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21 *Attorneys for Plaintiff Houweling Intellectual Properties, Inc.*

22 **IN THE UNITED STATES DISTRICT COURT**  
23 **FOR THE DISTRICT OF ARIZONA**

24 Houweling Intellectual Properties, Inc., a  
25 Delaware Corporation,

26 Plaintiff,

27 v.

28 Copperstate Farms, LLC, an Arizona  
limited liability company,

Defendant.

Case No.

**COMPLAINT FOR DAMAGES AND  
INJUNCTIVE RELIEF FOR:**

**PATENT INFRINGEMENT [35  
U.S.C. § 271]**

**(Jury Trial Requested)**

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1 Plaintiff Houweling Intellectual Properties, Inc. (“Houweling” or “Plaintiff”) brings  
2 this action seeking injunctive relief and damages in order to protect and enforce its patent  
3 rights against knowing and willful infringement by Defendant Copperstate Farms, LLC  
4 (“Copperstate” or “Defendant”). For its Complaint, Houweling alleges as follows:  
5

6 **NATURE OF THE ACTION AND THE PARTIES**

7 1. This is a civil action for patent infringement arising under the Patent Act of  
8 the United States, 35 U.S.C. §§ 1 *et seq*, 35 U.S.C. § 271, and 28 U.S.C. §§ 1331 and  
9 1338(a), affording this Court subject matter jurisdiction.  
10

11 2. Houweling is a corporation duly organized and existing under the laws of the  
12 State of Delaware.

13 3. On information and belief, Defendant Copperstate Farms, LLC is an Arizona  
14 company with an address of 650 N Industrial Drive, Snowflake, AZ 85937.  
15

16 **JURISDICTION AND VENUE**

17 4. This Court has subject matter jurisdiction over this action pursuant to 28  
18 U.S.C. §§ 1331 and 1338(a).  
19

20 5. This Court has personal jurisdiction over Copperstate because, on  
21 information and belief, it has sufficient minimum contacts with this forum as a result of  
22 business conducted within the State of Arizona. On information and belief, Copperstate  
23 has committed acts within this District giving rise to this action, and has established  
24 minimum contacts with this forum such that the exercise of jurisdiction would not offend  
25 traditional notions of fair play and substantial justice.  
26

27 6. Venue is proper under 28 U.S.C. § 1400 because the Defendant Copperstate  
28 resides in this district. Venue is also appropriate here because the Defendant has committed

1 acts of infringement and has a regular and established place of business in this district.

2 **HOUWELING AND THE ASSERTED PATENTS**

3 7. Houweling’s principal Casey Houweling invented a unique and novel  
4 greenhouse with a climate control system adjacent to the growing section of the  
5 greenhouse, which is protected by U.S. Patent No. U.S. Pat. No. 8,707,617 (the “617  
6 Patent”). The “617 patent is valid and enforceable, and a copy of the “617 Patent is attached  
7 hereto as Exhibit A. Claim 1 of the ‘617 Patent protects:  
8

9 A greenhouse, comprising:

10 a growing section;

11  
12 a climate control system comprising a substantially enclosed end  
13 gable adjacent to and outside said growing section, said end gable  
14 comprising one or more vents and one or more louvers selectively  
15 moveable to cooperate with said one or more vents to control air  
16 flow through said one or more vents;

17 wherein said climate control system is arranged to control the  
18 environment within said growing section by flowing ambient air  
19 from outside said greenhouse into said climate control system and  
20 into said growing section, re-circulating air from said growing  
21 section back into said climate control system and into said growing  
22 section, and a combination thereof, said ambient air, re-circulating  
23 air, or combination thereof, flowing through said climate control  
24 section and into said growing section to control the climate within  
25 said growing section.

26 8. Claim 17 of the ‘617 Patent protects:

27 A greenhouse, comprising:

28 a substantially enclosed growing section; and

a substantially enclosed end gable adjacent to and outside said  
growing section, said end gable comprising one or more vents and  
one or more louvers selectively moveable to cooperate with said one  
or more vents to control air flow through said one or more vents,  
said end gable arranged to flow cool air into said growing section to  
reduce the temperature therein, to flow warm air into said growing  
section to increase the temperature therein, and to re-circulate air

1 within said growing section when the temperature therein is at the  
2 desired level, said temperature reducing air, temperature increasing  
3 air, and re-circulating air passing through said end gable and into  
4 said substantially enclosed growing section to control the  
5 temperature therein.

