

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

CANVS Corporation
1172 South Dixie Highway
Suite 364
Coral Gables, FL 33146

Plaintiff,

v.

HARRIS CORPORATION
1025 West NASA Boulevard
Melbourne, FL 32919

EXELIS, Inc.
1650 Tysons Blvd. Suite 1700
McLean, VA 22102

ITT CORPORATION
1133 Westchester Avenue
White Plains, NY, 10604

ITT DEFENSE ELECTRONICS
1650 Tysons Blvd., Suite 1700
McLean, VA 22102

EXELIS, Inc.
Night Vision & Communications Solutions
Formerly know as: ITT Night Vision
7635 Plantation Road
Roanoke, Virginia 24019-3222

Defendants

Civil Action No. _____

COMPLAINT FOR PATENT INFRINGEMENT

This is an action for infringement of United States Patent No. 6,911,652 is 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 HARRIS CORPORATION (Harris) ;

EXELIS, Inc. (Exelis); ITT Corporation (ITT); ITT Defense Electronics Division (ITT Defense); and EXELIS, Inc. Night Vision & Communications Solutions (Exelis Night Vision).

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 are engaged in making, using, selling and offering to sell advanced night vision products 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 personal jurisdiction over Defendants by virtue of, at a minimum, Defendants' 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 Defendants.

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 1172 South Dixie Highway, Suite 364, Coral Gables, FL 33146.

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. Upon information and belief, Defendant Harris is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business located at

1025 West NASA Blvd. , Melbourne, FL 32919. Defendant Harris maintains corporate headquarters and manufacturing facilities in Melbourne, Florida. Defendant Harris manufactures, uses, sells, and/or offers for sale in the United States, night vision devices that infringe one or more claims of the '652 Patent.

6. Upon information and belief, Defendant Exelis is a corporation, organized and existing under the laws of the State of Indiana, with a principal place of business located at 1650 Tysons Blvd., Suite 1700, McLean, VA 22102. Defendant Exelis maintains facilities in Tampa Bay, Palm Coast, Palm Harbor, Panama City and at Patrick Air Force Base in Florida. Defendant Exelis manufactures, uses, sells, and/or offers for sale in the United States, night vision devices that infringe one or more claims of the '652 Patent.

7. Upon information and belief, Defendant ITT is a corporation organized under the laws of the state of New York with a principal place of business at 1133 Westchester Avenue, White Plains, NY, 10604. Defendant ITT manufactured and or continues to manufacture, sold and or continues to sell, and/or offered or continues to offer for sale in the United States, night vision devices that infringe one or more claims of the '652 Patent.

8. Upon information and belief, Defendant ITT Defense is a legal entity that was and/or remains a division of Defendant ITT. ITT Defense was directly responsible for the accused products, with a principal place of business at 1650 Tysons Blvd., Suite 1700, McLean, VA 22102. Upon information and belief, ITT Defense sold off or otherwise transferred it operations to Defendant Exelis. Defendant ITT Defense manufactured and or continues to manufacture, sold and or continues to sell, and/or offered or continues to offer for sale in the United States, night vision devices that infringe one or more claims of the '652 Patent.

9. Upon information and belief, Exelis, Night Vision was formerly know as: ITT

Night Vision and is currently an operating unit of Defendant Exelis with a principal place of business at 7635 Plantation Road, Roanoke, Virginia 24019-3222 and operations throughout Florida. Defendant Exelis Night Vision manufactures, uses, sells, and/or offers for sale in the United States, night vision devices that infringe one or more claims of the '652 Patent.

GENERAL ALLEGATIONS

10. 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.

11. Plaintiff CANVS owns and has at all times owned, and has standing to sue for infringement of United States Letters Patent 6,911,652. Plaintiff is aware of the below listed devices accused of infringement and is aware, upon information and belief, of other infringing as yet unidentified devices. Plaintiff reserves the right to amend the pleadings as discovery warrents and in compliance with infringement contention obligations.

12. 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.

