

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION



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VANDOR CORPORATION)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 1:18-cv-00040
)	
MATTHEWS INTERNATIONAL CORP.)	DEMAND FOR JURY TRIAL
)	
Defendants)	

COMPLAINT

Plaintiff, Vandor Corporation (“Vandor”), for its Complaint against Matthews International Corporation (“Matthews”), states that this is an action for patent infringement under the patent laws of the United States, 35 U.S.C. §§ 271, 281, and 283-285. Vandor seeks, among other things, a permanent injunction enjoining Defendants from continuing to infringe Vandor’s patents. Vandor also seeks damages for Defendants’ willful infringement of Vandor’s patents, as well as recovery of Vandor’s reasonable attorneys’ fees and costs it has incurred and will incur in prosecuting this action.

THE PARTIES

1. Vandor Corporation is a corporation organized and existing under the laws of the State of Indiana, with its principal place of business at 4251 Industries Road, Richmond Indiana, 47374.
2. On information and belief, defendant Matthews is a corporation organized and existing under the laws of the State of Pennsylvania, with its principal place of business at 2 Northshore Center, Pittsburgh, PA 15212.

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, 35 U.S.C. §§ 271, 281, and 283-285. Subject matter jurisdiction is conferred on this Court by 28 U.S.C. §§ 1331 and 1338. Venue is proper in this Court under 28 U.S.C. §§ 1391 and 1400.

4. On information and belief, Matthews has committed acts of infringement in this judicial district.

5. On information and belief, Matthews has a regular and established place of business in this judicial district.

BACKGROUND

6. Plaintiff Vandor is the owner by assignment of all right, title, and interest in and to United States Patent No. 9,649,240 (“the ‘240 Patent”) entitled “Lightweight Casket Having Foldable Sides,” which duly and legally issued in the names of Gary L. Cox, Gerald H. Davis and Chad L. Eversole on May 16, 2017. Vandor has owned the ‘240 Patent throughout the period of Defendants’ infringing acts. A copy of the ‘240 Patent is attached to the Complaint as Exhibit A.

7. Plaintiff Vandor is the owner by assignment of all right, title, and interest in and to United States Patent No. 8,375,535 (“the ‘535 Patent”) entitled “Lightweight Casket Having Foldable Features,” which duly and legally issued in the names of Gary L. Cox, Gerald H. Davis and Chad L. Eversole on February 19, 2013. Vandor has owned the ‘535 Patent throughout the period of Defendants’ infringing acts. A copy of the ‘535 Patent is attached to the Complaint as Exhibit B.

8. Plaintiff Vandor, doing business as Starmark Funeral Products, has sold a cremation product that embodies claims of both the '240 Patent and the '535 Patent ("Starmark Insert") since at least May 27, 2009.

9. Plaintiff Vandor has enjoyed substantial commercial success from the sale of the Starmark Insert attributable to the patented features thereof.

10. Plaintiff Vandor has marked the Starmark Insert with the patent number of the '535 Patent by applying a label to the Starmark Insert showing the patent number of the '535 Patent since at least July, 2013.

11. Plaintiff Vandor has marked the Starmark Insert with the patent number of the '240 Patent since at least June, 2017.

12. Upon information and belief, Defendant Matthews manufactures, uses, offers for sale, and/or sells a Matthews Cremation Fold-Down Rental Insert (hereinafter "Matthews Insert").

13. Defendant Matthews has used, offered to sell, and/or sold, and upon information and belief continues to use, offer to sell, and/or sell the Matthews Insert within this Judicial District that infringes one or more claims of the Patents-In-Suit.

COUNT 1
PATENT INFRINGEMENT OF THE '535 PATENT

14. Plaintiff Vandor re-alleges and incorporates by reference the allegations set forth in paragraphs 1-13 above.

15. By using, selling, and/or offering for sale the Matthews Insert, Defendant has directly infringed, and will continue to directly infringe, at least claims 1-11, 14, and 15 of the '535 Patent under 35 U.S.C. § 271(a) literally and/or under the doctrine of equivalents.

16. Defendant has been aware of its infringing activities since at least approximately July 31, 2015. Defendants have sold and continue to sell and offer for sale the Matthews Insert to others knowing that they will use it to directly infringe at least claims 1-11, 14, and 15 of the '535 Patent. Therefore, it is reasonable to infer that Defendant intended to induce infringement of at least claims 1-11, 14, and 15 of the '535 Patent under 35 U.S.C. § 271(b) literally and/or under the doctrine of equivalents by selling and offering for sale the Matthews Insert to others.

17. Upon information and belief, Defendant has sold and continues to sell and offers for sale the Matthews Insert to others knowing that it has no substantial non-infringing uses and that it is material to practicing the inventions of the '535 Patent. Moreover, Defendant has sold and continues to sell the Matthews Insert to others knowing that others are using it to directly infringe the '535 Patent. Thus, Defendant has and continues to contributorily infringe at least claims 1-11, 14, and 15 of the '151 Patent under 35 U.S.C. § 271(c) literally and/or under the doctrine of equivalents.

