

-UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

VANDOR GROUP, INC.)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 1:23cv0013 SEB-MG
)	
BATESVILLE CASKET COMPANY, INC.))	DEMAND FOR JURY TRIAL
)	
Defendant)	

COMPLAINT

Pursuant to Federal Rules of Civil Procedure 15(a)(1)(B), Plaintiff, Vandor Group, Inc. (“Vandor”), submits this Complaint against Batesville Casket Company, Inc. (“Batesville”). This is an action for patent infringement under the patent laws of the United States, 35 U.S.C. §§ 271, 281, and 283-285. Vandor seeks, among other things, a permanent injunction enjoining Defendant from continuing to infringe Vandor’s patents. Vandor also seeks damages for Defendant’s willful infringement of Vandor’s patents, as well as recovery of Vandor’s reasonable attorneys’ fees and costs it has incurred and will incur in prosecuting this action.

THE PARTIES

1. Vandor Group, Inc. is a corporation organized and existing under the laws of the State of Indiana, with its principal place of business at 4251 Industries Road, Richmond, Indiana, 47374.
2. On information and belief, Defendant Batesville is a corporation organized and existing under the laws of the State of Indiana, with its principal place of business at One Batesville Blvd., Batesville IN 47006.

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, 35 U.S.C. §§ 271, 281, and 283-285. Subject matter jurisdiction is conferred on this Court by 28 U.S.C. §§ 1331 and 1338. Venue is proper in this Court under 28 U.S.C. §§ 1391 and 1400.

4. On information and belief, Batesville has committed acts of infringement in this judicial district.

5. On information and belief, Batesville has a regular and established place of business in this judicial district.

BACKGROUND

6. Plaintiff Vandor is the owner by assignment of all right, title, and interest in and to United States Patent No. 8,959,732 (“the ‘732 Patent”) entitled “Lightweight Casket Having Foldable Features,” which duly and legally issued in the names of Gary L. Cox, Gerald H. Davis and Chad L. Eversole on February 24, 2015. A copy of the ‘732 Patent is attached to the Complaint as Exhibit A.

7. Vandor owns all right, title and interest in and to the ‘732 Patent, and owns the right to collect damages for past, present and future infringements thereof.

8. Plaintiff Vandor is the owner by assignment of all right, title, and interest in and to United States Patent No. 9,649,240 (“the ‘240 Patent”) entitled “Lightweight Casket Having Foldable Sides,” which duly and legally issued in the names of Gary L. Cox, Gerald H. Davis and Chad L. Eversole on May 16, 2017. A copy of the ‘240 Patent is attached to the Complaint as Exhibit B.

9. Vandor owns all right, title and interest in and to the ‘240 Patent, and owns the right to collect damages for past, present and future infringements thereof.

10. Plaintiff Vandor is the owner by assignment of all right, title, and interest in and to United States Patent No. 10,098,801 (“the ‘801 Patent”) entitled “Lightweight Casket Having Foldable Features,” which duly and legally issued in the names of Gary L. Cox, Gerald H. Davis and Chad L. Eversole on October 16, 2018. A copy of the ‘801 Patent is attached to the Complaint as Exhibit C.

11. Vandor owns all right, title and interest in and to the ‘801 Patent, and owns the right to collect damages for past, present and future infringements thereof.

12. Plaintiff Vandor, doing business as Starmark Funeral Products, has sold and continues to sell a cremation product (the “Starmark Insert”) that embodies claims of both the ‘240 Patent since at least May 16, 2017 and the claims of the ‘732 Patent since at least February 24, 2015.

13. Vandor has sold the Starmark Insert specifically for use in a manner that embodies the claims of the ‘801 Patent since at least October 16, 2018.

14. Plaintiff Vandor has enjoyed substantial commercial success from the sale of the Starmark Insert attributable to the patented features thereof.

15. Plaintiff Vandor has marked the Starmark Insert with the patent number of the ‘732 Patent by applying a label to the Starmark Insert showing the patent number of the ‘732 Patent since at least July, 2015.

16. Plaintiff Vandor has marked the Starmark Insert with the patent number of the ‘240 Patent since at least June, 2017.

17. Plaintiff Vandor has marked the Starmark Insert with the patent number of the ‘801 Patent since at least April 30, 2019.

