

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

QC MANUFACTURING, INC.,

Plaintiff,

vs.

VENTAMATIC, LTD.,

Defendant.

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Case No. \_\_\_\_\_

**JURY TRIAL DEMANDED**

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff QC Manufacturing, Inc., brings this action for patent infringement against Defendant Ventamatic, Ltd. and alleges as follows:

**I. Parties**

1. Plaintiff QC Manufacturing, Inc. (“QC”) is a California corporation with its principal place of business at 43352 Business Park Drive, Temecula, California 92590.

2. On information and belief, Defendant Ventamatic, Ltd. (“Ventamatic” or “Defendant”) is a Texas limited company with places of business at Fort Wolters Industrial Park, 100 Washin, Mineral Wells, Texas 76067.

**II. Jurisdiction and Venue**

3. QC’s patent infringement claims arise under Title 35 of the United States Code and this Court thus has subject matter jurisdiction over those claims pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. This Court has personal jurisdiction over Defendant in this action including because its principal place of business is located in the Northern District of Texas, and because it has, directly or through intermediaries, committed acts within this district giving rise to this action and/or has established minimum contacts with the district such that the exercise of jurisdiction would not offend traditional notions of fair play and substantial justice.

5. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and 1400(b). On information and belief, Defendant resides in the Northern District of Texas, has committed acts of infringement in the Northern District of Texas, and has a regular and established place of business in the Northern District of Texas.

### **III. QC's Patents-in-Suit**

6. QC is the owner of United States Patent No. 7,497,774 entitled “Whole House Fan and Methods of Installation” (the “’774 patent”). The ’774 patent was duly and legally issued by the United States Patent and Trademark Office on March 3, 2009. A true and correct copy of the ’774 patent is attached as Exhibit A.

7. QC is the owner of United States Patent No. 9,903,603 entitled “Air Cooling System For A Building Structure” (the “’603 patent”). The ’603 patent was duly and legally issued by the United States Patent and Trademark Office on February 27, 2018. A true and correct copy of the ’603 patent is attached as Exhibit B.

8. QC is the sole owner of the entire right, title, and interest in and to the ’774 patent and the ’603 patent (collectively, “Asserted Patents”), including the right to sue and recover for any and all infringements thereof.

9. The Asserted Patents are valid and enforceable.

### **IV. Background**

10. In or around 1999, QC’s founder and inventor Dana Stevenson—an electrical contractor by trade—was installing a traditional whole house fan into a customer’s home when the customer exclaimed, “I wish someone would invent a quiet whole house fan!” Inspired to invent the first quiet, energy efficient whole house fan, Mr. Stevenson began tinkering around in his home garage until he developed his prototype “QuietCool” fan.

11. The first QuietCool fan came to market in 2003, revolutionizing the whole house fan industry. Since then, QC has continued to grow its business and improve upon its products in furtherance of its commitment to building the quietest and most energy efficient whole house fans on the market. For example, in 2011, QC introduced the Energy Saver line of QuietCool

fans utilizing ultra-high efficiency motors never before seen in the industry. And most recently in 2017, QC introduced Wi-Fi Smart Control to allow control of any QuietCool fan from a smartphone or tablet. Today, QC's QuietCool fans are manufactured and assembled in its 50,000 square foot plant in Temecula, California.

12. Before the introduction of QuietCool fan in 2003, the market for this class of fans was non-existent. Now, the success of QC's revolutionary QuietCool technology has created a new market for whole house fans and whole house fans are being incorporated into new home construction. In fact, in 2012, QuietCool received the PCBC POP award for best new product for new home construction. Consequently, the California Energy Commission recognized the substantial benefits of advanced, energy efficient whole house fans like QuietCool, and by 2013 whole house fans became required in 8 of the 14 climate zones in California.

13. QC has received several other awards and accolades in recognition of its success resulting from its inventions. In 2013, QC was awarded Best Manufacturer in the Temecula Valley. And each year since 2014, QC has been named to the Inc. 5000 Fastest Growing Companies list, representing the fastest growing private companies in the United States. For the past three years in a row, QC was in the top 2500 fastest growing companies on the list. During the years 2011 to the present time, QC and the brand "QuietCool" have earned an exceptional reputation as the new industry standard of "Advanced Whole House Fans." Defendant has known, or ought to have known, the value of this reputation as the Defendant developed its plan of action to infringe upon the QuietCool patents and bring to market its own infringing product.

