

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
JASPER DIVISION**

SCREENCO SYSTEMS, LLC,

Plaintiff,

v.

**CITY OF CORDOVA, a municipal
corporation,**

Defendant.

Case No.

**PLAINTIFF’S COMPLAINT
FOR PATENT INFRINGEMENT**

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Screenco Systems, LLC (“**Screenco**”) brings this action against Defendant City of Cordova (“**Defendant**” or “**Cordova**”) 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 designs claimed in United States Design Patent No. D757,889 S entitled “Septic Receiving Station With Screen” (the “**889 Patent**”).

3. On information and belief, Defendant City of Cordova is a municipal corporation organized and existing under the laws of the State of Alabama, having its principal place of business at 154 Main St., Cordova, Alabama, 35550.

4. Defendant operates at least one wastewater treatment facility in Walker County, Alabama, which is located within this judicial district. Defendant operates the wastewater treatment facility not only to provide sanitation services to the residents of the local community, but also as a source of revenue by charging privately held businesses for using the facility as a dumping facility.

5. Defendant has used and continues to use one or more septic receiving stations that are within the scope of Screenco’s protected designs under the ‘889 Patent, without ScreenCo’s permission, as part of their wastewater treatment operations within this judicial district.

NATURE OF THE ACTION

6. This is a civil action for infringement of Screenco’s ‘889 Patent (United States Design Patent No. D757,889 S) arising under the patent laws of the United

States, including, without limitation, 35 U.S.C. §1, *et seq.*, and in particular 35 U.S.C. § 271 and §§ 281-289, of the United States Code. In addition, this action also alleges violations of Alabama state laws, namely, Alabama Code § 41-16-50(a) and § 35 of the Alabama Constitution.

JURISDICTION AND VENUE

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

8. This Court has personal jurisdiction over Defendant because Defendant maintains its principal place of business in this District and Division. This Court also has personal jurisdiction over Defendant because Defendant regularly solicits and conducts business in this District and Division and engages in other persistent courses of conduct in this District. This Court also has personal jurisdiction over Defendant because Defendant derives substantial revenue from services sold to persons or entities in this District, and has committed acts of infringement in this District, including one or more of making, using, offering to sell, or selling one or more products or services that infringe one or more claims of the Screenco '889 Patent at issue in this lawsuit.

9. Venue is proper in this judicial district and division under 28 U.S.C. §§ 1391 and 1400(b) because Defendant has committed acts of infringement in this District and Division, and because Defendant has a regular and established place of business in this District and Division and/or resides in this District and Division.

THE '889 PATENT

10. On May 31, 2016, the '889 Patent entitled "Septic Receiving Station With Screen" was duly and legally issued to inventor Scott Meyer, as president and co-owner of Screenco Systems, LLC. The '889 Patent is generally directed toward several of Screenco's receiving station products having a screen design for filtering and removal of trash and debris from wastewater. Screenco manufactures the protected receiving station products in Idaho and offers these products for sale throughout the United States.

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

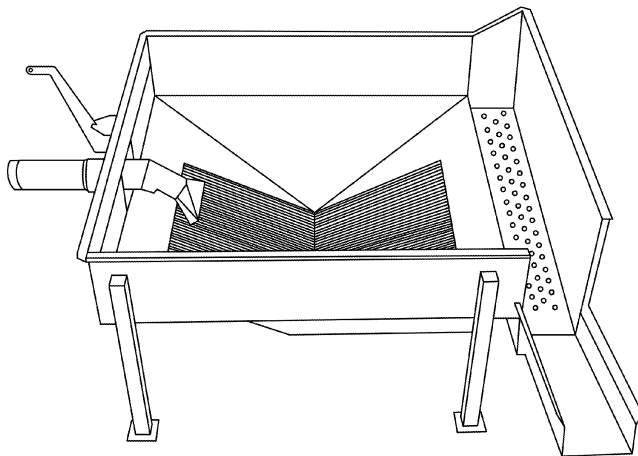


FIG. 1

(see Exhibit 1. '889 Patent, Figure 1).

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

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

FACTUAL ALLEGATIONS SHOWING INFRINGEMENT

14. In January of 2021, Screenco was approached by Defendant’s Mayor, Jeremy Pate, and was asked to provide cost estimates for one of Screenco’s receiving station products. A series of communications occurred between Screenco and Defendant resulting in Screenco providing a cost estimate for a product known as the “Maxi Screen 400”. A true and correct copy of the cost estimate prepared by Screenco and sent to Defendant dated February 5, 2021 for the Maxi Screen 400 is provided as Exhibit 2.