18. Upon information and belief, Defendant Batesville manufactures, uses, offers for sale, and/or sells a rental insert product, a portion of which is depicted in Exhibits D and E, which is referred to as a B-Insert (hereinafter “B-Insert”).

19. Upon information and belief, attached hereto as Exhibit F is a true copy of a document that is provided by Batesville to purchasers of the B-Insert.

20. Defendant Batesville has used, offered to sell, and/or sold, and upon information and belief continues to use, offer to sell, and/or sell the B-Insert within this Judicial District that infringes one or more claims of the Patents-In-Suit.

COUNT 1
PATENT INFRINGEMENT OF THE ‘732 PATENT

21. Plaintiff Vandor re-alleges and incorporates by reference the allegations set forth in paragraphs 1-20 above.

22. By using, selling, and/or offering for sale the B-Insert, Defendant has directly infringed, and will continue to directly infringe, at least claims 1-5, 8-10, and 13-15 of the ‘732 Patent under 35 U.S.C. § 271(a) literally and/or under the doctrine of equivalents.

23. Claim 1 of the ‘732 Patent recites a casket arrangement having a first configuration and a second configuration.

24. The B-Insert is a cremation container used as an insert to a rental casket. The B-Insert has two configurations, an upright configuration or first configuration that is shown in Exhibit D, and a collapsed configuration or second configuration that is shown in Exhibit E.

25. Claim 1 of the ‘732 Patent recites a casket bottom formed of a pliable material.

26. The B-Insert includes a casket bottom formed of corrugated paper.

27. Claim 1 of the '732 Patent recites side panels formed intrinsically with the casket bottom of the pliable material, each side panel including a lower section and an upper section foldably attached thereto, the lower section extending vertically upward from the casket bottom.

28. The B-Insert includes side panels formed from the same corrugated paper blank as the bottom panel. In the photo of Exhibit D the arrows labeled 12 identify the side panels. Each of the side panels 12 includes a lower section 12a that extends upward from the bottom panel. Each of the side panels 12 further includes an upper section 12b foldably attached to the lower section. (See Exhibit D.)

29. Claim 1 of the '732 Patent recites “the upper section in the first configuration extending upward from the lower section and in the second configuration extending in a direction downward from a top portion of the lower section.”

30. The B-Insert side panel includes an upper section 12b that in a first configuration extends upward from the lower section. (See Exhibit D.) In the second configuration shown in the photo of Exhibit E, the upper section 12b of the side panels extend downward from the top of the lower section 12a. The top portion of the lower section 12a includes the top of the lower section.

31. Claim 1 of the '732 Patent recites end panels formed intrinsically with the casket bottom of the pliable material.

32. The B-Insert includes end panels formed from the same corrugated paper blank as the casket bottom. The end panels include a lower end panel 14a that extends upward from the casket bottom, as shown in Exhibit D.

33. Claim 1 of the '732 Patent recites “flaps extending laterally from, and foldably attached to each end of each upper section.”

34. The B-Insert includes flaps 14b that extend laterally from and are foldably attached to the upper sections 12b of the side panels 12.

35. Claim 1 of the '732 Patent recites "the flaps in the first configuration extending upward from a first vertical level defined by the top portion of the lower section, and in the second configuration extending downward from the first vertical level."

36. The flaps 14b of the B-Insert in the first configuration shown in Exhibit D extend upward from any of a plurality of first vertical levels defined by a top portion of the lower section 12a. In the second configuration shown in Exhibit E, the flaps 14b extend downward any one of the same first vertical levels defined by the top portion of the lower section 12a.

37. Claim 1 of the '732 Patent recites that "the casket bottom, the side panels, the flaps and the end panels form a casket body at least in the first configuration".

38. In the first configuration, the bottom panel, the side panels 12, the flaps 14b and the end panels 14a of the B-Insert form a casket body. (See Exhibit D.)

39. Claim 1 of the '732 Patent recites that "the flaps of opposing upper sections extend from their respective upper sections toward each other in the first configuration".

40. In the first configuration, the flaps 14b of opposite upper sections 12b of the B-Insert extend from their respective upper sections toward each other in the first configuration, as shown in Exhibit D.

