

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

**LONE STAR TECHNOLOGICAL
INNOVATIONS, LLC,**

Plaintiff,

v.

Barco N.V.

Defendant.

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Civil Action No. 6:19-CV-00060

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Lone Star Technological Innovations, LLC (“Lone Star” or “Plaintiff”), by and through its attorneys, for its First Amended Complaint against Defendant Barco N.V. (“Defendant” or “Barco”), hereby alleges as follows:

I. NATURE OF THE ACTION

1. This is a patent infringement action to end Defendant’s unauthorized and infringing manufacture, use, sale, offering for sale, and/or importation of methods and products incorporating Plaintiff’s patented inventions.

2. Lone Star owns all right, title, and interest in and to United States Patent No. 6,724,435 (the “’435 Patent”), issued April 20, 2004, for “Method For Independently Controlling Hue or Saturation of Individual Colors in a Real Time Digital Video Image.” A true and correct copy of the ’435 Patent is attached hereto as Exhibit “A.”

3. Lone Star owns all right, title, and interest in and to United States Patent No. 6,122,012 (the “’012 Patent”), issued September 19, 2000, for “Method of Selective Control of Digital Video Images.” A true and correct copy of the ’012 Patent is attached hereto as Exhibit “B.”

4. Defendant manufactures, provides, sells, offers for sale, imports, and/or distributes infringing products and services; and/or induces others to make and use its products and services in an infringing manner, including its customers, who directly infringe the ’435 Patent and the ’012 Patent (“Patents-in-Suit”).

5. Plaintiff Lone Star seeks monetary damages and prejudgment interest for Defendant’s past infringement of the Patents-in-Suit.

II. THE PARTIES

6. Plaintiff Lone Star is a limited liability company organized and existing under the laws of the State of Texas, with its principal place of business located at 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

7. Upon information and belief, Defendant Barco N.V. is a publicly listed limited liability corporation organized and existing under the laws of Belgium, with a principal place of business at Beneluxpark 21, 8500 Kortrijk, Belgium.

III. JURISDICTION AND VENUE

8. This is an action for patent infringement which arises under the Patent Laws of the United States, in particular, 35 U.S.C. §§271, 281, 283, 284, and 285. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§1331 and 1338(a).

9. This Court has personal jurisdiction over Defendant because it has committed acts giving rise to this action within Texas and within this judicial district. The Court’s exercise of

jurisdiction over Defendant would not offend traditional notions of fair play and substantial justice because Defendant has established minimum contacts with the forum with respect to both general and specific jurisdiction. Upon information and belief, Defendant transacts substantial business in the State of Texas and this Judicial District. For example, Defendant has committed acts of infringement in this District, by among others things, offering to sell and selling products that infringe the asserted patents, including the accused devices as alleged herein, as well as providing service and support to Defendant's customers in this District.

10. Venue in the Eastern District of Texas is proper pursuant to 28 U.S.C. §§ 1391 (b), (c) and 1400(b) because upon information and belief Defendant Barco N.V. is a foreign entity. Defendant has committed acts within this judicial district giving rise to this action, and Defendant continues to conduct business in this judicial district, including one or more acts of selling, using, importing and/or offering for sale infringing products or providing service and support to Defendant's customers in this District. This district is familiar with the technology of the Patents-in-Suit having presided over several lawsuits involving the Patents-in-Suit.

IV. PLAINTIFF'S '435 PATENT AND '012 PATENT

11. The Patents-in-Suit disclose systems and methods for controlling individual color saturation and/or hue of a digital video input image. The '435 Patent discloses independently controlling hue or saturation of individual colors by identifying input image pixels requiring adjustment and separately evaluating independent control functions for hue or saturation to form corresponding output image pixels with the desired hue or saturation. The '012 Patent teaches a method of changing the saturation of an individual color in a digital video image without affecting changes to other colors using a lookup table.

12. Lone Star has obtained all substantial right and interest to the Patents-in-Suit, including all rights to recover for all past and future infringements thereof.

VI. DEFENDANT'S ACTS

13. Defendant manufactures, provides, sells, offers for sale, and/or distributes infringing devices, including projectors, commercial displays, and/or other video displays. Such devices include, but are not limited to 4K UHD laser-phosphor projector with NVG stimulation (FS70-4K6); 30,000 lumens, 4K, 3-chip DLP RGB laser large venue projector (XDL-4K30); 11,800 lumens, 4K UHD, DLP laser phosphor projector (F90-4K13); 9,000 lumens; 4K UHD, DLP laser phosphor projector (F80-4K9); 11,000 lumens, 4K UHD, 3-chip DLP projector (HDX-4K12); High performance DLP projector for professional applications (F35 series); High-performance single-chip DLP projector with 1080p, SXGA+ or WUXGA resolution up to 3,300 lumens (F22 series); 12,000 lumens, WUXGA, 3-chip DLP projector (HDX-W12); 22,000 lumens, WUXGA, 3-chip DLP projector (HDF-W22); 30,000 lumens, WUXGA, 3-chip DLP laser phosphor projector with standard FLEX brightness (HDF-W30LP FLEX); 22" clinical display for hospital-wide viewing of clinical data and images (Eonis 22-inch (MDRC-2222 Option BL)), and all other substantially similar products.

