# IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

HEATHCO LLC,	) )
Plaintiff,	Civil Action No
v.	) ) 
VAXCEL INTERNATIONAL CO., LTD.,	) JURY TRIAL DEMANDED )
Defendant.	) )
	)

## **COMPLAINT FOR PATENT INFRINGEMENT**

HeathCo LLC ("HeathCo"), by and through its undersigned counsel, files this Complaint for patent infringement against Defendant Vaxcel International Co., Ltd., ("Vaxcel"), and upon personal knowledge as to itself and on information and belief as to all other matters, hereby alleges as follows:

## NATURE OF THE ACTION

1. This action arises under the patent laws of the United States, Title 35 of the United States Code, based on Vaxcel's infringement of patents owned by HeathCo., i.e., U.S. Patent No. 9,172,199 ("the '199 patent"), attached as Exhibit A; U.S. Design Patent No. D708,388 ("the D'388 patent") attached as Exhibit B; and U.S. Design Patent No. D720,093 ("the D'093 patent"), attached as Exhibit C (together, "the Asserted Patents"). HeathCo is the owner by assignment of the Asserted Patents. HeathCo seeks damages for Vaxcel's infringement and an injunction barring Vaxcel from further infringement. Additionally, pursuant to 35 U.S.C. § 289, HeathCo seeks an award in the amount equivalent to disgorgement of Defendants' profits resulting from said infringement of the D'388 and D'093 patents.

HeathCo further seeks that this case be adjudged an exceptional case under 35 U.S.C. § 285 and that HeathCo be awarded its costs, expenses, and disbursements incurred in this action, including reasonable attorneys' fees as available by law to be paid by Defendants.

## THE PARTIES

- 2. Plaintiff HeathCo is a company organized and existing under the laws of the State of Delaware, with a principal place of business located at 2445 Nashville Road, Bowling Green, Kentucky, 42101.
- 3. Defendant Vaxcel International Co., Ltd. is a corporation organized and existing under the laws of the State of Illinois, with a principal place of business located at 121 E. North Avenue, Carol Stream, Illinois 60188.

#### JURISDICTION AND VENUE

- 4. This is an action for patent infringement arising out of the unauthorized importing, manufacturing, using, offering for sale, and/or selling of certain lighting products by Vaxcel in violation of HeathCo's patent rights. Because this is an action for infringement under the patent laws of the United States, 35 U.S.C. § 271, et seq., this Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).
- 5. This Court has personal jurisdiction over Vaxcel in that, at all times pertinent hereto, upon information and belief, Vaxcel is incorporated in this District, is doing business and have systematic activities in this District, and is committing infringing acts in this District.
- 6. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 1400. Vaxcel is incorporated in this District, its regular and established principal place of business is in this District, and upon information and belief, it has transacted business and committed acts of infringement in this District.

## **ACCUSED PRODUCTS**

- 7. Vaxcel makes, imports, sells, and/or offers for sale various lighting products, including outdoor LED security lighting. *See* Exhibit D. Vaxcel offers its products for sale from at least various online retailers and local retail distributors. *See* Exhibit E; *see also*, https://www.vaxcel.com/where-to-buy/buy-local/. On information as belief, Vaxcel also makes, imports, sells, and/or offers for sale outdoor LED security lighting products that are sold under the Patriot Lighting mark by Menards home improvement stores, which is owned by the privately held company Menard, Inc.
- 8. For example, Menards offers for sale various "Patriot Lighting Dualux" LED outdoor security lights, including Model No. E8216W with SKU 3569257 (*see* Exhibit F) and Model No. E8197W with SKU 3569258 (*see* Exhibit G) ("Example Accused Products"). Counsel for Plaintiff purchased these products from Menards on December 11, 2020. *See* Exhibit H.
- 9. On information and belief, "Dualux" is a U.S. registered trademark and brand of Vaxcel. *See* Exhibit I
- 10. As shown in the photographs below, each of the Example Accused Products is marked with the website www.vaxcelpatents.com, which is titled "Vaxcel Patent Portfolio." *See* Exhibit J. Among the products listed as covered by various Vaxcel patents are item numbers 3569257 and 3569258. *Id.* at pg. 14. On information and belief, these are the Example Accused Products.





