

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA

_____)	
CANVS Corporation)		
13650 Fiddlesticks Boulevard)		
Suite 202-230)		
Fort Myers, FL 33912)		
)		
Plaintiff,)		
)	Civil Action No. _____	
v.)		
)		
THERMOTEKNIKX SYSTEMS, LTD)		
Teknix House, 2 Pembroke Avenue)		
Waterbeach, Cambridge)		
CB25 9QR, United Kingdom)		
)		
and)		
)		
THERMOTEKNIKX SYSTEMS, LTD)		
301 Newbury Street, Suite 252)		
Danvers, Massachusetts 01923)		
)		
Defendant.)		
_____)	

COMPLAINT FOR PATENT INFRINGEMENT

This is an action for infringement of United States Patent No. 6, 911,652 brought under the patent laws of the United States, 35 U.S.C. §101, *et seq.*, §§271 and 281, by Plaintiff CANVS Corporation (“CANVS”) against Defendants Thermoteknix UK and Thermoteknix US.

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction over issues of patent infringement brought under 35 U.S.C. §101 *et seq.*, pursuant to 28 U.S.C. §§1331 and 1338(a).
2. Defendants Thermoteknix(s) are engaged in making, using, importing, selling and offering to sell advanced night vision products into and throughout the United States and within

this District that gives rise to the cause of action under 35 U.S.C. §271. Jurisdiction and Venue are proper in this District as to Defendants, under 28 U.S.C. §§1391 and 1400(b). This Court has jurisdiction and venue over Thermoteknix UK under §1391(c)(3). This Court has personal jurisdiction over Defendant Thermoteknix US under 1391(b)2&3 by virtue of, at a minimum, Defendant's ongoing and continuous offers for sale and sales of accused product within this judicial district and by the direct infringement of the '652 patent by others within this judicial district who are induced to infringe by Thermoteknix and the location of the intellectual property which is the subject matter of this action.

3. Venue is proper in this judicial district pursuant to 28 U.S.C. 1391 and 1400(b).

THE PARTIES

4. Plaintiff CANVS Corporation is a veteran-owned, small business, Florida located corporation, organized and existing under the laws of the State of Florida, with its registered headquarters located at 13650 Fiddlesticks Boulevard, Suite 202-230, Fort Myers, FL 33912. CANVS is the sole owner of United States Letters Patent 6, 911,652 ("the '652 Patent") by assignment from the sole inventor, Johathan Alexander Walkenstein. Mr. Walkenstein and CANVS developed and patented a Low Light Imaging Device. Attached to this Complaint is a true and correct copy of the '652 Patent.

5. Defendant Thermoteknix UK is a limited-liability corporation organized and existing under the laws of the United Kingdom with a principle place of business at Defendant Thermoteknix US is an unincorporated operating entity of Thermoteknix UK, with a sales office located in Danvers, Massachusetts. Defendants Thermoteknix(s) manufacture, use, sell, import and/or offer for sale in the United States, low light imaging devices that infringe one or more

claims of the '652 Patent.

GENERAL ALLEGATIONS

6. On June 28, 2005, the United States Patent and Trademark Office ("USPTO") duly and properly issued the '652 Patent, entitled Low Light Imaging Device, from a patent application filed on February 20, 2003 as a continuation-in-part of U.S. Patent Application Serial No. 09/352,635 which had a priority filing date of March 22, 2000. The patent application was carefully examined by the USPTO, which determined that the claimed Low Light Imaging Device is new, useful and nonobvious.

7. Plaintiff CANVS owns and has at all times owned, and has standing to sue for infringement of United States Letters Patent 6,911,652.

8. The '652 Patent has a total of seven (7) claims, including exemplary Claim 5, which reads as follows:

Claim 5. A low light imaging device comprising:

- a) an optical input structured to define a line of sight;
- b) a first imaging assembly structured to generate a thermal image corresponding to radiation signatures disposed at least within said line of sight;
- c) a second imaging assembly structured to generate an enhanced photon based image upon detected photons disposed at least within said line of sight;
- d) a first image adjustment assembly and a second image adjustment assembly, said first and said second image adjustment assemblies being operable to adjust said first and said second imaging assemblies so as to adjust an intensity of said thermal image and said enhanced photon based image generated thereby;
- e) an output image generation assembly structured to combine said thermal image and said enhanced photon based image to generate a single output image.

