

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

FILED
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U.S. DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION
CINCINNATI

1:13 CV 581

AP TECH GROUP, INC.,

Case No.

Plaintiff,

JURY TRIAL DEMANDED

v.

NALCO COMPANY,

J. BECKWITH

Defendant.

COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiff AP Tech Group, Inc. ("APT") alleges as follows:

PARTIES

1. Plaintiff AP Tech Group, Inc. ("APT") is a corporation incorporated under the laws of the state of Delaware, with its principal place of business at 11411 Williamson Road, Cincinnati, OH 45201.

2. Nalco Company ("Nalco") is a corporation incorporated under the laws of the State of Illinois, with its principal place of business at 1601 West Dichl Road, Naperville, IL 60563-1198.

JURISDICTION AND VENUE

3. This action arises under the Patent Laws of the United States, Title 35, United States Code. Jurisdiction is invoked pursuant to 28 U.S.C. §§1331 and 1338(a) and the Federal Declaratory Judgment Act, 28 U.S.C. §§2201 and 2202 for declaratory judgment of invalidity and non-infringement of United States Patent No. 6,685,840 ("the '840 patent"). Nalco alleges

that it is the current assignee and assignee during the relevant period of the entire right, title, and interest in and to the '840 patent. A copy of the '840 patent is attached to Plaintiff's Complaint as Exhibit A.

4. This action is based upon an actual and continuing controversy between the parties with respect to the purported validity and infringement of the '840 patent. Specifically, Nalco has filed a complaint against APT in the United States District Court for the District of Delaware, Civil Action No. 1:13-CV-01063-LPS ("Complaint") alleging infringement of the '840 patent by APT.

5. This Court has personal jurisdiction over Nalco as Nalco does substantial, continuous and systematic business in the State of Ohio and this judicial district.

6. Venue in this Court is based upon 28 U.S.C. §§1391 and 1400(b).

COUNT I

7. Based upon the Complaint filed by Defendant Nalco in which Nalco alleges infringement by APT of the '840 patent, there is an actual controversy pursuant to 28 U.S.C. §2201 regarding the validity and infringement of the claims of the '840 patent.

8. APT has not infringed and is not now infringing any valid and enforceable claim of the '840 patent, nor has it contributed to or induced and is not otherwise contributing to or inducing infringement of any valid and enforceable claim of the '840 patent.

9. The '840 patent is invalid for failure to comply with the statutory requirements of patentability set forth in 35 U.S.C. §112. Specifically, the claims of the '840 patent are not enabled.

DEMAND FOR RELIEF

WHEREFORE, APT demands:

A. That a declaratory judgment be entered that APT has not infringed and is not infringing any valid and enforceable claim of U.S. Patent No. 6,685,840, and has not contributed to or induced and is not contributing to or inducing infringement of any valid and enforceable claim of the '840 patent.

B. That a declaratory judgment be entered that U.S. Patent No. 6,685,840 is invalid and void.

C. That the costs of this action be adjudged against Nalco.

D. That this case be adjudged and decreed exceptional pursuant to 35 U.S.C. §285, and that APT be awarded its reasonable attorneys fees.

E. That APT be awarded other and further relief as the Court deems proper and just.

Respectfully submitted,

Dated: September 19, 2013

s/ J. Robert Chambers
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