

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No.:

CORE DISTRIBUTION, INC., a
Minnesota Corporation,

Plaintiff,

v.

THE WORLD TRADE CORPORATION, a
Florida corporation; AUSTRAM, LLC, a
Florida limited liability company;
ALEXANDER JOCH, an individual;
FREDERICK JOCH, an individual;
CHRISTOPHER JOCH, an individual, and
FRANCISCO CRUZ, an individual.

Defendants.

COMPLAINT

Plaintiff, Core Distribution, Inc. ("**Core**"), by and through undersigned counsel, sues The World Trade Corporation ("**WTC**"), AUSTRAM, LLC, ("**Austram**"), ALEXANDER JOCH ("**A. Joch**"), CHRISTOPHER JOCH ("**C. Joch**"), FREDERIC JOCH ("**F. Joch**"), and FRANCISCO CRUZ ("**Cruz**") (collectively "**Defendants**"), and alleges:

NATURE OF THE ACTION

1. This action arises out of a dispute between Core and Defendants over infringement of Core's patent for an Extendable / Retractable Ladder, U.S. Patent, no. 10,053,912 B2 (the "**'912 Patent**"), namely, Defendants' unauthorized use of the invention disclosed in the '912 Patent owned by Core. Core further brings this action against the Defendants for Civil Conspiracy (Count I) and Tortious Interference with an Advantageous Business Relationship (Count II) stemming

from the Defendant's interference with Core's business relationship with THE SHERWIN-WILLIAMS COMPANY ("Sherwin Williams").

PARTIES, JURISDICTION, AND VENUE

2. Plaintiff, Core, is a Minnesota corporation with its principal place of business in Minneapolis, Minnesota.

3. Defendant, WTC, is a Florida corporation with its principal place of business in Miami-Dade County, Florida.

4. Defendant, Austram, is a Florida limited liability company, organized under the laws of the state of Florida, with its principal place of business in Miami-Dade County, Florida.

5. Defendant, A. Joch, resides in the Southern District of Florida.

6. Defendant, C. Joch, resides in the Southern District of Florida.

7. Defendant, F. Joch, resides in the Southern District of Florida.

8. Defendant, Cruz, resides in the Southern District of Florida.

9. Jurisdiction in this Court arises under the provisions of 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1338(a) (any Act of Congress relating to patents or trademarks), 28 U.S.C. § 1367 (supplemental jurisdiction for state law claims), and 35 U.S.C. §§ 101 *et seq.*

10. This Court has personal jurisdiction over WTC and Austram because they each have committed and continue to commit acts of infringement in violation of 35 U.S.C. § 271 and place infringing products into the stream of commerce, with the knowledge or understanding that such products are sold in the State of Florida, including in this District. These acts by WTC and Austram cause injury to Core within this District. Upon information and belief, WTC and Austram each derive revenue from the sale of infringing products within this District, each expects its

actions to have consequences within this District, and each derives revenue from interstate and international commerce.

11. This Court has personal jurisdiction over A. Joch, F. Joch, C. Joch, and Cruz because, based on information and belief, they each reside in this District and they each have sufficient contact with this District such that the assertion of personal jurisdiction is warranted.

12. Venue is proper in the Southern District of Florida under the provisions of 28 U.S.C. §§ 1391(b) and (c) and 1400(b) because WTC and Austram each transact business within this District and each offers for sale in this District products that infringe Core's '912 Patent and, based on information and belief, WTC and Austram each have a regular and established place of business in this District.

GENERAL ALLEGATIONS

13. For decades, Core has specialized in developing extendable ladders.

14. As a result of its efforts to continuously advance the state of the art of extendable ladders, Core has been awarded numerous patents in the U.S. and abroad.

15. Indeed, Core's Products are the only products on the market that meet the American National Standards Institute Safety Requirements¹.

Business Relationship with Sherwin Williams

16. Since on or about 2011 through 2021, Core had a contractual relationship with Sherwin Williams pursuant to which Core acted as a vendor selling and providing Core's extendable ladders to Sherwin Williams.