6 9. Houweling practices the invention disclosed in the '617 Patent. The prior  
7 assignee of the '617 patent, under the direction of Casey Houweling, developed, built and  
8 operated greenhouses using the technology in the '617 patent. These greenhouses are  
9 located in Camarillo California, Mona Utah, and Vancouver British Columbia. These  
10 greenhouses were developed to grow vegetables such as tomatoes and cucumbers, and  
11 continue to grow vegetables and other crops today.

12 10. Houweling also licenses the '617 Patent and other related patents to  
13 greenhouse builders that market and build greenhouses incorporating the patented  
14 technology disclosed in the '617 patent.

15 11. The USPTO has granted numerous patents covering Mr. Houweling's  
16 inventions, including but not limited to the Asserted Patent.

17 12. Houweling is the owner by assignment of all rights, title, and interest in the  
18 Asserted Patents, and possesses the exclusive right of recovery, including the exclusive  
19 right to recover for past infringement.

20 13. The Asserted Patent was challenged in the U.S Patent Office by several  
21 greenhouse builders through seeking Inter Partes Review of the '617 Patent before the  
22 United States Patent and Trademark Office Patent Trial and Appeal Board (IPR2017-  
23 00476). Following extensive briefing, discovery, and oral argument, only claim 29 of the  
24 '617 patent was found to be unpatentable. The remaining claims 1-28 were maintained as  
25 valid and enforceable. The greenhouse builders appealed this decision to the Court of  
26  
27  
28

1 Appeal for the Federal Circuit, where the decision was affirmed (CAFC 2018-2234).

2 **COPPERSTATE’S INFRINGEMENT**

3 14. On information and belief, Copperstate owns and operates a greenhouse  
4 located at 650 N Industrial Way, Snowflake, AZ 85937 (“Snowflake Greenhouse”).  
5

6 15. Copperstate, in violation of 35 U.S.C. § 271, has infringed, literally or  
7 through the doctrine of equivalents, and continues to infringe the ’617 Patent through  
8 Copperstate’s making and use in the United States of the Snowflake Greenhouse.  
9

10 16. Copperstate has directly infringed at least claim 1 of the ’617 Patent under  
11 35 U.S.C. § 271(a) by making, using, selling, and/or offering for sale the Snowflake  
12 Greenhouse.

13 17. The Snowflake Greenhouse practices the invention set forth in the ’617  
14 Patent. By way of example only, and without limitation, Snowflake Greenhouse, literally  
15 and/or under the doctrine of equivalents, infringes at least claim 1 and claim 17 of the ’617  
16 Patent under 35 U.S.C. § 271(a-c), including but not limited to by making and using a  
17 patented product without the authority of Houweling, and/or by contributing to and/or  
18 inducing such infringement of the ’617 Patent.  
19

20  
21 18. In infringement of Claim 1 of the ’617 Patent, the Snowflake Greenhouse  
22 comprises: (1) a growing section; (2) a climate control system comprising a substantially  
23 enclosed end gable adjacent to and outside said growing section; (3) said end gable  
24 comprising one or more vents and one or more louvers selectively moveable to cooperate  
25 with said one or more vents to control air flow through said one or more vents; (4) wherein  
26 said climate control system is arranged to control the environment within said growing  
27 section by flowing ambient air from outside said greenhouse into said climate control  
28

1 system and into said growing section, re-circulating air from said growing section back  
2 into said climate control system and into said growing section, and a combination thereof;  
3 (5) said ambient air, re-circulating air, or combination thereof, flowing through said climate  
4 control section and into said growing section to control the climate within said growing  
5 section.

