

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

SOMERO ENTERPRISES, INC.,

Plaintiff

v.

**MASTERSCREED LTD. and
MASTERSCREED USA,**

Defendants.

JURY TRIAL DEMANDED

Case No. 23-15889

**COMPLAINT FOR PATENT INFRINGEMENT
AND DEMAND FOR JURY TRIAL**

Plaintiff Somero Enterprises, Inc. (“Somero”) alleges as follows:

Nature and Basis of Action

1. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code. Somero seeks a determination that Masterscreed Ltd. (“Masterscreed UK”) and Masterscreed USA (“Masterscreed USA”) (collectively, “Defendants”) have infringed U.S. Patent No. 8,038,366 (the “366 Patent”) and that Somero be awarded the remedies as prayed herein.

The Parties

2. Somero is a corporation organized and existing under the laws of Delaware. Somero’s principal office is located in Ft. Myers, Florida and its design, engineering, and manufacturing facility is located in Houghton, Michigan.

3. On information and believe, Masterscreed UK is a United Kingdom corporation having its principal place of business at Rift House, 200 Eureka Park, Upper Pemberton, Kennington, Ashford, England, TN 25 4AZ.

4. Alternatively, on information and belief Masterscreed UK has its principal place of business at 16 Northfields, SW 18 1 DD, London, United Kingdom.

5. On information and belief, Masterscreed USA has its principal place of business at 1805 Dot Street, McHenry, IL, USA 60050.

6. Alternatively, on information and belief, “Masterscreed USA” is not a formal entity. Business entity searches in the Secretary of State online databases for Illinois and Delaware do not show any results either for the formation of an entity including the word “Masterscreed” or for the designation of a registered agent for a Masterscreed entity. To the extent “Masterscreed USA” is not a separate entity, on information and belief, the US activities described as being through or on behalf of “Masterscreed USA” are in fact the actions of Masterscreed UK. As discussed in more detail below, Masterscreed’s website represents to the public that it has a US presence operating as “Masterscreed USA” with an office in Chicago, Illinois.

7. As shown by the screenshot below, Masterscreed UK and/or Masterscreed USA represent to the public that it has offices in both London and Chicago, and directs the public to the addresses listed above. (Source: <https://masterscreed.com/contact-3/> (last accessed Oct. 30, 2023).)

We have offices in London and Chicago, and we operate throughout the world, please contact your nearest office for any assistance required.

United Kingdom

Masterscreed UK
16 Northfields, SW18 1DD
London, United Kingdom
+44 7877 367 660
sales@masterscreed.com

USA

Masterscreed USA
1805 Dot Street
Mc Henry, IL, USA 60050
+1 815 739 7117
sales@masterscreedusa.com



Masterscreed produces high performance concrete laser guided machines. Our products incorporate leading edge innovation and the latest in technology to deliver maximum productivity and high quality results.



Services

- o Machine Production
- o Hire including operator
- o Worldwide training
- o Customer Support
- o Optional screed heads
- o Optional 3-D adaption

United Kingdom

UK Office

Rift House, 200 Eureka Park Upper Pemberton, Kennington, Ashford, England, TN25 4AZ

Phone

+44 7877 367 660

Email

sales@masterscreed.com

Jurisdiction and Venue

8. This action arises under the patent laws of the United States, Title 35 of the United States Code §§ 1 *et seq.*

9. This Court has jurisdiction in this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

10. On information and belief, jurisdiction and venue for this action are proper in the Northern District of Illinois.

11. This Court has personal jurisdiction over Masterscreed USA because it has purposefully availed itself of the rights and benefits of the laws of this State and this Judicial District. On information and belief, Masterscreed USA is organized and existing under the laws of Illinois and resides in Illinois. This Court also has personal jurisdiction over Masterscreed

USA because it has done and is doing substantial business in this Judicial District, both generally and, on information and belief, with respect to the allegations in this Complaint.

12. Venue is proper in this Judicial District under 28 U.S.C. §§ 1391(b) and (c) and § 1400(b) at least because Masterscreed USA resides in this District.

13. This Court has personal jurisdiction over Masterscreed UK because (i) such jurisdiction is proper under the long-arm statute of the state of Illinois, 735 ILCS § 5/2-209, and (ii) this Court exercising personal jurisdiction over Masterscreed UK is consistent with the Due Process Clause of the Fourteenth Amendment.

14. Additionally or alternatively, this Court has specific jurisdiction over Masterscreed UK because (i) it has purposefully directed its activities at residents of this Judicial District, (ii) on information and belief, the allegations in this Complaint, including Masterscreed UK's one or more acts of infringement, arise out of or relate to those activities, and (iii) this Court's assertion of personal jurisdiction over Masterscreed UK in this Judicial District is reasonable and fair.