41. Claim 1 of the '732 Patent reads literally or under the doctrine of equivalents on the B-Insert.

42. Claim 2 of the '732 Patent depends from claim 1, and further recites "wherein the flaps of opposing upper sections extend from their respective upper sections toward each other in the second configuration."

43. The flaps 14b of opposing upper sections 12b of the B-Insert extend from their respective upper sections 12b toward each other in the second configuration, as shown in Exhibit E.

44. Claim 2 of the '732 Patent reads literally and under the doctrine of equivalents on the B-Insert.

45. Claim 3 of the '732 Patent depends from claim 1, and further recites that each flap comprises a substantially rectangular panel.

46. Each of the flaps 14b of the B-Insert includes a substantially rectangular panel, as shown in Exhibit D.

47. Claim 3 of the '732 Patent reads literally or under the doctrine of equivalents on the B-Insert.

48. Claim 4 of the '732 Patent recites a casket arrangement having a first configuration and a second configuration.

49. The B-Insert is a cremation container used as an insert to a rental casket. The B-Insert has two configurations, an upright configuration or first configuration that is shown in Exhibit D, and a collapsed configuration or second configuration that is shown in Exhibit E.

50. Claim 4 of the '732 Patent recites a casket bottom formed of a pliable material.

51. The B-Insert includes a casket bottom formed of pliable corrugated paper.

52. Claim 4 of the '732 Patent recites side panels formed intrinsically with the casket bottom of the pliable material, each side panel including a lower section and an upper section foldably attached thereto, the lower section extending vertically upward from the casket bottom.

53. The B-Insert includes side panels formed from the same corrugated paper blank as the bottom panel. In the photo of Exhibit D the arrows labeled 12 identify the side panels. Each of

the side panels 12 includes a lower section 12a that extends upward from the bottom panel. Each of the side panels 12 further includes an upper section 12b foldably attached to the lower section. (See Exhibit D.)

54. Claim 4 of the '732 Patent recites "the upper section in the first configuration extending upward from the lower section and in the second configuration extending in a direction downward from a top portion of the lower section."

55. The B-Insert side panel 12 includes an upper section 12b that in a first configuration extends upward from the lower section. (See Exhibit D.) In the second configuration shown in the photo of Exhibit E, the upper section 12b of each side panel 12 extends downward from the top portion of the lower section 12a.

56. Claim 4 of the '732 Patent recites end panels formed intrinsically with the casket bottom of the pliable material.

57. The B-Insert includes end panels formed from the same corrugated paper blank as the casket bottom. The end panels include a lower end panel 14a that extends upward from the casket bottom, as shown in Exhibit D.

58. Claim 4 of the '732 Patent recites "flaps extending laterally from, and foldably attached to each end of each upper section."

59. The B-Insert includes flaps 14b that extend laterally from and are foldably attached to the upper sections 12b of the side panels 12. (See Exhibit D.)

60. Claim 4 of the '732 Patent recites "the flaps in the first configuration extending upward from a first vertical level defined by the top portion of the lower section, and in the second configuration extending downward from the first vertical level."

61. The flaps 14b of the B-Insert in the first configuration shown in Exhibit D extend upward from any of a plurality of first vertical levels defined by a top portion of the lower section 12a.

In the second configuration shown in Exhibit E, the flaps 14b extend downward any one of the same first vertical levels defined by the top portion of the lower section 12a.

62. Claim 4 of the '732 Patent recites that “the casket bottom, the side panels, the flaps and the end panels form a casket body at least in the first configuration”.

63. In the first configuration, the casket bottom, the side panels 12, the flaps 14b and the end panels 14a of the B-Insert form a casket body. (See Exhibit D.)

64. Claim 4 of the '732 Patent recites that “each flap in the first configuration is operably coupled to one of the end panels”.

65. In the first configuration, each of the flaps 14b in the first configuration is operably coupled to the one of the end panels 14a. (See Exhibit D.)

66. Claim 4 of the '732 Patent reads literally or under the doctrine of equivalents on the B-Insert.

67. Claim 5 of the '732 Patent depends from claim 4, and further recites that the casket arrangement further comprises “at least a first tab attached to the one of the flaps, the first tab configured to be received by one of the end panels”.