13. Defendant(s) Exelis / Exelis Night Vision ("Exelis") manufactures, uses, sells and/or offers for sale products which provide a fused thermal and intensified image, sold under the product names: (i) Enhanced Night Vision Goggle (ENVG), AN/PSQ-20, F6023 (ii) Dual Sensor Night Vision Goggle (DSNVG) F6023DS¹; (iii) Spiral Enhanced Night Vision Goggle (SENVG) AN/PSQ-20A (F6024 Series) and (iv) Digital Enhanced Night Vision Goggle (DENVG) (the "Accused Products") which are fused thermal/image intensification low light imaging devices that infringe one of more of the claims of the '652 patent in the manner illustrated in the attached infringement chart.

14. Defendant Harris sells and/or offers for sale products which provide a fused thermal and intensified image sold under the product names: (i) F6023 GEN 3, (ii) F6045; (iii) F6044.

15. Defendant(s) ITT / ITT Defense ("ITT") manufactured and/or continues to manufacture, used and/or continues to use, sold and/or continues to sell and/or offer for sale products which provide a fused thermal and intensified image, sold under the product names: (i) Enhanced Night Vision Goggle (ENVG), AN/PSQ-20, F6023 (ii) Dual Sensor Night Vision Goggle (DSNVG) F6023DS; (ii) Spiral Enhanced Night Vision Goggle (SENVG) AN/PSQ-20A (F6024 Series) and (iii) Digital Enhanced Night Vision Goggle (DENVG) (the "Accused Products") which are fused thermal/image intensification low light imaging devices that infringe one of more of the claims of the '652 patent in the manner illustrated in the attached

¹ The DSNVG is a renamed ENVG previously distributed by ITT.

infringement chart.

16. Defendants, Harris, Exelis and ITT publishes and distributes materials (brochures, manuals, photos, and other product literature) which depict and described the ENVG, DENVG, SENVG and DSNVG ("the Accused Devices") and how to use the devices. Some exemplary materials are attached hereto as exhibits to this Complaint:

- ITT Document Enhanced Night Vision Goggle (ENVG), AN/PSQ-20, F6023
- Exelis Document Spiral Enhanced Night Vision Goggle (SENVG) AN/PSQ-20A (F6024 Series)
- Exelis Document Dual Sensor Night Vision Goggle (DSNVG) F6023DS

17. Those materials, and others, instruct and induce third parties to use the devices in an infringing manner.

COUNT I

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

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

19. Defendants are accused of direct infringement of the '652 patent under 35 U.S.C. 271(a).

20. Defendants, directly infringe at least claims 4 and 5 of the '652 patent by making, using, selling and offering to sell the Accused Devices.

21. Plaintiff CANVS is entitled to recover from each of the Defendants individually and jointly all of the damages sustained as a result of each Defendant's infringement of the '652 Patent, including a reasonable royalty and/or the lost profits of Plaintiff CANVS and/or a royalty on the profits earned by Defendants as a result of their infringing manufacture, use, sale or offer

for sale of the Accused Devices.

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

23. 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.

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

COUNT II

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

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

26. Defendants Harris, Exelis, Exelis Night Vision, ITT and ITT Defense are accused of inducing infringement of the '652 patent under 35 U.S.C. §271(b).

27. Defendants induce the infringement of at least claims 4 and 5 of the '652 Patent, by knowingly inducing others to directly infringe by using an accused device and independently adjusting the thermal and intensified images on such device to obtain an enhanced fused night vision. Defendants each are individually aware of the functionality of the Accused Devices and knows such use to be and/or is willfully ignorant of the fact that such use is an infringement of the '652 Patent, in violation of 35 U.S.C. 271(b).

28. Plaintiff CANVS is entitled to recover from Defendants jointly and severally 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 a royalty on the profits earned by Defendants as a result of their infringing manufacture, use, sale or offer for sale of the infringing Accused Devices.

29. 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.

30. 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.

31. 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.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff CANVS prays that this Court enter judgment that

32. The asserted claims of the '652 Patent are infringed by Defendants;

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

34. 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 the Accused Devices, and any other infringing products, in and into the United States, directly or indirectly, prior to the expiration of the '652 Patent;

35. 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;

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

37. 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.

38. 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.

39. 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;

40. 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

41. 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: December 14, 2016

Respectfully submitted,

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