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Veterinary Ventures, Inc.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

VETERINARY VENTURES, INC.
a Nevada Corporation

Plaintiff,

v.

PACIFIC RIM TECHNOLOGIES & MFG.,
LTD., a Hong Kong company, and THE
PETCASTLE CORP., a California corporation

Defendants.

CASE NO.: 3:07-CV-00381-BES-VPC

FIRST AMENDED COMPLAINT
FOR PATENT INFRINGEMENT

JURY DEMAND

Plaintiff, Veterinary Ventures, Inc. ("Veterinary Ventures"), complains against Defendants, Pacific Rim Technologies & Mfg., Ltd. ("Pacific Rim Technologies") and The PetCastle Corporation ("PetCastle"), and alleges as follows upon knowledge with respect to itself and its own acts, and upon information and belief as to all other matters:

Jurisdiction and Venue

1. This Court has jurisdiction over the subject matter of this patent infringement action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

2. Venue is proper in this Court under 28 U.S.C. §§ 1391(b) and 1391(d). Venue is also proper under 28 U.S.C. § 1391(c) in that Defendants are doing and transacting business within, and have committed acts of infringement, in this judicial district.

The Parties and Nature of the Complaint

3. Veterinary Ventures is a Nevada corporation with its principal place of business

1 in Reno, Nevada.

2 4. On information and belief, Defendant Pacific Rim Technologies is a Hong Kong
3 corporation and maintains a place of business in Hong Kong at Room 1204 Fo Tan Industrial
4 Centre 26-28 Au Pui Wan Street, Fotan Sha Tin, New Territories, Hong Kong, and it maintains a
5 place of business in the United States at 720 Cabrillo Place, Morro Bay, California, 93442.

6 5. On information and belief, Defendant PetCastle is a California corporation and
7 maintains a place of business at 515 ½ Russell Avenue, Monterey Park, California, 91755-3422.

8 The Facts

9 A. Plaintiff's Patents

10 6. United States Patent Number 5,799,609 ("the '609 patent"), entitled "Animal
11 Waterer," issued on September 1, 1998. The '609 patent claims watering devices for animals,
12 methods of watering animals, and containers for watering animals. A true and correct copy of the
13 '609 patent is attached to this First Amended Complaint as *Exhibit A* and is incorporated herein by
14 reference.

15 7. United States Patent Number 5,842,437 ("the '437 patent"), entitled "Animal
16 Waterer," issued on December 1, 1998. The '437 patent claims watering devices for animals, a
17 method of watering animals, and containers for watering animals. A true and correct copy of the
18 '437 patent is attached to this First Amended Complaint as *Exhibit B* and is incorporated herein by
19 reference.

20 8. United States Patent Number 6,055,934 ("the '934 patent"), entitled "Animal
21 Waterer," issued on May 2, 2000. The '934 patent claims watering devices for animals and
22 methods of watering animals. A true and correct copy of the '934 patent is attached to this First
23 Amended Complaint as *Exhibit C* and is incorporated herein by reference.

24 9. The '609 patent, '437 patent, and '934 patent are assigned to, and currently owned
25 by, Veterinary Ventures.

26 10. Veterinary Ventures manufactures, or causes to be manufactured, offers for sale,
27 and sells in the United States pet fountains that embody claims of the '609 patent, '437 patent, and
28

1 '934 patent. Veterinary Ventures sells such pet fountains through various distribution channels,
2 including the World Wide Web, and has sold and shipped its product into the State of Nevada.

3 11. PetCastle markets, distributes and sells in the United States pet fountains that
4 embody claims of the '609 patent,'437 patent, and '934 patent.

5 **B. Defendant's Infringing Acts**

6 12. On information and belief, Pacific Rim Technologies has made, used, sold, and
7 offered to sell within the United States, and it continues to make, use, sell, and offer to sell within
8 the United States, a product referred to as an "Automatic Pet Water Fountain." See, for example,
9 photographs of the "Automatic Pet Water Fountain" product attached as *Exhibit D*.

10 13. On information and belief, Pacific Rim Technologies manufactures the
11 "Automatic Pet Water Fountain" product, or causes the "Automatic Pet Fountain" product to be
12 manufactured, in China and imports the "Automatic Pet Water Fountain" product, or has the
13 "Automatic Pet Water Fountain" product imported, into the United States.

14 14. Pacific Rim Technologies has offered and continues to offer for sale, and has
15 sold, the "Automatic Pet Water Fountain" product within the United States or sold it to distributors
16 or resellers with knowledge that it would be sold in the United States.