68. The B-Insert includes tabs 16a. Each of the tabs 16a are attached to a corresponding flap 14b. An example of one of the tabs attached to the one of the flaps is also shown in Exhibit F in the photograph with the superimposed text “Place tabs back into slots in tray”, and in the photograph with the superimposed text “Place tabs as shown”.

69. Claim 5 of the '732 Patent reads literally and under the doctrine of equivalents on the B-Insert.

70. Upon information and belief Defendant has been aware of its infringing activities since at least January 1, 2017.

71. Upon information and belief, Defendant has sold and continues to sell and offer for sale the B-Insert to others knowing that they will use it to directly infringe at least claims 1-5, 8-10, and 13-15 of the '732 Patent. Therefore, it is reasonable to infer that Defendant intended to induce infringement of at least claims 1-5, 8-10, and 13-15 of the '732 Patent under 35 U.S.C. § 271(a) under 35 U.S.C. § 271(b) literally and/or under the doctrine of equivalents by selling and offering for sale the B-Insert to others.

72. Upon information and belief, Defendant has sold and continues to sell and offers for sale the B-Insert to others knowing that it has no substantial non-infringing uses and that it is material to practicing the inventions of the '732 Patent. Moreover, Defendant has sold and continues to sell the B-Insert to others knowing that others are using it to directly infringe the '732 Patent. Thus, Defendant has and continues to contributorily infringe at least claims 1-5, 8-10, and 13-15 of the '732 Patent under 35 U.S.C. § 271(c) literally and/or under the doctrine of equivalents.

73. Upon information and belief, Defendant's infringement of at least claims 1-5, 8-10, and 13-15 of the '732 Patent has been and continues to be willful and deliberate.

74. Upon information and belief, Defendant's infringement of at least claims 1-5, 8-10, and 13-15 of the '732 Patent will continue unless enjoined by this Court.

75. As a direct and proximate consequence of Defendant's infringement of at least claims 1-5, 8-10, and 13-15 of the '732 Patent, Vandor has suffered and will continue to suffer irreparable injury and damages in an amount not yet determined for which Vandor is entitled to relief.

COUNT 2
PATENT INFRINGEMENT OF THE '240 PATENT

76. Plaintiff Vandor re-alleges and incorporates by reference the allegations set forth in paragraphs 1-75 above.

77. By using, selling, and/or offering for sale the B-Insert, Defendant has directly infringed, and will continue to directly infringe, at least claims 1, 5, 6, 7, 8, 13, 15 of the '240 Patent under 35 U.S.C. § 271(a) literally and/or under the doctrine of equivalents.

78. Claim 1 of the '240 Patent recites a casket arrangement having a first configuration and a second configuration.

79. The B-Insert is a cremation container used as an insert to a rental casket. The B-Insert has two configurations, an upright configuration or first configuration that is shown in Exhibit D, and a collapsed configuration or second configuration that is shown in Exhibit E.

80. Claim 1 of the '240 Patent recites a casket bottom formed of a pliable material.

81. The B-Insert includes a casket bottom formed of pliable corrugated paper.

82. Claim 1 of the '240 Patent recites side panels coupled to the casket bottom and formed of the pliable material.

83. The B-Insert includes side panels formed from the same corrugated paper blank as the bottom panel. In the photo of Exhibit D, the arrows labeled 12 identify the side panels.

84. Claim 1 of the '240 Patent recites "each side panel having a first length and including a lower section and an upper section foldably attached thereto, the lower section extending vertically upward from the casket bottom."

85. In the photo of Exhibit D, each of the side panels 12 of the B-Insert has the same first length, and includes a lower section 12a that extends upward from the bottom panel. The side panels include an upper section 12b foldably attached to the lower section 12a. (See Exhibit D.)

86. Claim 1 of the '240 Patent recites “the upper section in the first configuration extending upward from a top portion of the lower section and in the second configuration extending in a direction other than vertically upward from the top portion of the lower section.”

87. The B-Insert side panel 12 includes an upper section 12b that in a first configuration extends upward from the lower section 12a. (See Exhibit D.) In the second configuration shown in the photo of Exhibit E, the upper section 12b of each side panel 12 extends in a direction other than vertically upward from the top portion of the lower section.

88. Claim 1 of the '240 Patent recites end panels coupled to the casket bottom and formed of the pliable material, each end panel having a second length that is less than the first length.

