

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

Case No. \_\_\_\_\_

ADVENTUS AMERICAS, INC., a  
Delaware Corporation, and  
ENVIROMETAL TECHNOLOGIES, INC.,  
a Canadian Corporation,

Plaintiffs,

v.

AST ENVIRONMENTAL, INC., an Ohio  
Corporation, and CALGON CARBON  
CORPORATION, a Delaware Corporation,

Defendants.

**COMPLAINT**  
**(Jury Trial Demanded)**

Plaintiffs Adventus Americas, Inc. and EnviroMetal Technologies, Inc., by and through their undersigned counsel, complaining of Defendants, allege and say:

1. This is an action for patent infringement of U.S. Patent Nos. 5,266,213; 5,534,154; 5,411,664; 5,480,579; 5,618,427; and 6,083,394 under the laws of the United States, Title 35, United States Code, §271.

2. Adventus Americas Inc. (“Adventus”) is a Delaware corporation having its principal place of business at 2871 West Forest Road, Suite 2, Stephenson County, Freeport, Illinois 61032.

3. EnviroMetal Technologies, Inc. (“ETI”) is a Canadian corporation having its principal place of business at 745 Bridge Street W, Suite 7, Waterloo, Ontario, Canada N2V 2G6.

4. Upon information and belief, AST Environmental, Inc. (“AST”), is an Ohio corporation having its principal place of business at 70 Commercial Way, Springsboro, Ohio 45066, with a registered office at 100 Europa Drive, Chapel Hill, North Carolina 27517.

5. Upon information and belief, Calgon Carbon Corporation (“Calgon”), is a Delaware corporation having its principal place of business at 400 Calgon Carbon Drive, Pittsburgh, Pennsylvania 15230, with a registered office at 225 Hillsborough Street, Raleigh, North Carolina 27603.

6. Jurisdiction is expressly conferred on this Court as an action under the Patent Act, Title 35 of the United States Code, and by 28 U.S.C. §§ 1334 and 1338.

7. Personal jurisdiction over AST is proper because AST has committed one or more of the acts complained of herein within the United States and within the State of North Carolina. Additionally, personal jurisdiction over AST is proper as it is doing business in the State of North Carolina.

8. Personal jurisdiction over Calgon is proper because Calgon has committed one or more of the acts complained of herein within the United States and within the State of North Carolina. Additionally, personal jurisdiction over Calgon is proper as it is doing business in the State of North Carolina.

9. Venue is proper in the United States District Court for the Western District of North Carolina pursuant to 28 U.S.C. §§ 1391(b) and (c) and/or 1400(b) because a substantial part of the events or omissions giving rise to the claim occurred in such district.

10. ETI is the exclusive licensee of U.S. Patent Nos. 5,266,213; 5,534,154; 5,411,664; 5,480,579; 5,618,427; and 6,083,394. Adventus is a sublicensee under these patents. Therefore, ETI and Adventus have the right and obligation under their, respective, exclusive license and sublicense to bring actions for alleged infringement of these patents without joining the owners

thereof (*i.e.*, the University of Waterloo-Canada and Adventus Intellectual Property Inc.) as parties.

**FIRST CLAIM FOR RELIEF**  
**(Infringement of U.S. Patent No. 5,266,213)**

11. Adventus and ETI charge AST and Calgon (collectively, “Defendants”) with infringement of U.S. Patent No. 5,266,213 (attached hereto as Exhibit A) under the patent laws of the United States and, in particular, 35 U.S.C. § 271, and repeat and reallege each and every allegation contained in Paragraphs 1 through 10 of their Complaint as if restated herein.

12. On November 30, 1993, U.S. Patent No. 5,266,213 was duly and legally issued for an invention titled “Cleaning halogenated contaminants from groundwater”.

13. U.S. Patent No. 5,266,213 is owned by the University of Waterloo.

14. ETI is the exclusive licensee of U.S. Patent No. 5,266,213.

15. Adventus is a sublicensee in the United States of U.S. Patent No. 5,266,213.

16. Defendants are infringing and/or are inducing the infringement, or contributing to the infringement, of U.S. Patent No. 5,266,213 by making, using, offering to sell or selling a product branded as BOS100® which is used in methods covered by U.S. Patent No. 5,266,213, and will continue to do so unless enjoined by this Court.