15. Additionally or alternatively, consistent with Fed. R. Civ. P. 4(k)(2), this Court has personal jurisdiction over Masterscreed UK, because (i) this action arises under the patent laws of the United States, Title 35 of the United States Code §§ 1 *et seq*, (ii) Masterscreed UK is not subject to jurisdiction in any state's courts of general jurisdiction, and (iii) this Court's exercise of jurisdiction over Masterscreed UK comports with due process.

16. Venue is proper in this Judicial District under 28 U.S.C. § 1391(b)(3) at least because there is no district in which an action may otherwise be brought against Masterscreed UK as provided in 28 U.S.C. § 1391(b) and Masterscreed UK is subject to this Court's personal

jurisdiction with respect to the allegations in this Complaint, including Masterscreed UK's one or more acts of infringement.

The Patent-in-Suit

17. On October 18, 2011, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 8,038,366 (the "'366 Patent") to Somero as owner by assignment thereof, for an invention entitled "Wheeled Concrete Screeding Device." A true and correct copy of the '366 Patent is attached hereto as **Exhibit A**.

18. Somero is the owner, by valid assignment, of all right, title, and interest in and to the '366 Patent, including the right to seek remedies and relief for past infringement thereof.

Background Facts

19. Beginning in 1986, Somero pioneered the design, development, manufacture, and use of laser-guided concrete screeding machines. Since then, Somero has led the market with continued innovation, growing its product offering from the single, original Laser Scream® to its current portfolio of 15 products.

20. Somero protects its investment in innovative and proprietary designs with a portfolio of 96 patents and pending patent applications. One of the patents in Somero's portfolio is the '366 Patent.

21. On information and belief, Defendants design, manufactures and sell a variety of laser-guided and 3D GPS/ LPS-guided concrete screeds.

22. On information and belief, Defendants design, manufacture, offer for sale, and sell laser-guided concrete screeds which Defendants market and sell under the names "MS550," "MS575," and "MS355." Collectively, these are referred to as the "Accused Products."

23. On information and belief, true and correct photographs of Defendants' MS550, MS575, and MS355 machines are shown below:



Masterscreed MS550¹



Masterscreed MS575²



Masterscreed MS355³

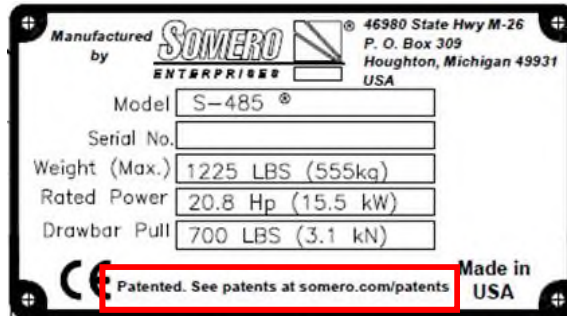
24. Since at least December 2017, Somero has marked substantially all of its products that use the technology claimed in the '366 Patent in compliance with 35 U.S.C. § 287. As one example, Somero has attached serial plates to its products that direct the public to a Somero

