

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA**

THE REINFORCED EARTH COMPANY)	
)	
Plaintiff,)	
v.)	CASE NO. 5:12-CV-186-FL
)	
T&B STRUCTURAL SYSTEMS,)	
)	
Defendant)	
<hr/>		

**AMENDED COMPLAINT FOR PATENT INFRINGEMENT
AND DEMAND FOR JURY TRIAL**

Plaintiff The Reinforced Earth Company (hereinafter “Plaintiff”) hereby complains against T&B Structural Systems (“Defendant”) and allege as follows:

THE PARTIES

1. The Reinforced Earth Company is a Delaware corporation, having its principal place of business at 8614 Westwood Center Drive, Suite 1100, Vienna, VA, 22182.
2. T&B Structural Systems, LLC. is a Texas corporation having its principal place of business at 6800 Manhattan Blvd., Suite 304, Fort Worth, TX, 76120.
3. Defendant, upon information and belief, is doing business within the State of North Carolina and within the Eastern District of North Carolina, and is engaged in continuous and systematic business within the Eastern District of North Carolina, including the commission of acts of infringement as hereinafter stated.

Background:

4. On April 18, 2000, United States Patent No. 6,050,748 (“the ‘748 Patent”), entitled “Stabilizing Elements for Mechanically Stabilized Earthen Structure”, was duly and

legally issued by the United States Patent and Trademark Office (“USPTO”). A true and correct copy of the ‘748 Patent is attached hereto as **Exhibit A**.

5. The named inventors on the ‘748 Patent are Peter L. Anderson, Michael J. Cowell, and Dan J. Hotek.

6. The named inventors assigned the ‘748 Patent to Societe Civile des Brevets Henri Vidal. The assignment was recorded on December 14, 1999, at Reel: 010464/Frame: 0930.

7. Societe Civile des Brevets Henri Vidal assigned the ‘748 Patent to Terre Armee Internationale. The assignment was recorded on April 10, 2006, at Reel: 017435/Frame: 0518.

8. Terre Armee Internationale assigned the ‘748 Patent to The Reinforced Earth Company. The assignment was recorded on March 27, 2012, at Reel: 027936/Frame: 0279.

9. The Reinforced Earth Company is the current assignee of 100% of the rights of the ‘748 Patent. The Reinforced Earth Company is the owner of all right, title and interest in the ‘748 Patent, including the right to obtain injunctive relief and damages for past, present and future infringement of the ‘748 Patent.

10. On September 15, 1998, United States Patent No. 5,807,030 (“the ‘030 Patent”), entitled “Stabilizing Elements for Mechanically Stabilized Earthen Structure”, was duly and legally issued by the United States Patent and Trademark Office (“USPTO”). A true and correct copy of the ‘030 Patent is attached hereto as **Exhibit B**.

11. The named inventors on the ‘030 Patent are Peter L. Anderson, Michael J. Cowell, and Dan J. Hotek.

12. The named inventors assigned the ‘030 Patent to The Reinforced Earth Company. The assignment was recorded on June 7, 2012, at Reel 028326/Frame 0626.

13. The Reinforced Earth Company is the current assignee of 100% of the rights of the '030 Patent. The Reinforced Earth Company is the owner of all right, title and interest in the '030 Patent, including the right to obtain injunctive relief and damages for past, present and future infringement of the '030 Patent.

14. On information and belief, Defendant engaged in infringing activities within the scope of 35 U.S.C. §§ 271(a), (b), and (c), including, but not limited to participation in efforts to solicit sales and bids by others with respect to its earth stabilizing products, including its Grid-Strip™ product to the North Carolina Department of Transportation, which is located in Raleigh, NC.

15. On information and belief, Defendant's earth stabilizing products, including at least its Grid-Strip™ product, were submitted to the North Carolina Department of Transportation and approved thereby, for current and future projects within North Carolina, pursuant to offers for sale and sales.

16. On information and belief, Defendant, through at least its President, Mr. Paul Hollis, and its Vice President of Business Development, Mr. Jeff Stone, knew of the existence of the '748 and '030 Patents through their previous employment at The Reinforced Earth Company.

