

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
Western Division

Mestek Machinery, Inc., and)	
)	
HJ Fischer, LLC,)	
)	
Plaintiffs.)	
)	JURY DEMAND
v.)	
)	
Elgen Manufacturing Co., Inc.,)	
)	
Defendant.)	

COMPLAINT FOR PATENT INFRINGEMENT

Mestek Machinery, Inc., (“Mestek”), and HJ Fischer, LLC (“Fischer”) (collectively “Plaintiffs”), for their Complaint against Elgen Manufacturing, Co. Inc. (“Elgen” or “Defendant”), allege as follows.

INTRODUCTION

1. This is an action for patent infringement arising under Title 35 of the United States Code. Fischer owns a patent for a system and method of joining sheet metal ductwork sections and has granted an exclusive license to the patent to Mestek. Plaintiffs allege that Elgen has directly and indirectly infringed the patent.

PARTIES AND JURISDICTION

2. Mestek is a corporation organized and existing under the laws of Delaware. It has a principal place of business in Westfield, Hampden County, Massachusetts.

3. Fischer is a limited liability corporation organized under the laws of the state of Delaware. It has a principal place of business in Imperial, Missouri.

4. Elgen is a corporation licensed under the laws of the State of New Jersey. It has a principal place of business in Closter, New Jersey.

5. This Court has jurisdiction pursuant to 28 U.S.C. §§1331 and 1338(a) as this case arises under the patent laws of the United States.

6. The Court has personal jurisdiction over the Defendant as it has engaged in systematic and continuous business activities in this District. Defendant has also committed acts of patent infringement giving rise to this action, within this District. Defendant has further previously agreed that this District has jurisdiction over it. *See, Systemation, Inc., v. Capital Hardware Supply, Inc., et al.*, No. 1:07-CV-10618, Dkt. No. 5 at 1 (D. Mass Sept. 18, 2007).

7. Venue is proper under 28 U.S.C. §§ 1391(b) and (c) and § 1400(b) because Defendant conducts business in this District and has committed acts of infringement in this District, and Plaintiff has suffered harm in this District. Defendant is, therefore, subject to personal jurisdiction in this district, and consequentially, is a resident of this District for venue purposes.

ALLEGATIONS COMMON TO ALL COUNTS

8. Fischer is the owner of United States Patent No. 10,544,891 entitled “System and Method for Joining and Hanging Ducts” (the “891 Patent”), which was duly and legally granted on January 28, 2020. A copy of the patent is attached hereto as Exhibit A and incorporated herein.

9. Mestek is a leading manufacturer and distributor of heating, ventilation and cooling products including residential and commercial equipment. Mestek has been in operation since 1946 and has licensed and/or obtained numerous patents to protect its products.

10. To this end, Mestek is the exclusive licensee of the '891 Patent pursuant to a license agreement with Fischer effective February 25, 2013. Said license runs for the term of the '891 Patent. Mestek also has pending U.S. Patent applications Serial Nos. 15/800,662 and 17/138,486, which relate to the technology at issue in the present action.

11. The '891 Patent describes systems and methods of connecting sections of flanged HVAC ducts together using specific sheet metal screws and corner plates. These systems and methods eliminate the need for, among other things, threaded nuts, allowing for single-handed duct assembly with fewer needed parts, thereby reducing installation time and labor costs, among other benefits.

12. Elgen has recently developed a product that it labels the "Ultra Corner System" which uses corner plates and specialized screws, as taught in the '891 Patent, and includes instructions for assembling duct work using those screws and corner plates.

13. Elgen is presently manufacturing, using, offering to sell, selling, and/or importing the Ultra Corner System, and has done the same since at least late 2021. Elgen has published information regarding the Ultra Corner System in its corporate newsletter and on the internet. Elgen has also presented and marketed its Ultra Corner System widely, including, upon information and belief, at national trade shows.

14. Elgen has provided instructional/marketing videos regarding its Ultra Corner System depicting use and installation of the same on its various social media accounts. *See e.g.*,

<https://www.youtube.com/watch?v=m0Fc868ra9Y>. These instructional materials detail to its customers how to infringe at least method claims 38 and 47 of the '891 patent.

15. Through Elgen's development, testing, advertising and/or marketing of the Ultra Corner System, it directly infringes, either literally and/or through the doctrine of equivalents, at least the methods set forth in claims 38 and 47 of the '891 Patent.

16. Mestek became aware of Elgen's infringing activities in late 2021. Counsel for Mestek promptly advised Elgen and its counsel of the infringements, including through written communications dated December 16, 2021, December 30, 2021, March 14, 2022, and April 5, 2022. Thus, Elgen has actual knowledge of the existence and scope of the '891 Patent.

17. In February 2022, Elgen appeared to have removed the Ultra Corner System from its web site. Mestek, however, has recently become aware that Elgen continued its infringing activities after redacting its web site, and continues to knowingly and willfully infringe the '891 patent.

18. Moreover, in April 2022, Mestek learned that Elgen was redesigning the Ultra Corner System for an unspecified reason.

19. Mestek has now obtained a current version of the Ultra Corner System and, upon information and belief, it is substantially identical to the original Ultra Corner System.

20. In particular, Elgen continues to manufacture, use, offer to sell, sell, and/or import the Ultra Corner System in a manner that knowingly and willfully infringes at least the methods of claims 38 and 47 of the '891 patent.

Count I – Direct Infringement of the ‘891 Patent

21. Plaintiffs incorporate the preceding paragraphs as if set forth in full herein.

22. Elgen directly infringes the ‘891 Patent by practicing each and every element of at least claims 38 and 47 of the ‘891 patent, either literally or through the doctrine of equivalents. Exemplary claim charts are attached as Exhibit B and incorporated herein.