89. The B-Insert includes end panels 14a integrally coupled to the casket bottom. The end panels 14a are the opposing short panels that have a second length that is less than the first length (of the side panels 12). (See Exhibit D).

90. Claim 1 of the '240 Patent recites flaps extending laterally from, and foldably attached to, each end of each upper section, the flaps in the first configuration disposed completely at or above a first vertical level defined by the top portion of the lower section 12a, and in the second configuration extending downward from the first vertical level.

91. The B-Insert includes flaps 14b that extend laterally from and are foldably attached to the upper sections 12b of the side panels 12. As shown in Exhibit D, the flaps 14b are disposed completely at or above at least one first vertical level defined by a top portion of the lower section 12a in the first configuration. As shown in Exhibit E, the flaps 14b extend downward from at least one vertical level defined by a top portion of the lower section 12a in the second configuration.

92. Claim 1 of the '240 Patent recites that the casket bottom, the side panels, the flaps and the end panels form a casket body at least in the first configuration.

93. In the first configuration, the bottom panel, the side panels 12, the flaps 14b, and the end panels 14a of the B-Insert form a casket body. (See Exhibit D.)

94. Claim 1 of the '240 Patent recites that the flaps of opposing upper sections extend from their respective upper sections toward each other in the first configuration.

95. As shown in Exhibit D, the flaps 14b of opposing upper sections 12b extend from their respective upper sections toward each other in the first configuration.

96. Claim 1 of the '240 Patent reads literally or under the doctrine of equivalents on the B-Insert.

97. Claim 5 of the '240 Patent depends from claim 1, and further recites lower connecting extensions extending laterally from, and foldably attached to, each end of each lower section, the lower connecting extensions foldably movable with respect to said lower section independent of said flaps.

98. The B-Insert includes lower connecting extensions foldably attached to each lower section 12a of the side panels 12. The lower connecting extensions are not visible because they extend behind the end panel 14a in the photograph of Exhibit D. The lower connecting extensions are foldably movable with respect to the lower section 12a and are movable independent of the flaps 14b.

99. Claim 5 of the '240 Patent reads literally or under the doctrine of equivalents on the B-Insert.

100. Claim 6 of the '240 Patent depends from claim 5, and further recites that a first flap of the flaps is foldably attached to a first of the upper sections via a first fold line, a first lower

connecting extension is foldably attached independent of the first flap to a first of the lower sections via a second fold line, and wherein the first fold line and the second fold line are collinear in the first configuration.

101. As shown in Exhibit D, the fold line between the lower connecting extension and the lower section 12a is collinear or substantially collinear with the fold line between the flaps 14b and the upper section 12b.

102. Claim 6 of the '240 Patent reads literally or under the doctrine of equivalents on the B-Insert.

103. Claim 7 of the '240 Patent depends from claim 1, and further recites that the casket bottom comprises a bottom panel, and a casket insert disposed over and substantially covering the bottom panel, the casket insert having a center panel disposed on the bottom panel.

104. The casket bottom of the B-Insert includes a bottom panel. The B-Insert ships with two casket inserts, both of which include a center panel disposed on the bottom panel. One of the inserts is visible in Exhibits E and F, and is in the form of tray 18 with gusseted corners. The other insert is located below the tray 18, and includes a bottom panel and side walls or panels.

105. Claim 7 of the '240 Patent reads literally or under the doctrine of equivalents on the B-Insert.

106. Claim 8 of the '240 Patent depends from claim 7, and further recites that the casket insert further comprises insert side panels and insert end panels foldably connected to the center panel to form a tray structure.

107. The tray 18 of the B-Insert Insert has end panels and side panels foldably connected to the center panel.

108. Claim 8 of the '240 Patent reads literally or under the doctrine of equivalents on the B-Insert.

109. Claims 13, 15 and 18 of the '240 Patent read literally or under the doctrine of equivalents on the B-Insert.

110. Upon information and belief, Defendant has been aware of its infringing activities since at least approximately June 1, 2017.

