

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA

SCREENCO SYSTEMS, LLC,

Plaintiff,

v.

SCOTT SEPTIC & PORTABLES, INC., and JAMES
SCOTT, an individual,

Defendants

Case No. 1:23-cv-00305

**PLAINTIFF’S COMPLAINT FOR
PATENT INFRINGEMENT**

JURY TRIAL DEMANDED

Plaintiff Screenco Systems, LLC (“Screenco”) brings this action against Defendant Scott Septic & Portables, Inc., and James Scott, (collectively “Defendants” or “SSP”) for patent infringement, seeking an injunction, damages, and other appropriate relief to stop Defendant from violating Screenco’s patent rights. Screenco states and alleges as follows:

THE PARTIES

1. Screenco is a limited liability corporation organized and existing under the laws of the State of Idaho, having its principal place of business at 13235 Spur Rd., Genesee, Idaho, 83832.

2. Screenco is a market leader in the design, manufacture, and sale of systems for wastewater filtration, including portable receiving stations having a screen design for filtering and removal of trash and debris from wastewater. Screenco owns exclusive rights in the ornamental

PLAINTIFF’S COMPLAINT FOR
PATENT INFRINGEMENT

CONSTELLATION LAW GROUP PLLC
5818 NORA ST. N.W.,
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(360)627-7147

1 designs claimed in United States Design Patent No. D757,889 S entitled “Septic Receiving Station
2 With Screen” (the “ ‘889 Patent”).

3 3. On information and belief, Defendant Scott Septic & Portables, Inc. is a corporation
4 organized and existing under the laws of the State of Indiana, having its principal place of business at
5 409 Myers St., Ladoga, Indiana, 47954.

6 4. On information and belief, Defendant James Scott is an individual, and an owner and
7 officer of Defendant Scott Septic & Portables, Inc., and resides in the State of Indiana in this judicial
8 district.

9 5. Defendants provides septic pumping services. On information and believe, Defendants
10 advertise, market, sell, and provide septic pumping services to customers in west central Indiana,
11 including within this judicial district.

12 6. Defendants have used and continue to use one or more septic receiving stations that are
13 within the scope of Screenco’s protected designs under the ‘889 Patent, without Screenco’s
14 permission, as part of their business operations within this judicial district.

15 **NATURE OF THE ACTION**

16 7. This is a civil action for infringement of Screenco’s ‘889 Patent (United States Design
17 Patent No. D757,889 S) arising under the patent laws of the United States, including, without
18 limitation, 35 U.S.C. §1 *et seq.*, and in particular 35 U.S.C. §271 and §§281-289, of the United States
19 Code.

JURISDICTION AND VENUE

1 8. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

2 9. This Court has personal jurisdiction over Defendants because Defendant SSP maintains
3 its principal place of business in this District, and Defendant James Scott resides within this District.
4 This Court also has personal jurisdiction over Defendants because Defendants regularly solicit and
5 conduct business in this District and engage in other persistent courses of conduct in this District. This
6 Court also has personal jurisdiction over Defendants because Defendants derive substantial revenue
7 from services sold to persons or entities in this District, and commit acts of infringement in this District,
8 including but not limited to making, using, offering to sell, or selling one or more products or services
9 that infringe one or more claims of the Screenco ‘889 Patent at issue in this lawsuit.

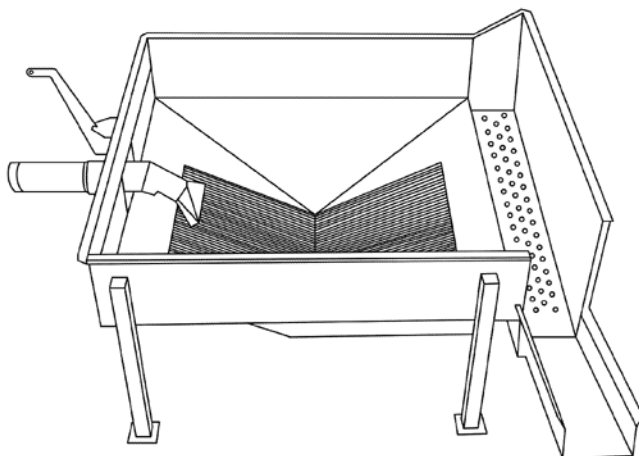
10 10. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400(b) because
11 Defendants have committed acts of infringement in this District, and because Defendants have a
12 regular and established place of business in this District and/or reside in this District.

