

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

FAST FELT CORPORATION,

Plaintiff,

v.

OWENS CORNING ROOFING AND
ASPHALT, LLC and OWENS CORNING,

Defendants.

CASE NO. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Fast Felt Corporation (“Fast Felt”) complains of Defendants Owens Corning Roofing and Asphalt, LLC and Owens Corning (collectively “Owens Corning”) as follows:

THE PARTIES

A. Fast Felt

1. Fast Felt Corporation is a Texas corporation having a place of business located at 11302 Memorial Drive, Houston, Texas 77024. Fast Felt is an owner, innovator and a supplier of nail reinforcement technology for roofing cover or building cover materials to participants in the roofing or building cover products industry. Fast Felt also supplies manufacturing equipment for the application of its patented nail reinforcement tabs, including tabs made of polymers.

2. Fast Felt’s core nail reinforcement technology and the manufacturing equipment which applies its nail reinforcements relate to products in the roofing and/or building cover materials industries. Fast Felt’s efforts have resulted in patented technology in the fields of roofing and building cover materials which it calls its “Fast Felt® Technology”.

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3. Fast Felt sells its roofing cover materials having a pre-affixed nail reinforcement tab under Fast Felt's trade name: "Fast Felt®." The roofing cover materials industry includes both (a) underlayments (the bottom layer immediately above the roof deck) and (b) shingles (the top cover layer or the layer normally exposed on a roof). Underlayments and shingles are separate material items used in a roof covering system.

4. Fast Felt has developed products and manufacturing methods for roll and shingle roofing products that are the subject of several United States patents owned by Fast Felt.

B. Owens Corning

5. Owens Corning Roofing and Asphalt, LLC is a Delaware limited liability company having a principal place of business at One Owens Corning Parkway, Toledo, Ohio 43659. Owens Corning Roofing and Asphalt, LLC has a manufacturing location for its roofing products in Ohio.

6. Owens Corning is a Delaware corporation with its principal place of business at One Owens Corning Parkway, Toledo, Ohio 43659. Owens Corning is the parent of Owens Corning Roofing and Asphalt, LLC. Owens Corning and Owens Corning Roofing and Asphalt, LLC are hereinafter collectively referred to as "Owens Corning."

7. Roofing cover materials manufactured by Owens Corning include at least one shingle product with polymer nail reinforcement material. Owens Corning calls the products having a polymer nail reinforcement material secured to the asphalt coated surface of a shingle product, "SureNail®." One product manufactured by Owens Corning that implements "SureNail®" is the Duration® Series Shingles. Another roofing cover product manufactured by Owens Corning that implemented "SureNail®" is the Oakridge® Pro Series Shingle.

8. The Duration® and Oakridge® Pro Series Shingles with “SureNail®” are manufactured in Ohio.

JURISDICTION AND VENUE

9. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. The Court has original subject matter jurisdiction of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

10. Owens Corning is headquartered in this district, has conducted business in this district and has committed acts of infringement in this district.

11. Venue is proper in this district under 28 U.S.C. §§ 1391(b)-(c) and 1400(b) because Owens Corning is subject to personal jurisdiction in this district and has committed acts of infringement in this district.

DEFENDANTS' INFRINGEMENT OF THE PATENT-IN-SUIT

A. The Patent-in-Suit

12. United States Patent No. 8,137,757 (the “Fast Felt ‘757 Patent”¹) was duly and legally issued by the United States Patent and Trademark Office on March 20, 2012. A copy of the Fast Felt ‘757 Patent is attached hereto as Exhibit A.

13. Fast Felt owns all right, title and interest in, and has standing to sue for infringement of, the Fast Felt ‘757 Patent.

14. Independent claims 1 and 7 of the Fast Felt ‘757 Patent are recited as follows:

Claim 1. A method of making a roofing or building cover material, which comprises treating an extended length of substrate, comprising the steps of:

depositing tab material onto the surface of said roofing or building cover material at a plurality of nail tabs from a lamination roll,

said tab material bonding to the surface of said roofing or building cover material by pressure between said roll and said surface.

Claim 7. *A method of making a roofing or building cover material comprising the steps of:*

first depositing nail tab material at a plurality of locations on said roofing or building cover material,

said nail tab material is substantially made of a polymeric material, and

subsequently pressure adhering said nail tab material into nail tabs on said roofing or building cover material with a pressure roll.

15. In addition to claims 1 and 7, the Fast Felt '757 Patent includes dependent claims 2-6 and 8-9. For reference, dependent claims 2, 4 and 6 of the Fast Felt '757 Patent are recited as follows:

Claim 2. *A method of making a roofing or building cover material in accordance with claim 1, wherein said tab material is substantially a polymer material.*

Claim 4. *A method of making a roofing or building cover material in accordance with claim 1, wherein said nail tabs are formed in a continuous strip.*

Claim 6. *A method of making a roofing or building cover material in accordance with claim 1, wherein said tab material is pre-formed before contact with said lamination roll.*

16. Claims 1-9 of the Fast Felt '757 Patent are presumed valid and enforceable pursuant to 35 U.S.C. § 282.

B. Owens Corning "SureNail®"

17. Owens Corning manufactures and sells asphalt-based roofing cover materials which are commonly installed on the roofs of homes or other buildings. Typically, these roofing cover materials are constructed of a substrate material, consisting of fibers: typically (a) paper and wood (organic) fibers or (b) glass (inorganic) fibers made into an extended sheet, which is then saturated or coated with asphalt. The "front end" of an asphalt roofing products

manufacturing line, for both underlayment and shingle products, is substantially the same. In the production of asphalt-based materials, the base substrate sheet is unrolled from a large diameter roll and passed through a tank or a coater which contains or applies a hot ($\geq 400^{\circ}\text{F}$) liquid asphalt. This results in the formation of an extended length of a hot, tacky, asphalt coated substrate sheet material.

18. Included among the asphalt roofing cover materials manufactured and sold by Owens Corning are products having a polymer nail reinforcement material pressed onto the substrate material. As noted in paragraph 7, Owens Corning roofing cover products with this polymerstrip of nail reinforcement material applied to it are sold under the brand name "SureNail®."

19. Owens Corning advertises "SureNail®" as a "breakthrough design: featuring a tough, woven engineered reinforcing fabric in the nailing area that promotes easy, fast and consistent nail gun fastening."

20. Owens Corning describes its SureNail® as a strip made of polyester. Polyester is polyethylene terephthalate (PET), a long-chain polymer.

21. "SureNail®" is advertised at the website: <http://roofingca.owenscorning.com/professional/shingles/surenail.aspx>.

C. Owens Corning's Later Filed Patents Describe Its SureNail® Roof Shingles And The Method Of Manufacture

22. Owens Corning Intellectual Capital, LLC owns United States Patent No. 7,836,654, entitled, "Shingle With Reinforced Nail Zone And Method Of Manufacturing" (the "OC '654 Patent").

23. Owens Corning Intellectual Capital, LLC also owns United States Patent No. 8,430,983 (the "OC '983 Patent").

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