International Co., Ltd." On information and belief, Luminex International Co., Ltd. is a supplier of Vaxcel International Co., Ltd.. *See*, *e.g.*, Exhibits K-M. On information and belief, Vaxcel International Trading Co., Ltd. is a supplier of Defendant Vaxcel International Co., Ltd. *See*, *e.g.*, Exhibit N. On information and belief, Luminex International Co., Ltd. is an alter-ego of Vaxcel International Trading Co., Ltd. *See* Exhibits K and P. For example, both entities appear to share an address: 5F, No. 30, Yee Shien Rd., Taipei, Taiwan. *See* Exhibits M-O. Further, the sole named inventor on many patents assigned to Defendant Vaxcel International Co., Ltd., Chia-Teh Chen, is a named inventor, on information and belief, on the only three U.S. Patents

assigned to Luminex International Co., Ltd. *See* Exhibits Q-S. Chia-Teh Chen is, on information and belief, also a named inventor on patents assigned to Vaxcel International Trading Co., Ltd. *See* Exhibits T-V. On information and belief, Wilton C.T. Chen and Chia Yao Chen are aliases of Chia-Teh Chen.

- 12. Thus, on information and belief, Vaxcel International Co., Ltd., Luminex International Co., Ltd., and Vaxcel International Trading Co., Ltd. are all alter egos of one another.
- 13. On information and belief, the Example Accused Products are made, imported, sold, and/or offered for sale by Defendant Vaxcel International Co., Ltd.

## **COUNT I**

## **INFRINGEMENT OF U.S. PATENT NO. 9,172,199**

- 14. HeathCo repeats and re-alleges each and every allegation contained in paragraphs 1-13, inclusive, as though fully set forth herein.
- 15. HeathCo is the current owner and assignee of United States Patent No. 9,172,199 ("the '199 patent").
- 16. The '199 patent, titled "Electrical fixture secured to a junction box via a cover plate having an electrical connector," was duly and legally issued by the United States Patent and Trademark Office on October 27, 2015. A true and correct copy of the '199 patent is attached hereto as Exhibit A.
  - 17. The '199 patent is valid and enforceable.
- 18. In violation of 35 U.S.C. § 271, Vaxcel has been and is still infringing, either literally and/or under the doctrine of equivalents, one or more claims of the '199 patent by making, using, offering for sale, selling, importing, and/or using in this District and elsewhere in the United States, certain products that infringe at least one claim of the '199 patent ("the '199

Accused Products"), including, but not limited to, the following products: Vaxcel Model No. 3569257 Dual Head Dualux Security Light ("9257"); and Vaxcel Model No. 3569258 Dual Head Dualux Security Light ("9258") (together, "the '199 Example Products").

- 19. Vaxcel has infringed at least claim 10 of the '199 patent pursuant to 35 U.S.C. § 271(a).
- 20. Claim 10 of the '199 patent is reproduced below. The numbers in square brackets correspond to Figure 14 of the '199 patent and to the annotated images of the Example Accused Products below.

An electrical fixture apparatus comprising:

an electrical fixture comprising:

an electrical fixture housing including a mounting surface [310],

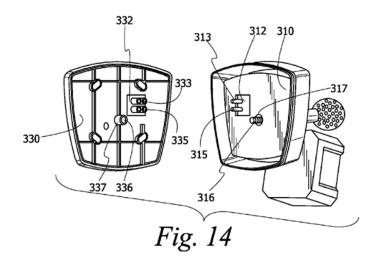
a fixture electrical connector [312] disposed on the mounting surface,

an electrical fixture support [316] configured to secure the electrical fixture to a junction box when mounted;

