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FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA

2013 FEB 12 PM 3:30

ROBERT N. TRGOVICH
U.S. DISTRICT COURT
FOR THE NORTHERN DISTRICT
OF INDIANA

UNVERFERTH MFG. CO., INC., 601 South Broad Street Kalida, Ohio 45853	)	**COMPLAINT**
Plaintiff,	)	
v.	)	Civil Action No. 3:13CV-097
PAR-KAN CO. 2915 West 900 South Silver Lake, IN 46982	)	**JURY TRIAL DEMANDED**
Defendant.	)	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Unverferth Manufacturing Company, Inc. ("Unverferth"), by and through the undersigned counsel, files this Complaint for patent infringement against Defendant, Par-Kan Co. ("Par-Kan"), and hereby alleges as follows:

NATURE OF THE ACTION

1. This is a civil action for patent infringement. Plaintiff's claims are based on the unauthorized, infringing manufacture, use, importation, sale and/or offer for sale by Defendant of its seed tender products including, for example, the Seed Weigh seed tender product.

THE PARTIES

2. Plaintiff Unverferth is a corporation organized and existing under the laws of the State of Ohio having a principal place of business at 601 South Broad Street, Kalida, Ohio 45853.

3. Upon information and belief, Defendant Par-Kan is a corporation organized and existing under the laws of the State of Indiana having a principal place of business at 2915 West 900 South, Silver Lake, Indiana 46982.

Unverferth Exhibit 2005
Par-Kan v. Unverferth
IPR2024-01426

JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the provisions of the Patent Laws of the United States, 35 U.S.C. §§ 271, 281 and 283-285. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Upon information and belief, Defendant has a principal place of business in the State of Indiana, in this judicial district, in which it manufactures, offers for sale and/or sells infringing products which are the subject of the patent infringement cause of action set forth herein.

6. Upon information and belief, Defendant has manufactured, offered for sale and/or sold infringing products, including the Seed Weigh product, at Defendant's facility in Silver Lake, Indiana, which is located in this judicial district.

7. This Court has personal jurisdiction over Defendant.

8. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400(b).

PATENT-IN-SUIT

9. On July 17, 2012, the United States Patent and Trademark Office duly and legally issued United States Patent No. 8,221,047 ("the '047 patent"), which is attached hereto as Exhibit A.

10. Plaintiff Unverferth is the owner of all right, title and interest in and to the '047 patent, including the right to sue for and recover all past, present and future damages for infringement of the '047 patent.

DEFENDANT'S INFRINGING ACTS

11. Upon information and belief, Defendant manufactures, uses, sells, offers for sale and/or imports products in and/or into the United States that infringe one or more claims of the

'047 patent under United States law. Non-limiting examples of Defendant's infringing products include the Seed Weigh seed tender products (the "infringing products"). Upon information and belief, these products include a conveyor, support arm and coupling that allows the conveyor to be rotatable in relation to the second end of the support arm about a vertical axis of rotation between an unloading position where the conveyor hopper is disposed below the main hopper discharge to receive agricultural product from the main hopper and a loading position wherein the conveyor discharge is disposed above the main hopper to dispense agricultural product into the main hopper.

COUNT 1
(INFRINGEMENT OF THE '047 PATENT)

12. Plaintiff repeats and realleges the allegations of Paragraphs 1 to 11 above, as if set forth herein.

13. Upon information and belief, Defendant has infringed and is infringing at least claim 1 of the '047 patent by making, using, offering for sale and/or selling the infringing products, and will continue to do so unless enjoined by this Court.

14. Upon information and belief, Defendant has induced others including its distributors, resellers, dealers and customers, to infringe at least claim 1 of the '047 patent by making, using, offering for sale and/or selling the infringing products, and will continue to do so unless enjoined by this Court.

15. On information and belief, Defendant has known about the '047 patent since it issued. Additionally, Plaintiff gave actual notice to Defendant that it infringes the '047 patent on August 24, 2012. On information and belief, Defendant acted despite an objectively high likelihood that its actions constituted infringement of a valid patent and/or that it knew or should have known that its actions demonstrated infringement of a valid patent. Accordingly,

Defendant's acts of infringement from at least August 24, 2012, constitute willful infringement of the '047 patent.

16. Defendant's infringement of the '047 patent has damaged Plaintiff and will continue to cause Plaintiff substantial and irreparable harm unless enjoined by this Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this Court enter judgment that:

A. the '047 patent is directly infringed by Defendant;

B. the '047 patent is indirectly infringed by Defendant;

C. Defendant's infringement of the '047 patent has been willful;

D. Defendant be preliminarily and permanently enjoined from manufacturing, using, selling and offering to sell the infringing products in the United States prior to the expiration of the '047 patent;

E. Plaintiff be awarded damages adequate to compensate it for Defendant's infringement of the '047 patent including lost profits, but in an amount no less than a reasonable royalty, and that such damages be trebled according to 35 U.S.C. § 284;

F. this case is exceptional within the meaning of 35 U.S.C. § 285, and that all costs and expenses of this action, including reasonable attorneys' fees, be awarded to Plaintiff; and

G. Plaintiff be awarded such further relief as the Court may deem just, necessary, and/or proper.

JURY DEMAND

Plaintiff demands a trial by jury.

Dated: February 7, 2013

Respectfully submitted,

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