

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

CYCLE STOP VALVES, INC.,

Plaintiff,

v.

FLOMATIC CORPORATION, FLEXCON
INDUSTRIES, INC., IN-WELL
TECHNOLOGIES, INC., and KAM
ENTERPRISES, INC.,

Defendants.

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Civil Case No. _____

JURY TRIAL DEMANDED

COMPLAINT

Cycle Stop Valves, Inc. for its Complaint against Defendants Flomatic Corporation, Flexcon Industries, Inc., In-Well Technologies, Inc., and KAM Enterprises, Inc. states and alleges the following:

PARTIES AND SERVICE

1. Cycle Stop Valves, Inc. is a corporation organized under the laws of the State of Texas, having its principal place of business at 10221 County Road 6900, Lubbock, Texas 79407, is sometimes hereinafter referred to as "CSV."

2. Upon information and belief, Defendant Flomatic Corporation is a corporation organized under the laws of the State of New York, having offices at 15 Pruyn's Island Drive, Glen Falls, New York 12801. Upon information and belief, during September 20, 2002 and May 11, 2011, this Defendant used the corporate name of Danfoss Flomatic Corporation while operating continuously at this address; on May 12, 2011, its corporate name was changed back to Flomatic Corporation. Flomatic Corporation and Danfoss Flomatic Corporation are sometimes hereinafter collectively referred to as "Flomatic." Defendant Flomatic may be served with

process at 15 Pruyn's Island Drive, Glen Falls, New York 12801.

3. Upon information and belief, Defendant Flexcon Industries, Inc. is a corporation organized under the laws of the State of Massachusetts, having its principal place of business at 300 Pond Street, Randolph, Massachusetts 02368, and sometimes hereinafter referred to as "Flexcon." Defendant Flexcon's registered agent for service of process is Thomas J. Swan, Jr., located at 300 Pond Street, Randolph, Massachusetts 02368.

4. Upon information and belief, Defendant In-Well Technologies, Inc. is a corporation organized under the laws of the State of Wisconsin, having its principal offices at 7391 South Porcupine Lake Road, Lena, Wisconsin 54139, and is sometimes hereinafter referred to as "In-Well." Upon information and belief, Defendant Flexcon acquired the assets, inventory and intellectual property of Defendant In-Well on or about June 4, 2012, and continues to operate under the guidance and control of Defendant Flexcon. Defendant In-Well, as of July 9, 2012, changed its name to KAM Enterprises, Inc. (sometimes hereinafter referred to as Defendant KAM). Defendant In-Well's (now Defendant KAM) registered agent for service of process is Kenneth A. Meyers located at 7391 S. Porcupine Lake Road, Lena, Wisconsin 54139.

5. Sometimes Defendant Flomatic, Defendant Flexcon, Defendant In-Well, and Defendant KAM are collectively referred to as "Defendants."

JURISDICTION AND VENUE

6. This is an action for patent infringement arising under the patent laws of the United States, Title 35 United States Code, 35 U.S.C. § 1, *et seq.*

7. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338.

8. Defendant Flomatic is subject to the jurisdiction of this Court by reason of its acts of patent infringement which have been committed in this Judicial District and by virtue of its

regularly conducted and systematic business contacts in this state. As such, Defendant Flomatic has purposely availed itself of the privilege of conducting business within this Judicial District; has established sufficient minimum contacts with this Judicial District such that it should reasonably and fairly anticipate being haled into Court in this Judicial District; has purposefully directed activities at residents of this State; and at least a portion of the patent infringement claim alleged herein arise out of or are related to one or more of the foregoing activities.

9. Defendant Flexcon is subject to the jurisdiction of this Court by reason of its acts of patent infringement which have been committed in this Judicial District and by virtue of its regularly conducted and systematic business contacts in this state. As such, Defendant Flexcon has purposely availed itself of the privilege of conducting business within this Judicial District; has established sufficient minimum contacts with this Judicial District such that it should reasonably and fairly anticipate being haled into Court in this Judicial District; has purposefully directed activities at residents of this State; and at least a portion of the patent infringement claim alleged herein arise out of or are related to one or more of the foregoing activities.