17. On information and belief, Defendant, through at least its President, Mr. Paul Hollis, knew of the existence of the '748 Patent through conversations with the representatives of The Reinforced Earth Company.

JURISDICTION AND VENUE

18. This is an action for patent infringement under the laws set forth in the United States Code and particularly 35 U.S.C. § 101, § 271, § 281 and § 282 and for injunctive relief to remedy the infringement and willful infringement by Defendant, of the '748 and '030 Patents.

19. This court has jurisdiction in this action under 28 U.S.C. §§ 1331 and 1338, as there is a federal question, and upon information and belief, the matter in controversy exceeds, exclusive of interest and costs, the sum of Seventy-Five Thousand Dollars.

20. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and (c) and 1400(b) because a substantial part of the events, act and omissions giving rise to this action occurred in this district, and Defendant does substantial business in this district, has a substantial presence here, and is subject to personal jurisdiction in this Court.

COUNT 1

INFRINGEMENT OF THE '748 PATENT (VIOLATION OF 35 U.S.C. § 101 AND § 271)

21. Plaintiff repeats and re-alleges each and every allegation contained in the above paragraphs as if fully set forth herein.

22. On information and belief, Defendant has infringed and continues to infringe the '748 Patent by its unauthorized making, using, offering for sale and/or selling certain products, within the scope of the claim of the '748 Patent.

23. On information and belief, Defendant has infringed and continues to infringe the '748 Patent with knowledge and/or reckless disregard amounting to knowledge of such infringement.

24. On information and belief, Defendant, acting alone and acting in concert with and through agents and/or intermediaries, makes, sells and/or offers to sell earth stabilizing products within this judicial district that infringe the '748 Patent.

25. Defendant's direct infringement of the '748 Patent has caused Plaintiff to suffer damages in an amount not yet determined but which amount will be proven at trial.

26. Plaintiff has no adequate remedy at law, and Defendant's infringement of the '748 Patent has violated Plaintiff's rights under the '748 Patent and irreparably damaged Plaintiff, and will cause added injury and loss to Plaintiff unless and until Defendant's infringement is enjoined by this Court.

27. Plaintiff, therefore, seeks judgment as set forth herein.

COUNT 2

CONTRIBUTORY INFRINGEMENT OF THE '748 PATENT (VIOLATION OF 35 U.S.C. § 101 AND § 271)

28. Plaintiff repeats and re-alleges each and every allegation contained in the above paragraphs as if fully set forth herein.

29. On information and belief, Defendant makes, imports, sells and/or offers to sell earth stabilizing products, with knowledge and/or reckless disregard amounting to knowledge that such products or components constitute a material part of the inventions of the '748 Patent and that they are especially made or especially adapted for use in infringement of the '748 Patent, and that products or components are not a staple article or commodity of commerce which would be suitable for substantial non-infringing use. The actions of Defendant constitutes contributory infringement of the '748 Patent.

30. On information and belief, Defendant has committed such contributory infringement and continues so to commit such contributory infringement of the '748 Patent with knowledge and/or reckless disregard amounting to knowledge of such infringement.

31. Defendant's contributory infringement of the '748 Patent has caused Plaintiff to suffer damages in an amount not yet determined but which amount will be proven at trial.

32. Plaintiff has no adequate remedy at law, and Defendant's contributory infringement of the '748 Patent has violated Plaintiff's exclusive rights under the '748 Patent and

irreparably damaged Plaintiff, and will cause added injury and loss to Plaintiff unless and until Defendant's contributory infringement is enjoined by this Court.

33. Plaintiff, therefore, seeks judgment as set forth herein.

COUNT 3

INDUCEMENT OF INFRINGEMENT OF THE '748 PATENT (VIOLATION OF 35 U.S.C. § 101 AND § 271)

34. Plaintiff repeats and re-alleges each and every allegation contained in the above paragraphs as if fully set forth herein.

35. On information and belief, Defendant has actively induced the infringement of the claim of the '748 Patent, including actively inducing infringement by its customers.

36. Defendant's inducement of infringement of the '748 Patent has caused Plaintiff to suffer damages in an amount not yet determined but which amount will be proven at trial.

