

**THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

TERVES LLC,	)	CASE NO. 1: 19 CV 1611
	)	
Plaintiff,	)	
	)	JUDGE DONALD C. NUGENT
v.	)	
	)	JUDGMENT
YUEYANG AEROSPACE NEW MATERIALS CO., LTD., <i>et al.</i>,	)	
	)	
Defendants.	)	

The above-captioned case came before this Court for a trial by jury. At the conclusion of the trial, the Jury unanimously answered two interrogatories finding that Plaintiff proved by a preponderance of the evidence that Defendants' infringement of the '653 patent and/or the '740 patent (collectively "the Terves patents") was not willful and finding Plaintiff proved lost profit damages in the amount of \$707,207.00.

Plaintiff Terves, LLC brought this patent action against Defendants, Yueyang Aerospace New Materials Co., Ltd, Ecometal, Inc., and Nick Yuan alleging that Defendants infringed numerous claims in the Terves patents by importing, using, selling, and/or offering for sale dissolvable cast magnesium alloys. In an earlier summary judgment ruling the Court determined that claims 2, 3, 9, 14, 15, 18-20, 23, 26, 27, 30, 31, 34, 35, 38, 39, 42, 46-47, 50, 52-54, 56-61, 64, 66, 67, and 76 of the '653 patent and claims 3-5, 8-11, 13, 16-17, 20-47, 51-69, 76-93, and 95-103 of the '740 patent were valid and patentable and that Defendants Ecometal and Yuan infringed those claims by importing, using, selling, and/or offering for sale dissolvable cast

magnesium.¹ (See ECF #178) The case proceeded to trial on the issues of what money damages, if any, should be awarded to Plaintiff to compensate it for the infringement, and to determine whether the infringement was willful.

The trial commenced on April 22, 2022 at 8:00 a.m. Defendant Yueyang Materials Co., Ltd., was dismissed without prejudice pursuant to Plaintiff's request. Ecometal's Counterclaim #1 was dismissed at Ecometal's request. A Jury of twelve was duly empaneled and sworn, and opening statements of counsel were made. Plaintiff called the following witnesses: (1) Andrew J. Sherman. Court was adjourned until April 25, 2022 at 8:00 a.m.

The trial continued on April 25, 2022. Plaintiff called the following witness(es): (2) Brian Doud; and (3) Ying Hong Yuan. Court was adjourned until April 26, 2022 at 8:00 a.m.

The trial continued on April 26, 2022. Plaintiff called the following witness(es): (4) David Haas. Plaintiff rested. Defendants' motion pursuant to Fed. R. Civ. P. 50 was denied. Defendants called the following witness(es): (1) Dr. Dana James Medlin. Defendants rested. Plaintiff rested. Court was adjourned until April 27, 2022 at 8:00 a.m.

The trial continued on April 27, 2022. The Court gave initial instructions of law to the Jury. Closing arguments of counsel were made. The Court gave final instructions of law to the Jury and the Jury retired to deliberate. The Jury, in open court, returned the following unanimous Interrogatory answers pursuant to Rule 49 of the Federal Rules of Civil Procedure:

1

Defendant Yueyang Aerospace New Materials Co., Ltd., a Chinese company, never participated in the case and service through the Hague convention may not have been completed.

INTERROGATORY NO. 1

Did Terves, LLC prove by a preponderance of the evidence, that Defendants' infringement of the '653 and/or the '740 Patent was willful?

_____ Yes X no

INTERROGATORY NO. 2

We the jury find, by a preponderance of the evidence, that Plaintiff has proven lost profit damages in the amount of \$707,207.00 (insert in ink an amount from \$0 to whatever the evidence requires)

The Court read the Interrogatory Answers in open court, and thereafter, the Court polled the Jury. Each Juror affirmatively responded to the correctness of the Interrogatory Answers. The Court accepted the Interrogatory Answers. The Jury was then discharged. THEREFORE, the Court enters Judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure finding that Defendants' infringement of the claims at issue was not willful and awarding Plaintiff compensatory damages against Defendants Ecometal, Inc. and Nick Yuan on Plaintiff's claims of infringement in the amount of \$707,207.00. All costs, including all jury charges, are to be paid by Defendants.

IT IS SO ORDERED.

DATE: _____

April 28, 2022



DONALD C. NUGENT
UNITED STATES DISTRICT JUDGE