10. Defendant In-Well, through Defendant Flexcon and/or Defendant KAM, is subject to the jurisdiction of this Court by reason of its acts of patent infringement which have been committed in this Judicial District and by virtue of its regularly conducted and systematic business contacts in this state. As such, Defendant In-Well has purposely availed itself of the privilege of conducting business within this Judicial District; has established sufficient minimum contacts with this Judicial District such that it should reasonably and fairly anticipate being haled into Court in this Judicial District; has purposefully directed activities at residents of this State; and at least a portion of the patent infringement claim alleged herein arise out of or are related to one or more of the foregoing activities.

11. Venue is proper in this Judicial District under 28 U.S.C. §§ 1391(b)-(c) and 1400(b).

PLAINTIFF CSV'S RIGHTS

12. On November 23, 1999, United States Patent No. 5,988,984 (the "'984 Patent"), entitled "METHOD AND APPARATUS FOR LIQUID CONTROL SYSTEM HAVING A VALVE WITH A NOTCH IN THE SEAL FOR ENABLING A SUFFICIENT FLUID TO PASS THROUGH WHEN THE SEAL IS FULLY CLOSED TO COOL THE PUMP AND/OR MOTOR," as invented by Cary Austin of Lubbock, Texas, was duly and legally issued by the United States Patent and Trademark Office. In its broadest terms, the '984 Patent relates to a constant pressure valve that is used not only to reduce the cycle times of a pump/motor, but also having a sealing surface notch which (1) permits a trickle or dribble flow through the valve when the sealing surfaces of the valves are fully closed enabling a sufficient fluid to pass through the valve in order to cool the pump and/or motor, and (2) to also permit flushing the notch free of debris upon opening of the valve. A system utilizing such a constant pressure valve in combination with a pressure tank small enough in size to fit within a well casing is also disclosed. A true and correct copy of the '984 Patent is attached as Exhibit A to this Complaint. The '984 Patent is enforceable and pursuant to 35 U.S.C. § 282, carries a statutory presumption of validity.

13. On December 11, 2001, United States Patent No. 6,328,071 (the "'071 Patent"), entitled "WELL PRESSURE TANK," as invented by Cary Austin of Lubbock, Texas, was duly and legally issued by the United States Patent and Trademark Office. The '071 Patent in general terms claims a bladder pressure tank having an internal air chamber that surrounds a pressurized liquid chamber, with a central tube having a plurality of holes within the liquid chamber to

permit liquid flow into and from the liquid chamber of the bladder pressure tank. A true and correct copy of the '071 Patent is attached as Exhibit B to this Complaint. The '071 Patent is enforceable and pursuant to 35 U.S.C. § 282, carries a statutory presumption of validity.

14. By a license dated May 6, 2002 between Mr. Austin and Plaintiff CSV, Plaintiff CSV became Mr. Austin's exclusive licensee for the '984 Patent and the '071 Patent. By assignment dated November 13, 2012, Plaintiff CSV became the owner of all right, title, and interest in and to the '984 Patent and the '071 Patent, along with the right to collect damages, lost profits and/or attorney's fees for any and all past infringements of such Patents.

FACTS COMMON TO ALL COUNTS

15. On or about August 6, 1993, Cary M. Austin, initially filed his Application for United States Patent which subsequently, through successive application filings, matured into the '984 Patent on or about November 23, 1999. Mr. Austin, the inventor, is also the Vice President of Plaintiff CSV.

16. On or about October 12, 1999, Mr. Austin filed a provisional patent application along with a subsequent application filed on October 6, 2000 (also based on the filings of the '984 Patent), which ultimately issued on December 11, 2001 as the '071 Patent.

17. The constant pressure valve of the '984 Patent is preferably used in combination with the bladder pressure tank of the '071 Patent for installation in down hole well casing water distribution systems, that is immune from the effects of temperature and which further requires no large reservoir of fluid remote from the well casing.

18. In or about August 1999, Bo Andersson, President of Defendant Flomatic discussed with Mr. Austin and Plaintiff CSV the possibility of licensing the '984 Patent after a prior meeting at the South Atlantic Well Driller Jubilee Trade Show in Myrtle Beach, South

Carolina.

19. Also in August of 1999, representatives of Plaintiff CSV met with Kenneth Meyers, the President of Defendant In-Well, at this trade show in South Carolina. Having been a previous customer of Plaintiff CSV, Defendant In-Well inquired of Plaintiff CSV about Defendant In-Well building a pressure tank that would work with the valve of the '984 Patent and would fit within a well casing. At this trade show, portions of the drawings which were subsequently to become the drawings in the '984 Patent (notably Figure 6) were shown to Mr. Meyers.