17. During that timeframe, Core shipped over 217,000 products to Sherwin Williams at a wholesale value of over \$31,000,000.00.

¹ ANSI ASC A14.2-2017.

18. On November 30, 2020, January 19, 2021, and February 16, 2021, Sherwin Williams placed orders for 14,955 Units, totaling \$3,585,217.50. The Purchase Orders are attached hereto as **Composite Exhibit “1.”**

19. On or about March 3, 2021, a representative of Sherwin Williams emailed Core Distribution seeking to cancel certain orders, though ultimately confirming the orders should be left as originally scheduled. *See* Email Correspondence by and between Dawn Bouquet and Joseph E. Gatto, dated March 3, 2021, through March 5, 2021, attached hereto as **Composite Exhibit “2.”**

20. On or about March 12, 2021, inexplicably and in an untimely manner, Sherwin Williams cancelled purchase orders for 4,620 Products, totaling \$966,380.00. *See* Email Correspondence by and between Dawn Bouquet and Joseph E. Gatto, dated March 12, 2021, attached hereto as **Composite Exhibit “3.”**

21. On or about March 16, 2021, Sherwin Williams cancelled the remaining purchase orders.

22. On or about March 19, 2021, Core Distribution timely objected to these cancellations by advising Sherwin Williams Lead Buyer Michael Young directly. *See* Email Correspondence from Mitchell Kieffer to Michael Young, dated March 19, 2021, attached hereto as **Exhibit “4.”**

23. On or about the same time, Mr. Young formally invited Core to the annual Line Review held by Sherwin Williams for presentations of products, as Core had been previously invited for over 10 years.

24. Despite accepting the invitation, for reasons unexplained at the time, Core’s 2021 Line Review meeting was never confirmed by Mr. Young, who ceased responding to Core

Distribution's communications.

2021 Lawsuit Against Francisco Cruz

25. Francisco Cruz ("Cruz") was a former long-time employee and Chief Operating Officer of Core.

26. Cruz has extensive, detailed knowledge of Core's extendable ladders and how they are made.

27. On July 9, 2021, after discovering theft of monies by Cruz, Core was forced to file a lawsuit against Cruz in the Fourth Judicial District in the State of Minnesota, File No.: 27-CV-27-8710 ("**Lawsuit**")².

28. During the pendency of the Lawsuit, Core learned, and a jury determined, that Cruz breached his fiduciary duties to Core Distribution and was unjustly enriched as a result. *See* Findings of Fact, Conclusions of Law, and Order of Judgment, dated November 2, 2023, attached hereto as **Exhibit "5."**

29. Additionally, Cruz, even prior to being terminated by Core, since 2017 was already misdirecting Core's corporate opportunities to WTC and Austram, among several others.

30. Immediately following his termination, Cruz began working with WTC and Austram, where he is a partial owner.

2021 Line Review and Infringement by Defendants

31. Core subsequently learned that Cruz, A. Joch, C. Joch, and F. Joch, through Austram and WTC, were selling ladders to Sherwin Williams under the brand name Austram and

² On or about October 16, 2023, at trial in the Lawsuit, the jury rendered a verdict that Cruz breached his fiduciary duties to Core Distribution as an employee and officer and that Cruz was unjustly enriched as a result, owing total damages in the amount of \$133,231.13 to Core Distribution. On February 13, 2024, this amount was subsequently amended to reflect a total of \$156,454.85 awarded to Core Distribution. *See* Notice of Entry of Amended Judgment, dated February 13, 2024, attached hereto as **Exhibit "6."**

that these Austram ladders are covered by Core's '912 Patent. A copy of the '912 Patent is attached hereto as **Exhibit "7."**

32. Core further learned from trial testimony in the Lawsuit that Austram and WTC entered into a contractual relationship with Sherwin Williams to supply ladders that infringe Core's patents and trademarks.

33. In fact, Austram and WTC were allowed to, and did, present Core's patented and trademarked products to Mr. Young of Sherwin Williams at the 2021 Line Review after Core was disinvented to the same.

