

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

PHIL-INSUL CORP. d/b/a INTEGRASPEC	§	
	§	
Plaintiff,	§	
	§	No. 8:12CV91
vs.	§	
	§	
REWARD WALL SYSTEMS, INC.,	§	
BUILDBLOCK BUILDING SYSTEMS, LLC,	§	
NUDURA CORPORATION,	§	
POLYFORM, A.G.P., INC. and	§	
AMVIC CORPORATION,	§	
	§	
Defendants.	§	

**STIPULATED ORDER  
FOR CERTIFICATION OF FINAL JUDGMENT  
PURSUANT TO FED. R. CIV. P. 54(b)**

1. This litigation concerns the alleged infringement of United States Patent No. 5,428,933 (the ‘933 patent) by Defendants: Amvic Corporation (“Amvic”), BuildBlock Building Systems, LLC (“BuildBlock”), Nudura Corporation and Polyform A.G.P., Inc. (collectively “Polyform”) and Reward Wall Systems, Inc. (“Reward Wall”).
2. This Court in its Memorandum and Order on November 26, 2012 (Filing No. 215) and Memorandum and Order on September 5, 2013 (Filing No. 253) dismissed Counts I-IV of Plaintiff’s Complaint (each Count alleging infringement by one of the four defendants) for infringement of the ‘933 patent because none of the accused instrumentalities of any of the Defendants infringes any asserted claim of that patent.
3. On May 29, 2013, the Court denied Defendant Polyform’s Motion for Sanctions under Rule 11. (Filing No. 250)
4. The parties have stipulated to jointly request certification of the Orders under Fed. R. Civ. P. 54(b) for immediate appeal that are final as to Counts I-IV of the Complaint.
5. The parties further stipulated to request the Court to stay all other claims, counterclaims, any requests for attorney fees under 35 U.S.C. §285 and any other matters now

pending before the Court until resolution by the Federal Circuit Court of Appeals of the certified final judgment.

6. The Court, based on the finality of the claim for infringement, and the finding that there is no just reason for delay of the appeal based on:

- (a) the separability of the claim for infringement of Plaintiff and the counterclaims of Defendants;
- (b) the unlikelihood that the need for review might be mooted by future developments in this Court;
- (c) the unlikelihood that the Federal Circuit Court of Appeals might be obliged to consider the same issue a second time;
- (d) the lack of any counterclaim in the nature of setoff; and
- (e) the burden on the use of judicial resources by trying the case based on the present claim construction to a final judgment terminating the entire proceeding subject to an appeal and the expeditiousness of trying all claims and counterclaims together;

IT IS HEREBY ORDERED AND ADJUDGED that:

(1) Counts I, II, III and IV of Plaintiff's complaint are dismissed with prejudice, and that Plaintiff takes nothing from Defendants;

(2) the Court grants the motion of Plaintiff for certification and the parties' stipulated request for a Rule 54(b) certification for immediate appeal of the final judgment dismissing Counts I, II, III and IV of Plaintiff's complaint on the grounds of non-infringement; and

(3) all other claims, counterclaims and any other matters pending before the Court, including but not limited to discovery and any motions for attorneys fees and taxation of costs, are hereby stayed.

Dated: October 9, 2013

BY THE COURT:

s/ Joseph F. Bataillon  
United States District Judge