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

**ENVIRONMENT SENSOR SYSTEMS
LLC**, a Texas Limited Liability Company,

Plaintiff,

v.

SWARM TECHNOLOGIES, LLC, a
Nevada Limited Liability Company; and
JOHN DOES 1 - 10,

Defendants

Civil Action No. 2:16-cv-00898-JRG-RSP

(JURY TRIAL DEMANDED)

AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Environment Sensor Systems LLC (***“Plaintiff”***) by and through its attorneys, makes and files this Complaint against Defendant Swarm Technologies, LLC, and John Does 1-

10. In support of this Complaint, Plaintiff alleges and complains as follows:

PARTIES

1. Plaintiff is a Texas Limited Liability Company.
2. Swarm Technologies, LLC (***“Swarm Tech”***), is a Nevada Limited Liability Company with its principal place of business at 4580 West Hacienda Avenue Las Vegas, NV 89119.
3. Swarm Tech can be served with process through its registered agent: Mark Archer, located at 4580 West Hacienda Avenue Las Vegas, NV 89119.

4. John Does 1 - 10, represent entities which may be identified through the course and scope of discovery.

JURISDICTION AND VENUE

5. On information and belief, Swarm Tech sells, offers to sell, and markets infringing products, including at least the SmartBee Hive Gateway (“**SmartBee Hive**”), the SmartBee LTH Sensor Module, and the SmartBee Water Content Sensor Module, through interactive websites that are available in the Eastern District of Texas. Exemplary websites include, but are not limited to, <http://www.store.smartbeecontrollers.com>; and <http://www.growershouse.com>.¹

6. On information and belief, Swarm Tech imports, offers to sell, sells, and otherwise places the infringing products, including at least the SmartBee Hive, the SmartBee LTH Sensor Module, and the SmartBee Water Content Sensor Module into the stream of commerce with intent that these products be sold, offered for sale, purchased, and used in the Eastern District of Texas, through both interactive Internet retail outlets, *e.g.*, through at least the website outlets identified above that sell infringing products to consumers in this district, and making the products available for retailers to sell through brick and mortar stores.

7. Swarm Tech represents on its website that the infringing products are available for purchase in the Dallas, TX area, specifically with the brick and mortar store retailer Abundant Harvest Hydroponics & Organics, located 3101 Avenue E Arlington, TX 76105, from which residents of the Eastern District of Texas may purchase the infringing products.

¹ <http://growershouse.com/catalogsearch/result/?q=smartbee>

8. By placing infringing products, including at least the SmartBee Hive, the SmartBee LTH Sensor Module, and the SmartBee Water Content Sensor Module into the stream of commerce with the intent that they be sold, offered for sale, purchased, and used, Swarm Tech has transacted and continues to transact business in Texas.

9. Swarm Tech has committed and/or induced acts of patent infringement in Texas, including the Eastern District of Texas, and/or has placed its infringing products into the stream of commerce through established distribution channels with the expectation that such products will be purchased and used by Texas residents, including residents of the Eastern District of Texas.

10. Swarm Tech has purposefully availed itself of the privileges and benefits of the laws of Texas and is therefore subject to the jurisdiction of this Court.

11. This Court has subject matter jurisdiction to hear the patent infringement claims under 28 U.S.C. § 1331.

12. Venue is proper in this District under 28 U.S.C. §§ 1391 and 1400 because, as described above, Defendant Swarm Tech has infringed and continues to infringe Plaintiff's patent rights within the Eastern District of Texas, and this action arises out of transactions of that business and infringement.

GENERAL ALLEGATIONS

13. Plaintiff owns U.S. Patent No. 7,231,298 (the "**'298 Patent**"), titled "Environment Detection System." A copy of the '298 Patent is attached as Exhibit A.

14. The application that eventually issued as the '298 Patent was filed on Jan. 22, 2004.

15. The '298 Patent issued on June 12, 2007.

16. Plaintiff is the owner, by assignment, of the '298 Patent, including all rights to sue for patent infringement.

17. As the owner of the '298 Patent, Plaintiff has standing to sue and recover for all past, present, and future damages for infringement of the '298 Patent.

