

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

THERMAPURE, INC,)	
)	
Plaintiff,)	Civil Action No. 1:10-cv-04724
)	
v.)	
)	JURY TRIAL DEMANDED
)	
TEMP-AIR, INC.,)	
GIERTSEN COMPANY OF ILLINOIS,)	
INC., SERVPRO INDUSTRIES, INC.,)	
MALLORY SUN, L.L.C. a/k/a)	
SERVPRO OF DOWNERS GROVE)	
AND OAK BROOK, DISASTER)	
KLEENUP INTERNATIONAL, INC.,)	
DRI-EAZ PRODUCTS, INC., RXHEAT,)	
LLC, CAMBRIDGE ENGINEERING,)	
INC., and JON-DON, INC.,)	
)	
)	
Defendants.)	

COMPLAINT

Plaintiff, Thermapure, Inc. (“Thermapure”) complains of Defendants Temp-Air, Inc. (“Temp-Air”), Giertsen Company of Illinois, Inc. (“Giertsen”), Servpro Industries, Inc. (“Servpro”), Mallory Sun, L.L.C., doing business under the assumed name of Servpro of Downers Grove and Oak Brook (“Servpro Downers Grove”), Disaster Kleenup International, Inc., (“DKI”), Jon-Don, Inc. (“Jon-Don”), Dri-Eaz Products, Inc. (“Dri-Eaz”), RxHeat, LLC (“RxHeat”), and Cambridge Engineering, Inc. (“Cambridge”) (collectively “Defendants”) as follows:

NATURE OF THE SUIT

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

PARTIES

2. Thermapure is a California corporation with an office at 180 Canada Larga Road, Ventura, California 93001. Thermapure is in the business of using heat to remediate homes and commercial buildings so that they are free of mold, viruses, bacteria, insects (such as termites, bed bugs, wood boring beetles, cockroaches, scorpions and dust mites) and rodents. Thermapure's patented and propriety processes also are used in construction dryout and in removing toxic chemicals such as formaldehyde and Volatile Organic Compounds ("VOCs").

3. Thermapure owns all right, title, interest in and has standing to sue for the infringement of United States Patent No. 6,327,812 entitled "Method Of Killing Organisms And Removal Of Toxins In Enclosures" which issued on December 11, 2001 ("the '812 Patent") and United States Patent No. 7,690,148 entitled "Method Of Treating For Pests" which issued on April 6, 2010 ("the '148 Patent")

4. David Hedman is the CEO of Thermapure, and the sole inventor of the '148 patent, and one of the inventors of the '812 patent. Thermapure is a candidate for a 2010 National Medal of Technology and Innovation Award for pioneering work in the development of a highly effective, non-chemical structural pasteurization process that kills insects and micro-organisms and has kept millions of pounds of toxic chemicals from the environment, thereby protecting human health and eco-systems. Among the Thermapure letters in support of its nomination is one from California State Senator Tony Strickland, who opined that "Thermapure is a landmark event in the pest control and environmental remediation industries. Their patented and trademarked process has proven highly effective and green." To quote Professor of Entomology at the University

of California, Riverside, Michael K. Rust, "ThermaPureHeat has been the leading force and innovator in developing [heat remediation] technology."

5. Temp-Air is a Minnesota corporation with corporate headquarters at 3700 W. Preserve Blvd, One Rupp Plz, Burnsville, Minnesota 55337, and at least twelve offices nationwide, including one at 39W 191 W. Highland Ave, Elgin, Illinois 60124.

6. Giertsen is identified as a thermal remediation bed bug heat treatment service provider on a link from Temp-Air's website. Giertsen is a Minnesota corporation headquartered at 250 Lexington Drive, Buffalo Grove Illinois 60089.

7. Servpro is a Nevada corporation with a principal office at 801 Industrial Blvd., Gallatin, Tennessee 37066.

8. Servpro Downers Grove is identified on Servpro's website as a franchisee of Servpro. Servpro Downers Grove is an Illinois LLC with an office at 2541 N. Greenview, Chicago, Illinois 60614.

9. DKI is a Delaware Corporation headquartered at 1555 Mittel Boulevard, Suite S, Wood Dale, Illinois 60191.

10. Jon-Don is an Illinois corporation headquartered at 400 Medinah Road, Roselle, Illinois 60172.

11. Dri-Eaz is a Washington corporation located at 15180 Josh Wilson Road, Burlington, Washington 98233 and is doing business in Illinois with two Authorized Service Centers in Illinois: one at Jon-Don's headquarters at 400 Medinah Road, Roselle, Illinois 60172 and another at 7323 N. Monticello, Skokie, Illinois 60076.

12. RxHeat is a Missouri corporation headquartered at 760 Long Road Crossing Dr., Chesterfield, Missouri 63005. RxHeat products are distributed and

13. Cambridge is a Missouri corporation which is an affiliate of RxHeat, it is headquartered at 760 Long Road Crossing Dr., Chesterfield, Missouri 63005.