¹ <https://www.youtube.com/watch?v=ReNPnZRCqRw&t=21s>

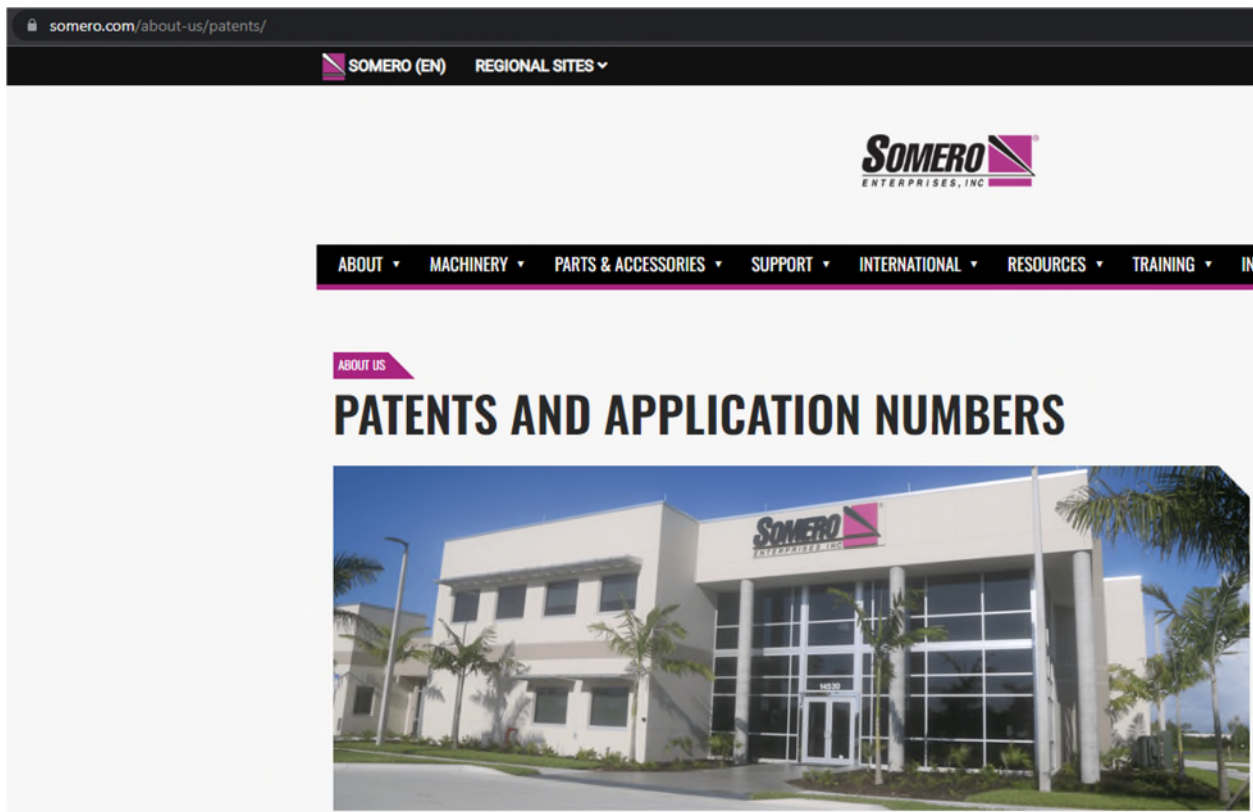
² <https://www.masterscreed.com/wp-content/uploads/2018/05/ms575-carbon-brochure.pdf>

³ <https://www.youtube.com/watch?v=iTFyxze9upM>

Internet page on which the '366 Patent and certain Somero products are listed. An example of a plate attached to one such product is shown below:



25. The website listed on this plate (somero.com/patents) associates the '366 Patent with the Somero products that use the technology claimed, as shown below:



S-485/S-940

United States

8,038,366

26. Somero has provided constructive notice to the public, including to Defendants, of the '366 Patent and Defendants' infringement thereof, at least since December 2017.

Defendants have had constructive notice of the '366 Patent and their infringement thereof since at least that date.

27. Further, on January 13, 2023, counsel for Somero sent a letter ("January 13, 2023 Letter") to Defendants, asserting that Somero is the assignee of the '366 Patent and accusing Defendants of infringing the '366 Patent with the manufacture, use, offer for sale, sale and/or distribution of Defendants' products, including their MS550 product. A true and correct copy of the January 13, 2023 Letter is attached hereto as **Exhibit B**.

28. On March 22, 2023, counsel for Somero received a letter ("March 22, 2023 Letter") from counsel for Defendants, representing that Defendants did not exhibit at the 2023 World of Concrete show in Las Vegas, and furthermore, that it had not sold its MS550 screed in the United States. A true and correct copy of the March 22, 2023 Letter is attached hereto as **Exhibit C**.

29. On April 17, 2023, counsel for Somero sent a letter ("April 17, 2023 Letter") to Defendants' counsel, indicating that lack of sales of the MS550 machine in the United States does not resolve Somero's infringement concerns, at least because an offer to sell constitutes infringement, and because other of Defendants' products (including the MS355 and MS575) infringe the '366 Patent. A true and correct copy of the April 17, 2023 Letter is attached hereto as **Exhibit D**.

30. On May 11, 2023, counsel for Somero received an email (“May 11, 2023 Email”) from counsel for Defendants. This email indicated that a video referenced in the April 17, 2023 Letter was a “demo of Masterscreed’s testing” that was made in which a Masterscreed customer was interested, but that no sale was made to the customer. A true and correct copy of the May 11, 2023 Email is attached hereto as **Exhibit E**.

31. On May 23, 2023, counsel for Somero sent a letter (“May 23, 2023 Letter”) to Defendants’ counsel, informing Defendants’ counsel that infringement under 35 U.S.C. § 271 is not limited to “sales,” but also includes uses, offers to sell, and importations. A true and correct copy of the May 23, 2023 Letter is attached hereto as **Exhibit F**.

32. On June 19, 2023, counsel for Somero received an email (“June 19, 2023 Email”) from counsel for Defendants. This email again argued that Defendants had not “consummated” any act of infringement and any actions were de minimis. A true and correct copy of the June 19, 2023 Email is attached hereto as **Exhibit G**.

