



**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

SOMERO ENTERPRISES, INC.,

Plaintiff

v.

**LIGCHINE INTERNATIONAL
CORPORATION,**

Defendant.

Civil Action No. 1:20-cv-2356

JURY TRIAL DEMANDED

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

Plaintiff Somero Enterprises, Inc. (“Somero”) alleges as follows:

Nature and Basis of Action

1. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code. Somero seeks a determination that Ligchine International Corporation (“Ligchine”) has infringed U.S. Patent No. 8,038,366 (the “366 Patent”) and that Somero be awarded the remedies as prayed herein.

The Parties

2. Somero is a corporation organized and existing under the laws of Florida. Somero’s principal office is located in Ft. Myers, Florida and its design, engineering, and manufacturing facility is located in Houghton, Michigan.

3. On information and belief, Ligchine is an Indiana corporation having its principal place of business at 3429 Knobs Valley Drive, Floyds Knobs, Indiana 47119.

Jurisdiction and Venue

4. This action arises under the patent laws of the United States, Title 35 of the United States Code §§ 1 *et seq.*

5. This Court has jurisdiction in this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. On information and belief, jurisdiction and venue for this action are proper in the Southern District of Indiana.

7. This Court has personal jurisdiction over Ligchine because it has purposefully availed itself of the rights and benefits of the laws of this State and this Judicial District. On information and belief, Ligchine is organized and existing under the laws of Indiana and resides in Indiana. This Court also has personal jurisdiction over Ligchine because it has done and is doing substantial business in this Judicial District, both generally and, on information and belief, with respect to the allegations in this Complaint, including Ligchine's one or more acts of infringement in this Judicial District.

8. Venue is proper in this Judicial District under 28 U.S.C. §§ 1391(b) and (c) and § 1400(b) at least because Ligchine resides in this District.

The Patent-in-Suit

9. On October 18, 2011, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 8,038,366 (the "'366 Patent") to Somero as owner by assignment thereof, for an invention entitled "Wheeled Concrete Screeding Device." A true and correct copy of the '366 Patent is attached hereto as **Exhibit A**.

10. Somero is the owner, by valid assignment, of all right, title, and interest in and to the '366 Patent, including the right to seek remedies and relief for past infringement thereof.

Background Facts

11. Beginning in 1986, Somero pioneered the design, development, manufacture, and use of laser-guided concrete screeding machines. Since then, Somero has led the market with continued innovation, growing its product offering from the single, original Laser Screenshot® to its current portfolio of 13 products.

12. Somero protects its investment in innovative and proprietary designs with a portfolio of 63 patents and pending patent applications. One of the patents in Somero's portfolio is the '366 Patent.

13. On information and belief, Ligchine designs, manufactures, and sells a variety of laser-guided and 3D GPS/ LPS-guided concrete screeds.

14. On information and belief, Ligchine designs, manufactures, offers for sale, and sells a laser-guided concrete screed which Ligchine markets and sells under the name "SpiderScreenshot."

15. On information and belief, a true and correct photograph of Ligchine's SpiderScreenshot machine is shown below:



16. On July 30, 2020, counsel for Somero sent a letter to Ligchine, asserting that Somero is the assignee of the '366 Patent and accusing Ligchine of infringing the '366 Patent

with the manufacture, use, offer for sale, sale and/or distribution of Ligchine's SpiderScreed product. A true and correct copy of the July 30, 2020 letter ("July 30, 2020 Letter") is attached hereto as **Exhibit B**.

17. Somero has provided actual notice to Ligchine of the '366 Patent and of Ligchine's infringement thereof, at least by way of the July 30, 2020 Letter. The filing and Notice of this action also provides actual notice to Ligchine of the '366 Patent and its infringement thereof. Ligchine has actual notice of the '366 Patent.

18. An actual and justiciable controversy exists between Somero and Ligchine concerning whether Ligchine's actions infringe the '366 Patent.

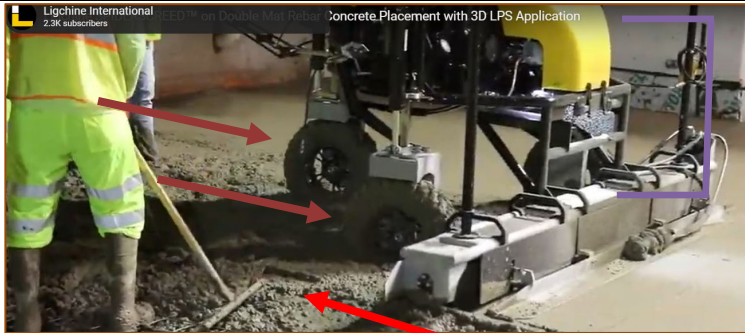

COUNT I – INFRINGEMENT OF THE '366 PATENT

19. Somero reasserts and incorporates the allegations contained in the paragraphs above.

20. Ligchine has directly infringed and is directly infringing the '366 Patent by making, using, offering for sale, selling, and/or importing, in and to the United States, its SpiderScreed machine. Upon information and belief, Ligchine has individually and jointly engaged in acts of direct infringement by itself and through agents in combination.

