

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

PENOVIA LLC,

Plaintiff,

v.

WESTELL TECHNOLOGIES, INC.,

Defendant.

Case No. 2:13-cv-780

PATENT CASE

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Penovia LLC files this Complaint against Westell Technologies, Inc., for infringement of United States Patent No. 5,822,221 (the “221 Patent”).

PARTIES AND JURISDICTION

1. This is an action for patent infringement under Title 35 of the United States Code. Plaintiff is seeking recovery of damages.

2. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents) because this is a civil action for patent infringement arising under the United States patent statutes.

3. Plaintiff Penovia LLC (“Plaintiff” or “Penovia”) is a Texas limited liability company with its principal office located in the Eastern District of Texas, at 3400 Silverstone Drive, Suite 191-B, Plano, Texas 75023. Penovia obtained ownership of the ‘221 Patent from its prior owner, the inventor, Frank S. Groenteman.

4. Upon information and belief, Defendant Westell Technologies, Inc. (“Defendant”) is a Delaware corporation with its principal office located at 750 N. Commons Drive, Aurora, IL 60504. This Court has personal jurisdiction over Defendant because Defendant has committed acts of infringement in the state of Texas, has conducted business in

the state of Texas, and/or has engaged in continuous and systematic activities in the state of Texas.

5. On information and belief, Defendant's products that are alleged herein to have infringed the '221 Patent were made, used, offered for sale, and/or sold in the Eastern District of Texas.

VENUE

6. Venue is proper in the Eastern District of Texas pursuant to 28 U.S.C. §§ 1391(c) and 1400(b) because Defendant is deemed to reside in this District. In addition, and in the alternative, Defendant has committed acts of infringement in this District.

COUNT I **(INFRINGEMENT OF UNITED STATES PATENT NO. 5,822,221)**

7. Plaintiff incorporates paragraphs 1 through 6 herein by reference.

8. This cause of action arises under the patent laws of the United States, and in particular, 35 U.S.C. §§ 271, *et seq.*

9. Plaintiff is the owner by assignment of the '221 Patent with sole rights to enforce the '221 Patent, sue infringers, and recover damages.

10. A copy of the '221 Patent, titled "Office Machine Monitoring Device," is attached hereto as Exhibit A.

11. The '221 Patent was duly issued in full compliance with Title 35 of the United States Code. The '221 Patent is valid, and it is enforceable for the time period from its issuance through its expiration.

12. The '221 Patent expired on or about October 13, 2010, because its owner at the time, the inventor Frank S. Groenteman, was not able to pay the maintenance fee on the '221 Patent that was required by the United States Patent and Trademark Office.

13. Upon information and belief, Defendant directly infringed one or more claims of the '221 Patent during the time period that is within the damages period in this case and before the '221 Patent expired. Defendant directly infringed at least claim 1 of the '221 Patent by making, using, importing, selling and/or offering for sale office machine monitoring devices, including without limitation wireless routers and/or wireless gateways utilizing a device for monitoring certain machine statuses (*e.g.*, indication of data transmission into or out from the wireless router or wireless gateway) wirelessly, that are covered by one or more claims of the '221 Patent (the "Accused Products"). The Accused Products include, without limitation, Defendant's Westell VersaLink Wireless Gateway products.

14. Plaintiff is in compliance with 35 U.S.C. § 287.

15. Plaintiff seeks recovery of damages from Defendant for Defendant's infringement that occurred from the date that is 6 years before the filing date of this Complaint, through the date that the '221 Patent expired, October 13, 2010.

DEMAND FOR JURY TRIAL

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of all issues so triable by right.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the Court to:

- a) Enter judgment for Plaintiff on this Complaint on all causes of action asserted herein;
- b) Award Plaintiff damages resulting from Defendant's infringement in accordance with 35 U.S.C. § 284;
- c) Award Plaintiff pre-judgment and post-judgment interest and costs; and

- d) Award Plaintiff such further relief to which the Court finds Plaintiff entitled under law or equity.

Dated: September 27, 2013

Respectfully submitted,

/s/ Craig Tadlock
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