34. Indeed, Austram and WTC presented Core's clearly labeled and trademarked products to Mr. Young at the 2021 Line Review—that is, Austram and WTC acquired patented and trademarked products produced by Core and presented them, with their trademarked labels affixed, as their own.

35. It is clear that no effort was made in designing the Austram ladder to avoid infringing the '912 Patent. A claim chart comparing Austram's accused product to the '912 patent's claim is attached hereto as **Exhibit "8."**

36. Mr. Young and other former employees of Core (who all now work for WTC and/or Austram in some capacity) have conspired to destroy Core's longstanding advantageous business relationship with Sherwin Williams and effectively replace Core with Austram and WTC.

37. Indeed, Defendants (acting with the assistance of Mr. Young) have actively interfered with and caused the wrongful termination of purchase orders to Core placed by Sherwin Williams.

38. Austram and WTC, in an effort to replace those canceled orders, have presented substantially identical and infringing products to Sherwin Williams as their own.

39. Upon information and belief, Mr. Young, on behalf of Sherwin Williams, has entered into a vendor agreement with WTC and Austram for significant orders of products which infringe Core's intellectual property.

40. Core is no longer able to do business with Sherwin Williams as a result of these actions by Defendants.

41. At all times relevant to the claims asserted herein, a unity of interest and ownership existed between WTC, Austram, A. Joch, F. Joch, C. Joch, and Cruz such that any individuality and separateness between them ceased, and they each individually operated as the alter egos of one another.

42. Adherence to the fiction of the separate existence of Defendants WTC, Austram, A. Joch, F. Joch, C. Joch, and Cruz from each other would be inequitable.

43. In the alternative, at all times relevant to the claims asserted herein, a unity of interest and ownership existed between WTC, Austram, A. Joch, F. Joch, C. Joch, and Cruz such that any individuality and separateness between them ceased and each functions as a mere adjunct of the other in a single enterprise, and it would be inequitable to treat the acts of any one of them as being those of a single entity alone.

44. In the alternative, at all times relevant to the claims asserted herein, WTC, Austram, A. Joch, F. Joch, C. Joch, and Cruz had actual or apparent authority to act on behalf of one another and did so act on behalf of one another such that each is responsible for the conduct of the other as an agent.

45. As a result of the interference and infringement as set forth herein, Core's counsel sent correspondence to the Defendants notifying them that their Austram ladder infringes Core's '912 Patent. *See* Correspondence from Core to Defendants, attached hereto as **Exhibit "9."**

46. Simultaneously therewith, Core also sent a letter to Sherwin Williams notifying it of the same. *See* Correspondence from Core to Sherwin Williams, attached hereto as **Exhibit “10.”**

47. In response to being notified of that infringement, Defendants and Sherwin Williams were unable to show that their Austram ladder avoided infringing the '912 Patent.

48. Despite having no good faith basis to believe that the Austram ladder avoided infringing the '912 Patent, Defendants and Sherwin Williams continue to deal in the infringing Austram ladder, thereby willfully infringing the '912 Patent and requiring Core to file suit. *See Ex. 8.*

49. All conditions precedent to bringing this action have occurred, been satisfied, or have been waived.

COUNT I – CIVIL CONSPIRACY

50. Core hereby incorporates by reference and realleges paragraphs 1 through 49 as though fully set forth herein, and further alleges the following:

51. Defendants are parties to a civil conspiracy.

52. Defendants conspired to do an unlawful act or to do a lawful act by unlawful means.

53. Defendants conspired to usurp Core’s corporate opportunity and infringe upon the ‘912 Patent, thereby doing economic harm to Core.

54. Defendants owed a duty to Core not to infringe upon the ‘912 Patent, which they breached knowingly and willingly.

55. Defendants committed an overt act in furtherance of their conspiracy, including attending the 2021 Line Review in place of Core and presenting Core’s own patent protected products to Sherwin Williams with Core’s trademarks affixed.

56. Defendants' conspiracy and their respective overt acts caused Core to suffer

damages.

WHEREFORE, Plaintiff, Core Distribution, Inc., demands damages against Defendants, The World Trade Corporation, Austram, LLC, Alexander, Christopher, and Frederic Joch and Francisco Cruz for civil conspiracy and such other relief this Court deems just and proper.

