

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

MULTIWAVE SENSORS INC.,

Plaintiff,

v.

SUNSIGHT INSTRUMENTS, LLC,

SUNSIGHT INDUSTRIES, LLC,

and

SUNSIGHT HOLDINGS, LLC,

Defendants.

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**COMPLAINT
FOR PATENT
INFRINGEMENT
AND
JURY DEMAND**

Plaintiff Multiwave Sensors Inc. (“Multiwave”) complains of defendants SunSight Instruments, LLC (“SunSight Instruments”), SunSight Industries, LLC (“SunSight Industries”), and SunSight Holdings, LLC (“SunSight Holdings”) as follows:

PARTIES

1. Multiwave is a Canadian corporation incorporated under the laws of the Province of Ontario, headquartered in Bolton, Ontario. Multiwave derives its success by being a leading provider of measurement system solutions to the telecom and other industries.

2. Multiwave is the assignee of and owns all right, title and interest in and has standing to sue for infringement of United States Patent No. 8,436,779 (the “ ‘779 Patent”), which is entitled “Apparatus for Aligning an Antenna in a Reference Position” (Exhibit A).

3. SunSight Instruments, upon information and belief, is a corporate entity existing under the laws of the State of Florida and having offices at 125 Candace Drive, Maitland, FL 32751. SunSight manufactures and sells antenna alignment tools and antenna monitoring systems,

including the AAT-30 antenna alignment tool. SunSight Instruments has previously and is presently manufacturing, selling, offering for sale in the U.S. antenna alignment tools that infringe one or more claims of the '779 Patent. SunSight Instruments has, literally and/or under the doctrine of equivalents, infringed the '779 Patent directly and/or through acts of contributory infringement or inducement in violation of 35 U.S.C. § 271.

4. SunSight Industries, upon information and belief, is a corporate entity existing under the laws of Florida and having offices at 125 Candace Drive, Maitland, FL 32751. SunSight Industries manufactures and sells antenna alignment tools and antenna monitoring systems, including the AAT-30. SunSight Industries has previously and is presently manufacturing, selling, offering for sale in the U.S. antenna alignment tools that infringe one or more claims of the '779 Patent. SunSight Instruments has, literally and/or under the doctrine of equivalents, infringed the '779 Patent directly and/or through acts of contributory infringement or inducement in violation of 35 U.S.C. § 271..

5. SunSight Holdings, upon information and belief, is a corporate entity existing under the laws of Florida and having offices at 125 Candace Drive, Maitland, FL 32751, and manufactures and sells antenna alignment tools and antenna monitoring systems, including the AAT-30. SunSight Holdings has previously and is presently manufacturing, selling, offering for sale in the U.S. antenna alignment tools that infringe one or more claims of the '779 Patent. SunSight Instruments has, literally and/or under the doctrine of equivalents, infringed the '779 Patent directly and/or through acts of contributory infringement or inducement in violation of 35 U.S.C. § 271.

JURISDICTION AND VENUE

6. Jurisdiction exists under 28 U.S.C. §1338(a) because this is an action for infringement of Multiwave's '779 Patent.

7. Defendants have transacted business and/or infringed the rights of Multiwave in this judicial district by selling, offering to sell or distributing antenna alignment products that violate Multiwave's patent, and/or have induced infringement of Multiwave's '779 Patent.

8. Venue is proper under the general federal venue statute, 28 U.S.C. § 1391(b) 2 and (d), and under the specific venue provision relating to patent infringement actions, 28 U.S.C. § 1400(b).

BACKGROUND

9. Multiwave is a leading manufacturer and integrator of quality instruments, including laser rangefinders, APS pointing systems, and antenna alignment tools such as its Smart Aligner System.

10. Multiwave has long been a leading innovator in the various businesses in which it is engaged. In an effort to address the inadequacies of existing antenna alignment tools, Multiwave developed its improved technology which eventually found its way into Multiwave's Smart Aligner antenna alignment tool (the "Technology").

11. On March 19, 2010, Multiwave filed a provisional U.S. patent application for that Technology. On March 18, 2011, Multiwave filed a non-provisional U.S. patent application for the Technology, claiming the priority of the provisional application. On May 7, 2013, the '779 Patent issued on the non-provisional application.