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16 **THE ‘889 PATENT**

17 11. On May 31, 2016, the ‘889 Patent entitled “Septic Receiving Station With Screen” was
18 duly and legally issued to inventor Scott Meyer, as president and co-owner of Screenco Systems, LLC.
19 The ‘889 Patent is generally directed toward several of Screenco’s receiving station products having a
20 screen design for filtering and removal of trash and debris from wastewater. Screenco manufactures

1 the protected receiving station products in Idaho and offers these products for sale throughout the
2 United States.

3 12. A true and correct copy of the '889 patent is attached as Exhibit A. Figure 1 of the '889
4 Patent is reproduced below as follows:



12 FIG. 1

13 (see Attachment A. '889 Patent, Figure 1).

14 13. By way of assignment, Screenco is the owner of all right, title, and interest in the '889
15 Patent, including the rights to exclude others and to sue and recover damages for infringement.

16 14. Screenco has complied with the marking requirements of 35 U.S.C. §287 in several ways,
17 including by fixing the word "patented" together with the relevant patent number directly onto the
18 receiving station products that it manufactures, and also by providing similar patent notices and patent
19 markings on its website (at www.screencosystems.com), and other marketing materials associated
20 with the protected receiving station products.

FACTUAL ALLEGATIONS SHOWING INFRINGEMENT BY SSP

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15. In November of 2016, Screenco was approached by Defendants SSP and James Scott and was asked to provide a cost estimate for two of Screenco’s receiving station products. A true and correct copy of a cost estimate prepared by Screenco and sent to James Scott and SSP dated November 21, 2016 is provided as Attachment B, providing cost estimates for two of Screenco’s receiving station products (namely, the SC-Maxi-A-400 and SC-Mega-A-600).

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16. The cost estimate sent to Defendants dated November 21, 2016 included the annotation “Patented Dual Screen Design,” further advising SSP that the receiving stations that were the subject of the cost estimate were protected by patent.

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17. On information and belief, James Scott is an officer or owner (or co-owner) of SSP.

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18. In response to the cost estimate from Screenco, Defendants did not order or purchase any receiving stations from Screenco. On information and belief, Defendants has not purchased any other receiving stations manufactured by Screenco from any other third parties.

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19. In May of 2022, Defendant James Scott of SSP posted a video on the social media network Facebook to a group entitled “Septic Tank Pumper Trucks/PUMPER NATION,” showing a receiving station in operation by Defendant SSP. Attachment C is a collection of several true and accurate photos or screenshot images of the video posted by Defendants, and the corresponding comments to the Facebook post by James Scott and other members of the Facebook group. As shown in Attachment C, the video posted by Defendants shows several views of the Defendants’ receiving station in operation, and clearly shows that the receiving station being operated by Defendants is a substantial replica of the protected receiving station design covered by the Screenco ‘889 Patent.

1 20. In the post of May 2022, Defendant Scott initially provides a comment regarding the
2 commercial benefits that Defendants are realizing by using the replica receiving station shown on the
3 video as follows: “Finally setup and running. Screen dumps in a transfer tank which is simultaneously
4 pumped to the storage tank. Having 21,000 gallons of space will allow us to be more efficient with
5 our time. We spend 2.5hrs every disposal run, now we can haul on our slow days or Saturdays.”
(Attachment C, page 1).

6 21. On information and belief, the Facebook group entitled “Septic Tank Pumper
7 Trucks/PUMPER NATION” includes many members who are actively involved in the wastewater
8 treatment and disposal industry, including those who have already purchased receiving stations from
9 Screenco, or who are in the relevant market for purchasing Screenco receiving stations.

10 22. The video posted by Defendants attracted a number of comments from the members of
11 the Facebook group entitled “Septic Tank Pumper Trucks/PUMPER NATION.” For example, one
12 member (“Jr. Top”) believed the receiving station shown in the video to be a Screenco receiving
13 station, commenting in relevant part as follows: “Our screenco catches everything and we fill a
14 dumpster a week.” (Attachment C, page 8)(emphasis added).

15 23. Another member of the group (Cameron Davis) asked the question “What strainer is
16 that,” to which Defendant Scott replied “Cameron Davis Screenco out of Washington makes them.”
17 (Attachment C, page 9) (emphasis added).

