

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
NEW ALBANY DIVISION

*Electronically Filed*

LIGCHINE INTERNATIONAL  
CORPORATION  
3429 Knobs Valley Drive  
Floyds Knobs, IN 47119

Plaintiff

vs.

SOMERO ENTERPRISES, INC.  
46980 N. State Hwy M26  
Houghton, MI 49931

Served: Registered Agent of Process  
CSC-Lawyers Incorporating Serv. Co.  
601 Abbot Road  
East Lansing, MI 48823

Defendant

Civil Action No. 4:16-cv-125

**JURY TRIAL DEMANDED**

**COMPLAINT FOR DECLARATORY JUDGMENT OF NON-INFRINGEMENT  
OF U.S. PATENT NOS. 9,234,318 AND 9,353,490**

Plaintiff Ligchine International Corporation (“Ligchine”), by counsel, for its Complaint against Defendant Somero Enterprises, Inc. (“Somero”), alleges as follows:

**NATURE OF THE CLAIMS**

1. This is an action for a declaratory judgment that Ligchine does not infringe U.S. Patent No. 9,234,318 (“the ‘318 Patent”) or U.S. Patent No. 9,353,490 (“the ‘490 Patent”), of which Somero claims to be the assignee. A copy of the ‘318 Patent is attached hereto as Exhibit A. A copy of the ‘490 Patent is attached hereto as Exhibit B.

## **PARTIES**

2. Ligchine is an Indiana corporation with its principal place of business located at 3429 Knobs Valley Drive, Floyds Knobs, Indiana 47119. Ligchine manufactures and sells a number of boom operated 2D Laser and 3D GPS concrete screeders.

3. Upon information and belief, Somero is a Delaware corporation with its principal place of business at 46980 N. State Hwy M26, Houghton, Michigan 49931. Upon information and belief, Somero manufactures and sells a number of products, including concrete screeders.

## **JURISDICTION AND VENUE**

4. This case or controversy arises under the Federal Declaratory Judgment Act, 28 U.S.C. §2201, *et seq.* and the patent laws of the United States, 35 U.S.C. § 1, *et seq.* The Court has jurisdiction over the subject matter of these claims pursuant to 28 U.S.C. § 2201, *et seq.*, 35 U.S.C. § 1, *et seq.*, and 28 U.S.C. §§ 1331 and 1338(a).

5. The Court has jurisdiction over Defendant Somero because, upon information and belief, Somero regularly conducts or has conducted business within the State of Indiana and within this judicial district. Upon information and belief, Somero's products are advertised, offered for sale and sold to customers in the State of Indiana and within this judicial district. Additionally, Somero has sent threats to Ligchine and accused Ligchine of infringement in the State of Indiana and within this judicial district.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391.

## **RELEVANT FACTS**

7. On June 20, 2016, counsel for Somero sent a letter (the "June 20, 2016 Letter") to counsel for Ligchine, asserting that Somero is the assignee of the '318 Patent and '490 Patent and accusing Ligchine of the manufacture, use, offer for sale, sale and/or distribution of concrete

screeding machines containing a “Paver/Superflat Combo Screed Head that includes a powered roller option,” which purportedly “constitute[s] infringement of [Somero’s] patent rights under [the ‘318 Patent and the ‘490 Patent].” A true and correct copy of the June 20, 2016 Letter is attached hereto as Exhibit C. Somero demanded that “further sales, offers for sale, use or manufacture of the Paver/Superflat Combo Screed Head be stopped immediately.” *See id.* Somero further threatened to take “necessary action in the federal courts of the United States to stop the manufacture, use, sale, offering for sale or distribution of Ligchine’s Screedsaver machines with the Paver/Superflat Combo Screed Head.” *See id.*

8. Ligchine has not infringed and does not infringe either directly, jointly, contributorily, or by inducement, any valid and enforceable claim of the ‘318 Patent or the ‘490 Patent, either literally or under the doctrine of equivalents.

9. In light of the June 20, 2016 Letter, there exists an actual controversy between Ligchine and Somero with respect to infringement of the ‘318 Patent and the ‘490 Patent.