15. On February 9, 2021, Defendant requested a cost estimate for a smaller product shown on Screenco’s website, namely the “Mini Screen 400.” A true and

correct copy of a cost estimate prepared by Screenco and sent to Defendant dated February 9, 2021 for the Mini Screen 400 is provided as Exhibit 3.

16. In January and February of 2021, Screenco's website prominently indicated that both the Maxi Screen 400 and the Mini Screen 400 were protected by Screenco's '889 patent.

17. On February 11, 2021, Defendant notified Screenco that Alabama state law requires an open bidding process for any equipment over \$15,000, and asked Screenco to provide a formal bid for providing a Maxi Screen 400 in response to Defendant's formal bid notice ("**Bid Notice**").

18. A true and correct copy of the Bid Notice published by Defendant and sent to Screenco on February 11, 2021 is provided as Exhibit 4. Defendant's Bid Notice states in relevant part as follows: "The City of Cordova is accepting sealed bids for the purchase of a Portable Septic Receiving Screen System. Maxi Screen – 400 Receiving station[.]"

19. In response to the Bid Notice from Defendant, Screenco resubmitted a sealed bid for the Maxi Screen 400 consistent with its earlier cost estimate provided to Defendant on February 5, 2021 (Exhibit 2).

20. Despite the Bid Notice specifically calling for Screenco's patented Maxi Screen 400 product, Screenco was not chosen to provide the product to Defendant.

21. Also, despite the Bid Notice specifically calling for Screenco's Maxi Screen 400, Defendant purchased a device that does not meet the specifications of the Maxi Screen 400, nor is the purchased device comparable to the Maxi Screen 400.

22. On September 5, 2021, a local news organization known as the Daily Mountain Eagle published an article entitled "New septic screen raises concerns among some residents." The article states that Defendant purchased the new septic receiving system for \$19,280, and that "Mayor Jeremy Pate has promoted the system ... as a way to bring in additional revenue." A true and correct copy of that article is provided as Exhibit 5, with some relevant portions underlined.

23. Further, on October 26, 2021, another article in the Daily Mountain Eagle covering a meeting of Defendant's City Council states that "[t]he new sewer screen that allows local companies to dispose of septic waster is projected to bring in \$110,000 for the year." A true and correct copy of that article is provided as Exhibit 6.

24. Based on subsequent investigations, and on information and belief, the new septic system being owned and operated by Defendant is a substantial replica of Screenco's Mini Screen 400 (hereinafter "**Replica System**"), which is also protected by Screenco's '889 patent.

25. The Mini Screen 400 has substantially less capacity than the Maxi Screen 400, and therefore, the specifications of the Mini Screen 400 do not meet the specifications set forth in Defendant's Bid Notice.

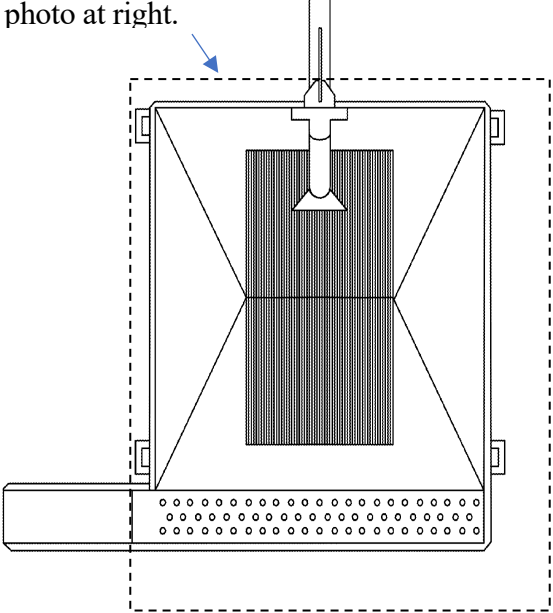

26. On information and belief, the Replica System being used by Defendant does not meet the specifications set forth in Defendant's Bid Notice.

27. On information and belief, Defendant did not publish any other bid notice for a portable septic receiving station other than the Bid Notice specifying the Maxi Screen 400 (Exhibit 5).

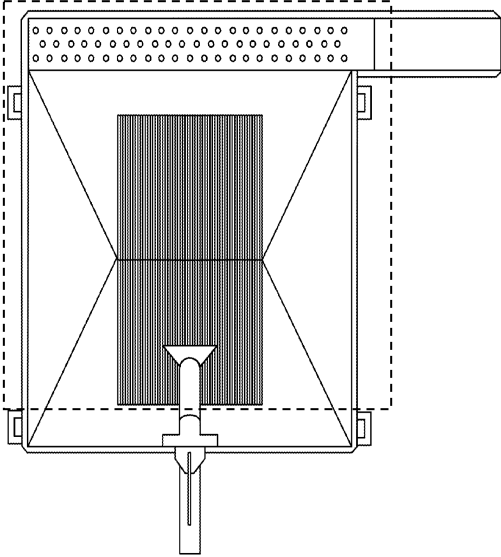

28. Screenco obtained a series of photographs of Defendant's Replica System. True and correct copies of some of the photographs of Defendant's Replica System are provided as Exhibit 7.

