

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN**

HUSSMANN CORPORATION,

Plaintiff,

Case No. 12-cv-303

v.

HEATCRAFT REFRIGERATION
PRODUCTS LLC AND
HEATCRAFT INC.,

Defendants.

AMENDED COMPLAINT

The Plaintiff, Hussmann Corporation (“Hussmann”), files this Amended Complaint against the Defendants, Heatcraft Refrigeration Products LLC and Heatcraft Inc. (collectively, “Defendants” or “Heatcraft”), alleging as follows:

THE PARTIES

1. Plaintiff Hussmann is a corporation organized and existing under the laws of the State of Missouri with its principal place of business located at 12999 St. Charles Rock Road, Bridgeton, Missouri 63044.

2. Hussmann is in the business of making and selling, *inter alia*, refrigerated and non-refrigerated display merchandisers, refrigeration systems, evaporative condensers, heat exchange coils, beverage coolers, walk-in coolers and freezers, and other related products.

3. On information and belief, Defendant Heatcraft Refrigeration Products LLC is a limited liability company organized and existing under the laws of the State of Delaware with its principal place of business located at 2175 West Park Place Boulevard, Stone Mountain, Georgia 30087.

4. On information and belief, Defendant Heatcraft Inc. is a corporation organized and existing under the laws of the State of Delaware with its principal place of business located at 2175 West Park Place Boulevard, Stone Mountain, Georgia 30087.

5. On information and belief, Defendant Heatcraft Inc. and Defendant Heatcraft Refrigeration Products LLC are in the business of making and selling, *inter alia*, refrigerated display merchandisers, including those sold under the Kysor/Warren brand.

JURISDICTION AND VENUE

6. This is an action for patent infringement in violation of 35 U.S.C. § 271.

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

8. The matter in controversy in this action exceeds the sum or value of \$75,000, exclusive of interests and costs, and is between citizens of different states. Accordingly, this Court also has subject matter jurisdiction pursuant to 28 U.S.C. § 1332.

9. This Court has personal jurisdiction over Defendants because they, upon information and belief, regularly transact business in the State of Wisconsin and in this judicial district by, among other things, offering for sale and selling products in this district. At a minimum, Defendants place their products, including the infringing products identified in this Amended Complaint, into the stream of commerce knowing that such products will be sold and/or offered for sale in this district.

10. Venue is proper in this district based on 28 U.S.C. § 1391(b) and (c) and § 1400(b).

SUBSTANTIVE ALLEGATIONS

11. On April 9, 2002, United States Patent No. RE37,630 (“the ‘630 patent” or “the patent-in-suit”) was duly and legally issued to John A. Behr for an invention entitled “Refrigerated Merchandisers with Module Evaporator Coils and EEPR Control.” A copy of the ‘630 patent is attached hereto as Exhibit A and made a part of this Amended Complaint.

12. Hussmann is the owner by assignment of the ‘630 patent.

13. Defendants have directly infringed Hussmann’s exclusive rights in the ‘630 patent by manufacturing, importing, using, offering for sale, and/or selling the Kysor/Warren DX6XN and DX6LD Stratus style cases. Defendants have sold, have offered to sell, continue to sell, and continue to offer to sell the Kysor/Warren DX6XN and DX6LD Stratus style cases to customers, such as supermarkets and grocers for use in their stores. The Kysor/Warren DX6XN and DX6LD Stratus style cases embody the invention of and are within the scope of the claims of the ‘630 patent, including but not limited to claim 1.

14. Defendants have also indirectly infringed by contributorily infringing Hussmann’s exclusive rights in the ‘630 patent. The supermarkets and grocers that are Defendants’ customers directly infringe the ‘630 patent by using the Kysor/Warren DX6XN and DX6LD Stratus style cases in their stores. The Kysor/Warren DX6XN and DX6LD Stratus style cases with modular evaporator coils, among other elements, are material to practicing the invention of the ‘630 patent, and the Kysor/Warren DX6XN and DX6LD Stratus style cases have no substantial uses other than those that infringe the ‘630 patent. For example, the Kysor/Warren DX6XN and DX6LD Stratus style cases as sold contain all elements of apparatus claim 1 so that any use of those cases infringes claim 1. There is no non-infringing use available.

15. Defendants continue to so directly infringe and contributorily infringe the claims of the '630 patent.

16. As a direct and proximate result of Defendants' patent infringement, Hussmann has suffered injury and damage, which continues to accrue, in an amount to be determined at trial.

COUNT I
PATENT INFRINGEMENT OF THE '630 PATENT

17. Plaintiff realleges and incorporates by reference the foregoing paragraphs of this Amended Complaint as though fully set forth herein.

18. The acts of Defendants complained of herein constitute direct and indirect patent infringement under 35 U.S.C. § 271.

19. More specifically, Hussmann asserts infringement of the '630 patent by Defendants' sale and offer for sale of Kysor/Warren DX6XN and DX6LD Stratus style cases.

JURY DEMAND

Plaintiff Hussmann demands a trial by jury on all matters and issues triable by a jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Hussmann prays that this Court enter judgment in its favor on each and every claim for relief set forth above and an award for relief including, but not limited to, the following:

- A. An order that Defendants and their respective officers, agents, servants, employees, attorneys, and all other persons in active concert or participation with it, be permanently enjoined from manufacturing, importing, using, offering to sell and selling the Kysor/Warren DX6XN and DX6LD Stratus style cases, or any other product that infringes the patent-in-suit;

- B. An Order directing Defendants to file with this Court and serve on Plaintiff's attorneys, within thirty (30) days after the date of entry of any injunction, a report in writing and under oath setting forth in detail the manner and form in which they have complied with the injunction;
- C. An Order that Defendants surrender for destruction all infringing products and manufacturing supplies in Defendants' possession or control, which infringe Plaintiff's patent rights;
- D. A judgment that Defendants have willfully and deliberately committed acts of patent infringement;
- E. An award of actual monetary damages Plaintiff has incurred as a result of Defendants' infringement, in an amount to be determined at trial;
- F. An award to Plaintiff of treble damages;
- G. An award of Plaintiff's attorneys' fees, costs, and disbursements incurred in prosecuting this action; and
- H. An award to Plaintiff of such other further relief as the Court deems just and equitable.

Dated this 29th day of June, 2012.

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