111. Upon information and belief, Defendant has sold and continue to sell and offer for sale the B-Insert to others knowing that they will use it to directly infringe at least claims 1, 5-8, 13, 15 and 18 of the '240 Patent. Therefore, it is reasonable to infer that Defendant intended to induce infringement of at least claims 1, 5-8, 13, 15 and 18 of the '240 Patent under 35 U.S.C. § 271(b) literally and/or under the doctrine of equivalents by selling and offering for sale the B-Insert to others.

112. Upon information and belief, Defendant has sold and continues to sell and offers for sale the B-Insert to others knowing that it has no substantial non-infringing uses and that it is material to practicing the inventions of the '240 Patent. Upon information and belief, Defendant has sold and continues to sell the B-Insert to others knowing that others are using it to directly infringe the '240 Patent. Thus, Defendant has and continues to contributorily infringe at least claims 1, 5-8, 13, 15 and 18 of the '240 Patent under 35 U.S.C. § 271(c) literally and/or under the doctrine of equivalents.

113. Upon information and belief, Defendant's infringement of at least claims 1, 5-8, 13, 15 and 18 of the '240 Patent has been and continues to be willful and deliberate.

114. Upon information and belief, Defendant's infringement of at least claims 1, 5-8, 13, 15 and 18 of the '240 Patent will continue unless enjoined by this Court.

115. As a direct and proximate consequence of Defendant's infringement of at least claims 1, 5-8, 13, 15 and 18 of the '240 Patent, Vandor has suffered and will continue to suffer irreparable injury and damages in an amount not yet determined for which Vandor is entitled to relief.

COUNT 3
PATENT INFRINGEMENT OF THE '801 PATENT

116. Plaintiff Vandor re-alleges and incorporates by reference the allegations set forth in paragraphs 1-115 above.

117. By using, selling, and/or offering for sale the B-Insert, and by providing instructions for its use, Defendant has at least indirectly infringed, and will continue to indirectly infringe, at least claims 12-14 and 17 of the '801 Patent under 35 U.S.C. § 271(a) literally and/or under the doctrine of equivalents.

118. Claim 12 of the '801 Patent recites a method for use with a casket arrangement.

119. The B-Insert is a casket arrangement that is sold by Defendant for use by customers in funerary activities.

120. Claim 12 of the '801 Patent recites that the casket arrangement includes a casket bottom formed of a pliable material.

121. The B-Insert includes a casket bottom formed of pliable corrugated paper.

122. Claim 12 of the '801 Patent recites side panels coupled to the casket bottom and formed of the pliable material.

123. The B-Insert includes side panels formed from the same corrugated paper blank as the bottom panel. In the photo of Exhibit D the arrows 12 identify two opposing side panels.

124. Claim 12 of the '801 Patent recites end panels coupled to the casket bottom and formed of the pliable material.

125. The B-Insert includes end panels 14a, 14b coupled to the casket bottom and formed of the same material as the casket bottom.

126. Claim 12 of the '801 Patent recites that each end panel includes a lower end panel, and an upper end panel, the lower end panel extending vertically upward from the bottom panel and fixed in position.

127. As shown, in Exhibit D, each end panel of the B-Insert includes a lower end panel 14a that extends upward from the bottom panel and is fixed in position, and at least one upper end panel 14b.

128. Claim 12 of the '801 Patent recites "each side panel has a lower section and an upper section foldably attached thereto".

129. In the photo of Exhibit D, each of the side panels 12 of the B-Insert has a lower section 12a that extends upward from the bottom panel. The side panels 12 include an upper section 12b foldably attached to the lower section 12a.

130. Claim 12 of the '801 recites that the casket bottom, the side panels, and the end panels define an interior for receiving a deceased.

131. In both configurations shown in Exhibits D and E, the casket bottom, the side panels and the end panels of the B-Insert define an interior intended for and capable of receiving a deceased human body.

132. Claim 12 of the '801 Patent recites "moving the casket arrangement while the casket arrangement is in a second configuration, wherein in the second configuration each upper section extends in a direction other than vertically upward from the lower section, and each upper end panel extends in a direction other than vertically upward from the lower end panel."

133. Upon information and belief, Defendant provide the instructions in at least the form shown in Exhibit F to a customer on how to use a B-Insert that has been purchased or otherwise obtained by the customer (hereinafter “the customer”).