9. Defendants Thermoteknix(s) manufacture, use, import, sell and/or offer for sale products which provide a thermal image for combination with an intensified image, sold under the product name ClipIR. When attached to any one of several models of standard, compatible

image intensification night vision devices with manual gain, such as, without limitation, "a wide range of monocular and binocular I2 devices . . . Compatible with most Night Vision devices including PVS-7, PVS-15, PVS-14, MUM-14, PBS-14, PBS-18 and many others," creates a fused thermal/image intensification low light imaging device: "ClipIR Small Clip On Thermal Imager - Fused Night Vision. Fused night vision is the new standard for low light operations." that infringes one of more of the claims of the '652 patent in the manner illustrated in the attached infringement chart.

10. Defendants Thermoteknix(s) publish and distribute materials (brochures, manuals, photos, videos, on-line information and other product literature) which depict and describe the ClipIR device attached ("clipped on") to various image intensification devices to form a fused system. Some exemplary materials include the ClipIR Small CLip on Thermal Imager for Image Intensifiers.mp4 movie, the www.thermoteknix.com/products/thermal-night-vision/clipir-small-thermal-imager-clip-on/ web page; and the Thermoteknix ClipIR Brochure, Labute x500 Aug 2013, attached hereto as exhibits to this Complaint,

11. Those materials, and others, instruct that: "Significant tactical advantages are achieved by combining the unparalleled detection capabilities of thermal imaging with the superior identification capabilities of image intensification. To extend the performance and functionality of existing night vision devices while minimising total cost of ownership is the challenge met by ClipIR."

12. The Thermoteknix materials state: "Extends the range of NV devices to see in complete darkness." and "Compatible with most Night Vision (I²) devices including PVS-7, PVS-15, PVS-14, MUM-14, PBS-14, PBS-18 and many others."

13. The Thermoteknix ClipIR is designed and intended to be used in conjunction

with a compatible image intensification device to provide the user with a fused thermal and intensified image to improve low light situational awareness. Defendants Thermoteknic(s) knowingly and actively market the ClipIR for use with image intensification devices to create a night vision fusion device, and they provide users with the tools and instructions necessary to operate the ClipIR as part of a low light fused vision device.

14. The ClipIR device is a non-staple article of commerce that is specifically designed to be used as the thermal image component in a fused low light imaging device. When combined with an image intensifier with manual gain, the two form an infringing device. The ClipIR has no substantial non-infringing use. Defendants sell the ClipIR for use as a component of an infringing system. Defendants induce purchasers of their ClipIR to combine the ClipIR with an image intensifier to form an infringing device.

COUNT I

INDUCEMENT TO INFRINGE U.S. PATENT NO. 6,911,652

15. Plaintiff realleges each and every allegation set forth above and incorporates them by reference herein.

16. Defendants Thermoteknix UK and Thermoteknix US are accused of inducing infringement of the '652 patent under 35 U.S.C. §271(b).

17. Defendants, induce the infringement of at least claims 4, 5, 6 and 7 of the '652 Patent, by knowingly inducing others to directly infringe by using a ClipIR in combination with an image intensification device. Defendants know and or are willfully ignorant of the fact that such an assembly is an infringement of the '652 Patent, in violation of 35 U.S.C. 271(b).

18. Plaintiff CANVS is entitled to recover from Defendants all of the damages

sustained as a result of Defendants' induced infringement of the '652 Patent, including a reasonable royalty and/or the lost profits of Plaintiff CANVS and/or the profits earned by Defendants as a result of their infringing manufacture, import, use, sale or offer for sale of the infringing ClipIR products.

19. Defendants have had knowledge of Plaintiff CANVS' rights in the '652 Patent, and have continued to actively and knowingly induce infringement with full knowledge of that patent, and in disregard of CANVS' exclusive patent rights.