JURISDICTION AND VENUE

14. This Court has exclusive jurisdiction over the subject matter of this case under 28 U.S.C. § 1338(a).

15. All defendants are subject to personal jurisdiction in this Court, and venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400(b). All defendants are subject to personal jurisdiction in this Court, and all defendants transact business in this district, at least by offering to sell or selling infringing heat technology remediation equipment and services to Illinois customers in this judicial district and through Internet websites that are designed to reach Illinois customers and are, in fact, used by customers in this judicial district.

PATENT INFRINGEMENT

16. Defendants have directly and/or indirectly infringed at least claims 4 and 6 of the '812 patent by making, using, selling and/or offering to sell heat technology remediation services which include all elements of such claims.

17. Giertsen, Temp-Air, RxHeat and Jon-Don have also directly and/or indirectly infringed at least claim 9 of the '148 patent by making, using, selling and/or offering to sell heat technology remediation services.

18. Temp-Air has also contributorily infringed or induced infringement of at least claim 6 of the '812 patent and claim 9 of the '148 patent in violation of 35 U.S.C. § 271 through, among other activities, offering equipment, instruction and/or services

through its websites at <http://www.thermalremediation.com/> which advertises heat remediation equipment and services and also links to service providers including Giertsen. Temp-Air also offers equipment, instruction and/or services at trade shows.

19. Servpro has also contributorily infringed or induced infringement of at least claim 6 of the '812 patent in violation of 35 U.S.C. § 271 through, among other activities, offering equipment, instruction and/or services through its websites at <http://www.servpro.com/> which advertises heat remediation services and also links to various franchisees, including Servpro Downers Grove. Servpro also offers equipment, instruction and/or services at trade shows.

20. DKI has also contributorily infringed or induced infringement of at least claim 6 of the '812 patent in violation of 35 U.S.C. § 271 through, among other activities, offering equipment, instruction and/or services through its websites at <http://www.disasterkleenup.com/> which advertises heat remediation services and also links to various franchisees, including United Services by Permaco Inc., located at 124 Baker Road, Lake Bluff, Illinois 60044. DKI also offers equipment, instruction and/or services at trade shows.

21. Dri-Eaz has also contributorily infringed or induced infringement of at least claim 6 of the '812 patent in violation of 35 U.S.C. § 271 through, among other activities, offering equipment, instruction and/or services through its websites at <http://www.drieaz.com/> which advertises heat remediation and filtering products and also links to various Authorized Service Centers. Dri-Eaz also offers equipment, instruction and/or services at trade shows.

22. RxHeat has also contributorily infringed or induced infringement of at least

claim 6 of the '812 patent and claim 9 of the '148 patent in violation of 35 U.S.C. § 271 through, among other activities, offering equipment, instruction and/or services through its websites at <http://rxheat.com/> which advertises and offers for sale heat remediation products. RxHeat also offers equipment, instruction and/or services at trade shows.

23. Cambridge has also contributorily infringed or induced infringement of at least claim 6 of the '812 patent in violation of 35 U.S.C. § 271 through, among other activities, offering equipment, instruction and/or services at trade shows.

24. Jon-Don has also contributorily infringed or induced infringement of at least claim 6 of the '812 patent and claim 9 of the '148 patent in violation of 35 U.S.C. § 271 through, among other activities, offering equipment, instruction and/or services through its websites at <http://www.jondon.com/> which advertises heat remediation and filtering products. Jon-Don also offers equipment, instruction and/or services at trade shows.

25. Defendants have knowledge of at least the '812 patent, and despite such knowledge, have continued to infringe willfully and deliberately in violation of 35 U.S.C. § 284.

26. Defendants' infringement, contributory infringement and/or inducement to infringe has injured Thermapure and it is entitled to recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, Thermapure, Inc., respectfully requests this Court enter judgment against Defendants and against their subsidiaries, successors, parents,

affiliates, officers, directors, agents, servants, employees, and all persons in active concert or participation with them, granting the following relief:

- A. The entry of judgment in favor of Thermapure;
- B. An award of damages against Defendants adequate to compensate Thermapure for the infringement that has occurred (together with prejudgment interest from the date the infringement began), but in no event less than a reasonable royalty as permitted by 35 U.S.C. § 284;
- C. An award to Thermapure of all remedies available under 35 U.S.C. §§ 284 and 285;
- D. A permanent injunction prohibiting further infringement, inducement of infringement and/or contributory infringement of the '812 patent and the '148 patent; and,
- E. Such other relief that Thermapure is entitled to under law and any other relief that this Court or a jury may deem just and proper.

JURY DEMAND

Thermapure demands a trial by jury on all issues presented in this complaint.

THERMAPURE, INC.

/s/ Paul K. Vickrey
Paul K. Vickrey
Patrick F. Solon
Frederick C. Laney
Tahiti Arsulowicz
Niro, Haller & Niro
181 West Madison, Suite 4600
Chicago, Illinois 60602-4515

(312) 236-0733
Fax: (312) 236-3137