

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION**

MARK N. CHAFFIN

Plaintiff,

v.

**MICHAEL R. BRADEN
and LBC MANUFACTURING**

Defendants.

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Civil Action No.

JURY TRIAL DEMANDED

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

COMES NOW Plaintiff Mark N. Chaffin (“Chaffin”) and files this Original Complaint for Patent Infringement against Defendants Michael R. Braden (“Braden”) and LBC Manufacturing (“LBC”), and alleges as follows:

NATURE OF THE SUIT

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

PARTIES

2. Plaintiff Mark N. Chaffin is an individual residing at 1514 Dodge Road, Wallis, Texas 77485.

3. Defendant Michael R. Braden is an individual residing at 1010 Yaupon Creek Estates Drive, Columbus, Texas 78934.

4. Defendant LBC Manufacturing is a Texas limited liability company having its principal place of business located at 1500 Braden Lane, Columbus, Texas 78934.

JURISDICTION AND VENUE

5. This Complaint includes claims for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. This Court has original jurisdiction over the subject matter of these claims pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. Personal jurisdiction over the defendants is proper in this District. LBC is a Texas limited liability company having its principal place of business in Columbus, Texas. Braden is an individual residing in Columbus, Texas. Defendants have conducted and do conduct substantial business in this forum, such substantial business including but not limited to: (i) at least a portion of the infringements alleged herein; (ii) purposefully and voluntarily placing one or more infringing products or services into the stream of commerce with the expectation that they will be purchased by consumers in this forum; and/or (iii) regularly doing or soliciting business, engaging in other persistent courses of conduct, or deriving substantial revenue from goods and services provided to individuals in Texas and in this District.

7. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

BACKGROUND AND STANDING

8. This cause of action asserts infringement of United States Patent No. 6,932,912 entitled “Wastewater Treatment System for Residential Septic Systems” (the “’912 Patent” or the “Patent-in-Suit”), a true and correct copy of which is attached hereto as Exhibit A.

9. Chaffin is the owner of all rights, title, and interest in and under the ’912 Patent, which duly and legally issued on August 23, 2005, with Chaffin as the named inventor. United States Patent Application No. 10/370,343, which resulted in the ’912 Patent, claimed the benefit of United States Provisional Patent Application No. 60/358,112, filed February 19, 2002. Chaffin has standing to sue for the infringement of the ’912 Patent.

10. Since at least 2002 Chaffin has been making and selling a wastewater liquid chlorinator identified as the Chlorination Station Liquid Chlorinator. Chaffin has continuously marked the Chlorination Station Liquid Chlorinator with the ’912 Patent number since at least 2006.

11. On information and belief, Braden is the sole owner of LBC.

12. Braden had knowledge of Chaffin’s Chlorination Station Liquid Chlorinator since 2002.

13. Braden and LBC have actual notice of the '912 Patent. Braden and LBC have had knowledge of the '912 Patent since at least 2006.

14. On October 6, 2006, a declaratory judgment action involving the '912 Patent was filed in this Court against Chaffin in *Cecil's On-Site Products, Inc. v. Mark N. Chaffin*, Civil Action No. V-06-98 (S.D. Tex.) (the "*Cecil's* case"). Chaffin answered and filed a counterclaim of infringement of the '912 Patent against Cecil's On-Site Products, Inc.

15. On February 11, 2009, this Court issued a Memorandum and Order (the "Order") in the *Cecil's* case, construing the disputed claim terms of the '912 Patent. A true and correct copy of that Order is attached hereto as Exhibit B.

16. On September 15, 2009, the Court was notified that the parties in the *Cecil's* case had agreed to and executed a Settlement Agreement resolving all pending claims, and the *Cecil's* case was dismissed on October 6, 2009.

17. Braden had knowledge in 2006 of the accused infringing product of Cecil's On-Site Products, Inc. in the *Cecil's* case.

18. On information and belief, Braden had knowledge in 2009 of this Court's Order attached hereto as Exhibit B.

19. In 2009 Braden had knowledge that the *Cecil's* case had been settled and that the accused infringing product was no longer being sold by Cecil's On-Site Products, Inc.

20. The '912 Patent is valid and presumed valid under 35 U.S.C. § 282.

COUNT I - PATENT INFRINGEMENT BY DEFENDANTS

21. The allegations of paragraphs 1-20 above are incorporated by reference as if fully set forth herein.

22. Defendants have and continue to infringe directly, indirectly, contributorily, and/or by inducement, literally or under the doctrine of equivalents, the claims of the '912 Patent in violation of 35 U.S.C. § 271(a) by making, using, selling, and/or offering to sell products in this District and the United States. The infringing products of Defendants include at least Model LBC500 liquid bleach chlorinators and other liquid bleach chlorinators of Defendants having a design similar to the LBC500 liquid bleach chlorinator, if any.

23. Defendants' acts of infringement will continue unless enjoined by this Court.

24. Defendants' acts of infringement have caused and will continue to cause Chaffin substantial and irreparable injury for which Chaffin is entitled to receive injunctive relief and damages adequate to compensate for such infringement.

25. Defendants have been and are on notice of their infringement of the '912 Patent and have continued to engage in such infringing activity.

26. Defendants' acts of infringement have been willful and deliberate, rendering this case "exceptional" within the meaning of 35 U.S.C. § 285.

JURY DEMAND

Chaffin hereby demands a jury trial of all issues in this action triable of right by a jury.

DEMAND FOR RELIEF

WHEREFORE, Chaffin requests this Court to enter judgment in its favor and against Defendants, awarding it the following relief:

- a. Preliminarily and permanently enjoining Defendants, their officers, agents, servants, employees, and any others acting in concert with them from infringing the '912 Patent;
- b. Awarding Chaffin damages resulting from Defendants' acts of infringement and ordering Defendants to account for and pay to Chaffin damages adequate to compensate Chaffin for the infringement of his patent rights, including not less than a reasonable royalty;
- c. As a result of Defendants' willful acts of infringement, awarding Chaffin treble damages pursuant to 35 U.S.C. § 284;
- d. Declaring this case exceptional pursuant to 35 U.S.C. § 285 and awarding Chaffin interest, costs, expenses and attorney's fees; and
- e. Granting Chaffin such other relief as the Court deems just and proper.

Dated: April 16, 2014

Respectfully submitted,

/s/Douglas W. Rommelmann

Douglas W. Rommelmann

State Bar No. 17225600

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