29. The overall appearance of Defendant's Replica System and the septic receiving station protected by Screenco's '889 Patent are substantially the same.

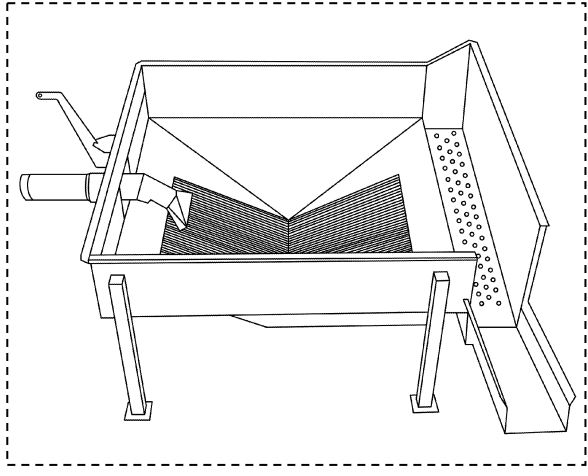

30. The table below provides a side-by-side comparison of a photograph of Defendant's Replica System (Exhibit 7, p. 5) and Figure 6 of the '889 Patent:

Screenco's '889 Patent – Figure 6	Defendant's Replica System
<p data-bbox="240 495 505 600">Approximate portion of device shown in photo at right.</p> 	

31. Similarly, the table below provides another side-by-side comparison of a photograph of Defendant's Replica System (Exhibit 7, p. 4) and Figure 6 of the '889 Patent.

Screenco's '889 Patent – Figure 6	Defendant's Replica System
<p data-bbox="418 583 719 688">Approximate portion of device shown in photo at right.</p> 	

32. Further, the table below provides another side-by-side comparison of a photograph of Defendant’s Replica System (Exhibit 7, p. 1) and Figure 1 of the ‘889 Patent.

Screenco’s ‘889 Patent – Figure 1	Defendant’s Replica System
<p data-bbox="438 556 738 672">Approximate portion of device shown in photo at right.</p> 	

33. As demonstrated by the photographs (Exhibit 7), the Replica System being used by Defendant appears to an ordinary observer to be substantially similar to the receiving station design protected by Screenco’s ‘889 Patent.

34. An ordinary observer comparing Defendant’s Replica System with the design protected by the ‘889 Patent, giving such attention as a purchaser usually gives, and in the context of the claimed design as a whole, would conclude that the two designs are substantially the same.

35. In an effort to avoid litigation, on February 28, 2023, Screenco sent correspondence to Defendant expressing Screenco's belief that Defendant was infringing Screenco's '889 Patent and requesting a response. Defendant ignored that correspondence, along with follow up telephone inquiries from Screenco's counsel.

COUNT I – PATENT INFRINGEMENT OF THE '889 PATENT

36. Screenco realleges and incorporates by reference the allegations in paragraphs 1-35 above.

37. The Replica System being used by Defendants appears to ordinary observers as being substantially similar to the receiving station design protected by Screenco's '889 Patent.

38. Defendant's operation of the Replica System, including using and/or making of such Replica System, infringes the '889 Patent under 35 U.S.C. § 271, either literally or under the doctrine of equivalents.

39. Defendant has directly infringed, and continues to directly infringe, the '889 Patent under 35 U.S.C. § 271 by using and/or making, within the United States, without authorization from Screenco, one or more receiving stations (*e.g.*, the Replica System) that infringes the '889 Patent.

40. Defendant's infringement has caused Screenco to suffer damages, and as such, Screenco is entitled to damages pursuant to 35 U.S.C. §§ 284 and 289.

41. Defendant's infringement is willful, deliberate, malicious, and in bad faith, making this an exceptional case. As a result, Screenco is entitled to increased damages, costs, interest, and attorneys' fees pursuant to 35 U.S.C. §§284 and 285.

42. Defendant has caused irreparable damage and harm to Screenco by its acts of infringement, and will continue said acts of infringement unless enjoined by this Court under 35 U.S.C. § 283.

COUNT II – VIOLATION OF ALABAMA COMPETITIVE BID LAWS

43. Screenco realleges and incorporates by reference the allegations in paragraphs 1-35 above.

44. On February 11, 2021, Defendant notified Screenco that Alabama state law requires an open bidding process for any equipment over \$15,000, and asked Screenco to provide a formal bid for providing a Maxi Screen 400 in response to Defendant's Bid Notice.