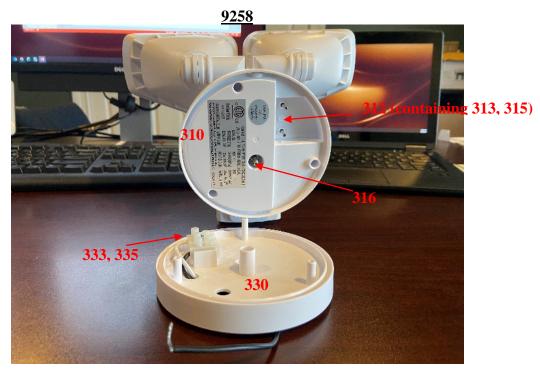
a cover plate [330] configured to mount to the junction box and a mare with at least a portion of the mounting surface of the electrical fixture, the cover plate comprising:

an electrical connector [333, 335] configured to electrically connect to hot and neutral lines from the junction box and to mate with the fixture electrical connector [313, 315] of the electrical fixture during mounting of the electrical fixture to the junction box to electrically connect only the hot and neutral lines to the electrical fixture.

21. For example, as shown below with reference to ¶ 19 above, each of the '199 Example Products satisfies each of the limitations of claim 10 literally or under the doctrine of equivalents. *See also* Exhibit W at 3; Exhibit X at 3.







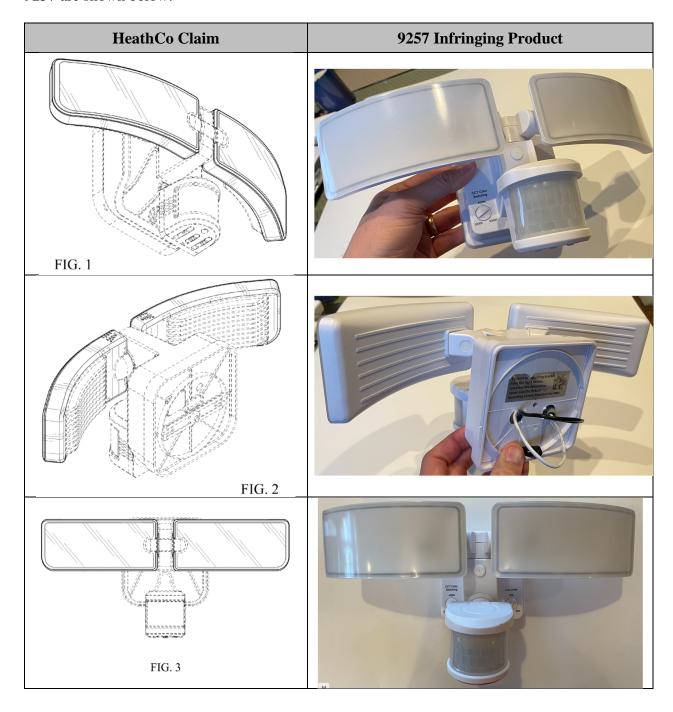
- 22. To the extent that any marking or notice is required by 35 U.S.C. § 287, HeathCo has complied with the requirements of that statute by providing constructive notice to Vaxcel of their infringement of the '199 patent. *See, e.g.*, https://www.heath-zenith.com/patents.
- 23. Vaxcel's infringement of the '199 patent is and continues to be willful and deliberate.
- 24. Vaxcel's conduct has caused and will continue to cause HeathCo substantial damage, including irreparable harm, for which HeathCo has no adequate remedy at law, unless and until Defendants are enjoined from infringing the '199 patent.

