

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

POLYGROUP MACAU LIMITED (BVI),)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 3:15-cv-552
)	
WILLIS ELECTRIC CO., LTD.,)	TRIAL BY JURY IS DEMANDED
)	
Defendant.)	

SECOND AMENDED COMPLAINT

1. This is an action for infringement of United States Patent Nos. 6,794,825 (the “’825 Patent”), 8,863,416 (the “’416 Patent”), 8,959,810 (the “’810 Patent”) and 9,119,495 (the “’495 Patent”) (collectively, the “Patents-in-Suit”) arising from Defendant Willis Electric Co., Ltd.’s (“Defendant”) manufacture, use, offer for sale, sale and importation of its infringing “pre-lit” artificial Christmas trees, which compete directly with the patented QuickSet Christmas trees and SureBright light string system marketed, distributed and sold by Plaintiff Polygroup Macau Limited (BVI) (“Polygroup”).

PARTIES

2. Polygroup is a British Virgin Islands company with offices located at Offshore Incorporations Centre, P.O. Box 957, Road Town, Tortola, British Virgin Islands. Polygroup owns by assignment the entire right, title and interest in and to the ’825 Patent, the ’416 Patent, the ’810 Patent and the ’495 Patent, including the right to bring this suit for injunctive relief and damages.

3. Upon information and belief, Defendant is a Taipei, Taiwan limited company located at 8F, No. 310, Sec. 4, Zhongxiao E. Rd., Taipei 10694 Taiwan.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a), as this action arises under the patent laws of the United States.

5. This Court has personal jurisdiction over Defendant because it has transacted business and committed acts of infringement in this district, and this action arises from that transaction of business and infringement.

6. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b). Defendant has transacted business and committed acts of infringement in this district, and this action arises from that transaction of business and infringement.

7. Specifically, Defendant has established distribution channels with well-known nationwide retailers, including Lowe's Companies, Inc. ("Lowe's"), headquartered at 1000 Lowe's Blvd., Mooresville, North Carolina, which is in this judicial district. Defendant directly offers for sale, sells and imports its products, including its infringing Christmas trees, to Lowe's and other nationwide retailers.

8. Lowe's is one of only three U.S.-based companies to whom Defendant directly sells its products. Defendant's employees travel to the United States on average once or twice a year to visit direct customers, and have visited Lowe's retail stores in Charlotte, North Carolina, within this judicial district.

9. With respect to some of the claims involved in this suit, Defendant has previously stipulated that it is subject to specific personal jurisdiction in North Carolina and that North Carolina is a suitable venue for this suit.

FACTUAL BACKGROUND

A. The Artificial Christmas Tree and Light String System Industry

10. Polygroup markets, distributes and sells artificial pre-lit Christmas trees and light string systems to retailers in the United States, including its patented QuickSet Christmas tree and patented SureBright light string system. The SureBright light string system is sold individually, or more commonly, as part of pre-lit Christmas trees and other products.

11. Defendant manufactures, uses, offers for sale, sells and imports artificial pre-lit Christmas trees (Defendant's "Infringing Pre-Lit Trees") to retailers in the United States, including in this judicial district. Defendant's Infringing Pre-Lit Trees infringe one or more claims of the Patents-in-Suit.

12. Defendant's Infringing Pre-Lit Trees include all Willis "One Plug" or "Quick Connect" artificial trees, including but not limited to the following specific models of trees: Holiday Living # 17, Holiday Living # 18, the Holiday Living # 20, Jaclyn Smith Collection #64A, Jaclyn Smith Collection #64B, Jaclyn Smith Collection #77A, Jaclyn Smith Collection #77B, Jaclyn Smith Collection #81A and Jaclyn Smith Collection #81B, all of which are manufactured, distributed, offered for sale, sold and imported to retailers in the United States, including to Lowe's, headquartered in this judicial district.

13. Defendant's Infringing Pre-Lit Trees compete directly with those marketed, distributed and sold by Polygroup to retailers in the United States.

B. The Patents-in-Suit

14. The '825 Patent, entitled "Decorative Tree with Electronic Light Controller," issued on September 21, 2004. (A true and correct copy of the '825 Patent is attached hereto as Exhibit 1.)

15. The '416 Patent, entitled "Powered Tree Construction," issued on October 21, 2014. (A true and correct copy of the '416 Patent is attached hereto as Exhibit 2.)

16. The '810 Patent, entitled "Powered Tree Construction," issued on February 24, 2015. (A true and correct copy of the '810 Patent is attached hereto as Exhibit 3.)

17. The '495 Patent, entitled "Powered Tree Construction," issued on September 1, 2015. (A true and correct copy of the '495 Patent is attached hereto as Exhibit 4.)

18. Defendant has infringed, contributed to and induced infringement of the Patents-in-Suit, and Defendant is infringing and is inducing the infringement of the Patents-in-Suit, by making, using, selling, offering to sell and importing into the United States its Infringing Pre-Lit Trees.

COUNT I
(Infringement of the '825 Patent)

19. Polygroup repeats each allegation of paragraphs 1 through 18 as if fully set forth herein.

20. Defendant has directly infringed the '825 Patent by making, using, offering to sell, selling and/or importing its "LED Multi-Function Trees," which infringe at least claim 1 of the '825 Patent. All of Defendant's LED Multi-Function Trees infringe at least claim 1 of the '825 Patent in substantially the same way. Defendant's Willis LED Multi-Function Trees include, but are not limited to, the Diamond Peak Tree.

21. Claim element 1(a) of the '825 Patent recites “A display control means for a plurality of electrical light elements on a decorative tree comprising.” Defendant’s LED Multi-Function Trees, including, for example, the Diamond Peak Tree, are decorative trees and include a control means used to control the lighting elements on the tree, as shown below:



22. Claim element 1(b) of the '825 Patent recites “said decorative tree is formed of top, middle and bottom portions.” Defendant’s LED Multi-Function Trees, including, for example, the Diamond Peak Tree, are formed of top, middle and bottom portions, as shown below:



23. Claim element 1(c) of the '825 Patent recites “said electrical light elements are arranged in at least three separate and independent sets, one set of light elements for each of said tree portions.” Each of the bottom, middle and top portions of Defendant’s LED Multi-Function Trees, including for example, the bottom, middle and top portions of the Diamond Peak Tree, for example, has its own separate and independent light set.