#### **V. Defendant's Infringing Activities**

14. On information and belief, Defendant is engaged in the business of selling and/or offering to sell within the United States and/or importing into the United States whole house fans that are covered by the Asserted Patents.

#### **First Cause of Action: Infringement of U.S. Patent No. 7,497,774**

15. QC re-alleges and incorporates by reference the allegations in the foregoing paragraphs as if fully set forth herein.

16. QC is the owner of the '774 patent entitled “Whole House Fan and Methods of Installation.”

17. On information and belief, Ventamatic has infringed and is currently infringing one or more claims of the '774 patent, including claim 1, in violation of 35 U.S.C. § 271.

18. Ventamatic has infringed and is currently infringing, literally and/or under the doctrine of equivalents, by, among other things, making, using, offering for sale, selling, and/or importing within this judicial district and elsewhere in the United States, without license or authority, whole house fan systems falling within the scope of one or more claims of the '774 patent, including claim 1.

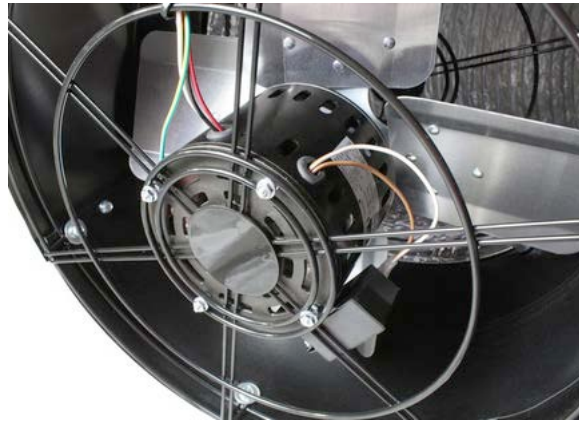
19. Ventamatic’s acts of making, using, offering for sale, selling, and/or importing infringing whole house fan systems satisfy, literally and/or under the doctrine of equivalents, each and every claim limitation, including but not limited to the limitations of exemplary claim 1.<sup>1</sup> For example, Ventamatic’s infringing whole house fan systems<sup>2</sup> are for building structures having a dwelling area and an attic, wherein the attic has at least one rafter. *See, e.g.*, <https://bvc.com/residential-fans/whole-house-fans/ducted-whole-house-fans.html>.



<sup>1</sup> QC reserves the right to identify additional asserted claims as this litigation proceeds. For example, QC expressly reserves the right to identify additional asserted claims in its infringement contentions to be served during the discovery process.

<sup>2</sup> Including, but not limited to, Ventamatic’s *Modern Whole House Fans* SKU CX1401, CX1401UPS, CX1401HUB, CX1401HUBUPS, CX1801, CX1801UPS, CX1801HUB, and CX1801HUBUPS. QC reserves the right to identify additional infringing products as this litigation proceeds.

20. Ventamatic's infringing whole house fan systems comprise a fan having a plurality of fan blades and a motor, wherein the fan lessens the static air pressure in the dwelling area by actively drawing air from the dwelling area and then pushing the air into the attic, wherein the lessened static air pressure in the dwelling area allows external cooler air to be drawn into the dwelling area through an open window or door. *See, e.g.,* <https://bvc.com/residential-fans/whole-house-fans/ducted-whole-house-fans.html>.



21. Ventamatic's infringing whole house fan systems further include a venturi collar, which surrounds the fan blades and is adapted to reduce the noise level generated by the air flow; an air admitting device configured to be positioned in an opening formed in a ceiling of a building structure; an elongated, flexible acoustically insulating material extending between the fan and the air admitting device, said material defining an air passageway between the fan and the air admitting device, wherein the insulating material is sufficiently long such that a first end of the insulating material is adapted to be positioned adjacent to the ceiling and a second end of the insulating material is adapted to be positioned adjacent to the rafter in the attic, and at least a portion of the venturi collar is disposed within the insulating material. *See, e.g.,* <https://bvc.com/residential-fans/whole-house-fans/ducted-whole-house-fans.html>.