18. Upon information and belief, Defendant's infringement of at least claims 1-11, 14, and 15 of the '535 Patent has been and continues to be willful and deliberate.

19. Upon information and belief, Defendant's infringement of at least claims 1-11, 14, and 15 of the '535 Patent will continue unless enjoined by this Court.

20. As a direct and proximate consequence of Defendant's infringement of at least claims 1-11, 14, and 15 of the '535 Patent, Vandor has suffered and will continue to suffer irreparable injury and damages in an amount not yet determined for which Vandor is entitled to relief.

COUNT 2
PATENT INFRINGEMENT OF THE '240 PATENT

21. Plaintiff Vandor re-alleges and incorporates by reference the allegations set forth in paragraphs 1-20 above.
22. By using, selling, and/or offering for sale the Matthews Insert, Defendant has directly infringed, and will continue to directly infringe, at least claims 1-18 of the '240 Patent under 35 U.S.C. § 271(a) literally and/or under the doctrine of equivalents.
23. Upon information and belief, Defendant has been aware of its infringing activities since at least approximately June 1, 2017. Upon information and belief, Defendants have sold and continue to sell and offer for sale the Matthews Insert to others knowing that they will use it to directly infringe at least claims 1-18 of the '240 Patent. Therefore, it is reasonable to infer that Defendant intended to induce infringement of at least claims 1-18 of the '535 Patent under 35 U.S.C. § 271(b) literally and/or under the doctrine of equivalents by selling and offering for sale the Matthews Insert to others.
24. Upon information and belief, Defendant has sold and continues to sell and offers for sale the Matthews Insert to others knowing that it has no substantial non-infringing uses and that it is material to practicing the inventions of the '240 Patent. Moreover, Defendant has sold and continues to sell the Matthews Insert to others knowing that others are using it to directly infringe the '240 Patent. Thus, Defendant has and continues to contributorily infringe at least claims 1-18 of the '240 Patent under 35 U.S.C. § 271(c) literally and/or under the doctrine of equivalents.
25. Upon information and belief, Defendant's infringement of at least claims 1-18 of the '240 Patent has been and continues to be willful and deliberate.
26. Upon information and belief, Defendant's infringement of at least claims 1-18 of the '240 Patent will continue unless enjoined by this Court.

As a direct and proximate consequence of Defendant's infringement of at least claims 1-18 of the '240 Patent, Vandor has suffered and will continue to suffer irreparable injury and damages in an amount not yet determined for which Vandor is entitled to relief.

PRAYER FOR RELIEF

WHEREFORE, Vandor requests entry of judgment in its favor and against Defendants Matthews and Matthews and Matthews Cremation as follows:

- A. Declare that United States Letters Patent 8,375,535 was duly and legally issued, is valid and is enforceable;
- B. Enter judgment that Defendant has infringed at least claims 1-11, 14, and 15 of the '535 Patent;
- C. Enter judgment that Defendant has induced infringement of at least 1-11, 14, and 15 of the '535 Patent;
- D. Enter judgment that Defendant has contributed to infringement of at least claims 1-11, 14, and 15 of the '535 Patent;
- E. Enter a preliminary and permanent injunction restraining and enjoining Defendant and its respective officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise, from any further sales or use of their infringing products and any other infringement of claims of the '535 Patent, whether direct or indirect, pursuant to 35 U.S.C. § 283;
- F. Declare that United States Letters Patent 9,649,240 was duly and legally issued, is valid and is enforceable;
- G. Enter judgment that Defendant has infringed at least claims 1-18 of the '240 Patent;

- H. Enter judgment that Defendant has induced infringement of at least claims 1-18 of the '240 Patent;
- I. Enter judgment that Defendant has contributed to infringement of at least claims 1-18 of the '240 Patent;
- J. Enter a preliminary and permanent injunction restraining and enjoining Defendant and its respective officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise, from any further sales or use of their infringing products and any other infringement of claims of the '240 Patent, whether direct or indirect, pursuant to 35 U.S.C. § 283;
- K. For damages to compensate Vandor for Defendants' infringement of the claims of the '535 Patent and the claims of the '240 Patent pursuant to 35 U.S.C. § 284;
- L. For enhanced damages pursuant to 35 U.S.C. § 284;
- M. For an award of pre-judgment and post-judgment interest and costs to Vandor in accordance with 35 U.S.C. § 284;
- N. Deem this to be an "exceptional" case within the meaning of 35 U.S.C. § 285, entitling Vandor to an award of its reasonable attorney fees, expenses and costs in this action;
- O. Grant to Vandor such other and further relief as the Court may deem just, proper, and equitable under the circumstances.

DEMAND FOR JURY TRIAL

Plaintiff Vandor respectfully demands a trial by jury on all claims and issues so triable.

Date: January 5, 2018.

Respectfully submitted,

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