24. Claim element 1(d) of the '825 Patent recites “said control means has electronic circuit means adapted to receive electrical power from a power source and to supply such power to said light element sets in a desired selectable sequence to provide a variety of light displays

for said tree.” Defendant’s LED Multi-Function Trees meet this element of claim 1 of the ’825 Patent. Defendant advertises that its Diamond Peak Tree, for example, has eleven different lighting functions and that the user can change the light patterns on the tree at anytime “with a simple turn of the switch.”

25. Claim element 1(e) of the ’825 Patent recites “said control means includes a switch means for choosing said desired sequence.” Defendant’s LED Multi-Function Trees meet this element of claim 1 of the ’825 Patent. Defendant advertises that the Diamond Peak Tree, for example, has eleven different lighting functions and that the user can change the light patterns on the tree at anytime “with a simple turn of the switch.”

26. Defendant indirectly infringes the ’825 Patent by inducing others, such as distributors, wholesalers, retailers, importers and end users, to infringe the ’825 Patent in this District and elsewhere in the United States, in violation of 35 U.S.C. § 271(b).

27. Defendant had knowledge of the ’825 Patent at least as early as October 1, 2015, when Defendant identified the ’825 Patent in an Information Disclosure Statement to the U.S. Patent and Trademark Office during prosecution of Defendant’s Pat. App. No. 14/524,885.

28. Defendant has induced and continues to induce infringement of the ’825 Patent by intending that others infringe the ’825 Patent by making, using, offering to sell, selling and/or importing Defendant’s LED Multi-Function Trees.

29. Defendant designed its LED Multi-Function Trees such that they would each infringe one or more claims of the ’825 Patent.

30. Defendant provides its LED Multi-Function Trees to others, such as distributors, wholesalers, retailers, importers and end users with the intent that its LED Multi-Function Trees be made, used, offered for sale, sold and/or imported in the United States.

31. Defendant specifically targets the United States market for its LED Multi-Function Trees and actively induces others, such as distributors, wholesalers, retailers, importers and end users to directly infringe one or more claims of the '825 Patent by making, using, offering to sell, selling and/or importing its LED Multi-Function Trees.

32. Defendant also provides others, such as distributors, wholesalers, retailers, importers and end users, with instructions, user guides and technical specifications for its LED Multi-Function Trees. When others follow such instructions, user guides and/or technical specifications, they directly infringe one or more claims of the '825 Patent.

33. Defendant knows that by providing such instructions, user guides and/or technical specifications, others, such as distributors, wholesalers, retailers, importers and end users, follow those instructions, user guides and/or technical specifications, and directly infringe the '825 Patent. Defendant thus knows and intends that its actions actively induce infringement.

34. Defendant's infringement of the '825 Patent has been and continues to be willful and deliberate.

35. As a result of Defendant's infringement of the '825 Patent, Polygroup has suffered substantial monetary damages, although a monetary award is inadequate to fully compensate Polygroup for the harm it has suffered.

36. As a result of Defendant's infringement of the '825 Patent, Polygroup has suffered irreparable harm, and will continue to suffer irreparable harm unless that infringement is enjoined by this Court.

COUNT II
(Infringement of the '416 Patent)

37. Polygroup repeats each allegation of paragraphs 1 through 36 as if fully set forth herein.

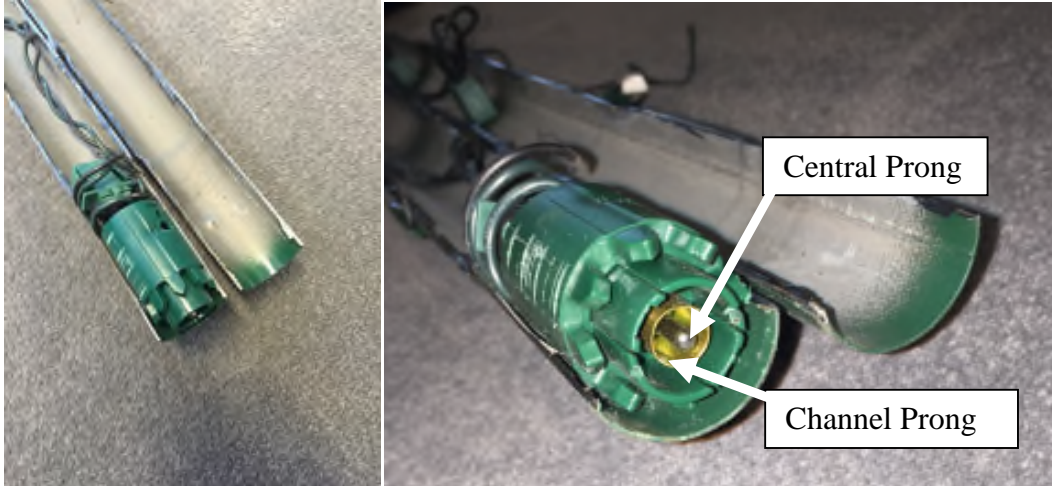
38. Defendant has directly infringed the '416 Patent by making, using, offering to sell, selling and/or importing its Infringing Pre-Lit Trees. Defendant's Infringing Pre-Lit Trees infringe at least claim 1 of the '416 Patent in substantially the same way.

39. Claim element 1(a) of the '416 Patent recites "An artificial tree." Defendant's Infringing Pre-Lit Trees are artificial trees. The Holiday Living #20 Tree, for example, is an artificial Christmas tree.

40. Claim element 1(b) of the '416 Patent recites "a plurality of tree trunk sections, the trunk sections forming a trunk of the artificial tree." Defendant's Infringing Pre-Lit Trees, including, for example, the Holiday Living #20 Tree, comprise a plurality of tree trunk sections forming a trunk of an artificial tree.