18 24. Yet another member of the group (Raymond Daniels) commented “James Scott we have
19 one [i.e. a Screenco receiving station] but I believe ours came from Idaho,” to which Defendant Scott
20 replied “Raymond Daniels now I do believe you’re right.” (Attachment C, page 9)(emphasis added).

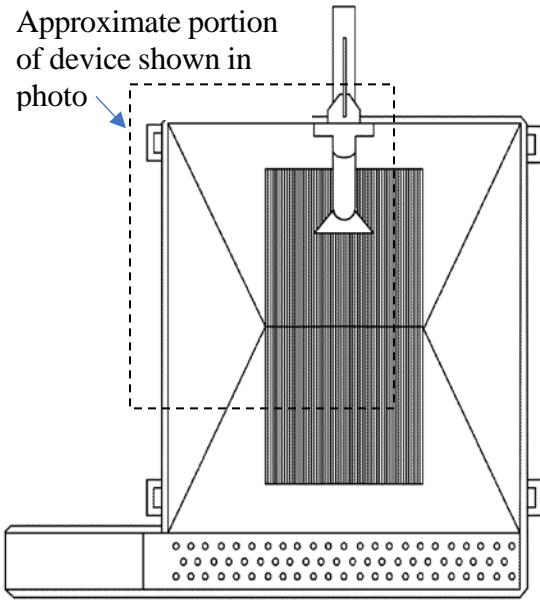

1 25. Finally, another member of the group (Ricky Dooley) commented “But you moving it
2 twice, more fuel an time (sic),” to which Defendant Scott replied “Ricky Dooley no. More revenue
3 every day, week, month, and therefore year. We schedule residential pumping work 8-3 M-F. Instead
4 of losing out on 2.5hrs a day we can now run 2 more pumpings a day at least. Less fuel a day and
5 more productivity time.” (Attachment C, page 10). In this way, Defendant Scott further emphasized
6 the commercial benefits that Defendants are realizing by using the replica receiving station shown on
7 the video.

8 26. In an effort to avoid litigation, Screenco sent a cease and desist correspondence to
9 Defendants on September 15, 2022 which was hand delivered to Defendant SSP. Defendants did not
10 respond to that correspondence.

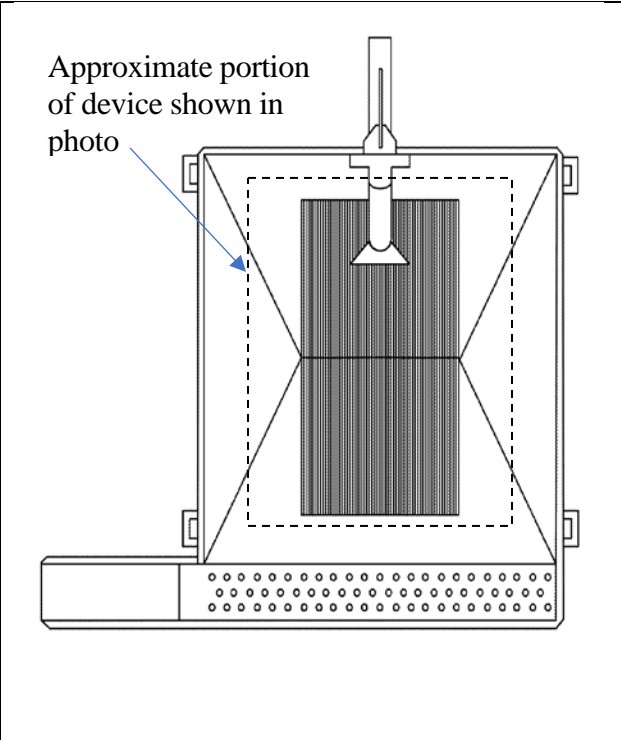
11 27. Additional attempts to avoid litigation were also made. Specifically, Screenco’s attorney
12 (Dale Barr) made numerous attempts to contact Defendants by mail and by telephone in October and
13 November 2022, and conducted a telephone call with Defendant Scott on November 1, 2022 and
14 attempted to discuss the case, however, Defendant Scott would not provide meaningful information
15 before terminating the call. In addition, Screenco’s attorney (Paul Overhauser) made numerous
16 attempts to contact Defendants by telephone and by email in January and February 2023, however,
17 Defendants would not participate in discussions or provide information. .