33. On June 23, 2023, counsel for Somero had a telephone call with counsel for Defendants. During this call, counsel for Defendants indicated that he would speak with Defendants and gather the number of Accused Products imported into the United States, their current whereabouts, and past importation/ sales numbers within the United States. Counsel for Defendants indicated he would respond with the information in short order.

34. After a series of follow-up emails, counsel for Somero received an email on July 26, 2023 from counsel for Defendants (“July 26, 2023 Email”). This email confirmed that Defendants had imported at least some of the Accused Products into the United States, at least for purposes of display at the World of Concrete Show (an annual concrete industry trade show held in Las Vegas), since 2012. The email represented that Defendants had not made sales of

their MS550 and MS575 products in the United States, but was again silent as to offers to sell these products or other uses (other than confirming their use at the World of Concrete show). A true and correct copy of the July 26, 2023 Email is attached hereto as **Exhibit H**.

35. In addition to constructive notice, Somero has also provided actual notice to Defendants of the '366 Patent and of Defendants' infringement thereof, at least by way of the January 13, 2023 Letter and the additional correspondence described above and attached hereto.

36. The filing and Notice of this action also provides actual notice to Defendants of the '366 Patent and their infringement thereof. Defendants have actual notice of the '366 Patent and their infringement thereof.

37. On information and belief, Masterscreed USA has used, offered for sale, sold, and/or imported, in and to the United States Masterscreed UK machines, including the Accused Products.

38. An actual and justiciable controversy exists between Somero and Defendants concerning whether Defendants' actions infringe the '366 Patent.


COUNT I – INFRINGEMENT OF THE '366 PATENT BY MASTERSCREED UK

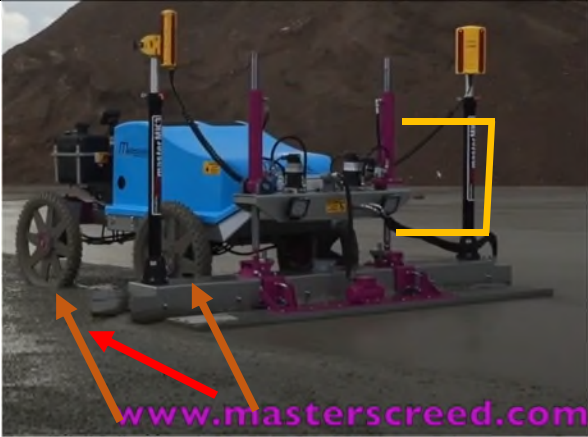
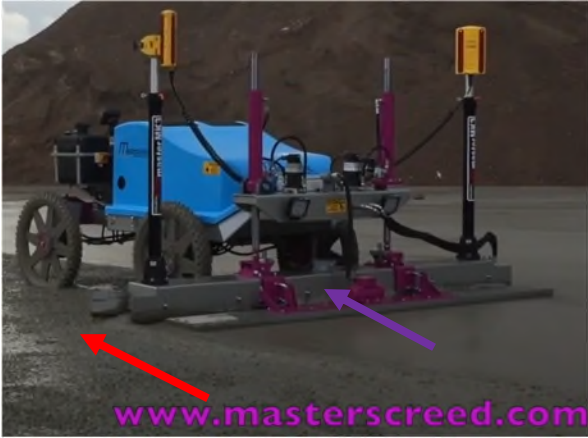
39. Somero reasserts and incorporates the allegations contained in the paragraphs above.

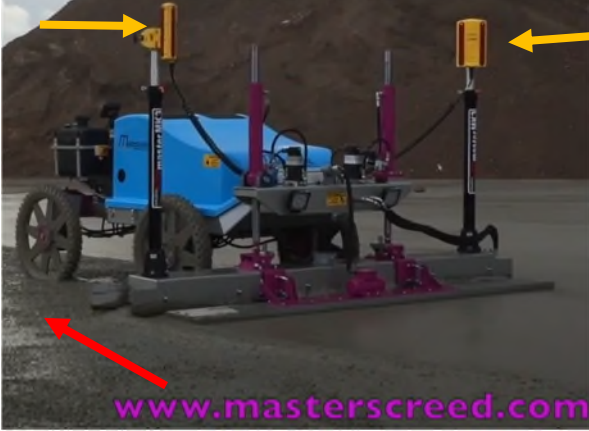
40. Masterscreed UK has directly infringed and is directly infringing the '366 Patent by making, using, offering for sale, selling, and/or importing, in and to the United States, the Accused Products. Upon information and belief, Masterscreed UK has individually and jointly engaged in acts of direct infringement by itself and through agents in combination.


41. Based on publicly available information, the Accused Products infringe at least Claim 1 of the '366 Patent. Somero may assert additional claims of the '366 Patent after a reasonable opportunity for investigation and discovery.