17 15. Pacific Rim Technologies also has at least offered for sale the "Automatic Pet
18 Water Fountain" in this district through its website www.prtml.com, which is accessible throughout
19 the United States including within this district. (*See Exhibit E*).

20 16. On information and belief, via its website, Pacific Rim Technologies actively
21 solicits persons and entities wishing to become distributors of the "Automatic Pet Water Fountain"
22 product.

23 17. Pacific Rim Technologies has attended at least one trade show within this district
24 and actively markets and sells its products in this district. (*See Exhibit F*).

25 18. PetCastle has manufactured, used, sold, and offered to sell within the United
26 States, and it continues to make, use, sell, and offer to sell within the United States, a product
27 referred to as a "Fountain". A print out from PetCastle's website (www.petcastleusa.com)
28 depicting the "Fountain" (Item No. TPC-FT01-WH) is attached as *Exhibit G*.

29. With its acts with respect to the Accused Products, and by actively soliciting distributors of those products, Defendants have contributed and continues to contribute to the direct infringement of one or more claims of the '437 patent in violation of 35 U.S.C. § 271(c).

COUNT III

Infringement of the '934 Patent

30. Plaintiff reiterates paragraphs 1-21 above as if fully set forth herein.

31. With its acts with respect to the Accused Products, Defendants have directly infringed and continues to directly infringe one or more claims of the '934 patent in violation of 35 U.S.C. § 271(a).

32. By actively soliciting distributors of the Accused Products, Defendants have induced others, and continues to induce others, to directly infringe one or more claims of the '934 patent in violation of 35 U.S.C. § 271(b).

33. With its acts with respect to the Accused Products, and by actively soliciting distributors of those products, Defendants have contributed and continues to contribute to the direct infringement of one or more claims of the '934 patent in violation of 35 U.S.C. § 271(c).

PRAYER FOR RELIEF

The Plaintiff therefore prays for relief from the Court as follows:

A. That Defendants be held liable for infringement of the '609 patent, whether direct infringement, inducement of infringement, or contributory infringement.

B. That Defendants be temporarily, preliminarily, and permanently enjoined from infringing the '609 patent, whether direct infringement, inducement of infringement, or contributory infringement.

C. That Defendants be required to pay to Veterinary Ventures monetary damages for infringement of the '609 patent pursuant to 35 U.S.C. § 284, together with legal interest from the date of accrual thereof.

D. That Defendants be required to pay to Veterinary Ventures treble damages for infringement of the '609 patent pursuant to 35 U.S.C. § 284.

E. That Defendants be held liable for infringement of the '437 patent, whether direct

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1 infringement, inducement of infringement, or contributory infringement.

2 F. That Defendants be temporarily, preliminarily, and permanently enjoined from
3 infringing the '437 patent, whether direct infringement, inducement of infringement, or contributory
4 infringement.

5 G. That Defendants be required to pay to Veterinary Ventures monetary damages for
6 infringement of the '437 patent pursuant to 35 U.S.C. § 284, together with legal interest from the
7 date of accrual thereof.

8 H. That Defendants be required to pay to Veterinary Ventures treble damages for
9 infringement of the '437 patent pursuant to 35 U.S.C. § 284.

10 I. That Defendants be held liable for infringement of the '934 patent, whether direct
11 infringement, inducement of infringement, or contributory infringement.

12 J. That Defendants be temporarily, preliminarily, and permanently enjoined from
13 infringing the '934 patent, whether direct infringement, inducement of infringement, or contributory
14 infringement.

15 K. That Defendants be required to pay to Veterinary Ventures monetary damages for
16 infringement of the '934 patent pursuant to 35 U.S.C. § 284, together with legal interest from the
17 date of accrual thereof.

18 L. That Defendants be required to pay to Veterinary Ventures treble damages for
19 infringement of the '934 patent pursuant to 35 U.S.C. § 284.

20 M. That Defendants be required to pay to Veterinary Ventures its reasonable attorneys'
21 fees and disbursements incurred herein, pursuant to 35 U.S.C. § 285 and the equity powers of this
22 Court.

23 N. For a finding that Defendants willfully infringed the '609, '437 and '934 patents and
24 an assessment of damages up to three times the damages awarded to Veterinary Ventures as a result
25 of Defendants' acts of infringement.

26 O. That Defendants be required to pay Veterinary Ventures costs and reasonable
27 attorneys fees of this action.

28 P. For such other and further relief as this Court deems just and equitable.

DEMAND FOR JURY TRIAL

Veterinary Ventures hereby makes demand for a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure as to all issues herein so triable.

DATED this 23rd day of October, 2007.

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