

UNITED STATES DISTRICT COURT
DISTRICT OF NEBRASKA

TAMA PLASTIC INDUSTRY,	:	
	:	
Plaintiff and Counter-Defendant,	:	
	:	Civil Action No. 8:12-cv-324-RGK-CRZ
v.	:	
	:	District Judge Richard G. Kopf
PRITCHETT TWINE & NET WRAP, LLC,	:	Magistrate Judge Cheryl R. Zwart
AND JOSEPH JERALD PRITCHETT A/K/A	:	
JERALD PRITCHETT,	:	
	:	
Defendants and Counterclaimants.	x	

FINAL JUDGMENT BY CONSENT

Plaintiff Tama Plastic Industry (“Tama”) having filed a Complaint in this action charging Pritchett Twine & Net Wrap, LLC, And Joseph Jerald Pritchett A/K/A Jerald Pritchett (collectively “Defendants”) with patent infringement, federal trademark infringement, unfair competition, and common-law unfair competition, and the parties having entered into a Confidential Settlement Agreement dated November 4, 2014, to settle this lawsuit and the controversy between them raised by this action:

It is, upon the consent of Tama and Defendants, hereby **ORDERED, ADJUDGED, AND DECREED** that:

1. This Court has jurisdiction over the parties herein, and the subject matter of this action, pursuant to 15 U.S.C. §§ 1116 and 1121, and 28 U.S.C. §§ 1331, 1338(a) and (b), and 1367. Venue in this district is proper pursuant to 28 U.S.C. § 1391. Service was properly made against the Defendants and the Defendants do not contest service or jurisdiction.

2. Defendants are residents of Nebraska, with a home and place of business at 49212 874th Road, O’Neill, Nebraska 68763. Defendants are engaged, *inter alia*, in the sale of certain

net wrap products imported from China and which have been marketed and sold in the United States for use in wrapping bales of agricultural products.

3. Tama is the owner of all rights in U.S. Patent No. 6,521,551 (“the ‘551 Patent”), entitled “Modified Shuss Knitted Netting” and to several federal registered trademarks used in connection with net wrap products, said registrations including Trademark Registration No. 2,717,439 for the mark EDGE TO EDGE;

4. Defendants hereby admit that Tama’s U.S. Patent No. 6,521,551 is valid and enforceable.

5. As a term of their settlement and this final judgment, the parties have agreed to file a joint motion to vacate the claim construction memorandum and order (Filing No. 308), which the Court has now decided.

6. Defendants and their officers, directors, employees, partners, agents, assigns, affiliates, and any persons or entities acting under their direction or control, or in active concert or participation with them are hereby permanently enjoined from infringing said ‘551 Patent, so long as the ‘551 Patent remains unexpired and in full force and effect, and that it has not been found invalid or unenforceable in a final judgment by a court of competent jurisdiction whereby said final judgment is not subject to any further appeal or reconsideration.

7. Defendants and their officers, directors, employees, partners agents, assigns, affiliates, and any persons or entities acting under their direction or control, or in active concert or participation with them hereby agree that certain net wrap imported from China and previously sold by Pritchett prior to the execution of the Agreement infringed the '551 Patent, and that all Chinese manufactured net wrap sold hereafter will be of a form that does not infringe

the '551 Patent in that it will comply with the Testing Requirements set forth in the parties Settlement Agreement.

8. Defendants hereby admit that Tama's above-identified Trademark Registration was duly and properly issued, and is valid and in full force and effect.

9. Defendants and their officers, directors, employees, partners, agents, assigns, affiliates, and any persons or entities acting under their direction or control, or in active concert or participation with them hereby agree to cease all use of the three consecutive words, "edge to edge," in connection with their importation, marketing or sale of net wrap products in the United States and therefore are enjoined from using, reproducing, advertising, or promoting any of Tama's aforementioned registered EDGE TO EDGE trademark, in connection with Defendants' offer for sale, promotions or sale of any net wrap products, or from using, reproducing, advertising or promoting any mark that is confusingly similar to, or a colorable imitation of, any of Tama's aforementioned registered EDGE TO EDGE trademarks. However, Pritchett may use preprinted marketing materials from Farmer's, which use the term "edge to edge" descriptively to refer only to Farmer's netwrap. Pritchett may only use the Farmer's marketing materials in connection with the sale of Farmer's netwrap.