21. Based on publicly available information, the SpiderScreed infringes at least claims 1-5 of the '366 Patent. Somero may assert additional claims of the '366 Patent after a reasonable opportunity for investigation and discovery.



22. Ligchine's infringement is described further below with respect to claims 1-5. This chart demonstrates that Ligchine's SpiderScreed machine has each of the limitations in claims 1-5 of the '366 Patent. The analysis below is preliminary in nature and based on publicly available information.

Somero 8,038,366 Patent Claim Limitation	Ligchine Spiderscreed
<p>1. A wheeled concrete screeding device for screeding uncured concrete, said wheeled concrete screeding device comprising:</p>	<p>Ligchine™ Introduces SPIDERSCREED™ Series for Upper Deck Applications</p> <p>January 22, 2019</p> <p>Ligchine International, a global leader in innovative laser and 3D GPS/LPS guided concrete screeds, today introduced the SpiderScreed™ Series – a compact, lightweight and maneuverable drive-in system designed for upper deck concrete and slab-on-grade screeding applications. The first SpiderScreed™ machine was unveiled to the public earlier today in Las Vegas at the company’s booth at the World of Concrete 2019.</p> <p>The SpiderScreed is “a wheeled concrete screeding device for screeding uncured concrete,”</p> <p>https://ligchine.com/press-releases/ligchine-introduces-spiderscreed-series-for-upper-deck-applications</p>
<p>a wheeled unit having at least two wheels for movably supporting a frame portion of said wheeled unit, said frame portion having a forward end and a rearward end, wherein said wheeled unit is movable through uncured concrete in a screeding direction;</p>	 <p>The SpiderScreed is “a wheeled unit having at least two wheels for movably supporting a frame portion of said wheeled unit, said frame portion having a forward end and a rearward end, wherein said wheeled unit is movable through uncured concrete in a screeding direction;”</p>
<p>a screed head supported at said rearward end of said frame portion and following behind said wheeled unit when said wheeled unit is moved in said screeding direction, said screed head comprising a grade establishing element and a vibratable member;</p>	 <p>The SpiderScreed has “a screed head supported at said rearward end of said frame portion and following behind said wheeled unit when said wheeled unit is moved in said</p>

Somero 8,038,366 Patent Claim Limitation	Ligchine Spiderscreed
	<p>screeing direction, said screed head comprising a grade establishing element and a vibratable member;”</p>
<p>wherein said grade establishing element is generally vertically adjustable responsive to a signal from a laser receiver disposed at said screed head to establish a struck-off surface of the uncured concrete at a desired grade when said wheeled unit is moved in said screeding direction; and</p>	<div data-bbox="764 380 1308 856" data-label="Image"> </div> <p>The SpiderScreed has “said grade establishing element is generally vertically adjustable responsive to a signal from a laser receiver disposed at said screed head to establish a struck-off surface of the uncured concrete at a desired grade when said wheeled unit is moved in said screeding direction;”</p>
<p>wherein said vibratable member is adjustably attached at a rearward end of said grade establishing element and wherein said vibratable member at least partially floats behind said grade establishing element on the struck-off surface of the uncured concrete and is at least partially supported at the struck-off surface of the uncured concrete as said wheeled unit is moved in said screeding direction.</p>	<div data-bbox="646 1257 1305 1625" data-label="Image"> </div> <p>The SpiderScreed has “vibratable member is adjustably attached at a rearward end of said grade establishing element and wherein said vibratable member at least partially floats behind said grade establishing element on the struck-off surface of the uncured concrete and is at least partially</p>

Somero 8,038,366 Patent Claim Limitation	Ligchine Spiderscreed
	<p>supported at the struck-off surface of the uncured concrete as said wheeled unit is moved in said screeding direction.”</p>
<p>2. The wheeled concrete screeding device of claim 1, wherein said grade establishing element comprises a plow member.</p>	<div data-bbox="646 380 1305 716" data-label="Image"> </div> <div data-bbox="646 751 1333 1346" data-label="Image"> </div> <p>As demonstrated above, the SpiderScreed meets all the limitations of claim 1.</p> <p>The SpiderScreed also has “wherein said grade establishing element comprises a plow member.”</p>
<p>3. The wheeled concrete screeding device of claim 2, wherein said grade establishing element comprises an auger disposed behind said plow member, and wherein said auger is generally vertically adjustable with said plow member.</p>	

