

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

BCI Acrylic, Inc.	§	
	§	
Plaintiff,	§	
	§	
v.	§	
	§	CIVIL ACTION NO.:
AS, America Inc.	§	
	§	
	§	
Defendant.	§	
	§	

COMPLAINT

BCI Acrylic, Inc. (“BCI”) by and through its undersigned counsel, files this Complaint for patent infringement against AS America, Inc. (“AS America”) alleges as follows:

THE PARTIES

1. BCI is a corporation organized and existing under the laws of the State of Illinois and has a place of business at 1800 Industrial Drive, Libertyville, Illinois 60048.

2. Upon information and belief, AS America is a corporation organized and existing under the laws of the State of Delaware and has a principal place of business at One Centennial Ave. Piscataway, NJ 08855.

3. Upon information and belief, AS America has a regular and established place of business in this district, including at: 450 E Devon Ave., Ste. 175, Itasca, Illinois; 31 King Street, Elk Grove Village, Illinois; and/or 1945 Techny Road, Ste. 6, Northbrook, Illinois.

NATURE OF THE ACTION

4. This civil action is for patent infringement arising under the Patent Laws of the United States, Title 35, United States Code §§101, *et seq.*

JURISDICTION AND VENUE

5. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §1331 and 28 U.S.C. §1338(a).

6. This Court has personal jurisdiction over the AS America. Upon information and belief, AS America transacts and solicits business in the state of Illinois and in this judicial district. Upon information and belief, AS America engages in continuous and systematic contact with Illinois and this judicial district and has committed acts of infringement in this district.

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

FACTUAL BACKGROUND

8. On December 4, 2018, the United States Patent and Trademark Office duly and legally issued United States Patent No. 10,144,243 (hereinafter the '243 Patent), entitled "Method For Creating Simulated Tile Wall." A copy of the '243 Patent is attached hereto as Exhibit 1.

9. The '243 patent discloses and claims methods of making an acrylic sheet that has a simulated tile pattern.

10. BCI is the assignee and sole owner of all rights, title, and interest in and to the '243 Patent with all rights pertaining thereto, including the right to bring suit for infringement of the '243 Patent and the right to bring suit for past infringement of the '243 Patent.

11. AS America sells acrylic sheets that have a simulated tile pattern, including Passage Subway Tile Custom Shower Walls ("Accused Products"). The Passage Subway Tile Custom Shower Walls are shown and described in the specification sheet attached as Ex. 2.

COUNT - PATENT INFRINGEMENT

12. BCI incorporates by reference the allegations set forth in the preceding paragraphs as if fully set forth herein.

13. On information and belief, AS America has directly infringed and/or induced others to infringe the '243 patent, either literally or under the doctrine of equivalents, by among other things, making, using, offering for sale, selling, and/or importing into the United States the Accused Products that are made using a process that infringes at least claim 1 of the '243 patent.

14. BCI asked AS America to disclose the process used to manufacture Passage Subway Tile Custom Shower Walls and AS America refused to disclose this information.

15. BCI is entitled to a presumption under 35 U.S.C. § 295 that the Accused Products are made using the method claimed in the '243 patent because there is a substantial likelihood that the Accused Products are made by the patented method and BCI has made reasonable efforts to determine the process actually used in the production of Passage Subway Tile Custom Shower Walls and was unable to so determine.

16. Upon information and belief, AS America directly infringes the '243 patent under 35 U.S.C. §271(a) through its manufacture of the Accused Products using a method that falls within the scope of at least claim 1 of the '243 Patent.

17. Upon information and belief, AS America is liable for induced infringement under 35 U.S.C. §271(b) by knowingly and intentionally encouraging, instructing, and aiding others to make the Accused Products using a method that falls within the scope of at least claim 1 of the '243 Patent.

18. Upon information and belief, AS America directly infringes the '243 Patent under 35 U.S.C. §271(g) by offering to sell, selling, or using within the United States the Accused Products, which are made by a process that falls within the scope of at least claim 1 of the '243 Patent.

19. AS America will continue to infringe the '243 Patent unless enjoined by this Court.

20. Upon information and belief, AS America's infringement is willful because it is aware of the '243 Patent and BCI's rights in and to the '243 Patent and AS America, nonetheless, continues its acts of infringement without a good faith belief that the '243 Patent is invalid, not infringed and/or unenforceable.

21. BCI has been damaged by AS America's unlawful acts and is entitled to an award of damages for all direct and indirect infringement of the '243 Patent.

22. BCI has suffered and will continue to suffer irreparable injury unless AS America is preliminarily and permanently enjoined by this Court from engaging in further unlawful acts, as alleged herein.

WHEREFORE, Plaintiff, BCI Acrylic, Inc. prays that this Court enter judgment in favor of BCI and against AS America and issue an order for:

(a) a declaration that AS America infringes the '243 Patent in violation of 35 U.S.C. §271(a), (b), and (g);

(b) a permanent injunction against the continuing infringement of the '243 Patent by AS America, its subsidiaries, parents, divisions, directors, officers, owners, partners, agents, employees, attorneys, representatives, and all those persons in active concert and participation with AS America;

(c) accounting for damages sustained by BCI as a result of AS America's infringement of the '243 Patent, that the damages in accordance therewith be awarded to BCI together with interest and costs against AS America pursuant to 35 U.S.C. §284;

(d) order AS America to pay BCI its reasonable attorneys' fees and costs, pursuant to 35 U.S.C. §285, as this is an "exceptional" case; and

(e) granting all other relief as this Court deems just and proper.

JURY DEMAND

Pursuant to Fed. R. Civ. P. 38, BCI Acrylic, Inc. demands a jury trial on all issues so triable.

Respectfully submitted,

Dated: January 31, 2023

By: /s/Mark Remus

William Frankel

Mark Remus

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