17. Such infringement by Defendants have caused and will continue to cause harm to Adventus and ETI, for which Adventus and ETI are entitled to recovery.

18. Defendants are infringing U.S. Patent No. 5,266,213 with full knowledge of U.S. Patent No. 5,266,213, and such infringement has been willful and deliberate, thereby rendering this case exceptional within the meaning of the United States Patent laws.

**SECOND CLAIM FOR RELIEF**  
**(Infringement of U.S. Patent No. 5,534,154)**

19. Adventus and ETI charge Defendants with infringement of U.S. Patent No. 5,534,154 (attached hereto as Exhibit B) under the patent laws of the United States and, in particular, 35 U.S.C. § 271, and repeat and reallege each and every allegation contained in Paragraphs 1 through 10 of their Complaint as if restated herein.

20. On July 9, 1994, U.S. Patent No. 5,534,154 was duly and legally issued for an invention titled "System for treating contaminated water".

21. U.S. Patent No. 5,534,154 is owned by the University of Waterloo.

22. ETI is the exclusive licensee of U.S. Patent No. 5,534,154.

23. Adventus is a sublicensee in the United States of U.S. Patent No. 5,534,154.

24. Defendants are infringing and/or are inducing the infringement, or contributing to the infringement, of U.S. Patent No. 5,534,154 by making, using, offering to sell or selling a product branded as BOS100® which is used in methods covered by U.S. Patent No. 5,534,154, and will continue to do so unless enjoined by this Court.

25. Such infringement by Defendants has caused and will continue to cause harm to Adventus and ETI, for which Adventus and ETI are entitled to recovery.

26. Defendants are infringing U.S. Patent No. 5,534,154 with full knowledge of U.S. Patent No. 5,534,154 and such infringement has been willful and deliberate, thereby rendering this case exceptional within the meaning of the United States Patent laws.

**THIRD CLAIM FOR RELIEF**  
**(Infringement of U.S. Patent No. 5,411,664)**

27. Adventus and ETI charge Defendants with infringement of U.S. Patent No. 5,411,664 (attached hereto as Exhibit C) under the patent laws of the United States and, in particular, 35 U.S.C. § 271, and repeat and reallege each and every allegation contained in Paragraphs 1 through 10 of their Complaint as if restated herein.

28. On May 2, 1996, U.S. Patent No. 5,411,664 was duly and legally issued for an invention titled “Method for dehalogenation and degradation of halogenated organic contaminants”.

29. Adventus Intellectual Property Inc. (“AIP”) is the owner of U.S. Patent No. 5,411,664 by assignment from W.R. Grace & Co.-Conn.

30. ETI is the exclusive licensee of U.S. Patent No. 5,411,664.

31. Adventus is a sublicensee in the United States of U.S. Patent No. 5,411,664.

32. Defendants are infringing and/or are inducing the infringement, or contributing to the infringement, of U.S. Patent No. 5,411,664 by making, using, offering to sell or selling a product branded as BOS100® which is used in methods covered by U.S. Patent No. 5,411,664, and will continue to do so unless enjoined by this Court.

33. Such infringement by Defendants has caused and will continue to cause harm to Adventus and ETI, for which Adventus and ETI are entitled to recovery.

34. Defendants are infringing U.S. Patent No. 5,411,664 with full knowledge of U.S. Patent No. 5,411,664 and such infringement has been willful and deliberate, thereby rendering this case exceptional within the meaning of the United States Patent laws.

**FOURTH CLAIM FOR RELIEF**  
**(Infringement of U.S. Patent No. 5,480,579)**

35. Adventus and ETI charge Defendants with infringement of U.S. Patent No. 5,480,579 (attached hereto as Exhibit D) under the patent laws of the United States and, in particular, 35 U.S.C. § 271, and repeat and reallege each and every allegation contained in Paragraphs 1 through 10 of their Complaint as if restated herein.