18. The '298 Patent is directed to an environment detection device for detecting a plurality of environmental conditions, such as light, moisture and/or temperature.

CLAIM 1
(PATENT INFRINGEMENT—AGAINST ALL DEFENDENTS)

19. Plaintiff realleges and incorporates by reference, as if fully set forth herein, all other paragraphs herein.

20. Plaintiff has complied with 35 U.S.C. § 287.

21. Defendants, either alone or in conjunction with others, have infringed the '298 Patent by making, using, selling, offering to sell, and/or importing methods, systems, and/or apparatus, including but not limited to the SmartBee Hive, the SmartBee LTH Sensor Module, and the SmartBee Water Content Sensor Module that are covered by the claims of the '298 Patent; and/or have contributed to infringement; and/or have induced others to commit infringing acts.

22. The claims of the '298 Patent that Swarm Tech infringes include, but are not limited to, Claims 1, 2, 7, 9, 15, 17, and 19 by the SmartBee Hive Gateway ("**SmartBee Hive**"), the SmartBee LTH Sensor Module ("**SmartBee LTH Sensor**"), and the SmartBee Water Content Sensor Module ("**SmartBee Water Sensor**") (collectively the "***Infringing Products***"),

and may include other products and claims of infringement of the '298 Patent that may be identified through discovery.

23. As against the '298 Patent, the Infringing Products satisfy each and every element of the '298 Patent's apparatus claim 1:

- a. Swarm Tech produces the SmartBee Hive, the SmartBee LTH Sensor, and the SmartBee Water Sensor, which in combination comprise an apparatus for detecting a plurality of environmental conditions.
<https://www.smartbeecontrollers.com>.
- b. The SmartBee Hive, which in combination with the SmartBee LTH Sensor, comprises a housing unit containing a light sensor.
- c. The SmartBee Hive includes a memory storage device disposed in said housing unit.
- d. The SmartBee Hive, in combination with the SmartBee LTH Sensor includes a circuit board electrically connected to said light sensor and the memory storage device, and contained within the housing unit, said memory storage device storing data from said light sensor.
- e. The SmartBee Hive, in combination with the SmartBee Water Sensor, comprises at least one moisture probe physically connected to the housing unit, and electrically connected to the circuit board.

24. Plaintiff realleges and incorporates by reference the alleged infringement of the '298 Patent claim 1 above, and the Infringing Products satisfy each and every element of the '298 Patent's apparatus of claim 2:

- a. The SmartBee Hive, in combination with the SmartBee LTH Sensor, comprises the apparatus of claim 1, re-alleging and incorporating by reference the criteria of the '298 Patent claim 1, wherein said housing unit contains a temperature sensor.

25. Plaintiff realleges and incorporates by reference the alleged infringement of the '298 Patent claim 1 above, and the Infringing Products satisfy each and every element of the '298 Patent's apparatus of claim 7:

- a. The SmartBee Hive, in combination with the SmartBee LTH Sensor and the SmartBee Water Sensor, comprises the apparatus of claim 1, further comprising a battery in the housing unit.

26. Plaintiff realleges and incorporates by reference the alleged infringement of the '298 Patent claims 1 and 7 above, and the Infringing Products satisfy each and every element of the '298 Patent's apparatus of claim 9:

- a. The SmartBee Hive, in combination with the SmartBee LTH Sensor and the SmartBee Water Sensor, comprises the apparatus of claim 7 and further comprises at least one solar cell for recharging the battery.

27. Further as against the '298 Patent, the Infringing Products satisfy each and every element of the '298 Patent's method of claim 15:

- a. Swarm Tech produces the SmartBee Hive, the SmartBee LTH Sensor, and the SmartBee Water Sensor, which in combination comprise a control system for using an environment detection apparatus as an activation device for a sprinkler system.

