

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

**PURE EDGE LIGHTING LLC**

Plaintiff,

v.

**FABBIAN S.R.L.,**

Defendant.

Civil Action No.: \_\_\_\_\_

**JURY TRIAL DEMANDED**

**COMPLAINT**

Plaintiff Pure Edge Lighting LLC, for its Complaint against Fabbian S.R.L., alleges as follows:

**THE PARTIES**

1. Plaintiff Pure Edge Lighting LLC (“Pure Edge”) is a limited liability company organized under the laws of Illinois with its principal place of business located at 1718 W. Fullerton Ave., Chicago, IL 60614.

2. Defendant Fabbian S.R.L. (“Fabbian”) is a limited liability company organized under the laws of Italy with its principal place of business at 50 Via Santa Brigida 31020 Castelminio di Resana (TV), Italy.

**JURISDICTION AND VENUE**

3. This action is for patent infringement against Fabbian under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.*, including 35 U.S.C. § 271. Pure Edge brings this action to seek damages and injunctive relief arising out of Fabbian’s infringement of U.S. Patent No. 9,033,541 (“the ‘541 Patent”) attached hereto as Exhibit A.

4. This action arises under the patent laws of the United States. Accordingly, this

Court has subject matter jurisdiction over Pure Edge's patent claims pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Personal jurisdiction over Fabbian is proper in this Court pursuant to Fed. R. Civ. P. 4(k)(2) because Pure Edge's claims arise under federal law, Fabbian is not subject to jurisdiction in any state's courts of general jurisdiction, and the exercise of jurisdiction over Fabbian comports with due process based on its contacts with the United States. Fabbian, at least through its active efforts to market, import, and sell its infringing product(s) in the United States, has established minimum contacts with the United States such that maintenance of this suit does not offend traditional notions of fair play and substantial justice. Specifically, Fabbian has purposefully directed its infringing activities at residents of the United States by marketing, selling, and importing its infringing product(s) to residents of the United States, including for example to the Walden Chicago and Opendoor in Tempe, AZ. *See* Exhibit B. The claim for patent infringement asserted in this suit arises out of Fabbian's activities within the United States, *i.e.* the marketing, importation, and sale of its infringing product(s). Finally, the United States' assertion of personal jurisdiction over Fabbian is reasonable and fair because any burden on Fabbian is sufficiently outweighed by the United States' substantial interest in enforcing its federal patent laws and Pure Edge's interest in obtaining effective and convenient relief. No competing United States forum exists (because the forum is the entire United States) for the consideration of competing substantive social policies or efficiency of resolution, and the United States' foreign relations policies with Italy will not be hindered by the exercise of personal jurisdiction here. Accordingly, personal jurisdiction over Fabbian is properly exercised by this Court.

6. Venue is proper in this judicial district as to Fabbian pursuant to 28 U.S.C. § 1391(c)(3) because Fabbian does not reside in the United States and therefore may be sued in any judicial district herein.

### **BACKGROUND FACTUAL ALLEGATIONS**

7. Pure Edge is a leading innovator in lighting design and solutions. Its focus is in energy efficient, contemporary, specification-grade architectural lighting.

8. To protect its investment in its innovations, Pure Edge has applied for and received multiple U.S. patents. Relevant here, it is also the exclusive licensee of the ‘541 Patent, and has through the license been assigned all substantial rights under the ‘541 Patent, including the right to enforce the ‘541 Patent. Accordingly, Pure Edge has standing to sue for infringement of the ‘541 Patent.

9. The ‘541 Patent claims a Tension Mounted Lighting System, was issued May 19, 2015, and remains valid and enforceable to this day.

10. Fabbian owns and operates websites at [www.fabbian.com](http://www.fabbian.com) and [www.fabbian.us](http://www.fabbian.us), where it markets a tension-mounted lighting system under the name Metro F49/F49 Metro<sup>1</sup>. See Exhibit C, printout of <https://www.fabbian.us/metro-f49#> (last accessed July 29, 2021). A copy of the product presentation available at [https://www.fabbian.us/sites/www.fabbian.us/files/collections/product-presentation/F49\\_METRO\\_SAMPLE\\_PRESENTATION\\_2-21.pdf](https://www.fabbian.us/sites/www.fabbian.us/files/collections/product-presentation/F49_METRO_SAMPLE_PRESENTATION_2-21.pdf) is attached hereto as Exhibit D. Fabbian also features the accused product at [www.fabbian.com](http://www.fabbian.com), where it markets the Metro F49/F49 Metro product by linking to the [www.fabbian.us](http://www.fabbian.us) Metro F49 described in this paragraph.

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<sup>1</sup> Fabbian uses “F49 Metro” and “Metro F49” interchangeably to refer to the same product.

