

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION**

ADVANCED CNC TECHNOLOGIES, INC.

PLAINTIFF

V.

NO. 2:10-CV-02023-RTD

COMPOSITE CONCEPTS COMPANY

DEFENDANT

ORDER

Before the court is the Motion to Intervene (Doc. 19) by JBM Wire Group Co., LTD ("JBM") filed June 9, 2010.

Advanced CNC Technologies, Inc., ("Advanced") filed a Complaint For Declaratory Judgment (Doc. 1) on February 16, 2010 alleging that Composite Concepts Company ("CCC") claims to be a holder of a certain patent which prohibits its ability to sell a particular type of wire.

Advanced stated in its complaint that it "has imported a type of wire, known as Aero R + ("R+W ire") from YOIN, a Taiwanese company which uses the name of JBM Wire Group Co., Ltd. ("JBM") for its wire exported to the United States. Advanced has marketed the R+W ire under the name Maxi Cut Star 900 and 520 Wire" (Doc. 1, ¶8) and that CCC has alleged that the R+Wire infringes on a Patent it holds and has demanded that Advanced cease selling the R+Wire and retrieve the inventory of R+Wire from Advanced's customers. (Doc. 1, ¶11).

CCC filed its Answer and Counterclaim (Doc. 12) on April 4, 2010 and asserted that Advanced sells the R+Wire it obtains from JBM under the name of MaxCut 900 and that the wire does infringe on its Patent 010.

JMB filed the current Motion to Intervene (Doc. 19) on June 9, 2010 and contends that if

it were not allowed to intervene the disposition of the action would impair or impede JBM's ability to protect JBM's interest regarding the R+Wire which it manufactures. Neither Advanced nor CCC has filed any objection to the Intervention.

Rule 24 of the Federal Rules of Civil Procedure provides in pertinent part as follows:

- (a) Intervention of Right. On timely motion, the court must permit anyone to intervene who:
 - (1) is given an unconditional right to intervene by a federal statute; or
 - (2) claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest.
- (b) Permissive Intervention.
 - (1) In General. On timely motion, the court may permit anyone to intervene who:
 - (A) is given a conditional right to intervene by a federal statute; or
 - (B) has a claim or defense that shares with the main action a common question of law or fact. Federal Rules of Civil Procedure Rule 24

It is clear to the court that JBM claims an interest relating to the property that is the subject of the action and that failure to allow it to intervene could impair or impede the movant's ability to protect its interest and that JBM has a claim or defense that it shares with the main action and it concerns a common question of law and fact. The question concerning whether the R+Wire manufactured by JBM does in fact violate the patent held by CCC can best be answered by JBM. The Motion to Intervene is **GRANTED**.

IT IS SO ORDERED this June 22, 2010.

/s/ J. Marschewski

HONORABLE JAMES R. MARSCHEWSKI
Chief United States Magistrate Judge