14. Based on information and belief, Defendant's infringing devices contain hardware components (*e.g.* the display screen/output image, an internal processor and OSD (on-screen display)) and software components (*e.g.* firmware instructions) which specifically provide the ability to change the hue and/or saturation of an individual color in the output image. Upon information and belief, Defendant manufactures, sells, offers for sale, and/or distributions of devices that selectively change the hue and/or saturation of an individual color in the output image in an infringing manner directly infringe one or more claims of the '435 and '012 Patents, including by way of example claim 1 of the '435 Patent.

15. A chart detailing the infringement of the '435 Patent by an exemplary product – the

Barco F22 Series – is attached hereto as Exhibit C and incorporated by reference.

16. A chart detailing the infringement of the '012 Patent by an exemplary product – the MDSC-2232 – is attached hereto as Exhibit D and incorporated by reference.

17. Based on information and belief, Defendant has jointly infringed the Patents-in-Suit by directing and/or controlling other parties, including through a contractual relationship. Upon information and belief, Defendant contracts and/or enter into agreements with other parties concerning the operation and use of infringing devices and functionality within this jurisdiction and elsewhere. For example, Barco and Cinemark have had an exclusive partnership agreement, where “[e]very [Cinemark] theater will show the industry's biggest and brightest images, projected from Barco DLP powered projectors.”¹ Upon information and belief, Defendant’s contracts and agreements enable Defendant to direct and/or control the infringing conduct of the third parties.

18. Defendant conditions participation in an activity or receipt of a benefit of its performance of a step or steps and establishes the manner or timing of that performance. For example, as shown in Exhibits C & D, the benefits of Defendant’s products can only be obtained by a third-party by following the Defendant’s instructions to effectuate a change to the hue and/or saturation of a selected color. Defendant, through its product, provides the software and systems that establish the manner and/or timing of the performance of the steps such as allowing for individual color change.

19. Additionally, upon information and belief Defendant likely directly infringed by itself or through its agents or subsidiaries, performed testing on the accused products in the United States.

20. Defendant had knowledge of the Patents-in-Suit no later than the filing of Plaintiff’s

¹ See Cinemark and Barco Sign Exclusive Partnership for the Delivery of Enhanced DLP Cinema® 4K Digital Projection, (available at <https://www.barco.com/en/News/Press-releases/Cinemark-and-Barco-Sign-Exclusive-Partnership-for-the-Delivery-of-Enhanced-DLP-Cinema%20ae-4K-Digital-Pr.aspx>).

Original Complaint on February 20, 2019. *See* Dkt. No. 1.

21. Upon information and belief, Defendant and/or its agents had knowledge of the Complaint and Patents-in-Suit because prior to formal service, Defendant's agent contacted counsel for Plaintiff informing them that they were aware of the lawsuit. Based on information and belief this actual notice was likely attributed to reporting services that report contemporaneous with the filing of the lawsuit. *See e.g.* Exhibit E (showing public notification of lawsuit and specifically the '012 Patent).

22. With knowledge of the Patents-in-Suit, Defendant intentionally provides services and instructions for the installation and infringing operation of infringing products (including, by way of example, the resources and materials available at <https://www.barco.com/en/support> to the customers of its products, who directly infringe one or more claims of the '435 and '012 Patents through the operation of those products as described below and as shown in the literature and instructions provided by Defendant as set forth in Exhibits C & D. Claims directly infringed by Defendant's customers and/or users include, by way of example only, claim 1 of the '435 Patent and claim 1 of the '012 Patent.

23. Through its actions, Defendant has infringed the Patents-in-Suit and actively promoted and/or induced others to infringe the Patents-in-Suit throughout the United States, including by customers within the Eastern District of Texas. As explained above, Defendant had actual knowledge of the Patents-in-Suit or in the alternative, was willfully blind to same. Therefore, Defendant knew or should have known that its products constitute infringement of the Patents-in-Suit. On information and belief, Defendant induces its customers to infringe and contributes to the infringement of its customers by instructing or specifying that its customers operate Barco projectors and displays in a manner to change the saturation and/or hue of individual colors through, for example, the product's OSD (on-screen display). Defendant specifies that the

infringing products operate in an infringing manner by providing manuals and customer support related to its infringing products. (*See e.g.* Exhibits C & D). Further, Defendant provides products specially configured to operate in an infringing manner, and Defendant's customers use Defendant's configurations to operate Defendant's products in an infringing manner.