22. Ventamatic's infringing whole house fan systems further include a at least one strap adapted to suspend the fan and the elongated, flexible acoustically insulating material from the rafter, said strap attenuating the vibration generated from the fan. *See, e.g.*, <https://bvc.com/residential-fans/whole-house-fans/ducted-whole-house-fans.html>.



23. Ventamatic has also indirectly infringed and continues to indirectly infringe the '774 patent by active inducement under 35 U.S.C. § 271(b).

24. On information and belief, Ventamatic had knowledge of the '774 patent at least as early as August 29, 2018.

25. On information and belief, Ventamatic intended and continues to intend to induce patent infringement by its customers, and has had knowledge that the inducing acts would cause infringement or has been willfully blind to the possibility that its inducing acts would cause infringement. For example, Ventamatic encourages and instructs its customers to use Ventamatic's infringing whole house fan systems through materials and information made available to the customers, including product manuals and technical information, including those provided on its website at <https://bvc.com/residential-fans/whole-house-fans/ducted-whole-house-fans.html>. By using the Ventamatic's infringing products, Ventamatic's customers directly infringe at least claim 1 of the '774 patent. By continuing to provide instructions to its customers on how to use the infringing products as claimed in claim 1 of the '774 patent, and by continuing to encourage such use, Ventamatic has intended and continues to specifically intend to induce infringement of the '774 patent.

26. On information and belief, Ventamatic's infringement of the '774 patent is and has been willful, as Ventamatic intentionally sought to copy QC's patented QuietCool whole house fan system and was aware of the '774 patent at least as early as August 29, 2018, the date when Ventamatic sent a letter to Plaintiff alleging that "Ventamatic has not violated your patent." Exhibit C at 1. Despite Ventamatic's knowledge of the '774 Patent, it continues to infringe the '603 by using, making, selling, offering to sell, and importing into the U.S. its infringing whole house fan systems as alleged above.

27. Plaintiff has satisfied the marking and notice provisions under 35 U.S.C. § 287(a) with respect to the '774 patent.

28. As a result of Ventamatic's infringement of the '774 patent, QC has suffered and is entitled to monetary damages in an amount adequate to compensate for Ventamatic's infringement, but in no event less than a reasonable royalty for the use made of the invention by Ventamatic, together with interest and costs as fixed by the Court. QC is also entitled to enhanced damages based on Ventamatic's willful infringement of the '774 patent.

29. Further, unless a permanent injunction is issued enjoining Ventamatic and its agents, servants, employees, representatives, affiliates, and all others acting or in active concert therewith from infringing the '774 patent, QC will continue to suffer damages in the future and will be greatly and irreparably harmed.

**Second Cause of Action: Infringement of U.S. Patent No. 9,903,603**

30. QC re-alleges and incorporates by reference the allegations in the foregoing paragraphs as if fully set forth herein.

31. QC is the owner the '603 patent entitled "Air Cooling System for a Building Structure."

32. On information and belief, Ventamatic has infringed and is currently infringing one or more claims of the '603 patent, including claim 1, in violation of 35 U.S.C. § 271.

33. Ventamatic has infringed and is currently infringing, literally and/or under the doctrine of equivalents, by, among other things, making, using, offering for sale, selling, and/or

importing within this judicial district and elsewhere in the United States, without license or authority, air cooling systems falling within the scope of one or more claims of the '603 patent, including claim 1.

34. Ventamatic's acts of making, using, offering for sale, selling, and/or importing infringing air cooling systems satisfy, literally and/or under the doctrine of equivalents, each and every claim limitation, including but not limited to the limitations of exemplary claim 1.<sup>3</sup> For example, Ventamatic's infringing air cooling systems<sup>4</sup> are for cooling a building structure with a living area and an attic area. *See, e.g.*, <https://bvc.com/residential-fans/whole-house-fans/ducted-whole-house-fans.html>.



35. Ventamatic's infringing air cooling systems comprise a fan assembly, said fan assembly adapted to be suspended from a roof rafter in the attic area and comprising an air intake, a motorized fan, and an acoustical and thermal insulating duct, said insulating duct interconnecting the motorized fan and the air intake, the insulating duct being at least 4 feet long; wherein the motorized fan has an airflow capacity between 1000 and 6000 cubic feet per minute (cfm); wherein the fan assembly generates a sound level of between 0.4-0.6 sanes in at least a portion of

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<sup>3</sup> QC reserves the right to identify additional asserted claims as this litigation proceeds. For example, QC expressly reserves the right to identify additional asserted claims in its infringement contentions to be served during the discovery process.

