UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

R360 ENVIRONMENTAL SOLUTIONS, INC.	§	
	§	
Plaintiff,	§	CASE NO. 11-3391
	§	
v.	§	**JURY TRIAL DEMANDED**
	§	
SCOTT ENVIRONMENTAL SERVICES, INC.	§	
Defendant.	§	

COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiff R360 Environmental Solutions, Inc. (hereinafter "R360"), through its attorneys, file this complaint against defendant Scott Environmental Solutions, Inc. (hereinafter "SESI") and hereby alleges as follows:

NATURE OF THE ACTION

1. In this civil action, plaintiff R360 seeks a declaration that it does not infringe United States Patent No. 8,007,581 (the "'581 Patent") and that all claims of the '581 Patent are invalid.

PARTIES

2. Plaintiff R360 is a Delaware corporation having a principal place of business in Houston, Texas.

3. Defendant SESI is a Texas corporation having a principal place of business in Longview, Texas.

JURISDICTION AND VENUE

4. Subject matter jurisdiction in this Court is based upon 28 U.S.C. 1331, 1338(a), and 2201(a).

5. This Court has personal jurisdiction over SESI by virtue of SESI's regular commercial and business activities within the Southern District of Texas.

6. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c).

BACKGROUND FACTS

7. SESI is an oil and gas field services company that provides oil and gas drilling waste management services to the exploration and production industry. SESI markets and provides its drilling waste management services throughout Texas including in this judicial District.

8. R360 is one of the leading environmental waste management providers in the United States, with operations and facilities throughout Texas, Louisiana, Oklahoma, New Mexico, and Wyoming, where it offers technologically-advanced alternative disposal and recycling solutions to the oil and gas exploration and production industry.

9. SESI has charged R360 with patent infringement. On September 2, 2011, legal counsel for SESI sent R360 a letter identifying itself as the owner of the '581 Patent. Through counsel, SESI stated that it had learned that R360 "has been authorized by the Railroad Commission of Texas, Oil and Gas Division, to store, handle, treat and re-use fresh water base and oil base drilling mud and cuttings for load-bearing structures in the state of Texas."

10. Based on the information available to it as referenced in the September 2, 2011 letter, SESI asserted that it believes R360's operations will infringe the '581 Patent and "demand[ed] that R360 immediately confirm its intent NOT to carry out infringing operations

[authorized by the Railroad Commission of Texas], and cease and desist from any and all infringing operations . . . which are already being undertaken."

11. Having thus been accused of infringing the '581 Patent and in the face of SESI's attempt to create a cloud of uncertainty over R360's legitimate operations, R360 is compelled to bring this action for a declaratory judgment of non-infringement, invalidity, and unenforceability of the '581 Patent.

12. R360 believes and asserts that it does not infringe any valid claim of the '581 Patent.

FIRST CLAIM FOR RELIEF

DECLARATORY JUDGMENT OF NON-INFRINGEMENT

13. R360 incorporates by reference each and every preceding paragraphs as if fully set forth herein.

14. By reason of the foregoing facts, an actual case or controversy exists between R360 and SESI as whether the '581 Patent is not infringed by R360.

15. A judicial declaration is necessary and appropriate so that R360 may ascertain its rights regarding the '581 Patent.

16. R360 has not infringed and does not infringe, directly or indirectly, any claim of the '581 Patent. One or more limitations required by each claim is missing from the process used, sold, or offered for sale by R360.

17. Accordingly, R360 seeks a declaratory judgment that none of the claims of the '581 Patent have been (i) directly infringed by R360; (ii) contributorily infringed by R360; or (iii) infringed by active inducement by R360.

18. R360 is entitled to an award of costs and expenses, including reasonable attorney fees, to be assessed against SESI in accordance with 35 U.S.C. § 285.

SECOND CLAIM FOR RELIEF

DECLARATORY JUDGMENT OF INVALIDITY

19. R360 incorporates by reference each and every preceding paragraphs as if fully set forth herein.

20. By reason of the foregoing facts, an actual case or controversy exists between R360 and SESI as whether each claim of the ’581 Patent is invalid.

21. A judicial declaration is necessary and appropriate so that R360 may ascertain its rights as to whether the ’581 Patent is invalid.

22. Accordingly, R360 seeks a declaratory judgment that the ’581 Patent, and each claim thereof, is invalid for failure to comply with the ground specified in Part II of Title 35 of the United States Code, including, without limitation, §§ 102, 103, and 112.

23. R360 is entitled to an award of costs and expenses, including reasonable attorney fees, to be assessed against SESI in accordance with 35 U.S.C. § 285.

PRAYER FOR RELIEF

THEREFORE, Plaintiff R360 respectfully request that this Court enter judgment in its favor and against SESI:

A. A declaration that R360 does not infringe any of the claims of the ’581 Patent;

B. A declaration that all claims of the ’581 Patent are invalid;

B. A declaration that Defendant SESI and each of its officers, employees, agents, alter egos, attorneys, and any persons in active concert or participation with them be restrained

and enjoined from further prosecuting or initiating any action against R360 claiming that the ’581 Patent in valid or infringed, or from representing that services of R360 infringe the ’581 Patent;

D. An award to R360 of its costs and expenses, including reasonable attorneys fees, in accordance with the provisions of 35 U.S.C. § 285 or other statutes; and,

E. An award to R360 of any other relief, in law and in equity, to which the Court finds that R360 is justly entitled.

DEMAND FOR A JURY TRIAL

R360, in accordance with Federal Rule of Civil Procedure 38(b), demands a jury trial as to all issues properly triable by a jury.

Date: September 16, 2011

Respectfully submitted

By: s/ Jeffrey A. Andrews

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