10. Defendants further agree not to present any statement, advertising, or promotion that represents or suggests that Defendants are in some way connected with or to Tama or to any subsidiary or affiliate of Tama, or that any of the activities of Defendants are in some way connected with or to Tama or are sponsored, authorized or licensed under the '551 Patent by Tama.

11. Defendants shall mark all future imported netwrap products with country of manufacture (*i.e.* "Made In China").

12. In the event either of the Defendants (or any of their officers, directors, employees, partners, agents, assigns, affiliates, and any persons or entities acting under their direction or control) is found to have violated the terms of this Final Judgment By Consent or the Settlement Agreement referenced herein, the Defendants will be jointly and severally liable for any and all damages incurred by Tama, and shall be in contempt of this Judgment and subject to the grant of an injunction precluding Defendants from importing or selling any net wrap products that infringe the '551 Patent. If Tama attempts to enforce this Consent Final Judgment, in addition to any other remedies, the prevailing party shall be entitled to a recovery of its reasonable attorney's fees and costs.

13. This Final Judgment By Consent is binding on Defendants, and their representatives, subsidiaries, divisions, successors, heirs, assigns, and all those acting in concert or participation with them or under their direction or control.

14. In the event of a violation of any provision of this Final Judgment or the breach of any terms of the Settlement Agreement, Defendants agree that this Court shall have sole and exclusive jurisdiction over the parties with respect thereto.

15. Defendants waive appeal of this Final Judgment.

16. This document shall be deemed to have been served upon Defendants at the time of its execution by the Court.

17. This Court retains jurisdiction for the enforcement of this Final Judgment By Consent and the Settlement Agreement referenced herein, for the purpose of making any further orders necessary or proper for the construction or modification of the Settlement Agreement, this Judgment, the enforcement thereof, and the punishment of any violations thereof.

18. Each party to this Consent Final Judgment shall bear its own costs and attorney fees incurred in connection with this action.

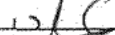
19. This document is a Final Judgment under Fed. R. Civ. P. 54(b) and the Court, having determined that there is no just reason for delay, directs the Clerk to enter Final Judgment.

CONSENTS BY PARTIES

Plaintiff Tama Plastic Industry, by and through the undersigned, having full authority to bind the company, hereby consents to the issuance and entry of this Final Judgment By Consent in the form and content as set forth above without further notice.

Dated: November 4, 2014

TAMA PLASTIC INDUSTRY

By: 



Print: Yariv Yivzori

Title: Treasurer

Defendants Pritchett Twine & Net Wrap, LLC, And Joseph Jerald Pritchett A/K/A Jerald Pritchett (collectively "Defendants"), by and through the undersigned having full authority to bind Defendants and hereby consents to the issuance and entry of this Final Judgment By Consent in the form and content as set forth above without further notice.

PRITCHETT TWINE & NET WRAP, LLC AND
JOSEPH JERALD PRITCHETT A/K/A JERALD
PRITCHETT

Dated: _____

By: _____

Print: _____

Title: _____

CONSENTS BY PARTIES

Plaintiff Tama Plastic Industry, by and through the undersigned, having full authority to bind the company, hereby consents to the issuance and entry of this Final Judgment By Consent in the form and content as set forth above without further notice.

TAMA PLASTIC INDUSTRY

Dated: _____ By: _____
Print: _____
Title: _____

Defendants Pritchett Twine & Net Wrap, LLC, And Joseph Jerald Pritchett A/K/A Jerald Pritchett (collectively "Defendants"), by and through the undersigned having full authority to bind Defendants and hereby consents to the issuance and entry of this Final Judgment By Consent in the form and content as set forth above without further notice.

PRITCHETT TWINE & NET WRAP, LLC AND
JOSEPH JERALD PRITCHETT A/K/A JERALD
PRITCHETT

Dated: Nov. 4, 2014 By: Jerald Pritchett
Print: Jerald Pritchett
Title: owner

s/ Charles P. Kennedy

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Jerald Pritchett a/k/a Jerald Pritchett*

It is so Ordered:

Dated this 6th day of November, 2014.

BY THE COURT:

s/ Richard G. Kopf
Senior United States District Judge