

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN

LECO CORPORATION, a Michigan corporation,  Plaintiff,	Civil Action No. _____
v.	Hon. _____
ALPHA RESOURCES, INC. a Michigan corporation,  Defendant.	JURY TRIAL DEMANDED

**COMPLAINT AND DEMAND FOR JURY TRIAL**

Plaintiff, Leco Corporation, a Michigan corporation (hereinafter Leco), as and for its Complaint against Defendant, Alpha Resources, Inc., a Michigan corporation (hereinafter Alpha Resources), hereby alleges as follows:

**NATURE OF ACTION**

1. This is an action in law and equity for patent infringement arising out of infringement of Leco's U.S. Patent Nos. 8,377,397 and D678,791 in violation of the patent laws of the United States, 35 U.S.C. §§ 271 et seq.

**THE PARTIES**

2. Plaintiff Leco is a corporation of the state of Michigan and has a principal place of business at 3000 Lakeview Avenue, St. Joseph, Michigan 49085.

3. Upon information and belief, Defendant Alpha Resources, Inc., is a corporation of Michigan and has a principal place of business at 3090 Johnson Road, Stevensville, Michigan 49127.

### **JURISDICTION AND VENUE**

4. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has jurisdiction over Alpha Resources because Alpha Resources resides in this district, transacts business in this district, and is subject to personal jurisdiction in this district, including under Michigan Comp. Laws § 600.711, § 600.715, and related law.

6. Venue is proper in this judicial district under 28 U.S.C. § 1391 (b) and (c) and § 1400(b).

### **BACKGROUND FACTS**

7. Leco is a manufacturer and marketer of numerous sophisticated scientific instruments which are sold worldwide to a variety of industries and educational institutions.

8. Leco is an innovator of many significant advances in the design of such instruments and is the owner, through over 75 years of its business, of more than 100 patents.

9. One of its numerous innovative instruments relates to a combustion tube used in analytical and induction furnaces. The tube is sold as Leco Part No. 619-591-683.

10. Leco is the owner of U.S. Patent No. 8,377,397 duly and legally issued on February 19, 2013 (hereinafter the '397 Patent). A true copy of the '397 Patent is attached as Exhibit A.

11. Leco is the owner of U.S. Patent No. D678,791 duly and legally issued on March 26, 2013 (hereinafter the '791 Patent). A true copy of the '791 Patent is attached as Exhibit B.

12. Both the '397 and '791 Patents have claims which cover features of Leco Part No. 619-591-683 and associated analytical and induction furnaces and are marked in connection with such goods. See, e.g., Exhibit C.

13. Alpha Resources has begun the manufacture, importation, offer for sale, and/or sale of a combustion tube, Alpha Product No. AR6195, for use in analytical and induction furnaces, incorporating the subject matter of Leco's '397 and '791 Patents. See, e.g., Exhibit D.

14. Alpha Resources has imported, sold, and/or offered for sale in this judicial district, and elsewhere in the United States, combustion tubes, including the Alpha Product No. AR6195, for analytical and induction furnaces which infringe at least independent claims 1 and 8 of the '397 Patent and the sole claim of the '791 Patent. In addition, Alpha Resources has contributed to and/or induced others to use its infringing combustion tube in the infringement of at least independent claims 1 and 8 of the '397 Patent and the sole claim of the '791 Patent. These acts of infringement are a violation of the United States patent laws, including, but not limited to, 35 U.S.C. § 271(a)-(c).

15. Alpha Resources' aforesaid infringement has been and continues to be willful and deliberate and is ongoing.

16. Leco has in the past been damaged and continues to suffer irreparable injury as a result of Alpha Resources' actions. Infringement of the '397 and '791 Patents by Alpha Resources will continue unless and until enjoined by this Court.

#### **COUNT I: INFRINGEMENT OF THE '397 PATENT**

17. Plaintiff Leco realleges each and every allegation contained in paragraphs 1 through 16 as though fully set forth herein.

18. Alpha Resources' aforementioned acts constitute willful infringement of Leco's '397 Patent in violation of 35 U.S.C. §§ 271 *et seq.*

**COUNT II: INFRINGEMENT OF THE '791 PATENT**

19. Plaintiff Leco realleges each and every allegation contained in paragraphs 1 through 16 as though fully set forth herein.

20. Alpha Resources' aforementioned acts constitute willful infringement of Leco's '791 patent in violation of 35 U.S.C. §§ 271 *et seq.*

**PRAYER FOR RELIEF**

Wherefore, Leco prays that this Court enter a judgment and order that:

- A. Alpha Resources has infringed the '397 Patent;
- B. Alpha Resources has infringed the '791 Patent;
- C. the infringement of the '397 and '791 Patents by Alpha Resources is willful;
- D. Alpha Resources and its officers, agents, representatives, employees, and all others in concert or participation with them, directly or indirectly, be preliminarily and permanently enjoined from infringing, inducing others to infringe, or contributing to the infringement of the '397 and '791 patents pursuant to 35 U.S.C. § 283;
- E. Leco be awarded damages adequate to compensate for Alpha Resources' infringement of the '397 and '791 patents, together with pre-judgment and post-judgment interest pursuant to 35 U.S.C. § 284;
- F. said damages be trebled pursuant to 35 U.S.C. § 284 because such infringement has been willful and deliberate;
- G. Leco be awarded its costs, including reasonable attorneys fees and expenses, in accordance with 35 U.S.C. § 285; and

H. Leco be awarded such other and further relief as this Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Leco demands trial by jury on all issues in this action.

Respectfully submitted,

Dated: March 5, 2014

s/Matthew J. Gipson

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