24. Defendant, with knowledge of the Patents-in-Suit, contribute to the infringement of the Patents-in-Suit, by having its direct and indirect customers sell, offer for sale, use, or import its projectors, commercial displays, and/or other video displays, including but not limited to 4K UHD laser-phosphor projector with NVG stimulation (FS70-4K6); 30,000 lumens, 4K, 3-chip DLP RGB laser large venue projector (XDL-4K30); 11,800 lumens, 4K UHD, DLP laser phosphor projector (F90-4K13); 9,000 lumens; 4K UHD, DLP laser phosphor projector (F80-4K9); 11,000 lumens, 4K UHD, 3-chip DLP projector (HDX-4K12); High performance DLP projector for professional applications (F35 series); High-performance single-chip DLP projector with 1080p, SXGA+ or WUXGA resolution up to 3,300 lumens (F22 series); 12,000 lumens, WUXGA, 3-chip DLP projector (HDX-W12); 22,000 lumens, WUXGA, 3-chip DLP projector (HDF-W22); 30,000 lumens, WUXGA, 3-chip DLP laser phosphor projector with standard FLEX brightness (HDF-W30LP FLEX); 22" clinical display for hospital-wide viewing of clinical data and images (Eonis 22-inch (MDRC-2222 Option BL)), and all other substantially similar products, with actual knowledge that such products infringe the Patents-in-Suit. Defendant's accused devices are especially made or adapted for infringing the Patents-in-Suit. For example, Defendant advertises that its products contain "10-bit color processing, Real Color™ technology." And, Defendant's products contain the functionality to specifically allow changes to the hue and/or saturation of an individual color – functionality which is material to practicing the Patents-in-Suit. Based on information and belief, this functionality has no substantially non-infringing uses and is only used to change the hue and/or saturation of an individual color.

25. Lone Star has been and will continue to suffer damages as a result of Defendant's infringing acts.

COUNT ONE

PATENT INFRINGEMENT—U.S. PATENT NO. 6,724,435

26. Plaintiff Lone Star realleges and incorporates herein paragraphs 1–25.

27. Defendant has directly infringed the '435 Patent.

28. Defendant has indirectly infringed the '435 Patent by inducing the infringement of the '435 Patent and contributing to the infringement of the '435 Patent.

29. Upon information and belief, Defendant has jointly infringed the '435 Patent, including by controlling and/or directing others to perform one or more of the claimed method steps.

30. Defendant's aforementioned acts have caused damage to Lone Star and will continue to do so.

COUNT TWO

PATENT INFRINGEMENT—U.S. PATENT NO. 6,122,012

31. Plaintiff Lone Star realleges and incorporates herein paragraphs 1–30.

32. Defendant has infringed the '012 Patent.

33. Defendant has indirectly infringed the '012 Patent by inducing the infringement of the '012 Patent and contributing to the infringement of the '012 Patent.

34. Upon information and belief, Defendant has jointly infringed the '012 Patent, including by controlling and/or directing others to perform one or more of the claimed method steps.

35. Defendant's aforementioned acts have caused damage to Lone Star and will continue to do so.

VII. JURY DEMAND

36. Plaintiff Lone Star hereby demands a jury on all issues so triable.

VIII. REQUEST FOR RELIEF

WHEREFORE, Plaintiff Lone Star respectfully requests that the Court:

- A. Enter judgment that Defendant infringes one or more claims of the '435 Patent and the '012 Patent literally and/or under the doctrine of equivalents;
- B. Award Plaintiff Lone Star past and future damages together with prejudgment and post-judgment interest to compensate for the infringement by Defendant of the '435 Patent and the '012 Patent in accordance with 35 U.S.C. §284, and increase such award by up to three times the amount found or assessed in accordance with 35 U.S.C. §284;
- C. Declare this case exceptional pursuant to 35 U.S.C. §285; and
- D. Award Plaintiff Lone Star its costs, disbursements, attorneys' fees, and such further and additional relief as is deemed appropriate by this Court.

Respectfully submitted,

Dated: August 7, 2019

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FIRST AMENDED COMPLAINT

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CERTIFICATE OF SERVICE

I certify this document was filed electronically pursuant to Local Rule CV-5(a) on August 7, 2019. Pursuant to Local Rule CV-5(a), this electronic filing acts to electronically serve all counsel who have consented to electronic service via the Court's CM/ECF system.

By: /s/ John D. Saba
John D. Saba, Jr.