36. On January 2, 1996, U.S. Patent No. 5,480,579 was duly and legally issued for an invention titled “Composition for dehalogenation and degradation of halogenated organic contaminants”.

37. AIP is the owner of U.S. Patent No. 5,480,579 by assignment from W.R. Grace & Co.-Conn.

38. ETI is the exclusive licensee of U.S. Patent No. 5,480,579.

39. Adventus is a sublicense in the United States of U.S. Patent No. 5,480,579.

40. Defendants are infringing and/or are inducing the infringement, or contributing to the infringement, of U.S. Patent No. 5,480,579 by making, using, offering to sell or selling a product branded as BOS100® which is used in methods covered by U.S. Patent No. 5,480,579, and will continue to do so unless enjoined by this Court.

41. Such infringement by Defendants has caused and will continue to cause harm to Adventus and ETI, for which Adventus and ETI are entitled to recovery.

42. Defendants are infringing U.S. Patent No. 5,480,579 with full knowledge of U.S. Patent No. 5,480,579 and such infringement has been willful and deliberate, thereby rendering this case exceptional within the meaning of the United States Patent laws.

**FIFTH CLAIM FOR RELIEF**  
**(Infringement of U.S. Patent No. 5,618,427)**

43. Adventus and ETI charge Defendants with infringement of U.S. Patent No. 5,618,427 (attached hereto as Exhibit E) under the patent laws of the United States and, in particular, 35 U.S.C. § 271, and repeat and reallege each and every allegation contained in Paragraphs 1 through 10 of their Complaint as if restated herein.

44. On April 8, 1997, U.S. Patent No. 5,618,427 was duly and legally issued for an invention titled “Composition and method for degradation of nitroaromatic contaminants”.

45. AIP is the owner of U.S. Patent No. 5,618,427 by assignment from W.R. Grace & Co.-Conn.

46. ETI is the exclusive licensee of U.S. Patent No. 5,618,427.

47. Adventus is a sublicensee in the United States of U.S. Patent No. 5,618,427.

48. Defendants are infringing and/or is inducing the infringement, or contributing to the infringement, of U.S. Patent No. 5,618,427 by making, using, offering to sell or selling a product branded as BOS100® which is used in methods covered by U.S. Patent No. 5,618,427, and will continue to do so unless enjoined by this Court.

49. Such infringement by Defendants has caused and will continue to cause harm to Adventus and ETI, for which Adventus and ETI are entitled to recovery.

50. Defendants are infringing U.S. Patent No. 5,618,427 with full knowledge of U.S. Patent No. 5,618,427 and such infringement has been willful and deliberate, thereby rendering this case exceptional within the meaning of the United States Patent laws.

**SIXTH CLAIM FOR RELIEF**  
**(Infringement of U.S. Patent No. 6,083,394)**

51. Adventus and ETI charge Defendants with infringement of U.S. Patent No. 6,083,394 (attached hereto as Exhibit F) under the patent laws of the United States and, in particular, 35 U.S.C. § 271, and repeat and reallege each and every allegation contained in Paragraphs 1 through 10 of their Complaint as if restated herein.

52. On July 4, 2000, U.S. Patent No. 6,083,394 was duly and legally issued for an invention titled “Composition and method for dehalogenation and degradation of halogenated organic contaminants”.

53. AIP is the owner of U.S. Patent No. 6,083,394 by assignment from W.R. Grace & Co. of Canada Ltd.

54. ETI is the exclusive licensee of U.S. Patent No. 6,083,394.

55. Adventus is a sublicensee in the United States of U.S. Patent No. 6,083,394.

56. Defendants are infringing and/or is inducing the infringement, or contributing to the infringement, of U.S. Patent No. 6,083,394 by making, using, offering to sell or selling a product branded as BOS100® which is used in methods covered by U.S. Patent No. 6,083,394, and will continue to do so unless enjoined by this Court.