18 28. The overall appearance of the claimed receiving station designs of the Screenco ‘889
19 Patent and the replica receiving station that was made by (or for) and is being used by Defendants in
20 their business operations are substantially the same.

29. The table below provides a comparison of the relevant portions of figure 6 of the '889 Patent with two selected screenshot images of the Defendant's replica receiving station from the video posted in May 2022.

Screenco's '889 Patent – Figure 6	Defendants' replica receiving station (May 2022)
<p>Approximate portion of device shown in photo</p> 	

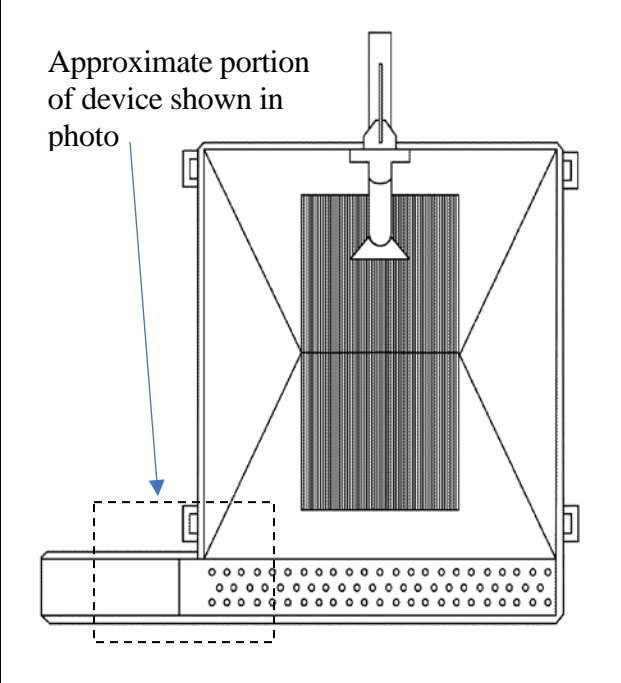
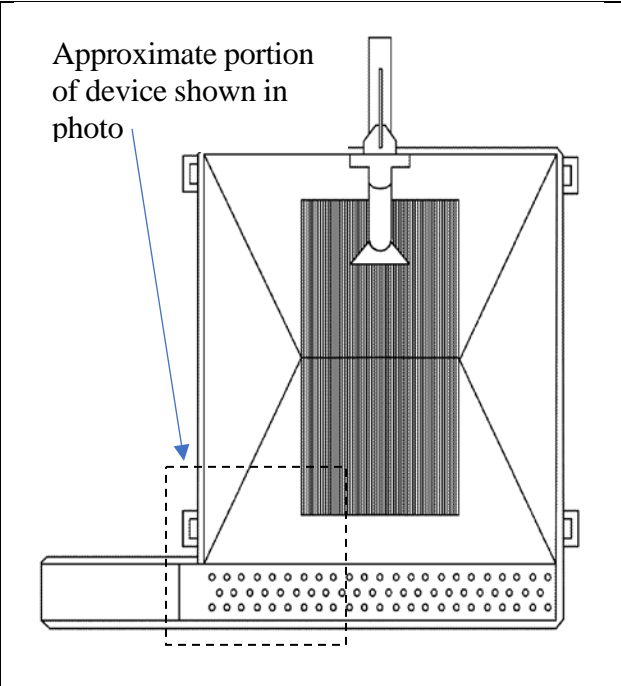
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30. The table below provides a comparison of the relevant portions of figure 6 of the '889 Patent with two other images of the Defendants' replica receiving station from the video posted in May 2022.

Screenco's '889 Patent – Figure 6	Defendants' replica receiving station (May 2022)
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(Debris chute raised into upright position.)

1 31. As demonstrated by the above-referenced posted comments (shown in Attachment C),
2 the replica receiving station being used by Defendants in the video posted in May 2022 appears to
3 ordinary observers to be substantially similar to the receiving station designs protected by Screenco’s
4 ‘889 Patent.

5 32. Defendant Scott of SSP has admitted that the replica receiving station being used by
6 Defendants in the video posted in May 2022 appears substantially similar to, or is a direct copy of, the
7 receiving station designs protected by Screenco’s ‘889 Patent.

8 33. An ordinary observer comparing Defendants’ replica receiving station with the designs
9 protected by the ‘889 Patent, giving such attention as a purchaser usually gives, and in the context of
10 the claimed design as a whole, would conclude that the two designs are substantially the same.