20. On or about August 27, 1999, Bo Andersson, President of Defendant Flomatic expressed an interest in the possible acquisition of Plaintiff CSV. Plaintiff CSV made subsequent plans, including entering into a Confidentiality Agreement with Defendant Flomatic, for the anticipated upcoming arrival of Mr. Andersson for an inspection of Plaintiff CSV's facilities in mid-September 1999.

21. Subsequent to the visit by Defendant Flomatic, Plaintiff CSV provided detailed confidential business information about Plaintiff CSV at the request of Defendant Flomatic.

22. In total disregard of the fact that less than two months prior Defendant In-Well had been shown drawings of an in the well tank from the soon to issue '984 Patent, on or about October 27, 1999, Kenneth Meyers, a named inventor, filed an Application for U.S. Patent entitled "WATER PRESSURE SYSTEM" that resulted in U.S. Patent No. 6,349,765 (the "'765 Patent") that issued on February 26, 2002, with Defendant In-Well being the Assignee. A true and correct copy of the '765 Patent is attached as Exhibit C. Plaintiff CSV's '984 Patent is a cited reference in Defendant In-Well's '765 Patent.

23. Generally speaking, the '765 Patent relates to a "water pressure system" having a constant pressure valve and a bladder pressure tank, with the pressure switch for activation of the motor/pump being in communication with the air chamber of the bladder pressure tank, as distinguished from Plaintiff CSV's '984 Patent and '071 Patent teachings of having the pressure switch in communication with the liquid chamber. Upon information and belief, Defendant In-Well's '765 Patent teachings that the pressure switch be in communication with the air chamber (rather than the liquid chamber) of the bladder tank is not a viable working arrangement because of two main reasons:

- a) The pressure tank is several feet down in the well casing and the pressure switch must be several feet above the tank close to the ground surface. This requires a separate hose to connect the air chamber of the tank with the pressure switch. Plaintiff CSV's '984 Patent places the pressure switch on the discharge pipe from the well, which is already in communication with the liquid chamber of the tank, easily accessible, and requires no extra hose; and
- b) Further, the required fittings and hose needed to attach the pressure switch to the air chamber, as well as the diaphragm and additional parts in the pressure switch itself can be made impermeable to leakage by water molecules, but not impermeable to leakage by air molecules. This allows the finite and "factory pre-charged" amount of air in the air chamber of the tank to leak out, causing a tank and system failure. When the pressure switch is placed on the liquid side of the pressure tank as with Plaintiff CSV's '984 Patent, the air inlet to the tank has no hose and is fitted with a gasket and stainless steel cap, preventing any air leakage.

Upon information and belief, this was Defendant In-Well's attempt to get a patent that would emulate the design of Plaintiff CSV's valve and bladder tank systems as much as possible. Upon information and belief, Defendant In-Well had to revise its patent application to place the pressure switch in communication with the air chamber, even though it is not a viable working arrangement, in order to receive allowance of the claims of the '765 Patent. Defendant In-Well has never commercially produced a tank that falls within the claims of his '765 Patent, which has the pressure switch in communication with the air chamber of the tank.

24. On or about December 22, 1999, Plaintiff CSV received an offer from Defendant Flomatic to purchase the assets of Plaintiff CSV for \$565,000. This offer was refused by Plaintiff CSV.

25. On or about August 18, 2000, Defendant Flexcon filed a provisional patent application which ultimately issued as U.S. Patent No. 7,052,243 (the "'243 Patent") on May 30, 2006, entitled "Pressure Regulating Valve." A copy of the '243 Patent is attached hereto as Exhibit D. Notably, Plaintiff CSV's '984 Patent is a cited reference.

26. The '243 Patent teaches, *inter alia*, that the pressure regulating valve must have a calibrated bypass that may be a hole or groove cut into the valve seat or moveable member of such a size to permit a flow rate between the inlet and outlet that will fill the pressure tank in a time interval less than twice the time required to pump a volume of water that will dissipate heat generated by the pump when it is turned on. Upon information and belief, Defendant Flexcon's '243 Patent mimics the teachings of Plaintiff CSV's '984 Patent.

27. On or about December 4, 2000, Plaintiff CSV sent a letter to Kenneth Meyers, President of Defendant Flomatic and Luisier Drilling, Inc., informing him of possible acts of infringement of the '984 Patent.

28. In the summer of 2001, Mr. Austin of Plaintiff CSV met with principals of Defendant Flexcon to discuss Plaintiff CSV's patented constant pressure valve concepts. See attached Exhibit E.