37. Plaintiff has no adequate remedy at law, and Defendant's inducement of infringement of the '748 Patent has violated Plaintiff's exclusive rights under the '748 Patent and irreparably damaged Plaintiff, and will cause added injury and loss to Plaintiff unless and until Defendant's inducement of infringement is enjoined by this Court.

38. Plaintiff, therefore, seeks judgment as set forth herein.

COUNT 4

WILLFUL INFRINGEMENT OF THE '748 PATENT

39. Plaintiff repeats and re-alleges each and every allegation contained in the above paragraphs as if fully set forth herein.

40. On information and belief, Defendant's infringement, contributory infringement, and inducement of infringement have been willful, wanton and deliberate and has occurred with Defendant's full knowledge of the '748 Patent.

41. Plaintiff, therefore, seeks judgment as set forth herein.

COUNT 5

**INFRINGEMENT OF THE '030 PATENT
(VIOLATION OF 35 U.S.C. § 101 AND § 271)**

42. Plaintiff repeats and re-alleges each and every allegation contained in the above paragraphs as if fully set forth herein.

43. On information and belief, Defendant has infringed and continues to infringe the '030 Patent by its unauthorized making, using, offering for sale and/or selling certain products, within the scope of at least claim 7 of the '030 Patent.

44. On information and belief, Defendant has infringed and continues to infringe one or more of the claims of the '030 Patent with knowledge and/or reckless disregard amounting to knowledge of such infringement.

45. On information and belief, Defendant, acting alone and acting in concert with and through agents and/or intermediaries, makes, sells and/or offers to sell earth stabilizing products within this judicial district that infringe one or more of the claims of the '030 Patent.

46. Defendant's direct infringement of one or more of the claims of the '030 Patent has caused Plaintiff to suffer damages in an amount not yet determined but which amount will be proven at trial.

47. Plaintiff has no adequate remedy at law, and Defendant's infringement one or more of the claims of the '030 Patent has violated Plaintiff's rights under the '030 Patent and irreparably damaged Plaintiff, and will cause added injury and loss to Plaintiff unless and until Defendant's infringement is enjoined by this Court.

48. Plaintiff, therefore, seeks judgment as set forth herein.

COUNT 6

**CONTRIBUTORY INFRINGEMENT OF THE '030 PATENT
(VIOLATION OF 35 U.S.C. § 101 AND § 271)**

49. Plaintiff repeats and re-alleges each and every allegation contained in the above paragraphs as if fully set forth herein.

50. On information and belief, Defendant makes, imports, sells and/or offers to sell earth stabilizing products, with knowledge and/or reckless disregard amounting to knowledge that such products or components constitute a material part of the inventions of one or more of the claims of the '030 Patent and that they are especially made or especially adapted for use in infringement of one or more of the claims of the '030 Patent, and that products or components are not a staple article or commodity of commerce which would be suitable for substantial non-infringing use. The actions of Defendant constitutes contributory infringement of at least claim 7 of the '030 Patent.

51. On information and belief, Defendant has committed such contributory infringement and continues so to commit such contributory infringement of one or more of the claims of the '030 Patent with knowledge and/or reckless disregard amounting to knowledge of such infringement.

52. Defendant's contributory infringement of one or more of the claims of the '030 Patent has caused Plaintiff to suffer damages in an amount not yet determined but which amount will be proven at trial.

53. Plaintiff has no adequate remedy at law, and Defendant's contributory infringement of one or more of the claims of the '030 Patent has violated Plaintiff's exclusive rights under the '030 Patent and irreparably damaged Plaintiff, and will cause added injury and loss to Plaintiff unless and until Defendant's contributory infringement is enjoined by this Court.

54. Plaintiff, therefore, seeks judgment as set forth herein.

COUNT 7

**INDUCEMENT OF INFRINGEMENT OF THE '030 PATENT
(VIOLATION OF 35 U.S.C. § 101 AND § 271)**

55. Plaintiff repeats and re-alleges each and every allegation contained in the above paragraphs as if fully set forth herein.

