

**IN UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

BETA-CALCO, INC.
25 Kodiak Crescent
Toronto, Ontario
M3J 3E5
Canada

Plaintiff,

v.

SCOTT ARCHITECTURAL LIGHTING and
SCOTT LAMP CO., INC.
355 Watt Drive
Fairfield CA 94534

Defendant.

Civil Action No.

JUDGE

COMPLAINT

JURY TRIAL DEMAND

For its Complaint against Scott Architectural Lighting (“Scott Lighting”) and Scott Lamp Co., Inc. (“Scott Lamp”) (collectively with Scott Lighting, “Scott”), Beta-Calco, Inc. (“Beta-Calco”) states as follows:

THE PARTIES

1. Beta-Calco is a corporation organized and existing under the laws of the Province of Ontario, Canada, having its principal place of business at 25 Kodiak Crescent, Toronto, Ontario, M3J 3E5, Canada. Beta-Calco is a leader in the design and manufacture of architectural lighting products.

2. On information and belief, Scott Lamp Company, Inc., is a corporation organized and existing under the laws of California, having its principal place of business at 355 Watt Drive, Fairfield, California 94534.

3. On information and belief, Scott Architectural Lighting is a sister company or division of Scott Lamp and has its principal place of business at 355 Watt Drive, Fairfield, California 94534.

4. On information and belief, Scott manufactures and sells architectural lighting products.

JURISDICTION AND VENUE

5. This is a civil action, arising under the patent statutes, 35 U.S.C. § 101 et seq., and in particular 35 U.S.C. §§ 271, 281 and 289, against Scott for infringement of United States Design Patent No. D574,993 (“the ‘993 Patent”). A true and accurate copy of the ‘993 Patent is attached as **Exhibit A**.

6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. Scott is subject to the personal jurisdiction of this Court and venue is proper in this District because, on information and belief, Scott engages in continuous and systematic business within this district.

8. Scott is subject to the personal jurisdiction of this Court and venue is proper in this District also because, on information and belief, Scott is selling and offering to sell its accused products in this judicial district, including to Lighting Dynamics Inc., located at 211 Springside Drive, Akron, Ohio 44333, and has placed its accused products into the stream of commerce in this judicial district.

9. Venue in the Northern District of Ohio is proper pursuant to 28 U.S.C. §§ 1391(b)(2) or (3) and 1400(b).

COUNT I: INFRINGEMENT OF THE '993 PATENT

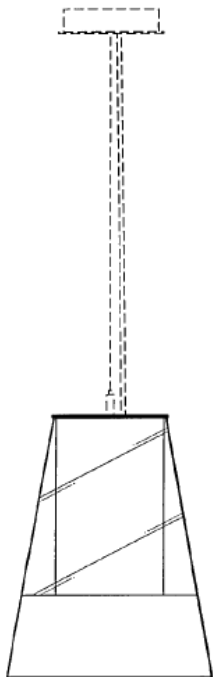
10. Beta-Calco incorporates by reference herein the allegations of Paragraphs 1-9 of this Complaint.

11. Beta-Calco is the owner by way of assignment of the '993 Patent entitled LIGHT FIXTURE. The '993 Patent was duly and legally issued by the United States Patent and Trademark Office ("USPTO") on August 12, 2008. The '993 Patent is in force and effect and is presumed valid under the U.S. patent laws.

12. Upon information and belief, Scott has been, and is, directly infringing the '993 Patent by making, using, selling and/or offering for sale light fixtures, including Scott's S2560 model pendant light fixture ("the S2560"), that infringe the ornamental design claim of the '993 Patent. A true and accurate copy of Scott's catalog for the S2560 pendant light fixture is attached as **Exhibit B**. A comparison of the light fixture of the '993 Patent and the S2560 pendant light fixture is shown below:

The '993 Patent

FIG. 1



The S2560



13. As shown in paragraph 12, based on a visual comparison of the pictured design of the '993 Patent and the design of the S2560, an ordinary observer, giving such attention as a purchaser usually gives, would consider the two designs to be substantially the same. Both designs have an exterior frusto-conical housing that is generally transparent and an interior cylindrical housing for a source of light that is visible through the exterior housing. Additionally, the lower portion of the exterior housing of both designs is not generally transparent.

14. On March 28, 2013, Beta-Calco, by way of its counsel, sent a notice of infringement letter to Scott. On information and belief, as of March 29, 2013, Scott was aware of Beta-Calco's allegation that the S2560 infringes the '993 Patent.

15. On or about April 3, 2013, Scott responded to Beta-Calco's notice letter. A true and accurate copy of the April 3, 2013 letter is attached as **Exhibit C**. Beta-Calco and Scott exchanged additional correspondence dated May 1, 2013 and May 17, 2013. A true and accurate copy of Beta-Calco's May 1, 2013 letter to Scott is attached as **Exhibit D**. A true and accurate copy of Scott's May 17, 2013 letter to Beta-Calco is attached as **Exhibit E**.

16. Scott has knowingly and willfully infringed the '993 Patent. Scott will continue to infringe the '993 Patent, causing Beta-Calco substantial and irreparable damage, unless enjoined by this Court.

17. Beta-Calco will be greatly, immediately and irreparably harmed unless the Court enjoins Scott and its agents, affiliates, servants, employees, attorneys, representatives, and all others acting on their behalf from infringing the '993 Patent.

18. Beta-Calco has also suffered monetary damages in an amount not yet determined because of Scott's infringement of the '993 Patent.

PRAYER FOR RELIEF

Beta-Calco prays for the following relief:

- (a) A judgment that Scott has infringed the '993 Patent and continues to do so;
- (b) A judgment that Scott's infringement of the '993 Patent has been willful;
- (c) A judgment against Scott awarding Beta-Calco damages equal to all revenues and profits derived by Scott from Scott's infringement of the '993 Patent pursuant to 35 U.S.C. § 289;
- (d) A judgment against Scott awarding Beta-Calco damages suffered pursuant to 35 U.S.C. § 284 on account of Scott's infringement of the '993 Patent;
- (e) A judgment that Beta-Calco's damages be trebled pursuant to 35 U.S.C. § 284 and that punitive damages be assessed against Scott;
- (f) A permanent injunction against Scott and any entity acting in concert with it, pursuant to 35 U.S.C. § 283, preventing Scott and any such entity from infringing the '993 Patent;
- (g) A judgment that this is an exceptional case and that Beta-Calco be awarded reasonable attorney fees pursuant to 35 U.S.C. § 285; and
- (h) A judgment that Scott be directed to pay Beta-Calco its costs incurred herein and such other and further relief as the Court deems just and equitable.

JURY DEMAND

Beta-Calco respectfully requests a trial by jury for all issues so triable.

Dated: July 17, 2013

Respectfully submitted,

s/Nicholas J. Gingo

Mark C. Johnson (0072625)

Nicholas J. Gingo (0083684)

RENNER, OTTO, BOISSELLE & SKLAR, LLP

1621 Euclid Avenue, Nineteenth Floor

Cleveland, Ohio 44115

Telephone: (216) 621-1113

Facsimile: (216) 621-6165

Attorneys for Beta-Calco, Inc.