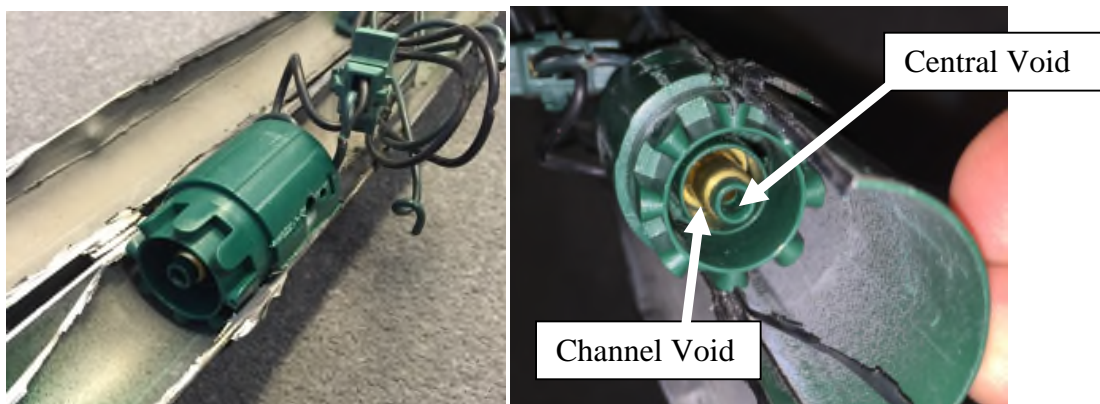
41. Claim element 1(c) of the '416 Patent recites "a first power distribution subsystem disposed within an inner void of a first trunk section of the plurality of tree trunk sections, the first power distribution subsystem comprising a male end, the male end having a central prong and a channel prong."

42. Defendant's Infringing Pre-Lit Trees, include a first power distribution subsystem disposed within an inner void of a first trunk section of the plurality of tree trunk sections, the first power distribution subsystem comprising a male end, the male end having a central prong and a channel prong. The Holiday Living #20 Tree, for example, includes a first power distribution system within an inner void at the bottom end of the middle trunk section of the tree. That power distribution system includes a male end with a central prong and a channel prong, as shown below:



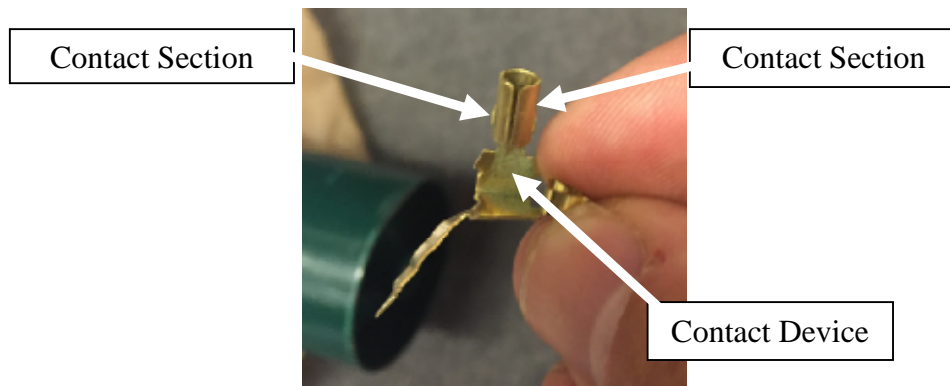
43. Claim element 1(d) of the '416 Patent recites “a second power distribution subsystem disposed within an inner void of a second trunk section of the plurality of tree trunk sections, the second power distribution subsystem comprising a female end, the female end having a central void and a channel void.”

44. Defendant’s Infringing Pre-Lit Trees include a second power distribution subsystem disposed within an inner void of a second trunk section of the plurality of tree trunk sections, the second power distribution subsystem comprising a female end, the female end having a central void and a channel void. The Holiday Living #20 Tree, for example, has a second power distribution system within an inner void at the top end of the bottom trunk section of the tree which includes a female end with a central void and a channel void, as shown below:



45. Claim element 1(e) of the '416 Patent recites “the central void having a contact device disposed at least partially therein, the contact device comprising one or more spring activated contact sections.”

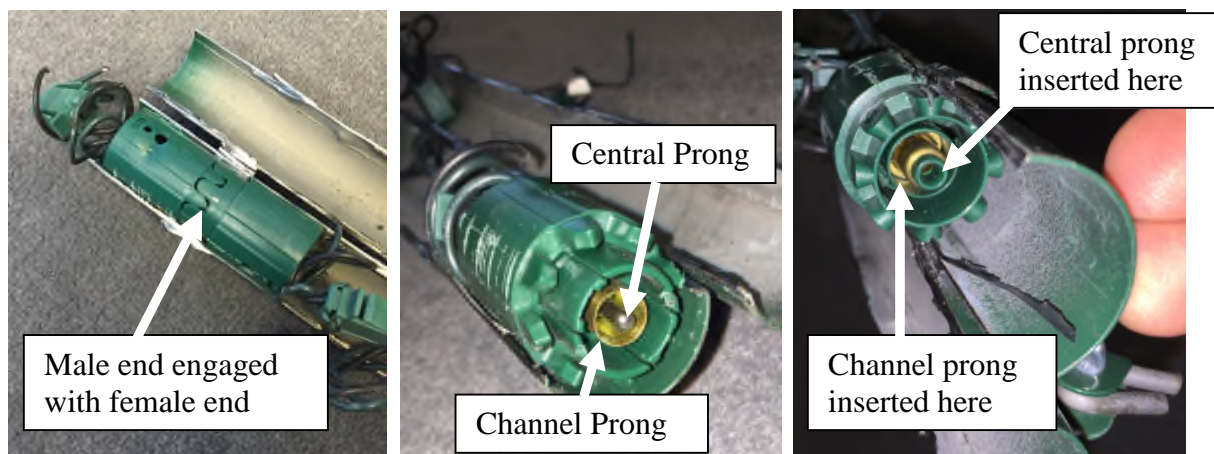
46. Defendant’s Infringing Pre-Lit Trees include a central void having a contact device disposed at least partially therein, the contact device comprising one or more spring activated contact sections. The central void of the second power distribution system of the Holiday Living #20 Tree, for example, contains a contact device that has two sections, as shown, that utilize spring action when flexed outward by the central prong of the male end, as shown below:



47. Claim element 1(f) of the '416 Patent recites “wherein the central prong of the male end is configured to engage the central void of the female end and the channel prong of the male end is configured to engage the channel void of the female end to conduct electricity between the first power distribution subsystem and the second power distribution subsystem.”