29. On or about February 25, 2002, Defendant In-Well filed its Application for "WATER PRESSURE SYSTEM WITH PRESSURE TANK INSTALLED WITHIN CASING OF WELL," with Kenneth Meyers being a named inventor, which resulted in United States Patent No. 6,910,532 (the "'532 Patent") as issued on June 28, 2005, a true and correct copy of which is attached hereto as Exhibit F. Plaintiff CSV's '984 and '071 Patents are cited references in Defendant In-Well's '532 Patent. The '532 Patent is based upon the application that resulted in the '765 Patent of Exhibit F. Upon information and belief, the '532 Patent relates generally to a valve that was produced solely by Defendant Flomatic to work specifically with Defendant In-Well's system. Defendant Flomatic's valve also emulated the valve in Plaintiff CSV's '984 Patent, in that it had a bypass across the valve seat. However, this valve had an additional port on the inlet side for the purpose of attaching a small pressure relief valve. This small pressure relief valve was intended to dump excess water back down the well when inlet pressure on the main valve exceeded a certain preset pressure. This design also had multiple flaws that prevented it from being a viable working arrangement. Defendant In-Well's '532 Patent is also a continuation in part of Defendant In-Well's '765 Patent which uses the pressure tank with the pressure switch in communication with the air chamber. Not only was the valve in the '532 Patent not a viable working arrangement, but it must work in conjunction with the tank in the '765 Patent, which is also not a viable working arrangement. This particular valve failed in the market place after only being available for a short time. The timing and the choice of language selected for the application on the '532 Patent is also an indication that Defendants In-Well and

Flomatic were knowingly, willfully, and recklessly cooperating to circumvent Plaintiff CSV's '984 and '071 Patents.

30. On or about July 25, 2002, Defendant Flexcon filed a provisional application that ultimately resulted in U.S. Patent No. 7,108,105 (the "'105 Patent") as issued on September 19, 2006, entitled "In-Line Flow Through Diaphragm Tank," a copy of which is attached as Exhibit G. Plaintiff CSV's '984 Patent and '071 Patent are cited as references in the '105 Patent.

31. The '105 Patent teaches, *inter alia*, the use of an internal tube, enclosed by an externally pressured diaphragm, with the internal tube having notches in fluid communication between the interior of the tube and the interior of the diaphragm. Upon information and belief, Defendant Flexcon's '105 Patent mimics the teachings of Plaintiff CSV's '071 Patent that teaches use of a plurality of holes in the internal tube to permit fluid communication between the interior of the tube and the interior of the bladder tank.

32. Following the filing of the application that resulted in the '532 Patent, Defendant In-Well was informed and realized that its '765 and '532 Patents did not afford it the right to manufacture products covered under Plaintiff CSV's '984 and '071 Patents. After a series of communications, on or about October 28, 2002, Defendant In-Well entered into a license agreement with Plaintiff CSV to utilize the innovative technology of Plaintiff CSV's '984 and '071 Patents.

33. On or about November 17, 2003, Defendant In-Well filed its Application for U.S. Patent entitled "FLUID PRESSURE SYSTEM INCLUDING FREE FLOATING BLADDER," naming Kenneth Meyers as one of its inventors, which resulted in United States Patent No. 7,013,924 (the "'924 Patent") as issued on March 21, 2006, a true and accurate copy of which is attached hereto as Exhibit H. Plaintiff CSV's '984 and '071 Patents are cited references in

Defendant In-Well's '924 Patent. The '924 Patent relates generally to a pressure tank that will fit in the well casing that has a bladder with a limit to its expansion size. Upon information and belief, the small size of this tank (that will fit inside the well casing) requires use of a valve as in the '984 Patent in conjunction with the tank, to make it a viable working arrangement.

34. After several failed attempts in 2002, on or about December 12, 2003, Defendant Flomatic (Danfoss Flomatic, Inc. at that time), through its President Bo Andersson, signed a license agreement with Plaintiff CSV (then Mr. Austin's exclusive licensee) relating to the license of the '984 Patent and the '071 Patent to Defendant Flomatic.

35. Upon information and belief, Defendant Flexcon, on or about the summer of 2004, was promoting its "FTI 45" product along with Installation Instructions with a Pressure Regulating Valve, as shown in Exhibit I.

