

Patent Battle Over Geo-Tech Under Trains Takes New Track

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Law360, London (October 2, 2020, 6:47 PM BST) -- A geosynthetics company whose product to prevent erosion below England's railway tracks was found to use a rival's patented invention didn't include enough information in its bid for a court declaration that a different version of the product does not infringe, the competitor says.

In a Sept. 29 defense filing with the High Court, Geofabrics Ltd. says that Fiberweb Geosynthetics Ltd. provided it with a sample of Hydrotex 4 in May, and that a confidential document attached to the court filing does not provide enough information about the properties of the product, whose Hydrotex 2 version was previously found to infringe Geofabrics' patent.

That confidential disclosure "does not provide sufficient information regarding Hydrotex 4 to establish that, when used as a trackbed liner, Hydrotex 4 does not infringe [Geofabric's] patent or that by manufacturing or otherwise dealing in Hydrotex 4 the claimant will not infringe the patent," the defense filing states.

The filing is part of an ongoing patent battle between the two British companies over an invention layered within the ground beneath railway tracks. The competing products use a geosynthetic, a synthetic product used to stabilize ground.

In March, Deputy High Court Judge David Stone ruled that Hydrotex 2 infringed the patent owned by Geofabrics, which manufactures a competing product used to line railway tracks and prevent erosion called Tracktex. The judge also denied Fiberweb's bid to invalidate the trackbed liner patent, rejecting the company's arguments that Geofabrics' invention was obvious based on prior inventions and not novel, as well as insufficiently described in its patent documents.

Fiberweb's Hydrotex product is used by [Network Rail](#) in the United Kingdom, the March ruling notes.

In response to that March 5 decision, the managing director of Geofabrics, Gordon Donald, said in a statement that the ruling "vindicates the protection of our intellectual property and encourages innovation."

That earlier litigation was launched by Geofabrics against Fiberweb in February 2018. The current, preemptive claim from Fiberweb seeking a noninfringement declaration for Hydrotex 4 was filed in April, weeks after Judge Stone's decision against Hydrotex 2.

Fiberweb says its Hydrotex 4 trackbed liner product is different from the Tracktex invention because it is "not normally impermeable to water."

Judge Stone's ruling notes that the patent relates to a geosynthetic trackbed liner sandwiched between support layers, with "at least one filtration layer being of a material which is normally impermeable to liquid water."

When a train passes over a track, the heavy pressure squeezes water out of the clay below, leading to something called "pumping erosion." The water then carries particles of clay and silt that erode the trackbed, affecting the track, according to the March judgment.

On its website, Geofabrics says its Tracktex product is shown to substantially reduce maintenance calls

due to pumping failure, "providing significant savings over any available alternative."

Representatives for the two sides did not immediately respond Friday to Law360's request for comment on the litigation.

The patent at issue is European Patent (UK) No. 2, 430, 238.

Fiberweb Geosynthetics Limited is represented by Geoffrey Pritchard of [Three New Square](#), instructed by [Withers & Rogers LLP](#).

Geofabrics Limited is represented by Michael Hicks of Hogarth Chambers, instructed by [Womble Bond Dickinson](#) (UK) LLP.

The case is Fiberweb Geosynthetics Limited v Geofabrics Limited, case number HP-2020-000010, in the High Court of Justice of England and Wales, Intellectual Property List, Chancery Division, Patents Court.

--Editing by Marygrace Murphy.