48. Defendant’s Infringing Pre-Lit Trees are designed so that the central prong of the male end is configured to engage the central void of the female end and the channel prong of the male end is configured to engage the channel void of the female end to conduct electricity between the first power distribution subsystem and the second power distribution subsystem. When the bottom section of the Holiday Living #20 Tree, for example, is joined to the middle

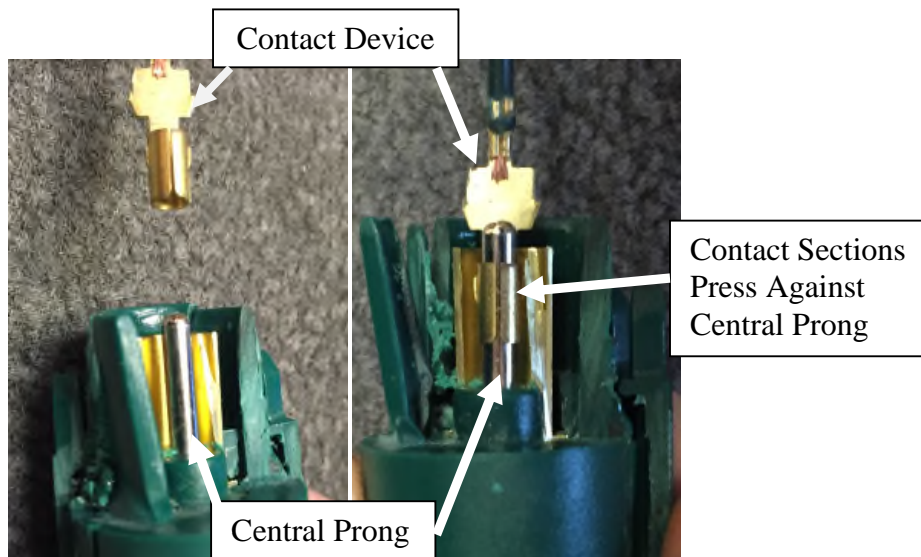
section, and when the middle section is joined to the top section, the central prong of the male end of the first power distribution system engages the central void of the female end of the second power distribution system, and the channel prong of the male end of the first power distribution system engages the channel void of the female end of the second power distribution system to conduct electricity between the first power distribution system and the second power distribution system, as shown below:



49. Claim element 1(g) of the '416 Patent recites “wherein, when the central prong engages the central void, the central prong pushes a spring activated contact section of the one or more spring activated contact sections causing the spring activated contact section to press against the central prong to maintain electrical contact between the central prong and the contact device.”

50. Defendant’s Infringing Pre-Lit Trees are designed so that when the central prong of the male end engages the central void of the female end, the central prong pushes the spring activated contact sections of the contact device outward, causing the contact sections to use spring action to press against the central prong to maintain electrical contact between the central prong and the contact device. The spring tendency of the contact sections to maintain their shape causes the two sections to press inwardly against the prong. As the central prong of the male end

of the Holiday Living #20 Tree, for example, is inserted into the central void of the female end, the prong pushes the contact sections of the contact device in the female end outward, causing the contact sections to use spring action to spring back against the prong to maintain electrical contact, as shown below:



51. Defendant indirectly infringes the '416 Patent by inducing others, such as distributors, wholesalers, retailers, importers and end users, to infringe the '416 Patent in this District and elsewhere in the United States, in violation of 35 U.S.C. § 271(b).

52. Defendant had knowledge of the '416 Patent at least as early as October 1, 2015, when Defendant identified the '416 Patent in an Information Disclosure Statement to the U.S. Patent and Trademark Office during prosecution of Defendant's Pat. App. No. 14/524,885.

53. Defendant has induced and continues to induce infringement of the '416 Patent by intending that others infringe the '416 Patent by making, using, offering to sell, selling and/or importing Defendant's Infringing Pre-Lit Trees.

54. Defendant designed its Infringing Pre-Lit Trees such that they would each infringe one or more claims of the '416 Patent.

55. Defendant provides its Infringing Pre-Lit Trees to others, such as distributors, wholesalers, retailers, importers and end users with the intent that its Infringing Pre-Lit Trees be made, used, offered for sale, sold and/or imported in the United States.

56. Defendant specifically targets the United States market for its Infringing Pre-Lit Trees and actively induces others, such as distributors, wholesalers, retailers, importers and end users to directly infringe one or more claims of the '416 Patent by making, using, offering to sell, selling and/or importing its Infringing Pre-Lit Trees.

57. Defendant also provides others, such as distributors, wholesalers, retailers, importers and end users, with instructions, user guides and technical specifications for its Infringing Pre-Lit Trees. When others follow such instructions, user guides, and/or technical specifications, they directly infringe one or more claims of the '416 Patent.

58. Defendant knows that by providing such instructions, user guides and/or technical specifications, others, such as distributors, wholesalers, retailers, importers and end users, follow those instructions, user guides and/or technical specifications, and directly infringe the '416 Patent. Defendant thus knows and intends that its actions actively induce infringement.

59. Defendant's infringement of the '416 Patent has been and continues to be willful and deliberate.

60. As a result of Defendant's infringement of the '416 Patent, Polygroup has suffered substantial monetary damages, although a monetary award is inadequate to fully compensate Polygroup for the harm it has suffered.

61. As a result of Defendant's infringement of the '416 Patent, Polygroup has suffered irreparable harm, and will continue to suffer irreparable harm unless that infringement is enjoined by this Court.

COUNT III
(Infringement of the '810 Patent)

62. Polygroup repeats each allegation of paragraphs 1 through 61 as if fully set forth herein.

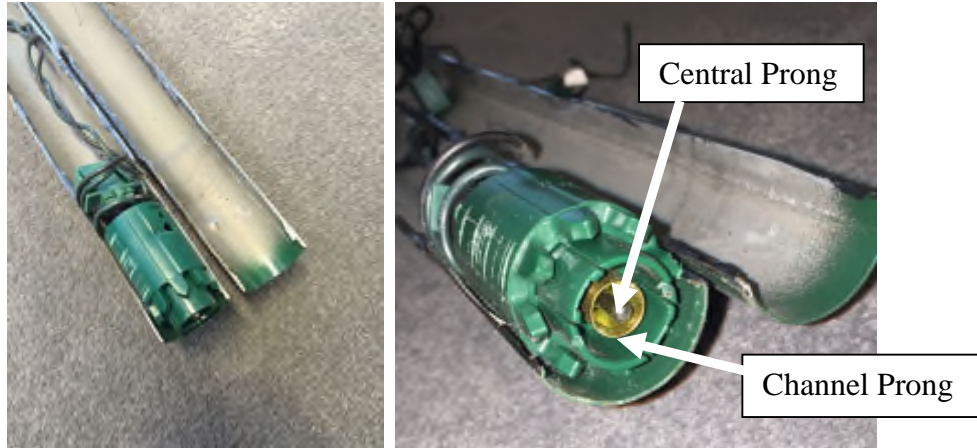
63. Defendant has directly infringed the '810 Patent by making, using, offering to sell, selling and/or importing its Infringing Pre-Lit Trees. Defendant's Infringing Pre-Lit Trees infringe at least claim 1 of the '810 Patent in substantially the same way.

