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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

BLACK & DECKER INC. and BLACK)
& DECKER (U.S.) INC.,)

Plaintiffs,)

v.)

GYPSUM MANAGEMENT AND)
SUPPLY, INC. and TOOL SOURCE)
WAREHOUSE, INC.,)

Defendants.)

CIVIL ACTION NO.

1 08-CV-3487

JURY TRIAL DEMANDED

BBM

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs, Black & Decker Inc. and Black & Decker (U.S.) Inc. (collectively "Black & Decker"), complain of Defendants, Gypsum Management and Supply, Inc. and Tool Source Warehouse, Inc. follows:

Parties, Jurisdiction and Venue

1. This is a claim for patent infringement and arises under the patent laws of the United States, Title 35 of the United States Code. This Court has original jurisdiction over the subject matter of this claim under 28 U.S.C. §§ 1331 and 1338(a).

2. Black & Decker Inc. is a Delaware corporation having its principal place of business at 1207 Drummond Plaza, Newark, Delaware.

3. Black & Decker (U.S.) Inc. is a Maryland corporation having its principal place of business at 701 East Joppa Road, Towson, Maryland.

4. Gypsum Management and Supply, Inc. ("Gypsum"), is a Georgia corporation with its principal place of business at 1825 Fellowship Road, P.O. Box 1528, Tucker, Georgia. Gypsum is a distributor of drywall and other specialty building materials in the State of Georgia and throughout the U.S. Upon information and belief, Gypsum owns Defendant Tool Source Warehouse, Inc.

5. Tool Source Warehouse, Inc. ("TSW"), is a Georgia corporation with its principal place of business at 6366 Corley Road, Norcross, Georgia. TSW is a distributor of drywall, concrete and masonry tools in the State of Georgia and throughout the U.S., including the including the drywall sander products accused of infringement in this action. The domain name used by TSW (www.tool-source.com) is owned by Defendant Gypsum.

6. The Court has personal jurisdiction over Gypsum and TSW because, among other things, each are registered to do business in Georgia and transact business in this District. Gypsum and TSW have each specifically committed acts of infringement in this judicial District, at least through the offer to sell, sale and/or

advertising of infringing drywall sander products in such a way as to reach customers in Georgia and this judicial District.

7. Venue is proper in this District under 28 U.S.C. §§ 1391(b)-(d) and 1400(b).

Patent Infringement

8. Black & Decker incorporates the allegations set forth in paragraphs 1-7 above.

9. Black & Decker Inc. owns United States Patent No. 5,545,080, entitled "Motorized Sander Having a Sanding Head Mounted by a Pivotal Joint," issued on August 13, 1996 (the "'080" patent) and United States Patent No. 5,690,545, entitled "Motorized Rotary Tool Having a Head Mounted by a Pivotal Joint," issued on November 25, 1997 (the "'545 patent").

10. Black & Decker (U.S.) Inc. is the exclusive licensee under the '080 and '545 patents and has been directly injured by Defendants' infringing activities.

11. Black & Decker Inc. and Black & Decker (U.S.) Inc. have standing to sue for infringement of the '080 and '545 patents because they collectively own all right, title and interest in and to the '080 and '545 patents and the Black & Decker products covered by those patents, including the right to collect for past damages.

Black & Decker Inc. and Black & Decker (U.S.) Inc. have each suffered injury from the Defendants' acts of patent infringement.

12. Gypsum has infringed, and is now directly infringing the '080 and '545 patents through, among other activities, the use, sale and/or offer for sale of infringing sander products, including but not limited to the Rotoblast 880 Drywall Sander ("Accused Products"). Gypsum has also infringed the '080 and '545 patents by knowingly and actively inducing others to infringe, including but not limited to, upon information and belief, Defendant TSW, and by contributing to the infringement of others by the use, sale and/or offer for sale of the Accused Products.

13. TSW has infringed, and is now directly infringing the '080 and '545 patents through, among other activities, the use, sale and/or offer for sale of infringing sander products, including but not limited to the Accused Products. TSW has also infringed the '080 and '545 patents by knowingly and actively inducing others to infringe, and by contributing to the infringement of others by the use, sale and/or offer for sale of the Accused Products.

14. Defendants' infringement, contributory infringement and/or inducement to infringe has injured Black & Decker, and Black & Decker is entitled

to recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

15. Defendants have been given actual notice of their infringement of the '080 and '545 patents, and Black & Decker has fully complied with the provisions of 35 U.S.C. § 287.

16. Defendants' infringement, contributory infringement and/or inducement to infringe has been willful, deliberate and objectively reckless.

17. Defendants' infringing activities have injured and will continue to injure Black & Decker, unless and until this Court enters an injunction prohibiting further infringement and, specifically, enjoining further manufacture, use, sale, importation and/or offer for sale of products that come within the scope of the claims of the '080 and '545 patents.

PRAYER FOR RELIEF

WHEREFORE, Black & Decker respectfully asks this Court to enter judgment against Defendants Gypsum Management and Supply, Inc. and Tool Source Warehouse, Inc., jointly and severally, and against their respective subsidiaries, successors, parents, affiliates, officers, directors, agents, servants and employees, and all persons in active concert or participation with them, granting the following relief:

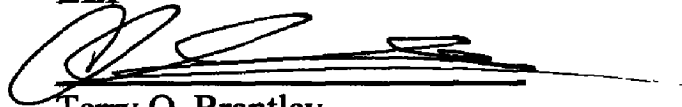
- A. The entry of judgment in favor of Black & Decker and against Defendants;
- B. An award of damages adequate to compensate Black & Decker for the infringement that has occurred, together with prejudgment interest from the date the infringement began;
- C. An award to Black & Decker of all remedies available under 35 U.S.C. § 284;
- D. An award to Black & Decker of all remedies available under 35 U.S.C. § 285;
- E. A permanent injunction prohibiting further infringement, inducement and/or contributory infringement of the '080 and '545 patents; and,
- F. Such other relief to which Black & Decker is entitled under law, and any other and further relief that this Court or a jury may deem just and proper.

JURY DEMAND

Black & Decker demands a trial by jury on all issues presented in this Complaint.

Done this 12th day of November, 2008.

**SWIFT CURRIE MCGHEE & HIERS
LLP**



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