11. As of the filing of this Complaint, Fabbian has already delivered its Metro F49 system to multiple United States customers, including for example the Walden Chicago and Opendoor in Tempe, AZ. *See* Exhibit B.

### **THE '541 PATENT**

12. Pure Edge is and has at all relevant times been the exclusive licensee of the '541 Patent and possesses all rights to recovery under the '541 Patent.

13. The '541 Patent issued on May 19, 2015. Exhibit A.

14. The '541 Patent was and is valid and enforceable at all times relevant to this action and is entitled to a presumption of validity under 35 U.S.C. § 282.

15. Claim 1 of the '541 Patent reads:

A lighting system, comprising:

a metal strip extending longitudinally between ends, said metal strip being flexible

whereby said strip is adapted to be rolled into a roll where said roll is cylindrical

in shape with a roll width substantially equal to the width of said metal strip;

a first clamp securing one end of the metal strip to a first selected location;

a second clamp securing the other end of the metal strip to a second selected location

with said metal strip unrolled into a substantially straight longitudinal orientation

between said first and second clamps; and

a light strip on one side of said longitudinal metal strip.

16. Claims 2-9 and 11 of the '541 Patent are dependent apparatus claims stemming from Claim 1. *See* Exhibit A.

17. Claim 10 of the '541 Patent reads:

A method of installing the lighting system of claim 1 at a lighting site, comprising the steps of:

transporting a roll of metal strip to a lighting site;

unrolling a selected length of said metal strip to be substantially straight, wherein

opposite ends of said selected length are said metal strip one and other ends;

securing said light strip to said one side of said selected length of said metal strip; and

securing opposite ends of said metal strip selected length in said longitudinal orientation

between said first and second clamps.

18. Claim 12 of the '541 Patent reads:

A lighting system, comprising:

a metal strip extending longitudinally between ends and defining a concave channel along

its length, said metal strip being flexible whereby said strip is adapted to be rolled

into a roll where said roll is cylindrical in shape with a roll width substantially

equal to the width of said metal strip;

a first clamp securing one end of the metal strip to a first selected location;

a second clamp securing the other end of the metal strip to a second selected location

with said metal strip unrolled into a substantially straight longitudinal orientation

between said first and second clamps; and

light emitting diodes (LEDs) on said metal strip in said channel.

19. Claims 13-17 of the '541 Patent are dependent apparatus claims stemming from Claim 12. *See* Exhibit A.

20. Claim 18 of the '541 Patent reads:

A method of installing the lighting system of claim 12 at a lighting site, comprising the steps of:

transporting a roll of metal strip to a lighting site;

unrolling a selected length of said metal strip to be substantially straight, wherein

opposite ends of said selected length are said metal strip one and other ends;

securing said light strip to said one side of said selected length of said metal strip; and

securing opposing ends of said metal strip selected length in said longitudinal orientation between said first and second clamps.

21. Claim 19 of the '541 Patent reads:

A lighting system for use in a [building]<sup>2</sup> structure, comprising:

a flexible metal strip extending longitudinally between first and second and defining a generally concave channel along its length;

a first clamp secured the first end of the metal strip and including

a first base mountable to a first selected location of the building structure; and

a first clamp arm having

a first set of clamping members on one end adapted to secure said first clamp arm to said first end of said metal strip; and

a first mount adjustably securable to said first base for securing said first clamping arm in a selected orientation relative to said first base:

a second clamp secured to the second end of the metal strip and including

a second base mountable to a second selected location of the building structure;

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<sup>2</sup> Claim 19 originally read “budding,” but was corrected to “building” via Certificate of Correction. *See* Exhibit A.

and

a second clamp arm having

a second set of clamping members on one end adapted to secure said

second clamp arm to the second end of said metal strip, and

a second mount adjustably securable to said second base for securing said

second clamping arm in a selected orientation relative to said

second base;

a light strip in the channel of said metal strip; and

a box at one of said first and second clamps for connecting a power source to said light

strip;

whereby said metal strip is secured in a substantially straight longitudinal orientation

between said first and second clamps.

22. Claim 20 is a dependent apparatus claim stemming from Claim 19 of the ‘541 Patent. *See* Exhibit A.

#### **FABBIAN’S INFRINGEMENT**

23. Fabbian’s websites advertise that its product has been installed at multiple United States locations, including but not limited to the Walden Chicago and Opendoor in Tempe, AZ. *See* Exhibit B. The webpages list Fabbian’s contact information in Italy.

24. Accordingly, Fabbian has made, used, imported, installed, sold, and/or offered to sell the Metro F49 systems in the United States.

25. Additionally, because the systems must have been installed at the aforementioned locations, the method claims of the ‘541 Patent have been practiced in the United States either by Fabbian or a representative, contractor, or customer of Fabbian.

26. The F49 Metro system comprises each and every claim element of the apparatus claims of the ‘541 Patent.

27. When installed, the installer of an F49 Metro system performs each and every step of the method claims of the ‘541 Patent.

