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U.S. DISTRICT COURT E.D.N.Y.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

★ APR 09 2002 ★

LONG ISLAND OFFICE

Cv-02 2136

ARISTA ENTERPRISES
INCORPORATED, a New York corporation,

Plaintiff,

v.

NYKO TECHNOLOGIES,
INCORPORATED, a California corporation,

Defendant.

Civil Action No.

PLATT, J.

WALL, M.J.

(S.I.)

**COMPLAINT FOR PATENT INFRINGEMENT
AND JURY DEMAND**

Plaintiff, Arista Enterprises Incorporated ("Arista" or "Plaintiff") files this
Complaint for Patent Infringement against Nyko Technologies, Incorporated ("Nyko" or
"Defendant") and demands a trial by jury, alleging as follows:

JURISDICTION AND VENUE

1. This action for patent infringement arises under the United States Patent Laws, 35 U.S.C. § 1, et seq. This Court has original jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

2. Venue is proper in this judicial district under 28 U.S.C. § 1391(b), § 1391(c), and § 1400(b) because: (a) a substantial part of the events or omissions giving rise to the claims occurred in this judicial district; and/or (b) a substantial part of the property that is the subject of the action is situated in this judicial district; and/or (c) Defendant Nyko resides in this judicial district.

PARTIES

3. Plaintiff Arista is a corporation organized and existing under the laws of the State of New York, having its corporate offices and principal place of business at 125 Commerce Drive, Hauppauge, New York 11788.

4. Upon information and belief, Defendant Nyko is a corporation organized and existing under the laws of the State of California, having its principal place of business and corporate headquarters located at 2311 South Cotner Avenue, Suite D, Los Angeles, California 90064.

FIRST CAUSE OF ACTION FOR

INFRINGEMENT OF U.S. PATENT NO. 5,615,945

(35. U.S.C. § 271)

5. Arista repeats, realleges, and incorporates by reference, as though fully set forth herein, the allegations set forth in paragraphs 1 through 4 above.

6. Arista brings this action against Defendant to enjoin Defendant's unauthorized making, use, offering for sale, sale, and importing of products infringing

U.S. Patent No. 5,615,945 ("the '945 patent").

7. The '945 patent, entitled "Lighting Device For Use With Computers", duly and legally issued April 1, 1997 from U.S. Patent Application Serial No. 08/624,747, filed March 27, 1996, in the name of inventor Winger Tseng. A copy of the '945 patent is attached as Exhibit A.

8. Arista owns the entire right, title, and interest in and to the '945 patent and has full rights to sue for and recover damages for past, present, and future infringement thereunder. The '945 patent is assigned to Arista, as recorded on April 6, 2001, at Reel: 011742/ Frame: 0602 in the United States Patent and Trademark Office.

9. Upon information and belief, Defendant has infringed and is continuing to infringe the '945 patent by making, using, selling, offering to sell, and importing, and inducing others to make, use, sell, offer to sell, and import its products known as the "Worm Light™", including without limitation the Super White Worm Light™ with Pass-Thru, Item # GC-80091-H17, the Advanced Gold Worm Light™, Item # GC-80093-H17, and the Worm Light™ Plus, Item # GA-80700-E09.

10. Upon information and belief, Defendant's infringement of the '945 patent is willful, rendering this case exceptional within the meaning of 35 U.S.C. § 285.

11. Arista has been damaged by the infringement of the '945 patent by Defendant and will suffer additional irreparable damage and impairment of the value of its exclusive rights to the '945 patent unless Defendant, its officers, directors, employees, successors and assigns, agents, attorneys, and all persons in active concert with Defendant are enjoined by this Court from continuing to infringe the '945 patent.

PRAYER FOR RELIEF

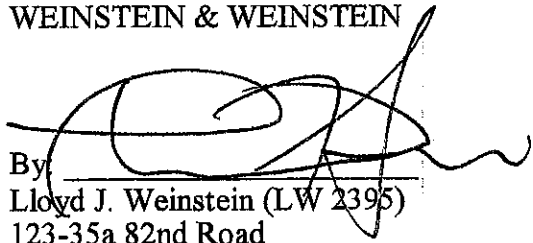
WHEREFORE, Arista prays:

- (a) For an order, pursuant to 35 U.S.C. § 271, finding that Defendant has infringed the '945 patent;
- (b) For this Court, pursuant to 35 U.S.C. § 283, to enjoin Defendant, its officers, directors, employees, successors and assigns, agents, attorneys, and all persons in active concert with Defendant, preliminarily and permanently, from making, using, selling, offering to sell, or importing products that infringe the '945 patent;
- (c) For damages, together with prejudgment interest, based on Defendant's infringement of the '945 patent, such damages being trebled pursuant to 35 U.S.C. § 284 for the willful, wanton, and deliberate nature of such infringement;
- (d) For costs and reasonable attorneys' fees pursuant to 35 U.S.C. § 285; and
- (e) For such other and further relief as this Court deems proper and just.

Dated: April 8, 2002

Respectfully submitted,

WEINSTEIN & WEINSTEIN

By 
Lloyd J. Weinstein (LW 2395)
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Attorneys for Plaintiff

ARISTA ENTERPRISES INC.

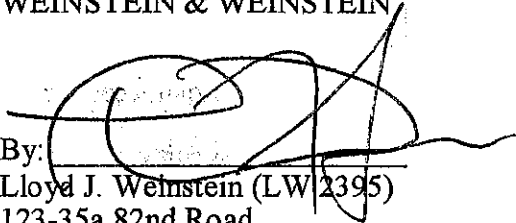
DEMAND FOR JURY TRIAL

Pursuant to FED. R. CIV. P. 38(b), Plaintiff Arista hereby demands a jury trial of all claims against Defendant.

Dated: April 8, 2002

Respectfully submitted,

WEINSTEIN & WEINSTEIN

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**SEE COURT FILES FOR
EXHIBIT(S)**