134. As illustrated in the top row of photographs of Exhibit F, the customer receives the B-Insert in a second configuration wherein the upper section 12b of each side panel 12 extends in a direction other than vertically upward from the lower section 12a, and the upper end panel 14b extends in a direction other than vertically upward from the lower end panel 14a.

135. The instructions provided by Defendant instruct the user to move the B-Insert in the second configuration from outside of a rental casket, not shown, to inside of the rental casket. (See Exhibit F).

136. To use the B-Insert as instructed by Defendant, the customer will necessarily move the B-Insert from where it is received to (as well as into) the rental casket while in the second configuration.

137. Claim 12 of the ‘801 Patent further “changing the casket arrangement from the second configuration to a first configuration, wherein in the first configuration each upper section extends upward from the lower section, and each upper end panel extends upward from the lower end panel.”

138. The instructions provided by Defendant instruct the user to change the casket arrangement from the second configuration to a first configuration, by instructing the customer to place each upper section such that it extends upward from the lower section, and to place each upper end panel such that it extend upward from one of the lower end panels. This is shown in the photographs of Exhibit F with the superimposed text “Fold up sides”, “Place tabs back into slots in tray”, “Place tabs as shown”, and “End view with sides folded up”.

139. Defendant instructs the customer to change the B-Insert from the second configuration to the first configuration after removing the B-Insert from the rental casket, and thus necessarily with a deceased human body disposed therein.

140. Claim 12 of the '801 Patent recites "moving remains of a deceased disposed within the casket arrangement while the casket arrangement is in the first configuration".

141. The necessary result of the instructions provided by Defendant for the use of the B-Insert is that the customer will move the remains of a deceased disposed within the B-Insert in the first configuration.

142. Claim 12 of the '801 Patent reads literally or under the doctrine of equivalents on the customer use of the B-Insert as instructed by Defendant.

143. Claim 13 of the '801 Patent depends from claim 12, and further recites that step c) further comprises moving the remains of the deceased while a head of the deceased is disposed proximate a first of the end panels and feet of the deceased are disposed proximate a second of the end panels.

144. Defendant's instructions for use of the B-Insert for funerary purposes necessarily results in the head of a deceased human body being disposed proximate a first of the end panels, and the feet of a deceased human body being disposed proximate a second of the end panels.

145. Claim 13 of the '801 Patent reads literally or under the doctrine of equivalents on the customer use of the B-Insert as instructed by Defendant.

146. Claim 14 of the '801 Patent depends from claim 12, and further prior to step a), removing a lid from the casket arrangement in the second configuration, and, after step b) replacing the lid on the casket arrangement in the first configuration.

147. As shown the photograph of Exhibit F with the superimposed text “Arrives with insert tray nested in lid”, the B-Insert is shipped with a lid covering the bottom panel, side panels and end panels in the second configuration.

148. As shown in the top row of photographs in Exhibit F and the accompanying superimposed text, Defendant instructs the user to remove the lid from the B-Insert before moving the B-Insert in the second configuration into the rental casket.

149. As shown in the bottom row of photographs in Exhibit F and the accompanying superimposed text, Defendant instructs the use to replace the lid on the B-insert body after it is changed to the first configuration.

150. Claim 14 of the ‘801 Patent reads literally or under the doctrine of equivalents on the customer use of the B-Insert as instructed by Defendant.

151. Claim 17 of the ‘801 Patent depends from claim 12, and further recites disposing a casket insert within a container formed by the side panels, end panels, and casket bottom of the casket arrangement.

152. The B-Insert ships with two casket inserts, both of which include a center panel disposed on the bottom panel. One of the inserts is visible in Exhibits E and F, and is in the form of tray 18 with gusseted corners. The other insert is located below the tray, and includes a bottom panel and side walls or panels.

153. Claim 17 of the ‘801 Patent reads literally or under the doctrine of equivalents on the customer use of the B-Insert as instructed by Defendant.

154. Upon information and belief, Defendant has been aware of its infringing activities with respect to the ‘801 Patent.

155. Upon information and belief, Defendant has sold and continue to sell and offer for sale the B-Insert to others knowing that they will use it to directly infringe at least claims 12-14 and 17 of the '801 Patent.

156. Defendant has knowingly provided instructions to its customers that, when performed by its customers, causes direct infringement of at least claims 12-14 and 17 of the '801 Patent under 35 U.S.C. § 271(b) literally and/or under the doctrine of equivalents.