6  
7 19. In infringement of Claim 17 of the '617 Patent, the Snowflake Greenhouse  
8 comprises: (1) a substantially enclosed growing section; (2) a substantially enclosed end  
9 gable adjacent to and outside said growing section; (3) said end gable comprising one or  
10 more vents and one or more louvers selectively moveable to cooperate with said one or  
11 more vents to control air flow through said one or more vents; (4) said end gable arranged  
12 to flow cool air into said growing section to reduce the temperature therein, to flow warm  
13 air into said growing section to increase the temperature therein, and to re-circulate air  
14 within said growing section when the temperature therein is at the desired level; said  
15 temperature reducing air, temperature increasing air, and re-circulating air passing through  
16 said end gable and into said substantially enclosed growing section to control the  
17 temperature therein.

18  
19  
20  
21 20. Copperstate had actual notice of the '617 Patent at least as early as March or  
22 April of 2022, when it received a March 31, 2022 letter from counsel for Houweling  
23 advising of the '617 Patent and requesting that Copperstate conduct an investigation related  
24 to Copperstate's use and manufacturing of greenhouses or greenhouse system covered by  
25 the '617 Patent. Houweling asked for a response by April 20, 2022. Copperstate did not  
26 respond.

27  
28 21. Copperstate has taken the actions described herein despite its knowledge of

1 the '617 Patent.

2 22. Copperstate has indirectly infringed at least claims 1 and 17 of the '617  
3 Patent under 35 U.S.C. § 271(b), literally and/or under the doctrine of equivalents, by  
4 actively, knowing, and intentionally inducing infringement of the '617 Patent by others  
5 (e.g., Copperstate's greenhouse manufacturer, operator and other third parties)  
6

7 23. In particular, on information and belief Copperstate, either alone or with  
8 others, has induced and continues inducing infringement of one or more valid claims of the  
9 '617 Patent, including at least claims 1 and 17, by, among other things, actively and  
10 knowingly aiding and abetting others to directly make or use in the United States, without  
11 license, permission, or authority, at least one greenhouse that is covered by the claims of  
12 the '617 Patent, in violation of 35 U.S.C. § 271(b).  
13

14 24. Despite Houweling providing clear notice to Copperstate regarding the '617  
15 Patent, and on information belief, Copperstate has continued to and will continue to  
16 infringe the '617 Patent unless enjoined by this Court.  
17

18 25. Copperstate's infringement of the '617 Patent is, has been, and continues to  
19 be willful and deliberate.  
20

21 26. As a direct and proximate result of Copperstate's infringement of the '617  
22 Patent, Houweling has been and continues to be damaged in an amount yet to be  
23 determined.  
24

25 27. Unless Copperstate's ongoing infringement is enjoined, Houweling will  
26 suffer irreparable injury for which there is no adequate remedy at law.

27 28. This is an exceptional case such that Houweling should be entitled to its  
28 reasonable attorneys' fees and expenses incurred in bringing and in furtherance of this

1 action.

2 **FIRST CAUSE OF ACTION**

3 **(Direct, Induced, and Contributory Patent Infringement of the '617 Patent;**  
4 **Against Copperstate; 35 U.S.C. § 271)**

5  
6 29. Plaintiff realleges and incorporates by reference the full text of all of the  
7 foregoing numbered paragraphs, photographs, figures, and tables as though each such  
8 paragraph, photograph, figure, and table has been fully set forth herein.

9  
10 30. Houweling is the assignee and owner of all rights, title, and interest to the  
11 '617 Patent, entitled "*Greenhouse and Forced Greenhouse Climate Control System and*  
12 *Method*," which was duly and legally issued by the United States Patent and Trademark  
13 Office on April 29, 2014, and which has been duly and legally assigned to Houweling. The  
14 '617 Patent is valid and enforceable.

15  
16 31. On information and belief, Copperstate infringes the '617 Patent by making,  
17 and using at least one greenhouse covered by the '617 Patent, including at least the  
18 Snowflake Greenhouse. By way of example only, and without limitation, Copperstate  
19 infringes, literally and/or under the doctrine of equivalents, at least claims 1 and 17 of the  
20 '617 Patent under 35 U.S.C. § 271(a-c), including but not limited to by making and using  
21 a patented product without the authority of Houweling, and/or by contributing to and/or  
22 inducing such infringement of the '617 Patent.