64. Claim element 1(a) of the '810 Patent recites "An artificial tree." Defendant's Infringing Pre-Lit Trees are artificial trees. The Holiday Living #20 Tree, for example, is an artificial Christmas tree.

65. Claim element 1(b) of the '810 Patent recites "a plurality of tree trunk sections." Defendant's Infringing Pre-Lit Trees, including, for example, the Holiday Living #20 Tree, comprise a plurality of tree trunk sections.

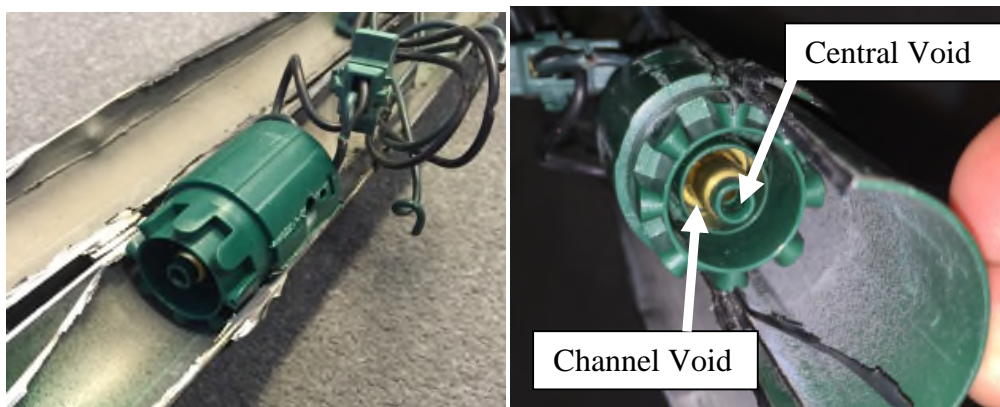
66. Claim element 1(c) of the '810 Patent recites "a male end of a first trunk section of the plurality of tree trunk sections, the male end having a central prong and a channel prong, the central prong and the channel prong configured to conduct electricity."

67. Defendant's Infringing Pre-Lit Trees include a male end of a first tree trunk section having a central prong and a channel prong which are configured to conduct electricity. The Holiday Living #20 Tree, for example, includes a male end at the bottom end of the middle trunk section of the tree that has a central prong and a channel prong configured to conduct electricity, as shown below:



68. Claim element 1(d) of the '810 Patent recites “a female end of a second trunk section of the plurality of tree trunk sections, the female end having a central void and a channel void.”

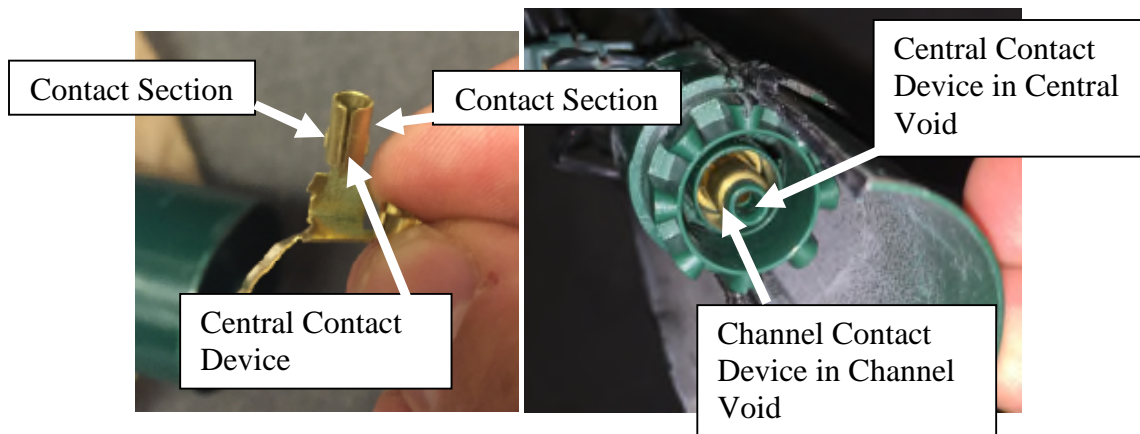
69. Defendant’s Infringing Pre-Lit Trees include a female end of a second trunk section having a central void and a channel void. The Holiday Living #20 Tree, for example, includes a female end at the top end of the bottom trunk section of the tree with a central void and a channel void, as shown below:



70. Claim element 1(e) of the '810 Patent recites “the central void having a central contact device disposed at least partially therein, the central contact device comprising one or more spring activated contact sections, the channel void having a channel contact device

disposed at least partially therein, the central contact device and the channel contact device configured to conduct electricity.”