36. From the signing date of the licenses to the first part of 2006, both Defendants In-Well and Flomatic made regular quarterly payments to Plaintiff CSV as described in the licenses. Throughout the first two quarters of 2006 there were multiple communications between Kenneth Meyers of Defendant In-Well and Plaintiff CSV relating to Defendant In-Well's delinquency in paying royalty amounts.

37. By August 16, 2006, Defendant In-Well's President, Kenneth Meyers, was corresponding with its customers that it was no longer carrying Plaintiff CSV's line of products and "will now carry the Flomatic line of [valves] exclusively."

38. On or about August 28, 2006, Plaintiff CSV sent correspondence to Defendant Flomatic about an "enormous disconnect between the statements of Flomatic that it has sold no valves [to Defendant In-Well] and thus paid no royalty, and the statement of Mr. Meyers that In-Well now carries exclusively the Flomatic line of valves."

39. On or about October 16, 2006, Plaintiff CSV informed Defendant Flomatic, by and through its President, Bo Andersson, that Plaintiff CSV would be terminating their license agreement and seeking confirmation that Defendant Flomatic would not be sending any valves to Kenneth Meyers of Defendant In-Well. In a return email on the same day from Mr. Andersson, Mr. Andersson indicated that “from a business standpoint we see little value in selling Ken Meyers or others the exciting [sic] product under the License Agreement.”

40. On November 2, 2006, Plaintiff CSV and Mr. Austin terminated the License Agreement with Defendant In-Well and also terminated the License Agreement with Defendant Flomatic. Plaintiff CSV gave Defendants notice that continued use or sale of the In-Well pressure tanks with a constant pressure valve would constitute infringement of the ‘984 and the ‘071 Patent.

41. On November 3, 2006, Plaintiff CSV sent letters to all of its distributors informing them of the ‘984 Patent and the ‘071 Patent, and informing them that the installation of any of Defendant In-Well’s pressure tanks with a constant pressure control valve would be an infringement of Plaintiff’s Patents.

42. Upon information and belief, continuously from the November 2, 2006 time of the termination of the License Agreements to date, Defendant Flomatic has continued to sell constant pressure valves of the type that infringe one claim of the ‘984 Patent, despite its representations to Plaintiff CSV to the contrary. Indeed in July 2007, Defendant Flomatic, recognizing its exposure, sought a release from Plaintiff CSV for its failure to pay royalties—a release that Plaintiff CSV refused to sign.

43. Upon information and belief, from the November 2, 2006 time of the termination of the License Agreement, Defendant In-Well has continued to sell a bladder pressure tank of the

type that infringes at least one claim of the '071 Patent.

44. As detailed in the August 2009 issue of Water Well Journal, Defendant In-Well actively seeks to induce the infringement by installers of the entire system claims of the '984 Patent as it affirmatively teaches and details the system installation including a constant pressure valve and a bladder pressure tank, all for installation within a well casing. A true and correct of this article is attached hereto as Exhibit J.

45. Upon information and belief, Defendants actively communicated with installers to promote the use of both a valve as in the '984 Patent as well as Variable Speed Pumps (more commonly known as Variable Frequency Drives or VFD's) in combination with Defendant In-Well's tank. It is well known in the industry that Plaintiff CSV's '984 patented valve was designed to replace VFD type systems, as VFD systems are expensive and prone to frequent failures. Defendants are well aware that even when an In-Well tank (which may or may not be an infringement of Plaintiff CSV's '071 Patent) is originally sold with a VFD, later repairs in the field to eliminate the frequent and expensive failures, involves replacing the VFD with a constant pressure valve, which then makes the system infringing on Plaintiff CSV's '984 and '071 Patents.

46. Upon information and belief, on or about June 4, 2012, the assets, inventory, and intellectual property of Defendant In-Well was acquired by Defendant Flexcon, as detailed on Defendant Flexcon's website, a copy of which is attached hereto as Exhibit K, page 1. Upon information and belief, Defendant Flexcon is continuing to infringe upon Plaintiff CSV's Patents by and through its acquired interests in Defendant In-Well. For example, see Flexcon's web page referencing its new In-Well tank shown to be used in combination with a control valve, as in Plaintiff CSV's '984 and '071 Patents, at www.flexconind.com/pdf/inwell_specifications.pdf

as shown in Exhibit K, page 2. For further examples, see www.inwelltech.com which is, upon information and belief, is now being directed by Defendant Flexcon.