23  
24 32. On information and belief, and by way of example, in direct infringement of  
25 the '617 Patent the Snowflake Greenhouse comprises a greenhouse with a climate control  
26 section, comprising a configuration of vents, louvers and tubes allowing for the utilization  
27 of ambient air, recirculated air or a combination thereof, such that the product in question  
28



1 satisfies the limitations of at least one of the claims of the '617 Patent.

2 33. Copperstate does not have a license or permission to use the '617 Patent.

3 34. On information and belief, before their first acts of infringement, Copperstate  
4 knew of Houweling's '617 Patent, knew their infringing greenhouse product was  
5 substantially similar to the inventions disclosed in the '617 patent in such manner as would  
6 infringe on the '617 Patent, and knew Copperstate's use of that design was unauthorized.  
7 Copperstate nevertheless deliberately and willfully carried out the acts of infringement  
8 described herein.  
9

10 35. As a result of Copperstate's infringement of the '617 Patent, Houweling has  
11 been irreparably injured. Unless such infringing acts are enjoined by this Court, Houweling  
12 will continue to suffer irreparable injury.  
13

14 36. On information and belief, Copperstate's conduct as alleged above has  
15 damaged and will continue to damage Plaintiff, or is likely to damage Plaintiff.  
16

17 37. On information and belief, as a result of their conduct as alleged above,  
18 Copperstate has been unjustly enriched and have wrongfully profited.  
19

20 38. On information and belief, despite knowledge of the '617 Patent, Copperstate  
21 will continue to infringe this patent with reckless disregard of the '617 Patent, by  
22 continuing to infringe the patent when they knew or should have known that their actions  
23 constituted infringement of the claimed design of the '617 Patent. Upon information and  
24 belief, Copperstate has acted and/or are continuing to act despite an objectively high  
25 likelihood that their actions constitute direct and/or indirect infringement of a valid patent.  
26  
27  
28

**PRAYER FOR RELIEF**

1  
2 WHEREFORE, Plaintiff Houweling Intellectual Properties, Inc. prays for relief as  
3 follows:

4 A. Entry of judgment against Copperstate, and for Houweling, for infringement  
5 of the '617 patent;

6 B. A post-judgment accounting of damages for the period of infringement of the  
7 '617 patent following the period of damages established by Houweling at trial;

8 C. An order preliminarily and then permanently enjoining Copperstate and its  
9 officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries,  
10 parents, and all others acting in active concert or participation with them, from continued  
11 acts of infringement of the '617 patent;

12 D. If a permanent injunction is not granted, a judicial determination of the  
13 conditions of future infringement such as a royalty bearing compulsory license or such  
14 other relief as the Court deems appropriate;

15 E. An order that Copperstate be ordered to surrender for destruction of all  
16 products, containers, labels, advertisements, promotional materials, and other materials  
17 constituting an infringement of the '617 Patent and/or the means by which such  
18 infringement is facilitated;

19 F. That Houweling be awarded its damages according to proof;

20 G. That Houweling be awarded the profits acquired by Copperstate through  
21 Copperstate's unlawful acts;

22 H. That the Court increase and enhance by three times any award of damages  
23 and/or profits based on Copperstate's willfulness;

1 I. An order declaring that this is an exceptional case within the meaning of 35  
2 U.S.C. §285;

3 J. An award of prejudgment interest, post-judgment interest, costs and  
4 disbursements, and attorney's fees; and

5 K. Such other and further relief as the Court deems proper in law or equity.

6  
7 **DEMAND FOR JURY TRIAL**

8 Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure and Local Rule 38-  
9 1, Plaintiff Houweling Intellectual Properties, Inc., hereby demands a trial by jury of any  
10 and all issues triable of right by a jury pursuant to the Seventh Amendment to the United  
11 States Constitution or as given by a statute of the United States.

12 Respectfully submitted this 11<sup>th</sup> day of July, 2022,

13  
14 KERCSMAR FELTUS & COLLINS PLLC

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16  
17 By *s/ Gregory Collins*

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