157. Upon information and belief, Defendant has sold and continues to sell and offers for sale the B-Insert to others knowing that it has no substantial non-infringing uses and that it is material to practicing the inventions of the '801 Patent. Upon information and belief, Defendant has sold and continues to sell the B-Insert to others knowing that others are using it to directly infringe the '801 Patent. Thus, Defendant has and continues to contributorily infringe at least claims 12-14 and 17 of the '801 Patent under 35 U.S.C. § 271(c) literally and/or under the doctrine of equivalents.

158. Upon information and belief, Defendant's infringement of at least claims 12-14 and 17 of the '801 Patent has been and continues to be willful and deliberate.

159. Upon information and belief, Defendant's infringement of at least claims 12-14 and 17 of the '801 Patent will continue unless enjoined by this Court.

160. As a direct and proximate consequence of Defendant's infringement of at least claims 12-14 and 17 of the '801 Patent, Vandor has suffered and will continue to suffer irreparable injury and damages in an amount not yet determined for which Vandor is entitled to relief.

PRAYER FOR RELIEF

WHEREFORE, Vandor requests entry of judgment in its favor and against Defendant Batesville as follows:

- A. Declare that United States Letters Patent 8,959,732 was duly and legally issued, is valid and is enforceable;
- B. Enter judgment that Defendant has infringed at least claims 1-5, 8-10, and 13-15 of the '732 Patent;
- C. Enter judgment that Defendant has induced infringement of at least claims 1-5, 8-10, and 13-15 of the '732 Patent;
- D. Enter judgment that Defendant has contributed to infringement of at least claims 1-5, 8-10, and 13-15 of the '732 Patent;
- E. Enter a preliminary and permanent injunction restraining and enjoining Defendant and its respective officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise, from any further sales or use of their infringing products and any other infringement of claims of the '732 Patent, whether direct or indirect, pursuant to 35 U.S.C. § 283;
- F. Declare that United States Letters Patent 9,649,240 was duly and legally issued, is valid and is enforceable;
- G. Enter judgment that Defendant has infringed at least claims 1, 5-8, 13, 15 and 18 of the '240 Patent;
- H. Enter judgment that Defendant has induced infringement of at least claims 1, 5-8, 13, 15 and 18 of the '240 Patent;

- I. Enter judgment that Defendant has contributed to infringement of at least claims 1, 5-8, 13, 15 and 18 of the '240 Patent;
- J. Enter a preliminary and permanent injunction restraining and enjoining Defendant and its respective officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise, from any further sales or use of their infringing products and any other infringement of claims of the '240 Patent, whether direct or indirect, pursuant to 35 U.S.C. § 283;
- K. Declare that United States Letters Patent 10,098,801 was duly and legally issued, is valid and is enforceable;
- L. Enter judgment that Defendant has infringed at least claims 12-14 and 17 of the '801 Patent;
- M. Enter judgment that Defendant has induced infringement of at least claims 12-14 and 17 of the '801 Patent;
- N. Enter judgment that Defendant has contributed to infringement of at least claims 12-14 and 17 of the '801 Patent;
- O. Enter a preliminary and permanent injunction restraining and enjoining Defendant and its respective officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise, from any further sales or use of their infringing products and any other infringement of claims of the '801 Patent, whether direct or indirect, pursuant to 35 U.S.C. § 283;
- P. For damages to compensate Vandor for Defendant's infringement of the claims of the '732 Patent, the claims of the '240 Patent, and the claims of the '801 Patent pursuant to 35 U.S.C. § 284;

- Q. For enhanced damages pursuant to 35 U.S.C. § 284;
- R. For an award of pre-judgment and post-judgment interest and costs to Vandor in accordance with 35 U.S.C. § 284;
- S. Deem this to be an "exceptional" case within the meaning of 35 U.S.C. § 285, entitling Vandor to an award of its reasonable attorney fees, expenses and costs in this action; and
- T. Grant to Vandor such other and further relief as the Court may deem just, proper, and equitable under the circumstances.

DEMAND FOR JURY TRIAL

Plaintiff Vandor respectfully demands a trial by jury on all claims and issues so triable.

Date: January 3, 2023.

Respectfully submitted,

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