11 **COUNT I –PATENT INFRINGEMENT OF THE ‘889 PATENT**

12 34. Screenco realleges and incorporates by reference the allegations in paragraphs 1-33
13 above.

14 35. Defendants have admitted that the receiving station shown in use by Defendants in the
15 video posted in May 2022 is a copy or replica of a Screenco receiving station.

16 36. Because the one or more replica receiving stations being used by Defendants appear to
17 ordinary observers as being substantially similar to the receiving station designs that are protected by
18 Screenco’s ‘889 Patent, Defendants’ activities, including using and/or making of such replica receiving
19 station(s), infringe the ‘889 Patent under 35 U.S.C. §271.

1 37. In addition, because Defendants have admitted that the one or more replica receiving
2 stations being used by Defendant in the video posted in May 2022 appears substantially similar to, or
3 is a direct copy of, the receiving station designs that are protected by Screenco’s ‘889 Patent,
4 Defendants’ activities, including using and/or making of such replica receiving station(s), infringe the
5 ‘889 Patent under 35 U.S.C. §271.

6 38. Defendants have directly infringed and continue to directly infringe the ‘889 Patent under
7 35 U.S.C. §271 by using and/or making, within the United States, without authorization from
8 Screenco, one or more receiving stations that infringes the ‘889 Patent.

9 39. Inspection of the video posted by Defendants in May 2022 demonstrates that one or more
10 receiving stations operated by Defendants infringes the ‘889 Patent under 35 U.S.C. §271, either
11 literally or under the doctrine of equivalents.

12 40. Defendants’ infringement has caused Screenco to suffer damages, and as such, Screenco
13 is entitled to damages pursuant to 35 U.S.C. §§284 and 289.

14 41. On information and belief, Defendants’ infringement was and is willful, deliberate,
15 malicious, and in bad faith, making this an exceptional case. SSP knew or should have known that
16 continuing to use and/or make the receiving station shown in the video would infringe the ‘889 Patent,
17 yet SSP infringed and continues to infringe the ‘889 Patent. As a result, Screenco is entitled to
18 increased damages, costs, interest, and attorneys’ fees pursuant to 35 U.S.C. §§284 and 285.

19 42. On information and belief, Defendants have caused irreparable damage and harm to
20 Screenco by their acts of infringement as described above, and will continue said acts of infringement
21 unless enjoined by this Court under 35 U.S.C. §283.

PRAYER FOR RELIEF

WHEREFORE, Screenco prays for relief as follows:

1. A judgment and order that Defendants have infringed the Screenco ‘889 Patent under 35 U.S.C. §271 by making, using, offering to sell, and/or selling one or more infringing receiving stations;
2. A judgement and order permanently enjoining Defendants and their affiliates, officers, agents, employees, and all other persons acting in concert with Defendants, from infringing the Screenco ‘889 Patent;
3. A judgement and order requiring Defendants, jointly and severally, to pay Screenco damages adequate to compensate Screenco for Defendants’ infringements of the Screenco ‘889 Patent pursuant to 35 U.S.C. §284, and/or the total profit made by Defendants from their infringements of the Screenco ‘889 Patent pursuant to 35 U.S.C. §289;
4. A judgement and order requiring Defendants, jointly and severally, to pay Screenco supplemental damages or profits for any continuing post-verdict infringement up until entry of the final judgment, with an accounting , as needed;
5. A judgement and order requiring Defendants, jointly and severally, to pay Screenco increased damages up to three times the amount found or assessed pursuant to 35 U.S.C. §284;
6. A judgement and order requiring Defendants, jointly and severally, to pay Screenco pre-judgment and post-judgment interest on any damages or profits awarded;
7. A determination that this action is an exceptional case pursuant to 35 U.S.C. §285;
8. An award of Screenco’s attorneys fees for bringing and prosecuting this action;

1 9. An award of Screenco’s costs and expenses incurred in bringing and prosecuting this
2 action; and

3 10. Such further and additional relief as this Court deems just and proper.

4 **DEMAND FOR JURY TRIAL**

5 Pursuant to Fed. R. Civ. P. 38(b), Plaintiff hereby demands a trial by jury on all issues triable of
6 right by jury in this action.

7 DATED this 17 day of February, 2023.

8 Respectfully Submitted,

9 Overhauser Law Offices, LLC

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