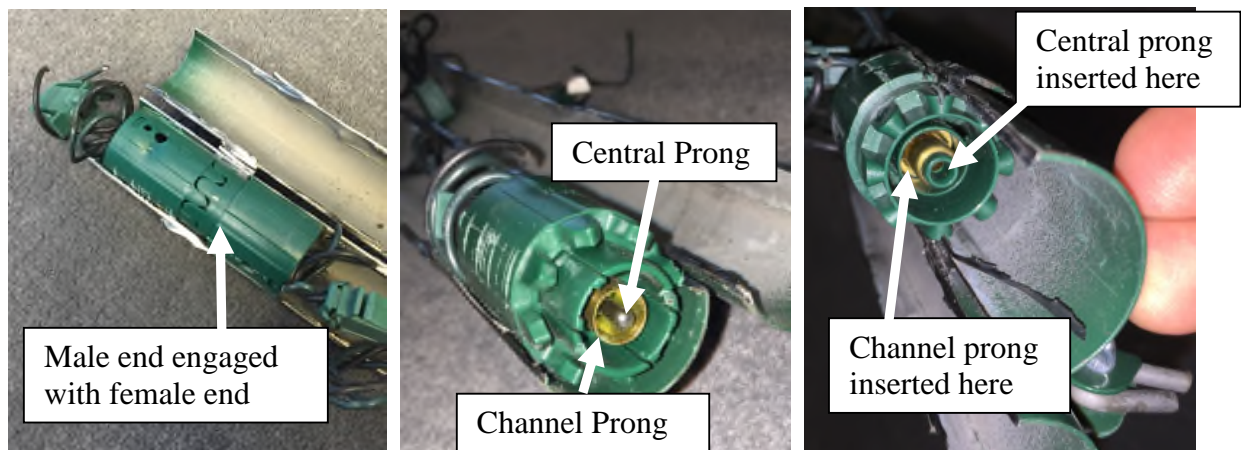
71. Defendant’s Infringing Pre-Lit Trees have a central contact device and a channel contact device in the female end that meets this element of claim 1 of the ’810 patent. The Holiday Living #20 Tree, for example, includes a central contact device inside of the central void which has one or more spring activated contact sections and a channel contact device in the channel void, as shown below. Both the central contact device and the channel contact device in the Holiday Living #20 Tree are configured to conduct electricity.



72. Claim element 1(f) of the ’810 Patent recites “wherein the central prong of the male end is configured to engage the central contact device of the female end and the channel prong of the male end is configured to engage the channel contact device of the female end to conduct electricity between the male end of the first trunk section and the female end of the second trunk section.”

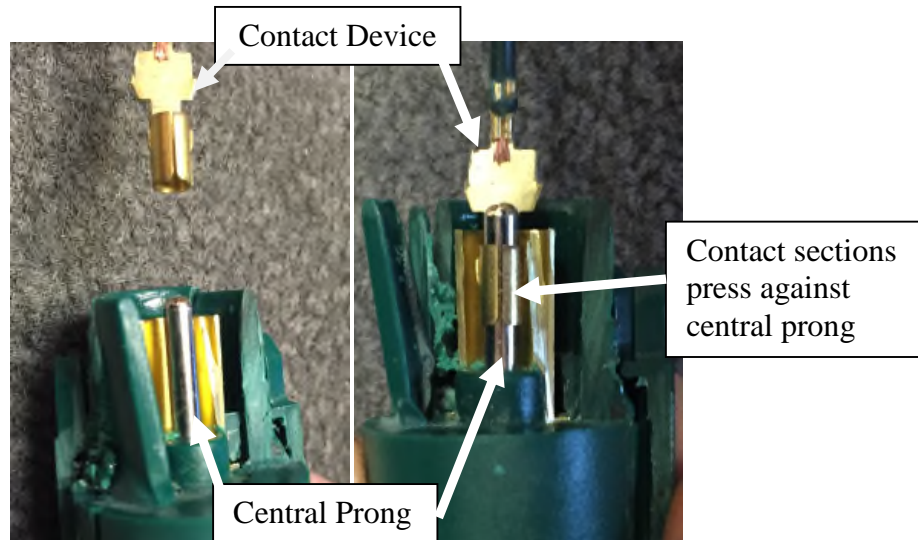
73. The central prong of the male end of Defendant’s Infringing Pre-Lit Trees engages the central contact device of the female end, and the channel prong of the male end engages the channel contact device of the female end to conduct electricity between the male end of the first trunk section and the female end of the second trunk section. The central prong of the

male end of the Holiday Living #20 Tree, for example, engages the central contact device of the female end and the channel prong of the male end engages the channel contact device of the female end to conduct electricity between the ends of the two trunk sections, as shown below:



74. Claim element 1(g) of the '810 Patent recites “wherein, when the central prong engages the central contact device, the central prong pushes a spring activated contact section of the one or more spring activated contact sections causing the spring activated contact section to press against the central prong to maintain electrical contact between the central prong and the central contact device.”

75. Defendant’s Infringing Pre-Lit Trees are designed so that when the central prong of the male end engages the central contact device of the female end, the central prong pushes the spring activated contact sections outward, causing the contact sections to press against the central prong to maintain electrical contact between the central prong and the contact device. The spring tendency of the contact sections to maintain their shape causes the two sections to press inwardly against the prong. As the central prong of the Holiday Living #20 Tree, for example, is inserted into the central void of the female end, the prong pushes the contact sections of the contact device in the female end outward, causing the contact sections to use spring action to spring back against the prong to maintain electrical contact, as shown below:



76. Defendant indirectly infringes the '810 Patent by inducing others, such as distributors, wholesalers, retailers, importers and end users, to infringe the '810 Patent in this District and elsewhere in the United States, in violation of 35 U.S.C. § 271(b).

77. Defendant had knowledge of the '810 Patent at least as early as October 1, 2015, when Defendant identified the '810 Patent in an Information Disclosure Statement to the U.S. Patent and Trademark Office during prosecution of Defendant's Pat. App. No. 14/524,885.

78. Defendant has induced and continues to induce infringement of the '810 Patent by intending that others infringe the '810 Patent by making, using, offering to sell, selling and/or importing Defendant's Infringing Pre-Lit Trees.

79. Defendant designed its Infringing Pre-Lit Trees such that they would each infringe one or more claims of the '810 Patent.

80. Defendant provides its Infringing Pre-Lit Trees to others, such as distributors, wholesalers, retailers, importers and end users with the intent that its Infringing Pre-Lit Trees be made, used, offered for sale, sold and/or imported in the United States.

81. Defendant specifically targets the United States market for its Infringing Pre-Lit Trees and actively induces others, such as distributors, wholesalers, retailers, importers and end

users to directly infringe one or more claims of the '810 Patent by making, using, offering to sell, selling and/or importing its Infringing Pre-Lit Trees.

82. Defendant also provides others, such as distributors, wholesalers, retailers, importers and end users, with instructions, user guides and technical specifications for its Infringing Pre-Lit Trees. When others follow such instructions, user guides, and/or technical specifications, they directly infringe one or more claims of the '810 Patent.