- b. The SmartBee Hive, in combination with the SmartBee LTH Sensor, comprises a sunlight intensity sensor for providing a sunlight intensity reading.
- c. The SmartBee Hive comprises at least one logical operator producing an output to an actuator based on the sunlight intensity.
- d. The SmartBee Hive comprises an actuator activating the sprinkler system based on the output of the at least one logical operator.

28. Plaintiff realleges and incorporates by reference the alleged infringement of the '298 Patent claim 15 above, and the Infringing Products satisfy each and every element of the '298 Patent's method of claim 17 by:

- a. The SmartBee Hive, in combination with the SmartBee LTH Sensor and the SmartBee Water Sensor, comprises the control system of claim 15 further comprising a ground moisture sensor for providing a moisture reading for said logical operator

29. Further as against the '298 Patent, the Infringing Products satisfy each and every element of the '298 Patent's method of claim 19 by:

- a. Swarm Tech produces the SmartBee Hive, the SmartBee LTH Sensor, and the SmartBee Water Sensor, which in combination comprise an apparatus for detecting a plurality of environmental conditions.
- b. The SmartBee Hive, in combination with the SmartBee LTH Sensor, comprises a housing unit including a light sensor and a temperature sensor.

- c. The SmartBee Hive comprises a memory storage device disposed in said housing unit for storing data from said light sensor and from said temperature sensor.
- d. The SmartBee Hive, in combination with the SmartBee LTH Sensor comprises a circuit board electrically connected to said first sensor and said memory storage device, and contained within said housing unit.
- e. The SmartBee Hive, in combination with the SmartBee Water Sensor, comprises a second sensor including a moisture probe, physically connected to said housing unit and electrically connected to said circuit board.

30. Defendants have further infringed, and continue to so infringe, by knowingly inducing purchasers and users of the Infringing Products to directly infringe the '298 Patent.

31. Defendants have further infringed, and continue to so infringe, by knowingly providing to its end users Infringing Products which are especially made or especially adapted for infringement under the '298 Patent, which are a material part of the infringement, and for which there are no substantial non-infringing uses.

32. Defendants' infringing activities have injured and will continue to injure Plaintiff unless and until this Court enters an injunction prohibiting further infringement of the '298 Patent.

33. Defendants' infringing activities have damaged Plaintiff, which is entitled to recover from Defendants damages in an amount subject to proof at trial, but in no event less than a reasonable royalty.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests appropriate and just judgment against Defendants, including without limitation:

- I. An entry of final judgment in favor of Plaintiff against Defendants;
- II. An award of damages against Defendants adequate to compensate Plaintiff for the patent infringement that has occurred, but in no event less than a reasonable royalty under 35 U.S.C. § 284, together with prejudgment interest from the date the infringement began;
- III. An injunction permanently prohibiting Defendants from further infringement of the '298 Patent;
- IV. Treble damages against Defendants under 35 U.S.C. § 284 in view of the knowing, willful, and intentional nature of Defendants' patent infringing acts;
- V. An award to Plaintiff of its costs and expenses of this litigation, including its reasonable attorneys' fees and disbursements, under 35 U.S.C. § 285;
- VI. Such other further relief to which Plaintiff is entitled, and any other further relief that this Court or a jury may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands trial by jury on all claims and issues so triable.

Respectfully Submitted,

PIA ANDERSON MOSS HOYT

Dated: September 21, 2016

By: /s/ Joseph G. Pia
Joseph G. Pia
State Bar No. 24093854
joe.pia@pamhlaw.com

Robert E. Aycock (Pro Hac)
raycock@pamhlaw.com
Chrystal Mancuso-Smith (Pro Hac)
cmancuso@pamhlaw.com
Pia Anderson Moss Hoyt
136 E. South Temple, 19th Floor
Salt Lake City, Utah 84111
Phone: (801) 350-9000
Fax: (801) 350-9010

Charles Ainsworth
State Bar No. 00783521
charley@pbatyler.com
Parker, Bunt & Ainsworth, PC
100 E. Ferguson, Suite 1114
Tyler, Texas 75702
Phone: (903) 531-3535
Fax: (903) 533-9687

ATTORNEYS FOR PLAINTIFFS