42. Masterscreed UK's infringement is described further below with respect to claim 1. This chart demonstrates that Masterscreed UK's MS550 machine has each of the limitations in claim 1 of the '366 patent. The analysis below is preliminary in nature and based on publicly available information.

Somero 8,038,366 Patent	Masterscreed MS550
<p>1. A wheeled concrete screeding device for screeding uncured concrete, said wheeled concrete screeding device comprising:</p>	<p>To the extent the preamble is limiting, the MS550 is “a wheeled concrete screeding device for screeding uncured concrete,”</p>  <p>https://masterscreed.com/ms550/ https://www.youtube.com/watch?v=ReNPnZRCqRw&t=21s https://www.masterscreed.com/wp-content/uploads/2019/01/ms550-brochure.pdf</p>
<p>a wheeled unit having at least two wheels for movably supporting a frame portion of said wheeled unit, said frame portion having a forward end and a rearward end, wherein said wheeled unit is movable through</p>	<p>The MS550 is “a wheeled unit having at least two wheels for movably supporting a frame portion of said wheeled unit, said frame portion having a forward end and a rearward end, wherein said wheeled unit is movable through uncured concrete in a screeding direction;”</p>

Somero 8,038,366 Patent	Masterscreed MS550
<p>uncured concrete in a screeding direction;</p>	 <p>www.masterscreed.com</p>
<p>a screed head supported at said rearward end of said frame portion and following behind said wheeled unit when said wheeled unit is moved in said screeding direction, said screed head comprising a grade establishing element and a vibratable member;</p>	 <p>www.masterscreed.com</p> <p>The MS550 has “a screed head supported at said rearward end of said frame portion and following behind said wheeled unit when said wheeled unit is moved in said screeding direction, said screed head comprising a grade establishing element and a vibratable member;”</p> <p>“Screed head: double blade, auger and vibrating plate with a length of 2.8m (9’2”) and weight of -115kg (250lb).”</p> <p>https://www.masterscreed.com/wp-content/uploads/2019/01/ms550-brochure.pdf</p>

Somero 8,038,366 Patent	Masterscreed MS550
<p>wherein said grade establishing element is generally vertically adjustable responsive to a signal from a laser receiver disposed at said screed head to establish a struck-off surface of the uncured concrete at a desired grade when said wheeled unit is moved in said screeding direction; and</p>	 <p>The MS550 has “said grade establishing element is generally vertically adjustable responsive to a signal from a laser receiver disposed at said screed head to establish a struck-off surface of the uncured concrete at a desired grade when said wheeled unit is moved in said screeding direction;”</p> <p>“Laser receivers: Trimble LR410 x2”</p> <p>https://www.masterscreed.com/wp-content/uploads/2019/01/ms550-brochure.pdf</p>


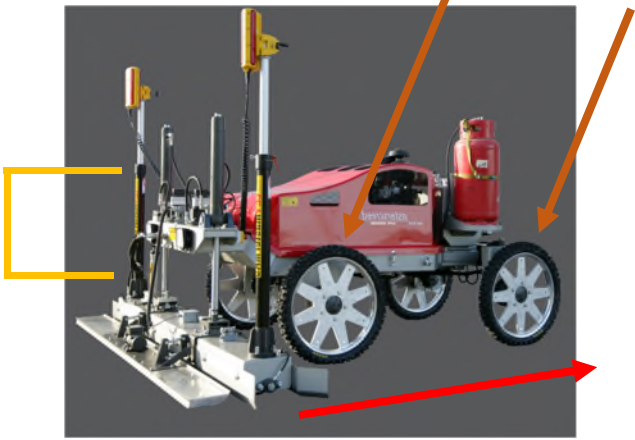
Somero 8,038,366 Patent	Masterscreed MS550
	<p data-bbox="586 275 976 348">Laser Level 03</p>  <p data-bbox="586 730 976 1577">The Trimble® LR410 Laser Receiver is engineered to use in harsh environments. The LR410 is 100% weatherproof and features 360° laser detection. Integrated reference LEDs, located in the corner of each of the four laser receiving windows, show the laser strike location from the center of the receiver, as well as power, and error status, for efficient visual receiver status. Linear Detection Exact laser strike positions to within 1.5mm (0.06") for precise automatic grade control. The LR410 provides a continuous, absolute laser strike position to precisely measure the actual height deviation from "On Grade." This feature provides high accuracy and grade performance.</p> <p data-bbox="573 1650 997 1686">https://masterscreed.com/ms550/</p>