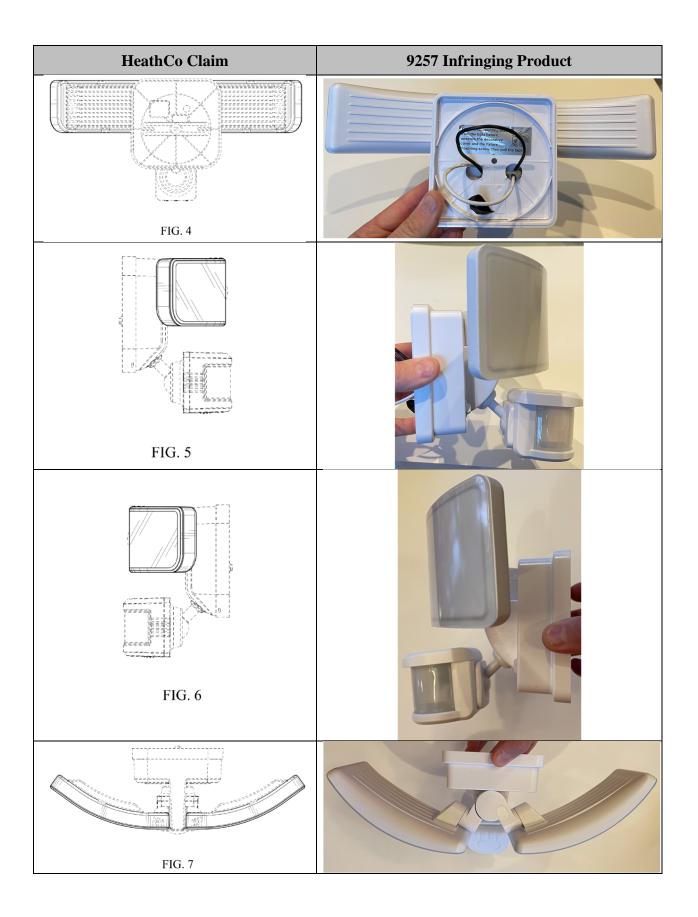
## **COUNT II**

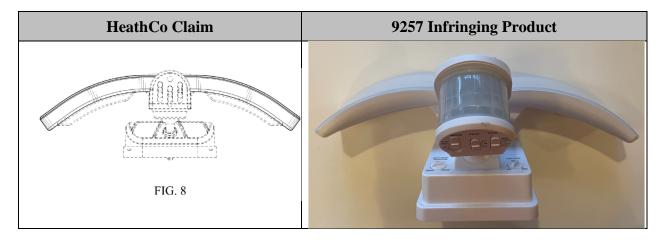
#### INFRINGEMENT OF U.S. DESIGN PATENT NO. D708,388

- 25. HeathCo repeats and re-alleges each and every allegation contained in paragraphs 1-24, inclusive, as though fully set forth herein.
- 26. HeathCo is the assignee and owner of United States Design Patent No. D708,388 ("the D'388 patent").
- 27. The D'388 patent, titled "Curved Light Fixture," was duly and legally issued by the United States Patent and Trademark Office on July 1, 2014. A true and correct copy of the D'388 patent is attached hereto as Exhibit B.
  - 28. The D'388 patent is valid and enforceable.
- 29. In violation of 35 U.S.C. §§ 271 and 289, Vaxcel has been and is still infringing the D'388 patent by making, using, offering for sale, selling, importing, and/or using in this District and elsewhere in the United States, certain products that infringe the D'388 patent ("the D'388 Accused Products"), including, but not limited to, the following product: Vaxcel Model No. 3569257 Dual Head Dualux Security Light ("9257") ("the D'388 Example Product").