20. Defendants prior and continued infringement is with knowledge of Plaintiff CANVS' rights in the '652 Patent, and in disregard of CANVS' exclusive patent rights, wherein such actions are objectively reckless and therefore constitute willful infringement.

21. Upon information and belief, Defendants will continue to induce infringement of the claims of the '652 Patent unless preliminarily and permanently enjoined from doing so by this Court.

COUNT II

CONTRIBUTORY INFRINGEMENT OF U.S. PATENT NO. 6,911,652

22. Plaintiff realleges each and every allegation set forth above and incorporates them by reference herein.

23. Defendants Thermoteknix UK and Thermoteknix US are accused of contributory infringement of the '652 patent under 35 U.S.C. 271(c).

24. Defendants, contribute to the direct infringement of at least claims 4, 5, 6 and 7 of the '652 patent by others, by selling and offering to sell the ClipIR to customers who combine it with an image intensification device to form an infringing low light device. The ClipIR is

specially made for use in an infringement of such patent because it has utility when attached to an image intensifier to create an infringing product that provides a fused thermal/intensified image to the end user.

25. Plaintiff CANVS is entitled to recover from Defendants all of the damages sustained as a result of Defendants' contributory infringement of the '652 Patent, including a reasonable royalty and/or the lost profits of Plaintiff CANVS and/or the profits earned by Defendants as a result of their infringing manufacture, use, sale or offer for sale of the infringing ClipIR products.

26. Defendants have had knowledge of Plaintiff CANVS' rights in the '652 Patent, and has continued to contributorily infringe with full knowledge of that patent, and in disregard of CANVS' exclusive patent rights.

27. Defendants prior and continued infringement is with knowledge of Plaintiff CANVS' rights in the '652 Patent, and in disregard of CANVS' exclusive patent rights , wherein such actions are objectively reckless and therefore constitute willful infringement.

28. Upon information and belief, Defendants will continue to contribute to the infringement of the claims of the '652 Patent unless preliminarily and permanently enjoined from doing so by this Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff CANVS prays that this Court enter judgment that

29. The asserted claims of the '652 Patent are infringed by Defendants individually and jointly;

30. Defendants' infringement of the '652 Patent has been willful;

31. Defendants, and their customers, licensees, directors, officers, agents, servants, employees and all other persons in active concert or privity or in participation with it, be preliminarily and permanently enjoined under 35 U.S.C. §283 from manufacturing, using, selling, offering to sell, and importing the infringing ClipIR device, and any other infringing products, in and into the United States, directly or indirectly, prior to the expiration of the '652 Patent;

32. Defendants be enjoined to deliver upon oath, to be impounded during the pendency of this action, and delivered to CANVS pursuant to judgment herein, all originals, copies, facsimiles, or duplicates of any device shown to infringe CANVS' '652 Patent;

33. Judgment be entered for Plaintiff CANVS and against Defendants under 35 U.S.C. §§ 271, 281, 283, 284, and/or 285.

34. Judgment be entered for Plaintiff CANVS and against Defendants, for CANVS' actual damages, for lost profits, for reasonable royalties and/or for a profits attributable to infringements of CANVS' '652 Patent under 35 U.S.C. §§ 284 and 285.

35. Defendants be required to account for all sales, gains, profits, and advantages derived from its acts of infringement and for its other violations of law.

36. Plaintiff CANVS be awarded damages adequate to compensate for Defendants' infringement of the '652 Patent, and that such damages be trebled pursuant to 35 U.S.C. §284;

37. This case be deemed exceptional within the meaning of 35 U.S.C. §285, and that all costs and expenses of this action, including reasonable attorney's fees, be awarded to Plaintiff CANVS; and

38. Plaintiff CANVS be awarded such further, additional and different relief as this Court shall be deemed just and/or proper.

DEMAND FOR JURY TRIAL

Plaintiff CANVS hereby demands a trial by jury of all issues so triable.

Dated: March 5, 2014

Respectfully submitted,

/s/ Joseph J. Zito
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