Somero 8,038,366 Patent	Masterscreed MS550
<p>wherein said vibratable member is adjustably attached at a rearward end of said grade establishing element and wherein said vibratable member at least partially floats behind said grade establishing element on the struck-off surface of the uncured concrete and is at least partially supported at the struck-off surface of the uncured concrete as said wheeled unit is moved in said screeding direction.</p>	<div data-bbox="574 260 1159 688" data-label="Image"> </div> <p>The MS550 has “vibratable member is adjustably attached at a rearward end of said grade establishing element and wherein said vibratable member at least partially floats behind said grade establishing element on the struck-off surface of the uncured concrete and is at least partially supported at the struck-off surface of the uncured concrete as said wheeled unit is moved in said screeding direction.”</p> <p>“Screed head: double blade, auger and vibrating plate with a length of 2.8m (9’2”) and weight of -115kg (250lb).”</p> <p>https://www.masterscreed.com/wp-content/uploads/2019/01/ms550-brochure.pdf</p>


43. Masterscreed UK’s infringement is described further below with respect to claim

1. This chart demonstrates that Masterscreed UK’s MS575 machine has each of the limitations in claim 1 of the ’366 patent. The analysis below is preliminary in nature and based on publicly available information.

Somero 8,038,366 Patent	Masterscreed MS575
<p>1. A wheeled concrete screeding device for screeding uncured concrete, said wheeled concrete screeding device comprising:</p>	<p>To the extent the preamble is limiting, the MS575 is “a wheeled concrete screeding device for screeding uncured concrete,”</p>

Somero 8,038,366 Patent	Masterscreed MS575
	 <p data-bbox="586 726 1268 867"> https://www.masterscreed.com/wp-content/uploads/2018/05/ms575-carbon-brochure.pdf https://masterscreed.com/ms575/ https://www.youtube.com/watch?v=LIPJf23QcCI </p>
<p data-bbox="203 873 542 1268">a wheeled unit having at least two wheels for movably supporting a frame portion of said wheeled unit, said frame portion having a forward end and a rearward end, wherein said wheeled unit is movable through uncured concrete in a screeding direction;</p>	<p data-bbox="586 909 1409 1087">The MS575 is “a wheeled unit having at least two wheels for movably supporting a frame portion of said wheeled unit, said frame portion having a forward end and a rearward end, wherein said wheeled unit is movable through uncured concrete in a screeding direction;”</p> 

Somero 8,038,366 Patent	Masterscreed MS575
<p>a screed head supported at said rearward end of said frame portion and following behind said wheeled unit when said wheeled unit is moved in said screeding direction, said screed head comprising a grade establishing element and a vibratable member;</p>	<div data-bbox="703 254 1214 682" data-label="Image"> </div> <p>The MS575 has “a screed head supported at said rearward end of said frame portion and following behind said wheeled unit when said wheeled unit is moved in said screeding direction, said screed head comprising a grade establishing element and a vibratable member;”</p> <p>“Screed head: double blade, auger and vibrating plate with a length of 2.8m (9’2”) and weight of -115kg (250lb).”</p> <p>https://www.masterscreed.com/wp-content/uploads/2018/05/ms575-carbon-brochure.pdf</p>
<p>wherein said grade establishing element is generally vertically adjustable responsive to a signal from a laser receiver disposed at said screed head to establish a struck-off surface of the uncured concrete at a desired grade when said wheeled unit is moved in said screeding direction; and</p>	<div data-bbox="711 1157 1222 1589" data-label="Image"> </div> <p>The MS575 has “said grade establishing element is generally vertically adjustable responsive to a signal from a laser receiver disposed at said screed head to establish a struck-off surface of the uncured concrete at a desired grade when said wheeled unit is moved in said screeding direction;”</p>



Somero 8,038,366 Patent	Masterscreed MS575
	<p data-bbox="586 260 1062 289">“Laser receivers: Trimble LR410 x2”</p> <p data-bbox="586 331 1268 401"> https://www.masterscreed.com/wp-content/uploads/2018/05/ms575-carbon-brochure.pdf </p> <div data-bbox="586 436 1003 1772" style="background-color: #f0f0f0; padding: 10px;"> <p data-bbox="607 478 997 533">Laser Level 03</p>  <p data-bbox="607 915 997 1755"> The Trimble® LR410 Laser Receiver is engineered to use in harsh environments. The LR410 is 100% weatherproof and features 360° laser detection. Integrated reference LEDs, located in the corner of each of the four laser receiving windows, show the laser strike location from the center of the receiver, as well as power, and error status, for efficient visual receiver status. Linear Detection Exact laser strike positions to within 1.5mm (0.06") for precise automatic grade control. The LR410 provides a continuous, absolute laser strike position to precisely measure the actual height deviation from "On Grade." This feature provides high accuracy and grade performance. </p> </div> <p data-bbox="586 1814 1008 1843"> https://masterscreed.com/ms575/ </p>