83. Defendant knows that by providing such instructions, user guides and/or technical specifications, others, such as distributors, wholesalers, retailers, importers and end users, follow those instructions, user guides and/or technical specifications, and directly infringe the '810 Patent. Defendant thus knows and intends that its actions actively induce infringement.

84. Defendant's infringement of the '810 Patent has been and continues to be willful and deliberate.

85. As a result of Defendant's infringement of the '810 Patent, Polygroup has suffered substantial monetary damages, although a monetary award is inadequate to fully compensate Polygroup for the harm it has suffered.

86. As a result of Defendant's infringement of the '810 Patent, Polygroup has suffered irreparable harm, and will continue to suffer irreparable harm unless that infringement is enjoined by this Court.

COUNT IV
(Infringement of the '495 Patent)

87. Polygroup repeats each allegation of paragraphs 1 through 86 as if fully set forth herein.

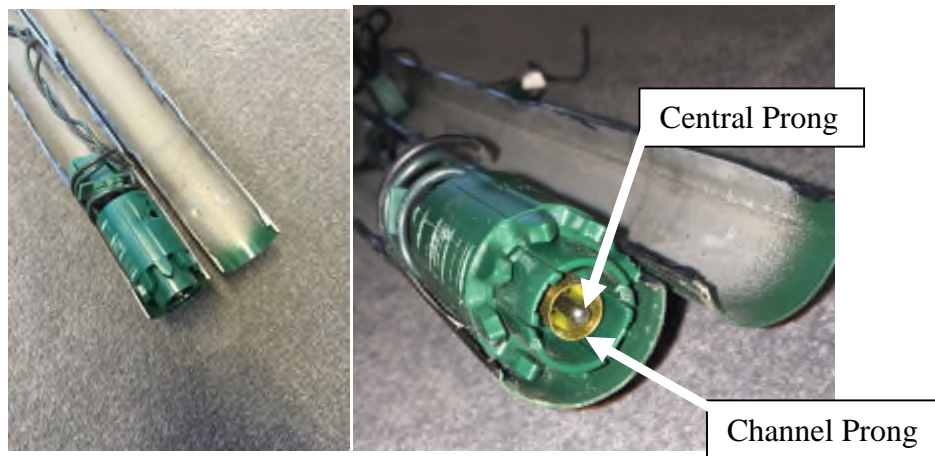
88. Defendant has directly infringed the '495 Patent by making, using, offering to sell, selling and/or importing its Infringing Pre-Lit Trees. Defendant's Infringing Pre-Lit Trees infringe at least claim 1 of the '495 Patent in substantially the same way.

89. Claim element 1(a) of the '495 Patent recites "An artificial tree." Defendant's Infringing Pre-Lit Trees are artificial trees. The Holiday Living #20 Tree, for example, is an artificial Christmas tree.

90. Claim element 1(b) of the '495 Patent recites "a plurality of tree trunk sections." Defendant's Infringing Pre-Lit Trees, including, for example, the Holiday Living #20 Tree, comprise a plurality of tree trunk sections.

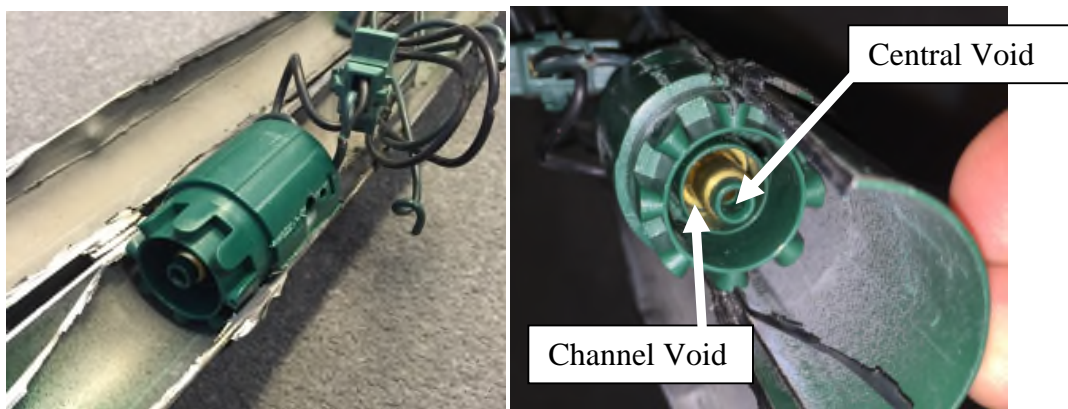
91. Claim element 1(c) of the '495 Patent recites "a male end of a first trunk section of the plurality of tree trunk sections, the male end having a central prong and a channel prong, the central prong and the channel prong configured to conduct electricity."

92. Defendant's Infringing Pre-Lit Trees include a male end of a first tree trunk section having a central prong and a channel prong which are configured to conduct electricity. The Holiday Living #20 Tree, for example, includes a male end at the bottom end of the middle trunk section that has a central prong and a channel prong configured to conduct electricity, as shown below:



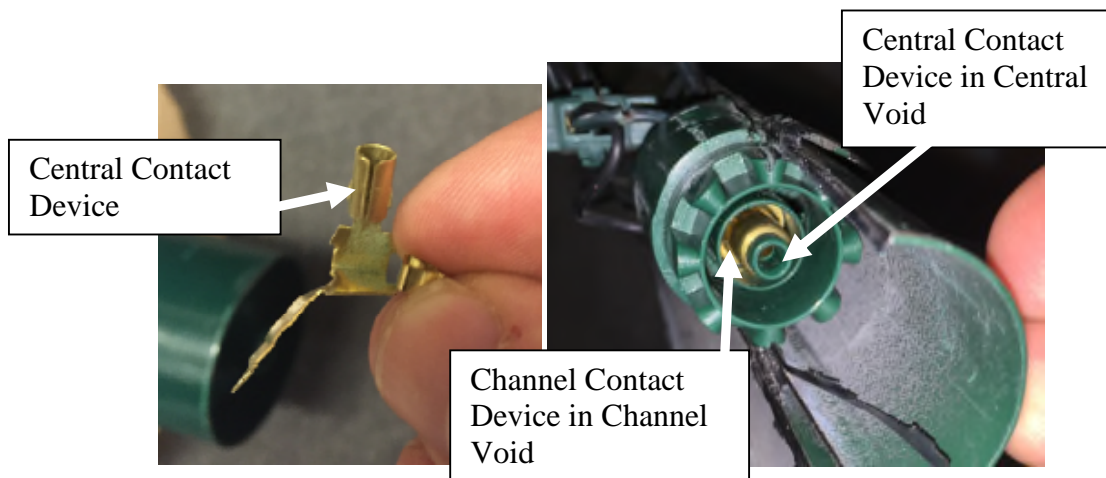
93. Claim element 1(d) of the '495 Patent recites “a female end of a second trunk section of the plurality of tree trunk sections, the female end having a central void and a channel void.”

