dated April 12, 2011 from the President of York, Dennis Cambrey, York denied selling any ILT machines into

the United States as of that date, and stated "We do not believe that the new version of our ILT machines infringe on your patent #6,901,828." When asked to explain why, York has become non-responsive.

**COUNT I  
DIRECT INFRINGEMENT**

10. Paragraphs 1-9 are incorporated herein by reference.

11. York's portable ILT machine tools have infringed and continue to infringe at least claim 1 of the '828 Patent. Discovery will be needed to determine infringement of the other claims.

12. York has been given written notice of infringement of the '828 Patent.

13. Plaintiffs have been and continue to be damaged by York's infringement in an amount to be proven at trial, and are entitled to a recovery of their damages, which include but are not limited to, lost profits, a reasonable royalty under 35 U.S.C. § 284 and damages under 35 U.S.C. § 284.

14. York's infringement has also caused and continues to cause irreparable harm to Plaintiffs, which are entitled to injunctive relief under 35 U.S.C. § 283.

**COUNT II  
CONTRIBUTORY INFRINGEMENT**

15. Paragraphs 1-14 are incorporated herein by reference.

16. York's portable ILT machine tools are specially adapted, made, offered and sold by Defendant for use in an infringement of at least claim 1 of the '828 Patent, are a material part of the invention covered by the '828 Patent and have no substantial noninfringing uses, and are not staple articles or commodities of commerce. These actions have caused and continue to cause plaintiffs damages and irreparable harm.

**COUNT III  
INDUCING INFRINGEMENT**

17. Paragraphs 1-16 are incorporated herein by reference.

18. The offering, sale and use of York's portable ILT machine tools by its customers and end users constitutes a direct infringement of claims 1-3 of the '828 Patent by such customers and end users.

19. York has designed its ILT mechanisms for sale and use by its customers and end users in an infringing manner, York has promoted such infringing sale and use by its customers and end users, and York has induced its customers and end users thereby to infringe the '828 Patent. These actions have caused and continue to cause Plaintiffs damages and irreparable harm.

**COUNT IV  
EXCEPTIONAL CASE**

20. Paragraphs 1-19 are incorporated herein by reference.

21. York has been given notice of its infringement of the '828 Patent. Notwithstanding such notice, York continues willfully and wantonly to infringe the '828 Patent, and this is an exceptional case within the provisions of 35 U.S.C. § 285.

WHEREFORE, Plaintiff Hydratight prays that judgment be entered in its favor and against Defendant York as follows:

A. Adjudging that the Defendant has infringed, induced others to infringe, and contributorily infringed U.S. Patent No. 6,901,828.

B. Adjudging that Defendant's acts of infringement were willful and that this is an exceptional case.

C. Awarding Plaintiffs their damages, including lost profits and all reasonable royalties, and prejudgment interest from the date of the first act of infringement.

D. Awarding Plaintiffs treble damages for Defendant's willful and deliberate patent infringement.

E. Permanently enjoining York, its agents, servants, employees, successors and assigns, and all others acting in concert with York, from infringing U.S. Patent No. 6,901,828 and restraining York from making, using, offering to sell or selling the infringing portable ILT machine tools or substantially similar devices.

F. Awarding Plaintiffs their costs and attorneys' fees incurred in this action.

G. Such other relief as the Court may deem appropriate.

### **JURY DEMAND**

Plaintiffs hereby request a jury trial of all issues so triable in the above-captioned case.

Dated: March 30, 2011.

/s/ Johanna M. Wilbert

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