Somero 8,038,366 Patent	Masterscreed MS575
<p>wherein said vibratable member is adjustably attached at a rearward end of said grade establishing element and wherein said vibratable member at least partially floats behind said grade establishing element on the struck-off surface of the uncured concrete and is at least partially supported at the struck-off surface of the uncured concrete as said wheeled unit is moved in said screeding direction.</p>	<div data-bbox="630 254 1198 684" data-label="Image"> </div> <p>The MS575 has “vibratable member is adjustably attached at a rearward end of said grade establishing element and wherein said vibratable member at least partially floats behind said grade establishing element on the struck-off surface of the uncured concrete and is at least partially supported at the struck-off surface of the uncured concrete as said wheeled unit is moved in said screeding direction.”</p> <p>“Screed head: double blade, auger and vibrating plate with a length of 2.8m (9’2”) and weight of -115kg (250lb).”</p> <p>https://www.masterscreed.com/wp-content/uploads/2018/05/ms575-carbon-brochure.pdf</p>


44. Masterscreed UK’s infringement is described further below with respect to claim

1. This chart demonstrates that Masterscreed UK’s MS355 machine has each of the limitations in claim 1 of the ’366 patent. The analysis below is preliminary in nature and based on publicly available information.

Somero 8,038,366 Patent	Masterscreed MS355
<p>1. A wheeled concrete screeding device for screeding uncured concrete, said wheeled concrete screeding device comprising:</p>	<p>To the extent the preamble is limiting, the MS355 is “a wheeled concrete screeding device for screeding uncured concrete,”</p>

Somero 8,038,366 Patent	Masterscreed MS355
	 <p data-bbox="586 678 1235 821"> https://www.youtube.com/watch?v=iTFyxze9upM https://masterscreed.com/ms355-2/ https://www.masterscreed.com/wp-content/uploads/2019/01/ms355-brochure.pdf </p>
<p data-bbox="203 863 542 1262"> a wheeled unit having at least two wheels for movably supporting a frame portion of said wheeled unit, said frame portion having a forward end and a rearward end, wherein said wheeled unit is movable through uncured concrete in a screeding direction; </p>	<p data-bbox="586 863 1414 1041"> The MS355 is “a wheeled unit having at least two wheels for movably supporting a frame portion of said wheeled unit, said frame portion having a forward end and a rearward end, wherein said wheeled unit is movable through uncured concrete in a screeding direction;” </p> 

Somero 8,038,366 Patent	Masterscreed MS355
<p>a screed head supported at said rearward end of said frame portion and following behind said wheeled unit when said wheeled unit is moved in said screeding direction, said screed head comprising a grade establishing element and a vibratable member;</p>	 <p>The MS355 has “a screed head supported at said rearward end of said frame portion and following behind said wheeled unit when said wheeled unit is moved in said screeding direction, said screed head comprising a grade establishing element and a vibratable member;”</p> <p>“Screed head: double blade and vibrator plate, 2m (6.5ft), 2.5m (8.2ft) or 3m (10ft) and a weight of 70 kg (150lb).”</p> <p>https://www.masterscreed.com/wp-content/uploads/2019/01/ms355-brochure.pdf</p>
<p>wherein said grade establishing element is generally vertically adjustable responsive to a signal from a laser receiver disposed at said screed head to establish a struck-off surface of the uncured concrete at a desired grade when said wheeled unit is moved in said screeding direction; and</p>	 <p>The MS355 has “said grade establishing element is generally vertically adjustable responsive to a signal from a laser receiver disposed at said screed head to establish a struck-off surface of the uncured concrete at a desired grade when said wheeled unit is moved in said screeding direction;”</p>

Somero 8,038,366 Patent	Masterscreed MS355
	<p data-bbox="586 260 1062 289">“Laser receivers: Trimble LR410 x2”</p> <p data-bbox="586 331 1170 401">https://www.masterscreed.com/wp-content/uploads/2019/01/ms355-brochure.pdf</p> <div data-bbox="586 436 1019 1793"><p data-bbox="602 478 992 533">Laser Level 03</p><p data-bbox="602 919 992 1759">The Trimble® LR410 Laser Receiver is engineered to use in harsh environments. The LR410 is 100% weatherproof and features 360° laser detection. Integrated reference LEDs, located in the corner of each of the four laser receiving windows, show the laser strike location from the center of the receiver, as well as power, and error status, for efficient visual receiver status. Linear Detection Exact laser strike positions to within 1.5mm (0.06') for precise automatic grade control. The LR410 provides a continuous, absolute laser strike position to precisely measure the actual height deviation from "On Grade." This feature provides high accuracy and grade performance.</p></div> <p data-bbox="586 1835 1032 1864">https://masterscreed.com/ms355-2/</p>