<sup>4</sup> Including, but not limited to, Ventamatic's *Modern Whole House Fans* SKU CX1401, CX1401UPS, CX1401HUB, CX1401HUBUPS, CX1801, CX1801UPS, CX1801HUB, and CX1801HUBUPS. QC reserves the right to identify additional infringing products as this litigation proceeds.



the living area; wherein the motorized fan is adapted to create a negative static pressure in the living area sufficient to draw outside air through an open window; and wherein the motorized fan is adapted to draw the air in the living area up through the air intake and the duct, and to expel said air into the attic area to create a positive static pressure sufficient to cause air in the attic area to be pushed out through vents in the attic area and to substantially inhibit outside air to be drawn into the attic area through the vents. *See, e.g.,* <https://bvc.com/residential-fans/whole-house-fans/ducted-whole-house-fans.html>.



36. Ventamatic has also indirectly infringed and continues to indirectly infringe the '603 patent by active inducement under 35 U.S.C. § 271(b).

37. On information and belief, Ventamatic gained knowledge of the '603 patent no later than August 29, 2018.

38. On information and belief, Ventamatic intended and continues to intend to induce patent infringement by its customers, and has had knowledge that the inducing acts would cause infringement or has been willfully blind to the possibility that its inducing acts would cause infringement. For example, on information and belief, Ventamatic encourages and instructs its customers to use Ventamatic's infringing air cooling systems through materials and information made available to the customers, including product manuals and technical information. By using the Ventamatic's infringing products, Ventamatic's customers directly infringe at least claim 1 of the '603 patent. By continuing to provide instructions to its customers on how to use the infringing products as claimed in claim 1 of the '603 patent, and by continuing to encourage such

use, Ventamatic has intended and continues to specifically intend to induce infringement of the '603 patent.

39. Plaintiff has satisfied the marking and notice provisions under 35 U.S.C. § 287(a) with respect to the '603 patent.

40. On information and belief, Ventamatic's infringement of the '603 patent is and has been willful, as Ventamatic intentionally sought to copy QC's patented QuietCool whole house fan system and was aware of the '603 patent at least as early as August 29, 2018, the date when Ventamatic sent a letter to Plaintiff alleging that "Ventamatic has not violated your patent." *See* Exhibit C at 1. Despite Ventamatic's knowledge of the '603 Patent, it continues to infringe the '603 by using, making, selling, offering to sell, and importing into the U.S. its infringing air cooling systems as alleged above.

41. As a result of Ventamatic's infringement of the '603 patent, QC has suffered and is entitled to monetary damages in an amount adequate to compensate for Ventamatic's infringement, but in no event less than a reasonable royalty for the use made of the invention by Ventamatic, together with interest and costs as fixed by the Court, and QC will continue to suffer damages in the future unless Ventamatic's infringing activities are enjoined by this Court.

42. Unless a permanent injunction is issued enjoining Ventamatic and its agents, servants, employees, representatives, affiliates, and all others acting or in active concert therewith from infringing the '603 patent, QC will be greatly and irreparably harmed.

## **VI. Jury Demand**

43. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, QC demands a jury trial on all issues so triable.

## **VII. Prayer for Relief**

Plaintiff prays for the following relief:

- (a) A judgment that Ventamatic has infringed one or more claims of the '774 and '603 patents;
- (b) A permanent injunction enjoining Ventamatic and its officers, directors, agents,

servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert or participation with Ventamatic, from infringing the '774 and '603 patents;

(c) An award of damages resulting from Ventamatic's acts of patent infringement in accordance with 35 U.S.C. § 284;

(d) Enhanced damages for Ventamatic's willful infringement of the '774 and '603 patents;

(e) A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to QC its reasonable attorneys' fees against Ventamatic;

(f) A judgment and order requiring Ventamatic to provide accountings and to pay supplemental damages to QC, including, without limitation, prejudgment and post-judgment interest;

(g) For the costs of suit incurred herein; and

(h) Any and all other relief as the Court may deem proper.

Dated: October 1, 2018

s/ John T. O'Connor  
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