**COUNT II – TORTIOUS INTERFERENCE WITH ADVANTAGEOUS BUSINESS
RELATIONSHIP**

57. Core hereby incorporates by reference and realleges paragraphs 1 through 49 as though fully set forth herein, and further alleges the following:

58. Core developed an advantageous business relationship with Sherwin Williams for the sale of Core's products, whereby Sherwin Williams purchased products from Core to sell in Sherwin Williams' retail stores.

59. Defendants were aware of this advantageous business relationship between Core and Sherwin Williams.

60. Defendants intentionally and unjustifiably interfered with Core's advantageous business relationship with Sherwin Williams by contacting Mr. Young, preventing Core from attending 2021 Line Review, taking Core's place at the 2021 Line Review and presenting Core's patented products, and replacing Core as a vendor for the same products.

61. As a direct result of Defendants' intentional and unjustified interference with this advantageous business relationship, the purchase orders were canceled and this advantageous business relationship between Core and Sherwin Williams has been lost.

62. Additionally, Defendants continue to intentionally and unjustifiably interfere with the business relationship between Core and Sherwin Williams.

63. Core has suffered significant damages as a result of the interference with this advantageous business relationship by Defendants.

WHEREFORE, Plaintiff, Core Distribution, Inc., demands that Judgment be entered against Defendants, The World Trade Corporation, Austram, LLC, Alexander, Christopher, and Frederic Joch and Francisco Cruz, for damages flowing from Defendants' tortious interference, pre-judgment and post-judgment interest, and for such other and further relief as this Court deems just and proper.

COUNT III – INFRINGEMENT OF THE '912 PATENT

64. Core hereby incorporates by reference and realleges paragraphs 1 through 49 as though fully set forth herein, and further alleges the following:

65. Defendants have infringed and continue to infringe the '912 Patent by making, using, selling, and/or offering for sale in the U.S., and/or importing into the U.S., the Austram ladder.

66. As shown in **Exhibit "8,"** the Austram ladder plainly embodies all of the features in claim 1 of the '912 Patent.

67. Core is informed and believes, and on that basis alleges, that defendants' infringement of the '912 Patent has been and continues to be intentional, willful, and without regard to Core's rights.

68. Core is informed and believes, and on that basis alleges, that defendants have gained profits by virtue of their infringement of the '912 Patent.

69. Core will suffer and is suffering irreparable harm from defendants' infringement of the '912 Patent. Core has no adequate remedy at law and is entitled to an injunction against defendants' continuing infringement of the '912 Patent. Unless enjoined, defendants will continue their infringing conduct.

WHEREFORE, Plaintiff, Core Distribution, Inc., demands that Judgment be entered against Defendants, The World Trade Corporation, Austram, LLC, Alexander, Christopher, and Frederic Joch and Francisco Cruz, for damages (including treble damages, based on any infringement found to be willful, pursuant to 35 U.S.C. § 284), lost profits, costs, pre-judgment and post-judgment interest, and for such other and further relief as this Court deems just and proper, including, but not limited to, a judgment preliminarily and permanently enjoining Defendants and, as applicable, their officers, directors, agents, servants, employees, affiliates, attorneys, and all others acting in privity or in concert with them, and their subsidiaries, divisions, successors and assigns, from further acts of infringement of the '912 Patent.

JURY DEMAND

Core demands trial by jury on all issues so triable.

Dated: October 23, 2024.

Respectfully Submitted,

**KLUGER, KAPLAN, SILVERMAN, KATZEN,
& LEVINE, P.L.**

Counsel for Plaintiff

201 S. Biscayne Blvd., Suite 2700

Miami, Florida 33131

Tel: (305) 379-9000

Fax: (305) 379-3428

By: /s/ Michael Perse

Michael S. Perse, Esq.

Florida Bar No.: 603619

mperse@klugerkaplan.com

Kody Trespalacios, Esq.

Florida Bar No.: 1025176

ktrespalacios@klugerkaplan.com