30. For example, side by side comparisons of Figures of the D'388 patent and the 9257 are shown below:







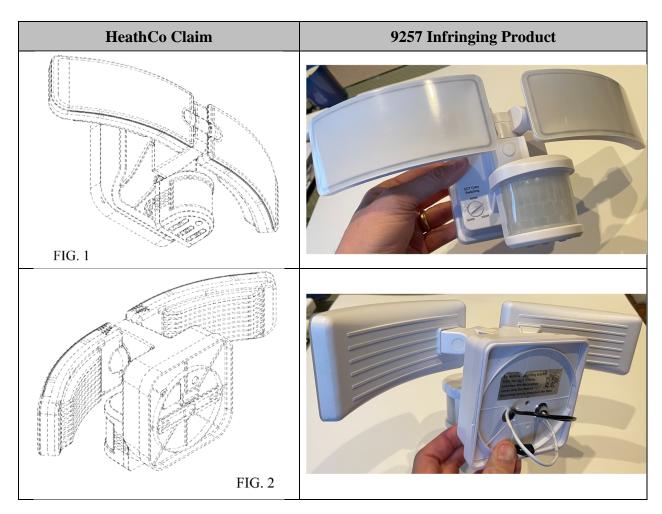
- 31. To the extent that any marking or notice was required by 35 U.S.C. § 287, HeathCo has complied with the requirements of that statute by providing constructive notice of the D'388 patent.
- 32. Vaxcel's infringement of the D'388 patent is and continues to be willful and deliberate.
- 33. Vaxcel's conduct has caused and will continue to cause HeathCo substantial damage, including irreparable harm, for which HeathCo has no adequate remedy at law, unless and until Defendants are enjoined from infringing the D'388 patent.

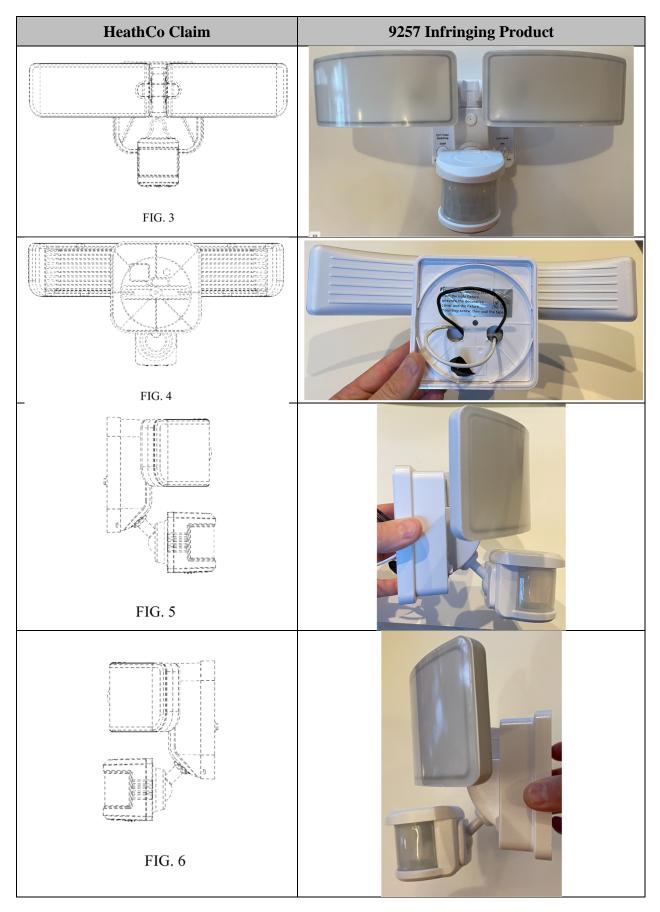
## **COUNT III**

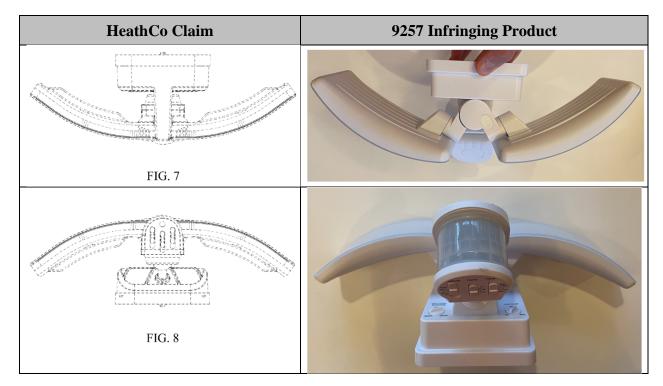
## INFRINGEMENT OF U.S. DESIGN PATENT NO. D720,093

- 34. HeathCo repeats and re-alleges each and every allegation contained in paragraphs 1-34, inclusive, as though fully set forth herein.
- 35. HeathCo is the assignee and owner of United States Design Patent No. D720,093 ("the D'093 patent").
- 36. The D'093 patent, titled "Curved Light Fixture," was duly and legally issued by the United States Patent and Trademark Office on December 23, 2014. A true and correct copy of the D'093 patent is attached hereto as Exhibit C.