56. On information and belief, Defendant has actively induced the infringement of at least claim 7 of the '030 Patent, including actively inducing infringement by its customers.

57. Defendant's inducement of infringement of one or more of the claims of the '030 Patent has caused Plaintiff to suffer damages in an amount not yet determined but which amount will be proven at trial.

58. Plaintiff has no adequate remedy at law, and Defendant's inducement of infringement of one or more of the claims of the '030 Patent has violated Plaintiff's exclusive rights under the '030 Patent and irreparably damaged Plaintiff, and will cause added injury and loss to Plaintiff unless and until Defendant's inducement of infringement is enjoined by this Court.

59. Plaintiff, therefore, seeks judgment as set forth herein.

COUNT 8

WILLFUL INFRINGEMENT OF THE '030 PATENT

60. Plaintiff repeats and re-alleges each and every allegation contained in the above paragraphs as if fully set forth herein.

61. On information and belief, Defendant's infringement, contributory infringement, and inducement of infringement have been willful, wanton and deliberate and has occurred with Defendant's full knowledge of the '030 Patent.

62. Plaintiff, therefore, seeks judgment as set forth herein.

JURY DEMAND

Plaintiff hereby demands a trial by jury of all issues triable by a jury in this action.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff asks this Court to:

- a. enter judgment for Plaintiff as to each count of this Complaint;
- b. enter judgment that the '748 Patent is valid;
- c. enter judgment that Defendant has directly infringed the '748 Patent;
- d. enter judgment that Defendant has contributorily infringed the '748 Patent;
- e. enter judgment that Defendant has induced infringement of the '748 Patent;
- f. enter judgment that Defendant's infringement of the '748 Patent has been knowing and willful;
- g. enter a preliminary and permanent injunction to enjoin Defendant, the officers, agents, successors and assigns of each, and all those in privity with the foregoing, from further infringement of the '748 Patent during the remainder of the term for which the patent has been granted;
- i. award Plaintiff damages against Defendant adequate to compensate Plaintiff for Defendant's acts of infringement of the '748 Patent;
- j. enter judgment that the '030 Patent is valid;
- k. enter judgment that Defendant has directly infringed the '030 Patent;

- l. enter judgment that Defendant has contributorily infringed the '030 Patent;
- m. enter judgment that Defendant has induced infringement of the '030 Patent;
- n. enter judgment that Defendant's infringement of the '030 Patent has been knowing and willful;
- o. enter a preliminary and permanent injunction to enjoin Defendant, the officers, agents, successors and assigns of each, and all those in privity with the foregoing, from further infringement of the '030 Patent during the remainder of the term for which the patent has been granted;
- p. award Plaintiff damages against Defendant adequate to compensate Plaintiff for Defendant's acts of infringement of the '030 Patent
- q. increase the damages to three times the amount found or assessed in accordance with 35 U.S.C. § 284;
- r. find this to be an exceptional case pursuant to 35 U.S.C. § 285 and award Plaintiff their attorneys' fees and costs incurred in this matter; and
- s. award to Plaintiff such other and further equitable relief as the Court may deem necessary, just and proper to correct the injury to Plaintiff and to the public interest caused by Defendant's unlawful conduct.

This 7th day of June, 2012

/s/ Robert D. Mason, Jr.

Robert D. Mason, Jr. (N.C. BAR NO. 29337)
WOMBLE CARLYLE SANDRIDGE & RICE, LLP
*Attorney for Plaintiff The Reinforced Earth
Company*
One West Fourth Street
Winston-Salem, North Carolina 27101
Telephone: (336) 721-3761
Facsimile: (336) 726-9093
rmason@wcsr.com

Of Counsel:

Jon O. Nelson
BANNER & WITCOFF, LTD.
Ten South Wacker Dr, Suite 3000
Chicago, IL 60606-7407
Telephone: (312) 463-5000
Facsimile: (312) 463-5001

Stephanie L. Roberts
BANNER & WITCOFF, LTD.
1100 13th Street, N.W., 12th Floor
Washington, DC 20005-4051
Telephone: (202) 824-3000
Facsimile: (202) 824-3001

*Attorneys for Plaintiff The Reinforced Earth
Company*