Somero 8,038,366 Patent Claim Limitation	Ligchine Spiderscreed
	<div data-bbox="646 268 1305 604" data-label="Image"> </div> <p data-bbox="646 716 1349 785">As demonstrated above, the SpiderScreed meets all the limitations of claim 2.</p> <p data-bbox="646 827 1406 968">The SpiderScreed also has “wherein said grade establishing element comprises an auger disposed behind said plow member, and wherein said auger is generally vertically adjustable with said plow member.”</p> <p data-bbox="646 1010 1430 1115"> https://static.spacecrafted.com/ce1a2e22d0e74c02ad633e2891702732/r/f7f40896a82f489e976193c7d101f9b2/1/Catalog%20Updated%204.8.20.pdf </p> <div data-bbox="678 1163 1398 1215" data-label="Section-Header"> <h2>SPIDERSCREED</h2> </div> <p data-bbox="669 1241 1435 1415">In 2019, Ligchine™ introduced the SPIDERSCREED™ Series – a compact, lightweight and maneuverable drive-in system designed for upper deck concrete and slab-on-grade screeding applications. The drive-in SPIDERSCREED machine was designed to be lightweight and powerful, featuring a 100% TIG welded tubular aluminum cage design that keeps overall weight down to approximately 1,280 lbs. (581 kg). Its patent-pending VERSA-DRIVE™ system, independent zero turn drive, up to 90° horizontal drive, and lateral drive. It also incorporates Ligchine’s patented machine leveling system to ensure flatter floors and greater compaction than simple screed head only leveling systems.</p> <ul data-bbox="662 1444 1443 1604" style="list-style-type: none"> • Leveling System: Standard - automatic laser leveling (2 Topcon LS-B110 receiver eyes included). • Screed Head: The SPIDERSCREED features a 10' auger in the screed. A roller head is also available as an option. • Drive System: Independent hydraulic front wheel drive with zero-turn. • Steering System: Wheels linked together in achieving zero-turn, parallel, and lateral steering drive motions. • Electronics: Eaton keypad for operator controls

Somero 8,038,366 Patent Claim Limitation	Ligchine Spiderscreed
<p>4. The wheeled concrete screeding device of claim 3, wherein said rearward end of said grade establishing element comprises a rearward end of said auger and wherein said vibratable member is adjustably attached at said rearward end of said auger.</p>	 <p>As demonstrated above, the SpiderScreed meets all the limitations of claim 3.</p> <p>The SpiderScreed also has “wherein said rearward end of said grade establishing element comprises a rearward end of said auger and wherein said vibratable member is adjustably attached at said rearward end of said auger.”</p>
<p>5. The wheeled concrete screeding device of claim 1, wherein said vibratable member is pivotally attached at said rearward end of said grade establishing element.</p>	 <p>As demonstrated above, the SpiderScreed meets all the limitations of claim 1.</p> <p>The SpiderScreed also has “wherein said vibratable member is pivotally attached at said rearward end of said grade establishing element.”</p>

23. As demonstrated at least by the above chart, Ligchine’s SpiderScreed machine meets all of the limitations of claims 1-5 of the ’366 Patent. Ligchine’s SpiderScreed machine therefore infringes at least claims 1-5 of the ’366 Patent.

24. Ligchine's acts are acts of infringement in violation of the United States patent laws, including, but not limited to, 35 U.S.C. § 271 *et seq.*

25. On information and belief, Ligchine has continued, including continuing after notice, with infringing use, making, offering for sale, and sales of infringing concrete laser screed machines, including its SpiderScreed machine.

26. Ligchine's aforesaid infringement has been and continues to be willful and deliberate and ongoing.

27. Somero has in the past been damaged and continues to suffer irreparable injury as a result of Ligchine's actions. Infringement of the '366 Patent by Ligchine will continue unless and until enjoined by this Court.

28. Somero has no adequate remedy at law, and is, therefore, entitled to a permanent injunction prohibiting further infringement by Ligchine.

29. Somero has been damaged by past activities of Ligchine and is entitled to damages for past infringement, including its lost profits or an amount not less than a reasonable royalty.

Demand for Relief

WHEREFORE, Somero requests entry of judgment against Ligchine as follows:

- A. Finding Ligchine liable for infringement of the '366 Patent;
- B. Awarding Somero damages under 35 U.S.C. § 271 adequate to compensate for Ligchine's infringement;
- C. Permanently enjoining Ligchine, together with any officers, agents, servants, employees, and attorneys, and such other persons in active concert of participation with them, who receive actual notice of the Order, from further infringement of the '366 Patent;

- D. A declaration that this case is exceptional within the meaning of 35 U.S.C. § 285 and awarding Somero its reasonable attorneys' fees, costs, and disbursements;
- E. Awarding Somero interest on all damages awarded; and
- F. Granting Somero all other relief to which it is entitled.

Demand for Jury Trial

Somero demands trial by jury for all issues so triable.

Dated: September 10, 2020

Respectfully submitted,

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