- 37. The D'093 patent is valid and enforceable.
- 38. In violation of 35 U.S.C. §§ 271 and 289, Vaxcel has been and is still infringing the D'093 patent by making, using, offering for sale, selling, importing, and/or using in this District and elsewhere in the United States, certain products that infringe the D'093 patent ("the D'388 Accused Products"), including, but not limited to, the following product: Vaxcel Model No. 3569257 Dual Head Dualux Security Light ("9257") ("the D'093 Example Product").
- 39. For example, side by side comparisons of Figures of the D'093 patent and the 9257 are shown below:







- 40. To the extent that any marking or notice was required by 35 U.S.C. § 287, HeathCo has complied with the requirements of that statute by providing constructive notice of the D'093 patent.
- 41. Vaxcel's infringement of the D'093 patent is and continues to be willful and deliberate.
- 42. Vaxcel's conduct has caused and will continue to cause HeathCo substantial damage, including irreparable harm, for which HeathCo has no adequate remedy at law, unless and until Defendants are enjoined from infringing the D'093 patent.

# PR AYER FOR RELIEF

Wherefore, HeathCo respectfully prays for entry of a judgment:

- A. That Defendants have infringed the '199, D'388, and D'093 patents;
- B. That Defendants and their respective agents, servants, officers, directors, employees and all persons in privity or active concert or participation with them, directly or

indirectly, be enjoined from infringing, inducing others to infringe, or contributing to the infringement of the '199, D'388, and D'093 patents;

- C. That Defendants be ordered to account for and pay to HeathCo damages adequate to compensate for Defendants' infringement of the 199, D'388, and D'093 patents, including lost profits and/or reasonable royalty, and/or for the D'388 and D'093 patents, disgorgement of Defendants' profits pursuant to 35 U.S.C. § 289;
- D. That a post-judgment equitable accounting of damages be ordered for the period of infringement of the '199, D'388, and D'093 patents following the period of damages established by HeathCo at trial;
- E. That damages be trebled for the willful, deliberate, and intentional infringement by Defendants as alleged herein in accordance with 35 U.S.C. § 284;
- F. That this case be adjudged an exceptional case under 35 U.S.C. § 285 and that HeathCo be awarded its costs, expenses, and disbursements incurred in this action, including reasonable attorneys' fees as available by law to be paid by Defendants;
- G. For an award of pre-judgment interest, post-judgment interest, and costs in this action; and
  - H. For such other relief to HeathCo as this Court deems just and proper.

## **DEMAND FOR JURY TRIAL**

HeathCo demands a trial by jury on all issues so triable.

Dated: April 22, 2021

Respectfully submitted,

/s/ Kevin C. May

Kevin C. May (ARDC No. 6237636)

## **NEAL, GERBER & EISENBERG LLP**

2 N. LaSalle Street, Suite 1700

Chicago, IL 60602 Phone: (312) 269-8000 Facsimile: (312) 269-1747

kmay@nge.com

## Of Counsel:

David C. Radulescu (pending pro hac vice) Etai Lahav (pending pro hac vice) Michael Sadowitz (pending pro hac vice)

## RADULESCU LLP

5 Penn Plaza, 19<sup>th</sup> Floor New York, NY 10001 Telephone: (646) 502-5950 Facsimile: (646) 502-5959 david@radip.com etai@radip.com michael@radip.com

Attorneys for Plaintiff HeathCo LLC