Somero 8,038,366 Patent	Masterscreed MS355
<p>wherein said vibratable member is adjustably attached at a rearward end of said grade establishing element and wherein said vibratable member at least partially floats behind said grade establishing element on the struck-off surface of the uncured concrete and is at least partially supported at the struck-off surface of the uncured concrete as said wheeled unit is moved in said screeding direction.</p>	<div data-bbox="672 254 1279 638" data-label="Image"> </div> <p>The MS355 has “vibratable member is adjustably attached at a rearward end of said grade establishing element and wherein said vibratable member at least partially floats behind said grade establishing element on the struck-off surface of the uncured concrete and is at least partially supported at the struck-off surface of the uncured concrete as said wheeled unit is moved in said screeding direction.”</p> <p>“Screed head: double blade and vibrator plate, 2m (6.5ft), 2.5m (8.2ft) or 3m (10ft) and a weight of 70 kg (150lb).”</p> <p>https://www.masterscreed.com/wp-content/uploads/2019/01/ms355-brochure.pdf</p>

45. Masterscreed UK’s acts are acts of infringement in violation of the United States patent laws, including, but not limited to, 35 U.S.C. § 271 *et seq.*

46. On information and belief, Masterscreed UK has continued, including continuing after notice, with infringing use, making, offering for sale, and sales of infringing concrete laser screed machines, including the Accused Products.

47. Masterscreed UK’s aforesaid infringement has been and continues to be willful and deliberate and ongoing.

48. Somero has in the past been damaged and continues to suffer irreparable injury as a result of Masterscreed UK's actions. Infringement of the '366 Patent by Masterscreed UK will continue unless and until enjoined by this Court.

49. Somero has no adequate remedy at law, and is, therefore, entitled to a permanent injunction prohibiting further infringement by Masterscreed UK.

50. Somero has been damaged by past activities of Masterscreed UK and is entitled to damages for past infringement, including its lost profits or an amount not less than a reasonable royalty.

COUNT II – INFRINGEMENT OF THE '366 PATENT BY MASTERSCREED USA

51. Somero reasserts and incorporates the allegations contained in the paragraphs above.

52. Masterscreed USA has directly infringed and is directly infringing the '366 Patent by using, offering for sale, selling, and/or importing, in and to the United States, the Accused Products. Upon information and belief, Masterscreed USA has individually and jointly engaged in acts of direct infringement by itself and through agents in combination.

53. On information and belief, Masterscreed USA has imported, used, offered for sale, and/or sold the Accused Products in the United States.

54. Based on publicly available information, the Accused Products infringe at least claim 1 of the '366 Patent. Somero may assert additional claims of the '366 Patent after a reasonable opportunity for investigation and discovery.

55. Masterscreed USA's infringement is described further below with respect to claim 1. Somero incorporates by reference the charts in paragraphs 42, 43, and 44 above by reference to show how the Accused Products meet all of the limitations of Claim 1. These charts

demonstrate that the Accused Products—which Masterscreed USA uses, offers for sale, sells, and/or imports, in and to the United States—has each of the limitations in claim 1 of the '366 Patent. This analysis is preliminary in nature and based on publicly available information.

56. Masterscreed USA's acts are acts of infringement in violation of the United States patent laws, including, but not limited to, 35 U.S.C. § 271 *et seq.*

57. Somero has in the past been damaged and continues to suffer irreparable injury as a result of Masterscreed USA's actions. Infringement of the '366 Patent by Masterscreed USA will continue unless and until enjoined by this Court.

58. Masterscreed USA's aforesaid infringement has been and continues to be willful and deliberate and ongoing.

59. Somero has no adequate remedy at law, and is, therefore, entitled to a permanent injunction prohibiting further infringement by Masterscreed USA.

60. Somero has been damaged by past activities of Masterscreed USA and is entitled to damages for past infringement, including its lost profits or an amount not less than a reasonable royalty.

Demand for Relief

WHEREFORE, Somero requests entry of judgment against Defendants as follows:

- A. Finding Defendants liable for infringement of the '366 Patent;
- B. Awarding Somero damages under 35 U.S.C. § 271 adequate to compensate for Defendants' infringement and, to the extent supported by evidence to be adduced in this action, to address the willful nature of that infringement;

C. Permanently enjoining Defendants, together with any officers, agents, servants, employees, and attorneys, and such other persons in active concert of participation with them, who receive actual notice of the Order, from further infringement of the '366 Patent;

D. A declaration that this case is exceptional within the meaning of 35 U.S.C. § 285 and awarding Somero its reasonable attorneys' fees, costs, and disbursements;

E. Awarding Somero interest on all damages awarded; and

F. Granting Somero all other relief to which it is entitled.

Demand for Jury Trial

Somero demands trial by jury for all issues so triable.

Dated: November 13, 2023

Respectfully submitted,

/s/ Sarah E. Waidelich

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