CAUSES OF ACTION

COUNT 1—INFRINGEMENT OF '984 PATENT

47. The allegations set forth in all of the foregoing paragraphs are incorporated into this Count 1 as though fully set forth herein.

48. Upon information and belief, in violation of 35 U.S.C. § 271(a), each of the Defendants has directly infringed and continues to directly infringe, including under the Doctrine of Equivalents, the '984 Patent by making, using, importing, selling and/or offering for sale in the United States, including within this Judicial District, a constant pressure valve that infringes one or more claims of the '984 Patent, all without the authority of Plaintiff CSV. (The "Accused Infringing Valves"). Of particular note, on pages 3, 6, and 11 of Exhibit L, see drawing references to "Self Cleaning By-Pass" and a component part listed as a "Disc (Slotted)."

49. Upon information and belief, the Accused Infringing Valves include, but are not limited to Defendant Flomatic's Cycle Gard valves, such as but not by way of limitation its Cycle Gard I (Model C152E), its Cycle Gard IV (Model C152E with NPT Bosses) and its Hydrostat Valves (Model C3100E), as sold by Defendant Flomatic as well as Defendants In-Well, Flexcon, and KAM, examples of which are shown on its website and attached hereto as Exhibit L. Upon information and belief, Defendant Flomatic's 2012 Price List (last 2 pages of Exhibit L) shows the "Slotted seat, No drilled holes, Non-closing seat, No screens," is placed on the page with all of Defendant Flomatic's Cycle Gard valves in such a way as to mislead customers into believing all of Defendant Flomatic's Cycle Gard valve models are just like Plaintiff CSV's patented design.

50. As prior licensees of Plaintiff CSV's '984 and '071 Patents, Defendants had actual knowledge of such Patents and that Defendants' use and sales of the Accused Infringing Valves constitute infringement, but they have not discontinued such use or sales.

51. Plaintiff CSV has been harmed by Defendants' infringing activities.

COUNT 2—INFRINGEMENT OF '071 PATENT

52. The allegations set forth in all of the foregoing paragraphs are incorporated into this Count 2 as though fully set forth herein.

53. Upon information and belief, in violation of 35 U.S.C. § 271(a), Defendants In-Well, Defendant Flexcon and Defendant KAM have directly infringed and continue to directly infringe, including under the Doctrine of Equivalents, the '071 Patent by making, using, importing, selling and/or offering for sale in the United States, including within this Judicial District, a well pressure tank that infringes one or more of the claims of the '071 Patent, without the authority Plaintiff CSV (the "Accused Infringing Tanks").

54. The Accused Infringing Tanks include, but are not limited to Defendant In-Well's "NO TANK" pre-charged in-well water tank (such as its Model NT-30SS, and NT-50SS) and its PVC In-the-Well Tank (such as Models PL 35 and PL 45), as shown on its website at www.inwelltech.com and Defendant Flexcon's Models IWSS4, IWSS5, IWPL4, and IWPL5, as shown on its website www.flexconind.com/html/products/well/inwell.html, all of which is also shown in Exhibit M attached hereto.

55. As prior licensees of Plaintiff CSV's '984 and '071 Patents, Defendants had actual knowledge of such Patents and that Defendants' use and sales of the Accused Infringing Tanks constitute infringement, but they have not discontinued such use or sales.

56. Plaintiff CSV has been harmed by Defendants' infringing activities.

COUNT 3—INDUCED INFRINGEMENT OF THE ‘984 AND ‘071 PATENTS

57. The allegations set forth in all of the foregoing paragraphs are incorporated into this Count 3 as though fully set forth herein.

58. Upon information and belief, in violation 35 U.S.C. § 271(b), each of the Defendants has intentionally induced the infringement and continues to induce the infringement of the ‘984 Patent and the ‘071 Patent by those installers who install systems including the Infringing Valves and the Infringing Tanks, within this Judicial District that infringe one or more of the claims of the ‘984 Patent and the ‘071 Patent without authority of Plaintiff CSV (the “Accused Infringing Systems”). Defendants knew or were willfully blind to the fact that such use by the installers constituted infringement.

59. Exemplar of this induced infringement is shown by Defendant In-Well’s Article of the attached Exhibit J that Defendant In-Well knowingly induced such infringement by detailing the installation of the entire system, i.e. a constant pressure valve of the type shown in the ‘984 Patent and the bladder pressure tank as shown in the ‘071 Patent, while possessing the specific intent to encourage infringement by another, i.e. by the system installers. This specific intent is detailed by the above Article of Exhibit J as well as Defendants’ website marketing materials and related instructions. See Exhibit M. The Defendants have actively and knowingly aided and abetted this direct infringement.

