

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

SATELLITE INDUSTRIES, INC.,
A MINNESOTA CORPORATION,

Case No.: 0:13-cv-2097

Plaintiff,

**COMPLAINT FOR DECLARATORY
JUDGMENT OF PATENT NON-
INFRINGEMENT AND INVALIDITY**

vs.

POLYJOHN ENTERPRISES
CORPORATION,
A DELAWARE CORPORATION,

Defendant.

THE PARTIES

1. Plaintiff Satellite Industries, Inc. is a Minnesota corporation with its principal place of business at 2530 Xenium Lane North, Minneapolis, MN 55441 (“Satellite”).
2. On information and belief, PolyJohn Enterprises Corporation is a Delaware corporation with its principal place of business at 2500 Gaspar Avenue, Whiting, IN 46394 (“PolyJohn”).

NATURE OF THE ACTION

3. This is a declaratory judgment action seeking a determination that Satellite does not infringe any valid or enforceable claims of U.S. Patent No. 7,730,561 (“Patent-In-Suit”) under 35 U.S.C. § 271.
4. This is a declaratory judgment action seeking a determination that the Patent-In-Suit is invalid, in whole or in part.

5. On information and belief, PolyJohn is the owner by assignment of United States Patent No. 7,730,561 (“the ’561 patent”), which is entitled “Used Water Removal System for a Portable, Hand-Wash Sink Station” and was issued on June 8, 2010. A true copy of the ’561 patent is attached as Exhibit A.

JURISDICTION AND VENUE

6. Satellite brings this action under Title 35 of the United States Code, and under 28 U.S.C. §§ 2201 and 2202, to obtain a declaration of non-infringement and invalidity with respect to the ’561 patent.

7. Because this action arises under the Patent Laws of the United States, this Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

8. This Court has personal jurisdiction over PolyJohn at least because of its continuous and systematic contacts with the state of Minnesota, including conducting of substantial and regular business therein through marketing and sales of portable sanitation, safety, and hygiene products in Minnesota including but not limited to the BRAVO! product.

9. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and (c) because, on information and belief, PolyJohn has sufficient contacts with this district for personal jurisdiction.

THE SUBSTANTIAL CONTROVERSY BETWEEN THE PARTIES

10. PolyJohn is a practicing holder of the Patent-in-Suit, marketing its product under the name BRAVO!
11. Satellite manufactures and sells a handwash station for portable toilets called Breeze.
12. On January 21, 2013, Harness, Dickey & Pierce, PLC sent Satellite a letter (Exhibit B) stating that PolyJohn had become aware of Satellite's Breeze product and communicating PolyJohn's belief that Breeze infringes on one or more claims of the '561 patent. PolyJohn's letter directed Satellite to stop manufacturing, marketing, offering for sale, and selling its Breeze product; enter into a licensing agreement with PolyJohn; or be subjected to a patent enforcement action.
13. Satellite has not infringed and does not infringe, either directly or indirectly, any valid and enforceable claim of the Patent-in-Suit, either literally or under the doctrine of equivalents.
14. By virtue of the foregoing, a substantial controversy exists between the parties that is of sufficient immediacy and reality to warrant declaratory relief.

COUNT I

DECLARATORY JUDGMENT OF NON-INFRINGEMENT AND INVALIDITY OF THE '561 PATENT

15. Satellite realleges and incorporates paragraphs 1 through 14 as if fully set forth in this paragraph.

16. As a result of the acts described in the foregoing paragraphs, a substantial controversy of sufficient immediacy and reality exists to warrant the issuance of a declaratory judgment.

17. A judicial declaration is necessary and appropriate so that Satellite may ascertain its rights regarding the '561 patent.

18. Satellite is entitled to a declaratory judgment that it has not infringed and does not infringe, directly or indirectly, any valid and enforceable claim of the '561 patent.

19. Satellite is entitled to a declaratory judgment that the '561 patent is invalid under one or more of 35 U.S.C. §§ 102, 103, and 112.

PRAYER FOR RELIEF

WHEREFORE, Satellite respectfully prays for this Court to grant the following relief:

20. A declaration that Satellite has not infringed, either directly or indirectly, any valid and enforceable claim of the '561 patent;

21. A declaration that the claims of the '561 patent are invalid;
22. An order declaring that Satellite is a prevailing party and that this is an exceptional case, awarding Satellite its costs, expenses, and reasonable attorney's fees under 35 U.S.C. § 285; and
23. That Satellite be granted such other and additional relief as the Court deems just and proper.

Respectfully submitted,

Dated: August 2, 2013

SKAAR ULBRICH MACARI, P.A.

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