23. Elgen has no right or license to sell any product that infringes the ‘891 Patent, and Plaintiffs have not consented to Defendant’s manufacture, use, offer to sell, sale, or import of the Ultra Corner System or any use thereof.

24. Elgen received actual notice of the ‘891 Patent prior to the initiation of the present lawsuit and no later than December 16, 2021, but nevertheless willfully continues to make, use, offer to sell, sell, and import in the United States the Ultra Corner System.

25. Plaintiffs are and have been irreparably damaged by Elgen’s infringement, and unless Elgen’s infringing activities are enjoined by this Court, Plaintiffs will continue to suffer monetary damage, market price erosion, loss of market share, lost sales, and irreparable harm to their reputation, relationships, and goodwill with their customers, vendors, distributors, industry professionals, and others.

Count II - Inducement to Infringe the ‘891 Patent

26. Plaintiffs incorporate the preceding paragraphs as if set forth in full herein.

27. Elgen received actual notice of the ‘891 Patent prior to the initiation of the present lawsuit and no later than December 16, 2021, but nevertheless willfully continues to make, use, offer to sell, sell, and import in the United States the Ultra Corner System.

28. Elgen has no right or license to sell any product that infringes the '891 Patent, and Plaintiffs have not consented to Defendant's manufacture, use, offer to sell, sale, or import of the Ultra Corner System, or any use thereof.

29. Despite this knowledge, Elgen is intentionally selling, and has sold, the Ultra Corner System, which includes screws and corner plates, and provides instructions for assembling duct work using the Ultra Corner System to customers.

30. Elgen's Ultra Corner System and instructions guide and direct its customers to infringe, literally or through the doctrine of equivalents, at least claims 38 and 47 of the '891 Patent.

31. On information and belief at least one, and likely many, of Elgen's customers, have directly infringed the '891 Patent by purchasing and using the Ultra Corner System, thus practicing the claimed methods of the '891 Patent.

32. Further, by developing, marketing, offering to sell, selling, and providing the Ultra Corner System and instructions, Elgen intended that its customers directly infringe the '891 Patent.

33. Elgen has therefore infringed, is infringing, and will continue to infringe (literally and/or under the doctrine of equivalents), one or more claims of the '891 patent by, among other activities, inducing others to use the Ultra Corner System to perform methods claimed in the '891 patent.

34. Plaintiffs are and have been irreparably damaged by Elgen's infringement, and unless Elgen's infringing activities are enjoined by this Court, Plaintiffs will continue to suffer monetary damage, market price erosion, loss of market share, lost sales, and irreparable harm to

their reputation, relationships, and goodwill with their customers, vendors, distributors, industry professionals, and others.

Count III – Contributory Infringement of the ‘891 Patent

35. Plaintiffs incorporate the preceding paragraphs as if set forth in full herein.

36. Elgen received actual notice of the ‘891 Patent prior to the initiation of the present lawsuit and no later than December 16, 2021, but nevertheless willfully continues to make, use, offer to sell, sell, and import in the United States the Ultra Corner System.

37. Elgen has no right or license to sell any product that infringes the ‘891 Patent, and Plaintiffs have not consented to Defendant’s manufacture, use, offer to sell, sale, or import of the Ultra Corner System or any use thereof.

38. Despite this knowledge, Elgen is intentionally selling, and has sold, the Ultra Corner System, which includes screws and corner plates, and provides instructions for assembling duct work using the Ultra Corner System to customers.

39. Elgen’s Ultra Corner System and instructions guide and direct its customers to infringe, literally or through the doctrine of equivalents, at least method claims 38 and 47 of the ‘891 Patent.

40. Elgen’s Ultra Corner System has no substantial non-infringing use.

41. Further, by developing, marketing, offering to sell, selling, and providing the Ultra Corner System and instructions, Elgen is contributing to the direct infringement of the ‘891 patent by its customers.

42. On information and belief at least one, and likely many, of Elgen’s customers, have directly infringed the ‘891 Patent by purchasing and using the Ultra Corner System as instructed.

43. Elgen has therefore infringed, is infringing, and will continue to infringe (literally and/or under the doctrine of equivalents), one or more claims of the '891 patent by, among other activities, providing its Ultra Corner System (a product with no substantial non-infringing use) and instructions for use, to customers who perform each and every limitation of at least method claims 38 and 47 of the '891 patent.

44. Plaintiffs are and have been irreparably damaged by Elgen's infringement, and unless Elgen's infringing activities are enjoined by this Court, Plaintiffs will continue to suffer monetary damage, market price erosion, loss of market share, lost sales, and irreparable harm to their reputation, relationships, and goodwill with their customers, vendors, distributors, industry professionals, and others.

WHEREFORE, the Plaintiffs pray that this Honorable Court grant the following relief:

- A. A judgment that Defendant has directly and indirectly infringed one or more claims of the '891 patent;
- B. A judgment that Defendant's infringement has been willful;
- C. A judgment permanently enjoining Defendant, its officers, directors, agents, servants, and employees, affiliates, subsidiaries, or others controlled by Defendant, and all persons in active concert or participation with Defendant, from infringing the '891 patent — including direct infringement or indirect infringement by inducement and/or contributory infringement;
- D. An award of damages adequate to compensate Plaintiffs for the infringement that has occurred, together with prejudgment interest from the date the

infringement began, but in no event less than a reasonable royalty as permitted by 35 U.S.C. § 284;

- E. An award of increased damages under 35 U.S.C. § 284 of up to three times the amount of damages assessed;
- F. A finding in favor of Plaintiffs that this is an exceptional case under 35 U.S.C. § 285, and an award to Plaintiffs of their costs, including their reasonable attorneys' fees and other expenses incurred in connection with this action; and
- G. Any and all such other and further relief as this Court may deem appropriate.

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