45. Defendant's Bid Notice states in relevant part as follows: "The City of Cordova is accepting sealed bids for the purchase of a Portable Septic Receiving Screen System. Maxi Screen – 400 Receiving station[.]"

46. In response to the Bid Notice from Defendant, Screenco resubmitted a sealed bid for the Maxi Screen 400 consistent with its earlier cost estimate provided to Defendant on February 5, 2021 (Exhibit 2).

47. Despite the Bid Notice specifically calling for Screenco's patented Maxi Screen 400 product, Screenco was not chosen to provide the product to Defendant.

48. Based on subsequent investigations, and on information and belief, the new septic system owned and operated by Defendant is a Replica System which is protected by Screenco's '889 patent.

49. The Replica System purchased by Defendant has substantially less capacity than the Maxi Screen 400, and therefore, the specifications of the Replica System do not meet the specifications set forth in Defendant's Bid Notice.

50. Because Defendant purchased the Replica System at a cost that exceeded the limit established by Section 41-16-50(a) of the Code of Alabama (which limit was \$15,000 at all times relevant to this action), Defendant was required to issue a new bid notice and to follow a procedure allowing all competitors including Defendant to submit a formal bid.

51. On information and belief, Defendant did not publish any other bid notice for a portable septic receiving station other than the Bid Notice specifying the Maxi Screen 400 (Exhibit 5).

52. Screenco placed a valid bid in response to the Bid Notice.

53. Defendant breached the applicable Alabama Code regarding the competitive bid process, namely, Alabama Code § 41-16-50(a).

54. Screeno suffered damage because of the violation by Defendant of the Alabama competitive bid process laws.

55. Screeno is entitled to injunctive relief to stop the use of the improperly purchased Replica System.

**COUNT III – UNLAWFULLY ENGAGING
IN COMMERCIAL ACTIVITIES**

56. Screeno realleges and incorporates by reference the allegations in paragraphs 1-35 above.

57. Section 35 of the Alabama Constitution provides that “[t]hat the sole object and only legitimate end of government is to protect the citizen in the enjoyment of life, liberty, and property, and when the government assumes other functions it is usurpation and oppression.”

58. Despite the Bid Notice specifically calling for Screeno’s patented Maxi Screen 400 product, Screeno was not chosen to provide the product to Defendant.

59. On September 5, 2021, in a local newspaper known as the Daily Mountain Eagle published an article entitled “New septic screen raises concerns among some residents.”

60. The article states that Defendant purchased the new septic receiving system for \$19,280, and that “Mayor Jeremy Pate has promoted the system ... as a way to bring in additional revenue.” Based on subsequent investigations, and on

information and belief, the new septic system being owned and operated by Defendant is a Replica System, which is protected by Screenco's '889 patent.

61. Based upon the investigation by Screenco, the Defendant appears to be using the Replica System to generate revenue for the Defendant. On information and belief, Defendant is realizing revenues in the amount of \$110,000 per year through the use of the Replica System.

62. This use of the Replica System is not for the "legitimate end" of the "protect[ion of] the citizen in the enjoyment of life, liberty, and property," but is another function – that of a profit-seeking entity or company.

63. Accordingly, Defendant's use of the Replica System violates Section 35 of the Alabama Constitution.

64. Defendant's use of the Replica System has damaged Screenco.

PRAYER FOR RELIEF

WHEREFORE, Screenco prays for relief as follows:

1. A judgment and order that Defendant has 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 judgment and order permanently enjoining Defendant and its affiliates, officers, agents, employees, and all other persons acting in concert with Defendant, from infringing the '889 Patent;

3. A judgment and order requiring Defendant to pay Screenco damages adequate to compensate Screenco for Defendant's infringement of the '889 Patent pursuant to 35 U.S.C. § 284, and/or the total profit made by Defendant from their infringement of the '889 Patent pursuant to 35 U.S.C. § 289;

4. A judgment and order requiring Defendant 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 judgment and order requiring Defendant to pay Screenco increased damages up to three times the amount found or assessed pursuant to 35 U.S.C. § 284;

6. A judgment and order requiring Defendant 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;

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

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

DEMAND FOR JURY TRIAL

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

Respectfully Submitted,

/s/ John W. Clark IV

JOHN W. CLARK IV
ASB-5187-O77C

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CERTIFICATE OF SERVICE

I hereby certify that on December 18, 2023, I served the foregoing complaint and supporting materials via private process server upon the following:

City of Cordova
c/o Jeremy Pate, Mayor
154 Main Street
Cordova, Alabama, 35550

/s/ John W. Clark IV
OF COUNSEL