12. Multiwave has sold an APS-AAS antenna alignment device incorporating the Technology. In addition, Multiwave has sold an adjustable bracket APS-AAS antenna alignment device incorporating an

adjustable bracket. Multiwave also has sold its Smart Aligner System antenna alignment system incorporating the Technology, (said APS-AAS, adjustable bracket APS-AAS and said Smart Aligner System hereinafter referred to collectively as the "Innovative Products").

13. The Innovative Products were widely associated with various notices to the industry that the same were patented and, before that, that the same were the subject of a pending patent application. See Exhibits B-D.

14. Plaintiff further gives notice to the public by marking its Smart Aligner System with the statutory patent notice.

15. Upon information and belief, Defendants learned of the success the Innovative Products, and decided to intentionally infringe the '779 Patent and copy the Innovative Products.

16. Upon information and belief, as more fully appears below, Defendants sell or have sold antenna alignment tools which infringe the '779 Patent, literally or under the doctrine of equivalents, including at least the Defendants' AAT-30 antenna alignment tool. Exhibit E.

17. The AAT-30, made and sold by Defendants infringes one or more claims of the '779 Patent insofar as the same constitutes an apparatus for removeably retaining an antenna in a reference position and comprises a bracket incorporating a bracket arm being conformable to one or more walls of the antenna, and a mounting brace substantially perpendicular to the bracket arm, together with a securing means attached to the bracket and a tightening mechanism and an alignment device as is more fully detailed in the claims of the '779 Patent.

18. At least as early as sometime within the past year, SunSight began sales of their AAT-30, AAT-15 and AAT-08 products (“Infringing Products”), which for the first time incorporated a bracket arm which is conformable to one or more walls of an antenna.

19. Upon information and belief, the antenna alignment products manufactured and sold by Defendants that infringe the ‘779 Patent have generated significant sales and will continue to do so through the life of the ‘779 Patent, if not enjoined by this Court.

20. The Defendants thus implemented and, in the face of knowledge of the patent, continued and presently continue to willfully implement an infringement plan calculated to generate substantial sales depriving Multiwave of reasonable royalties and profits.

COUNT I

PATENT INFRINGEMENT

21. The Defendants have infringed and continue to infringe the ‘779 Patent either directly or indirectly through acts of contributory infringement or inducement in violation of 35 U.S.C. § 271, by making, using, selling, importing and/or offering to sell Infringing Products, namely antenna alignment products. Additional infringing models may be identified through discovery.

22. The Defendants’ infringement, contributory infringement and/or inducement to infringe has injured Multiwave, and Multiwave is therefore entitled to recover damages adequate to compensate Multiwave for such infringement, including lost profits, but in no event less than a reasonable royalty.

23. The Defendants' infringement, contributory infringement and/or inducement to infringe has been willful and deliberate because the Defendants have had notice of or knew of the '779 Patent and have nonetheless continued to willfully infringe and injure and will continue to injure Multiwave, unless and until this Court enters an injunction, which prohibits further infringement and specifically enjoins further manufacture, use, sale, importation and/or offer for sale of products or services that come within the scope of the '779 Patent.

JURY DEMAND

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Multiwave requests a trial by jury on all issues presented that can properly be tried to a jury.

PRAYER FOR RELIEF

WHEREFORE, Multiwave asks this Court to enter judgment against SunSight Instruments, SunSight Industries and SunSight Holdings and against their subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with them, granting the following relief:

- A. An award of damages adequate to compensate Multiwave for the infringement that has occurred, together with prejudgment interest from the date infringement began;
- B. All other damages permitted by 35 U.S.C. § 284;
- C. A finding that the infringement complained of herein has been willful, and an award of three times the amount found in actual damages;

- D. A finding that this case is exceptional and an award to Multiwave of Multiwave's attorneys' fees and costs as provided by 35 U.S.C. § 285;
- E. An injunction prohibiting further infringement, inducement and contributory infringement of the '779 Patent; and
- F. Such other and further relief as this Court or a jury may deem proper and just.

Dated: February 15, 2016

Respectfully submitted,

/s/ Anthony H. Handal

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