## **COUNT I**

### **DECLARATION OF NON-INFRINGEMENT OF THE ‘318 PATENT**

10. Ligchine repeats and re-alleges the allegations contained in the foregoing paragraphs as if fully set forth herein, and further states:

11. This claim arises under the patent laws of the United States, 35 U.S.C. § 1, *et seq.*, for a declaratory judgment under 28 U.S.C. §§ 2201 and 2202.

12. Somero claims to be the assignee of the ‘318 Patent, has accused Ligchine of infringement of the ‘318 Patent, and has threatened to bring suit against Ligchine for alleged infringement of the ‘318 Patent.

13. Ligchine has not infringed and is not infringing any valid claim of the ‘318 Patent, either literally or under the doctrine of equivalents. Ligchine’s products, including those set forth in the June 20, 2016 Letter, do not contain, among other limitations, (a) a “roller plow assembly comprising . . . end brackets . . . wherein said end brackets are configured for attachment at said screed head” and “wherein said roller is attached at said end brackets,” or (b) a “motor . . . operable independent of said vibrating member,” either literally or under the doctrine of equivalents, as required by the ‘318 Patent. Moreover, because such structural limitations, among others, are missing from Ligchine’s products, including those set forth in the June 20, 2016 Letter, the method as claimed in the ‘318 Patent, including but not limited to the steps of (a) “providing a roller plow kit comprising . . . end brackets,” (b) “attaching said end brackets . . . at a frame of said screed head,” and (c) “connecting a motor . . . wherein said motor . . . is operable independent of said vibratable member,” cannot be performed, either literally or under the doctrine of equivalents, by using the Ligchine products.

14. An actual and justiciable controversy requiring declaratory relief exists between Ligchine and Somero.

15. Ligchine is entitled to a declaratory judgment that it has not infringed and is not infringing the ‘318 Patent.

## **COUNT II**

### **DECLARATION OF NON-INFRINGEMENT OF THE ‘490 PATENT**

16. Ligchine repeats and re-alleges the allegations contained in the foregoing paragraphs as if fully set forth herein, and further states:

17. This claim arises under the patent laws of the United States, 35 U.S.C. § 1, *et seq.*, for a declaratory judgment under 28 U.S.C. §§ 2201 and 2202.

18. Somero claims to be the assignee of the '490 Patent, has accused Ligchine of infringement of the '490 Patent, and has threatened to bring suit against Ligchine for alleged infringement of the '490 Patent.

19. Ligchine has not infringed and is not infringing any valid claim of the '490 Patent, either literally or under the doctrine of equivalents. Ligchine's products, including those set forth the June 20, 2016 Letter, do not contain, among other limitations, (a) a "roller plow assembly comprising . . . end brackets . . . wherein said end brackets are configured for attachment at said screed head" and "wherein said roller is attached at said end brackets," or (b) a "motor . . . operable independent of said vibrating member," either literally or under the doctrine of equivalents, as required by the '490 Patent. Moreover, because such structural limitations, among others, are missing from Ligchine's products, including those set forth in the June 20, 2016 Letter, the method as claimed in the '490 Patent, including but not limited to the steps of (a) "providing a roller plow kit comprising . . . end brackets," (b) "attaching said end brackets at a frame of said screed head," and (c) "connecting said motor . . . wherein said motor . . . is operable independent of said auger device," cannot be performed, either literally or under the doctrine of equivalents, by using the Ligchine products.

20. An actual and justiciable controversy requiring declaratory relief exists between Ligchine and Somero.

21. Ligchine is entitled to a declaratory judgment that it has not infringed and is not infringing the '490 Patent.

WHEREFORE, Ligchine prays:

A. That the Court declare that Ligchine has not infringed and does not infringe either directly, jointly, contributorily, or by inducement any valid claim of the '318 Patent, either literally or under the doctrine of equivalents;

B. That the Court declare that Ligchine has not infringed and does not infringe either directly, jointly, contributorily, or by inducement any valid claim of the '490 Patent, either literally or under the doctrine of equivalents;

C. That the Court award Ligchine its costs, including reasonable attorney fees;

D. That Ligchine have trial by jury on all issues so triable; and

E. That the Court award Ligchine such other and further relief as the Court may deem just and proper.

Dated: July 1, 2016.

Respectfully submitted,

/s/ Robert J. Theuerkauf  
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