

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

THERMAL DESIGN, INC., and
SPORTS INTERIORS, Inc.,

Plaintiffs,

v.

INDOOR COURTS OF AMERICA, INC.,
ABC INSURANCE COMPANY and
DEF INSURANCE COMPANY,

Defendants.

ORDER

03-C-249-C

A hearing on plaintiffs' motion for a preliminary injunction was held in this case on August 7, 2003, before United States District Judge Barbara B. Crabb. Plaintiff appeared by Thaddeus Stankowski. Defendant appeared by Thomas A. Cabush and Jane M. Cuthbert. After hearing argument, I granted the motion in the following respects:

1. Defendants are to amend the information on their website under the heading "Fire Safety of Energy-Miser® Insulation System".
 - a. By changing the second line in paragraph 2 to read as follows:
"[identify material] that was part of the Simple Saver insulating system

manufactured by Thermal Design had been specified for the tennis facility. A fire marshal in Cook County, Illinois conducted field tests [identify the nature of the tests] that showed that in the event of fire this material supported a flame and dripped molten plastic. Indoor Courts of America's proprietary TC-120 reflective material, a key component of the Energy Miser® system, passed the same fire tests.

b. Paragraph 3 is to be rewritten to show that the flame test that Indoor Courts of America conducted was on a particular component of the Simple Saver system. Both parties' materials are to be identified.

c. Paragraph 4 is to be amended by deleting it and substituting therefor the two sentences, "Indoor Courts works hard to ensure that all its products and components are safe for use in sports facilities. We do everything we can to keep our clients, customers and children safe while they enjoy recreational facilities," notes Lex Kessler, Indoor Courts of America President.

2. Defendant's website is to be amended as it refers to insulation values on the page headed "Energy Miser outperforms Simple Saver by 33%!" Defendants are to remove all references to Simple Saver on this and the succeeding page and are to delete the last sentence of paragraph 3. In paragraph 4, defendants

are to substitute the words “a typical filled cavity system” for the words “the in-place Simple Saver System.”

In all other respects, the motion for preliminary injunction is DENIED.

Entered this 7th day of August, 2003.

BY THE COURT:

BARBARA B. CRABB
District Judge