60. Further, as detailed on page 9 of Exhibit L, Defendant Flomatic misleadingly claims that its constant pressure valve was “originally patented under 3,100,505” when the structure of its current valves bear no structural similarity to its earlier patented valves. A copy of U.S. Patent 3,100,500 is attached as Exhibit N which depicts a structure that is entirely different from that of Plaintiff CSV’s ‘984 Patent and that of Defendants’ valves as depicted in

Exhibit L. The structure of Defendants' current valves bear no similarity to the device in the '505 Patent as the '505 valve uses an air chamber as a biasing structure (instead of a spring), and claims only that "the bypass is around the valve, from the inlet to the outlet," and not across the valve seat.

61. Plaintiff CSV has been harmed by Defendants' activities that induce infringement of Plaintiff's '984 Patent and its '071 Patent.

COUNT 4—WILLFUL INFRINGEMENT

62. The allegations set forth in all of the foregoing paragraphs are incorporated into this Count 4 as though fully set forth herein.

63. Upon information and belief, Defendants have long had actual knowledge of Plaintiff's '984 Patent and '071 Patent. Upon information and belief, Defendants have acted with objective recklessness and subjective recklessness in their continued infringement of Plaintiff's '984 Patent and '071 Patent since November 2006. Not only have Defendants long had notice of Plaintiff CSV's '984 Patent and its '071 Patent, they affirmatively stated to Plaintiff CSV that they would no longer make, use or sell products that formerly were licensed to them by Plaintiff CSV, when in fact, without justification, continued to flagrantly infringe such Patents. There was an objectively high likelihood of infringement and Defendants knew this, or the infringement was so obvious that Defendants should have known of it.

64. As such, upon information and belief, Defendants have willfully infringed Plaintiff CSV's '984 Patent and '071 Patent and Plaintiff CSV has been harmed by Defendants' activities.

COUNT 5—ATTORNEY’S FEES

65. The allegations set forth in all of the foregoing paragraphs are incorporated into this Count 5 as though fully set forth herein.

66. Upon information and belief, the actions of Defendants have been carefully designed to affirmatively conceal their individual and cooperative infringing activities.

67. Based upon the facts detailed hereinabove, Plaintiff CSV believes this case to be an exceptional case to which it is entitled to its attorney’s fees pursuant to 35 U.S.C. § 285.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff CSV demands judgment for itself and against each Defendant as follows:

- A. An adjudication that each Defendant has infringed the ‘984 Patent;
- B. An adjudication that each Defendant has infringed the ‘071 Patent;
- C. An adjudication that each Defendant has sought to and participated in inducing infringement of the ‘984 Patent;
- D. An adjudication that each Defendant has sought to and participated in inducing infringement of the ‘071 Patent;
- E. An award of damages to be paid by each Defendant and/or Defendants collectively, adequate to compensate Plaintiff CSV for its past infringement of the ‘984 Patent and any continuing or future infringement through the date such judgment is entered, including interest, costs, expenses, and an accounting of all infringing acts including, but not limited to, those acts presented at trial;
- F. An award of damages to be paid by each Defendant and/or Defendants collectively, adequate to compensate Plaintiff CSV for its past infringement of the ‘071 Patent

and any continuing or future infringement through the date such judgment is entered, including interest, costs, expenses, and an accounting of all infringing acts including, but not limited to, those acts presented at trial;

G. An injunction enjoining each Defendant and/or Defendants collectively, and their officers, directors, agents, servants, employees, affiliates, attorneys, and all others acting in privity or in concert with them, from directly or indirectly infringing the '984 Patent and the '071 Patent;

H. A declaration that this case is exceptional under 35 U.S.C. § 285 and award to Plaintiff CSV's reasonable attorney's fees; and

I. An award to Plaintiff CSV of such further relief at law or in equity as this Court deems just and proper.

JURY DEMAND

Pursuant to Federal Rules of Civil Procedure, Rule 38(b), Plaintiff CSV hereby demands a trial by jury on all issues triable as such.

Dated: December 10, 2012.

Respectfully submitted,

/s/ Richard L. Schwartz
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**ATTORNEYS FOR PLAINTIFF
CYCLE STOP VALVES, INC.**