94. Defendant’s Infringing Pre-Lit Trees include a female end of a second trunk section having a central void and a channel void. The Holiday Living #20 Tree, for example, includes a female end with a central void and a channel void at the top end of the bottom trunk section, as shown below:



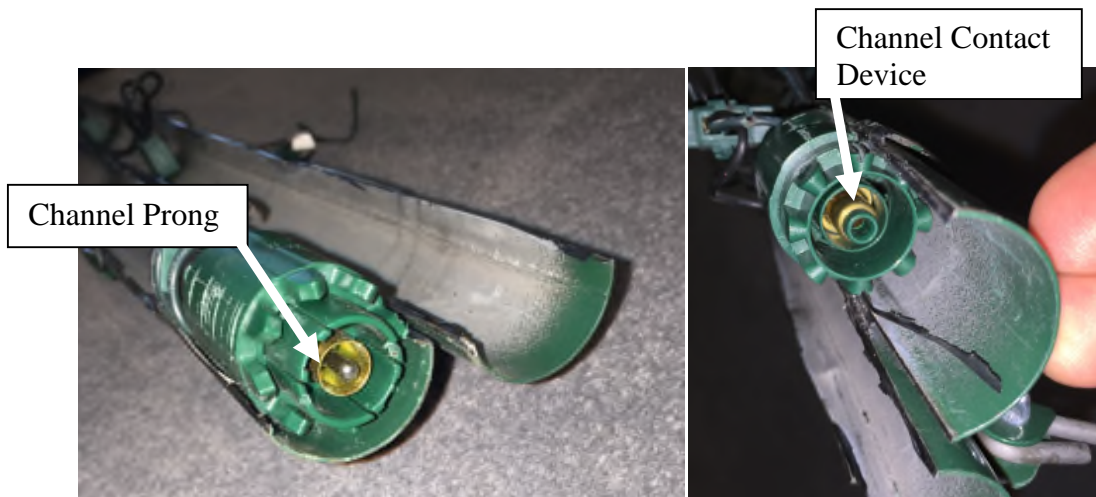
95. Claim element 1(e) of the '495 Patent recites “the central void having a central contact device disposed at least partially therein, and the channel void having a channel contact device disposed at least partially therein, the channel contact device disposed around the central void, and the central contact device and the channel contact device configured to conduct electricity.”

96. Defendant’s Infringing Pre-Lit Trees meet this element of claim 1 of the '495 patent. The Holiday Living #20 Tree, for example, includes a central contact device inside of a central void and a channel contact device in a channel void and surrounding a central void, as shown below. Both the central contact device and the channel contact device in the Holiday Living #20 Tree are configured to conduct electricity.



97. Claim element 1(f) of the '495 Patent recites “wherein the channel prong of the male end is configured to engage the channel contact device of the female end in a plurality of configurations, each configuration providing a different rotational alignment of the first trunk section with respect to the second trunk section.”

98. The channel prong of the male end of Defendant’s Infringing Pre-Lit Trees is configured to engage the channel contact device of the female end in a plurality of configurations, with each configuration providing a different rotational alignment of the first trunk section with respect to the second trunk section. In the Holiday Living #20 Tree, for example, the channel prong of the male end is circular and so is designed to engage the channel contact device in a plurality of configurations corresponding to different rotational alignments of the first trunk section with respect to the second trunk section, as shown below:



99. Defendant indirectly infringes the '495 Patent by inducing others, such as distributors, wholesalers, retailers, importers and end users, to infringe the '495 Patent in this District and elsewhere in the United States, in violation of 35 U.S.C. § 271(b).

100. On information and belief, Defendant has had knowledge of the '495 Patent at least as early as October 1, 2015, when Defendant identified the published application that issued as the '495 Patent – Pub. App. No. 2015/0157159 – in an Information Disclosure Statement to the U.S. Patent and Trademark Office during prosecution of Defendant's Pat. App. No. 14/524,885.

101. Defendant has induced and continues to induce infringement of the '495 Patent by intending that others infringe the '495 Patent by making, using, offering to sell, selling and/or importing Defendant's Infringing Pre-Lit Trees.

102. Defendant designed its Infringing Pre-Lit Trees such that they would each infringe one or more claims of the '495 Patent.

103. Defendant provides its Infringing Pre-Lit Trees to others, such as distributors, wholesalers, retailers, importers and end users with the intent that its Infringing Pre-Lit Trees be made, used, offered for sale, sold and/or imported in the United States.

104. Defendant specifically targets the United States market for its Infringing Pre-Lit Trees and actively induces others, such as distributors, wholesalers, retailers, importers and end users to directly infringe one or more claims of the '495 Patent by making, using, offering to sell, selling and/or importing its Infringing Pre-Lit Trees.

105. Defendant also provides others, such as distributors, wholesalers, retailers, importers and end users, with instructions, user guides and technical specifications for its

Infringing Pre-Lit Trees. When others follow such instructions, user guides, and/or technical specifications, they directly infringe one or more claims of the '495 Patent.

106. Defendant knows that by providing such instructions, user guides and/or technical specifications, others, such as distributors, wholesalers, retailers, importers and end users, follow those instructions, user guides and/or technical specifications, and directly infringe the '495 Patent. Defendant thus knows and intends that its actions actively induce infringement.

107. Defendant's infringement of the '495 Patent has been and continues to be willful and deliberate.

108. As a result of Defendant's infringement of the '495 Patent, Polygroup has suffered substantial monetary damages, although a monetary award is inadequate to fully compensate Polygroup for the harm it has suffered.

109. As a result of Defendant's infringement of the '495 Patent, Polygroup has suffered irreparable harm, and will continue to suffer irreparable harm unless that infringement is enjoined by this Court.

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Pro Hac Vice Applications to be Filed