57. Such infringement by Defendants has caused and will continue to cause harm to Adventus and ETI, for which Adventus and ETI are entitled to recovery.

58. Defendants are infringing U.S. Patent No. 6,083,394 with full knowledge of U.S. Patent No. 6,083,394 and such infringement has been willful and deliberate, thereby rendering this case exceptional within the meaning of the United States Patent laws.

**SEVENTH CLAIM FOR RELIEF**  
**(Violation of N.C. Gen Stat. § 75-1.1 (UDTPA))**

59. Adventus and ETI repeat and reallege each and every allegation contained in Paragraphs 1 through 58 of their Complaint as if restated herein.

60. AST competes with Adventus and ETI in the field of environmental remediation.

61. Upon information and belief, AST has made misrepresentations to one or more owners of contaminated property in North Carolina about AST's use of BOS100® and the technology protected by U.S. Patent No. 5,266,213 and U.S. Patent No. 5,534,154, which have deceived or have a tendency to deceive owners of contaminated property who are customers or potential customers of Adventus and ETI and who are required by the State of North Carolina to clean up such contamination. AST's actions are unfair, unethical, deceptive, and unscrupulous and are in and affecting commerce in North Carolina.

62. In addition, upon information and belief, AST has made misrepresentations and unsubstantiated claims to one or more owners of contaminated property in North Carolina with respect to the performance of the BOS100® product, which misrepresentations have deceived, or have a tendency to deceive, owners of contaminated property who are customers or potential customers of Adventus and ETI and who are required by the State of North Carolina to clean up such contamination. AST's actions are unfair, unethical, deceptive, and unscrupulous and are in and affecting commerce in North Carolina.

63. Upon information and belief, AST has made misrepresentations to one or more owners of contaminated property in North Carolina with respect to the performance of the Adventus product, which misrepresentations have deceived, or have a tendency to deceive, owners of contaminated property who are customers or potential customers of Adventus and ETI

and who are required by the State of North Carolina to clean up such contamination. AST's actions are unfair, unethical, deceptive, and unscrupulous and are in and affecting commerce in North Carolina.

64. Upon information and belief, AST has made misrepresentations to one or more owners of contaminated property in North Carolina with respect to the presence of carbon based materials in the Adventus product, which have deceived, or have a tendency to deceive, owners of contaminated property who are customers or potential customers of Adventus and ETI and who are required by the State of North Carolina to clean up such contamination. AST's actions are unfair, unethical, deceptive, and unscrupulous and are in and affecting commerce in North Carolina.

65. AST's unfair and deceptive acts are the direct and proximate cause of damages to Adventus and ETI, including lost profits and injury to Adventus' and ETI's reputation in the industry and among its customer base, and loss of goodwill.

WHEREFORE, Defendants Adventus and ETI pray unto the court as follows:

1. The Court adjudicate and declare that Defendants have infringed and continue to infringe claims of U.S. Patent Nos. 5,266,213; 5,534,154; 5,411,664; 5,480,579; 5,618,427; and 6,083,394;
2. The Court award to Adventus and ETI their actual damages adequate to compensate them for each of Defendants' acts of patent infringement, together with prejudgment interest;

3. The Court award to Adventus and ETI enhanced damages, up to and including trebling of damages pursuant to 35 U.S.C. § 284 for Defendants' willful infringement;
4. The Court award Adventus and ETI the costs of this action, including reasonable attorneys' fees pursuant to 35 U.S.C. § 285 and as otherwise allowed by law;
5. A trial by jury be had on all issues; and
6. The Court award Adventus and ETI such other and further relief as the Court deems just and proper.

This the 3<sup>rd</sup> day of November, 2008.

/s/ Amiel J. Rossabi  
North Carolina State Bar No. 16984  
*Attorney for Plaintiffs*  
FORMAN ROSSABI BLACK, P.A.  
3623 North Elm Street, Suite 200  
Post Office Box 41027  
Greensboro, North Carolina 27404-1027  
Telephone: (336) 378-1899  
Email: [arossabi@frb-law.com](mailto:arossabi@frb-law.com)