

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

HARDWARD RESOURCES, INC.

Plaintiff,

v.

ATC HARDWARE SYSTEMS, INC.

Defendant.

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CIVIL ACTION NO. _____

JURY TRIAL DEMANDED

ORIGINAL COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiff, Hardware Resources, Inc. (“Hardware Resources”) files this, its Original Complaint for Declaratory Judgment against ATC Hardware Systems, Inc. (“ATC”) and would respectfully show the Court as follows:

Parties

1. Hardware Resources is a Louisiana corporation having its corporate offices at business at 4100 Spring Valley Road, Suite 840, Farmers Branch, Texas 75244.

2. ATC is a California corporation with its principal place of business at 418 Broadway Street, Chico, California 95928. The designated agent for service of process for ATC is Todd F. Radke at 418 Broadway Street, Chico, California 95928.

Jurisdiction and Venue

3. Subject matter jurisdiction is grounded in the Federal Declaratory Judgments Act, 28 U.S.C. §§ 2201 and 2202 as based on an action arising under the Patent Laws of the United States, Title 35 of the United States Code as implemented by 28 U.S.C. § 1338 (a).

4. This Court has personal jurisdiction of ATC because it is deemed to reside in this district, and because a substantial part of the events giving rise to the causes of action arose through acts of Defendant committed in this district. Venue lies properly in this judicial district and division under the terms of 28 U.S.C. § 1391(b) and (c) because Defendant is a corporation subject to personal jurisdiction in this district.

Facts Common To All Counts

5. This is an action for declaratory judgment of non-infringement and invalidity of United States Patent No. 7,458,651 (the “’651 Patent”).

6. Hardware Resources is in the business of designing, manufacturing and selling, among other things, hardware for cabinets and drawers. The hardware includes items such as drawer slides, hinges, knobs, and pulls. One such drawer slide is model no. 307FU which comes in different lengths, depending on the size of the drawer to be used in conjunction with the slide. Hardware Resources is currently manufacturing and selling the model no. 307FU drawer slide.

7. ATC is in the business of selling items such as hinges and drawer slides.

8. ATC is the record owner of the ’651 Patent. The ’651 Patent is entitled “Drawer Slide with Adjustable Strike” and describes a mechanism used to keep a drawer closed.

9. Recently, ATC has made repeated written allegations that Hardware Resources has infringed and continues to infringe the ’651 Patent by making and selling the model no. 307FU drawer slide.

10. ATC has demanded payment of license fees and royalties from Hardware Resources in order to avoid litigation for infringement of the ’651 Patent.

11. Hardware Resources has declined to enter into an agreement for payment of license fees and royalties to ATC and has denied infringement of the patent in writing.

12. A substantial controversy between the Parties, with adverse legal interests, has been created by the allegations of infringement of the '651 Patent by ATC which impinges the ability of Hardware Resources to make, use and sell the model no. 307FU drawer slide. The controversy is of sufficient immediacy and reality to warrant the issuance of a declaratory judgment of non-infringement and invalidity.

Count I
(Non-Infringement of the '651 Patent)

13. Hardware Resources repeats and realleges each allegation contained in Paragraphs 1 through 12.

14. The manufacture, sale, offer for sale and/or use of the model no. 307FU drawer slide by Hardware Resources in the United States does not infringe, contributorally infringe, nor constitute inducement of infringement of the '651 Patent.

15. Hardware Resources is entitled to a declaration that the manufacture, sale, offer for sale and/or use of the model no. 307FU drawer slide does not infringe, contributorally infringe, nor constitute inducement of infringement of the '651 Patent.

Count II
(Invalidity of the '651 Patent)

16. Hardware Resources repeats and realleges each allegation contained in Paragraphs 1 through 15.

17. On information and belief, the claims of the '651 Patent are invalid for failure to satisfy the statutory requirements of 35 U.S.C. §§ 101, 102, 103, and/or 112.

18. Hardware Resources is entitled to a declaration that the claims of the '651 Patent are invalid and unenforceable.

Jury Demand

19. Pursuant to Federal Rule of Civil Procedure 38, trial by jury is demanded.

Prayer

WHEREFORE, Hardware Resources respectfully requests:

- (a) a declaration from the Court that;
 - (i) Hardware Resources does not infringe, contributorially infringe nor induce infringement of the '651 Patent by the manufacture, sale, offer for sale and/or use of drawer slide model no. 307FU;
 - (ii) the '651 Patent is invalid and/or unenforceable;
- (b) an award of costs and attorney fees pursuant to 35 U.S.C. § 285; and
- (c) such other and further relief as the Court deems just and proper.

Dated: August 25, 2011.

Respectfully submitted,

s/ George R. Schultz
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