28. On March 30, 2021, through its counsel, Pure Edge sent Fabbian a letter that provided actual notice of the ‘541 Patent and its rights thereunder, and that demanded that Fabbian cease its infringing activities. *See* Exhibit E. Initially, Pure Edge received a response from Italian counsel, but eventually stopped receiving further responses, necessitating the present suit.

29. Accordingly, Fabbian had actual notice of the ‘541 Patent at least as early as March 30, 2021.

**COUNT I: DIRECT PATENT INFRINGEMENT**  
**35 U.S.C. § 271(a)**

30. Pure Edge realleges and incorporates each of the allegations set forth in Paragraphs 1-29 as if restated herein in their entirety.

31. Fabbian has infringed and continues to infringe each and every claim of the ‘541 Patent by making, using, importing, selling, installing, and/or offering to sell the METRO F49/F49 METRO products in the United States without authorization or license from Pure Edge.

32. Fabbian has had actual knowledge of the ‘541 Patent since at least March 30, 2021, by virtue of the cease-and-desist letter sent by Pure Edge.

33. Fabbian had actual knowledge of the ‘541 Patent prior to commencing its infringement.

34. Fabbian has profited by its infringement of the ‘541 Patent, and Pure Edge has suffered actual harm as a result of Fabbian’s infringement.



35. As a direct and proximate result of Fabbian's infringement, Pure Edge has suffered irreparable harm and monetary and other damages in an amount to be determined.

36. Fabbian's infringement has been and continues to be willful. Accordingly, Pure Edge is entitled to treble damages under 35 U.S.C. § 284 and this is an exceptional case under 35 U.S.C. § 285.

37. Unless Fabbian is preliminarily and permanently enjoined by this Court from continuing its infringement of the '541 Patent, Pure Edge will continue to suffer additional irreparable harm, including loss of market share and erosion of its patent rights.

**COUNT II: INDUCED PATENT INFRINGEMENT**  
**35 U.S.C. § 271(b)**

38. Pure Edge realleges and incorporates each of the allegations set forth in Paragraphs 1-37 as if restated herein in their entirety.

39. The Patent Laws of the United States provide that "[w]hoever actively induces infringement of a patent shall be liable as an infringer." 35 U.S.C. § 271(b).

40. On information and belief, Fabbian contracts with third-party representatives/contactors throughout the United States that sell, display, install, or otherwise distribute the accused F49 Metro system. *See, e.g.*, Exhibit F, describing Fabbian's Illinois representative.

41. When the third-party representatives, contractors, or customers sell, display, install, or otherwise distribute the accused F49 Metro system, they directly infringe the apparatus and method claims of '541 Patent.

42. When Fabbian instructs third-party representatives to sell, display, install, or otherwise distribute the accused F49 Metro system, or instructs contractors or customers to

install the F49 Metro System, it instructs them to commit direct infringement of the apparatus and method claims of '541 Patent.

43. Fabbian has known since at least as early as March 30, 2021, that third-party representatives commit direct infringement of the apparatus and method claims of '541 Patent when selling, displaying, installing, or otherwise distributing the F49 Metro system, and that contractors and customers commit direct infringement by installing the F49 Metro system.

44. Fabbian at all relevant times intended that its third-party representatives commit direct infringement of the apparatus and method claims of the '541 Patent when selling, displaying, installing, or otherwise distributing the F49 Metro system, and that contractors and customers commit direct infringement by installing the F49 Metro system.

45. Fabbian has had actual knowledge of the '541 Patent since at least March 30, 2021, by virtue of the cease-and-desist letter sent by Pure Edge.

46. Fabbian had actual knowledge of the '541 Patent prior to commencing its induced infringement.

47. Fabbian has profited by its induced infringement of the '541 Patent, and Pure Edge has suffered actual harm as a result of Fabbian's induced infringement.

48. As a direct and proximate result of Fabbian's induced infringement, Pure Edge has suffered irreparable harm and monetary and other damages in an amount to be determined.

49. Fabbian's induced infringement has been and continues to be willful. Accordingly, Pure Edge is entitled to treble damages under 35 U.S.C. § 284 and this is an exceptional case under 35 U.S.C. § 285.

50. Unless Fabbian is preliminarily and permanently enjoined by this Court from continuing its induced infringement of the ‘541 Patent, Pure Edge will continue to suffer additional irreparable harm, including loss of market share and erosion of its patent rights.

**COUNT III: CONTRIBUTORY PATENT INFRINGEMENT**  
**35 U.S.C. § 271(c)**

51. Pure Edge realleges and incorporates each of the allegations set forth in Paragraphs 1-50 as if restated herein in their entirety.

52. The Patent Laws of the United States provide that “[w]hoever offers to sell or sells within the United States or imports into the United States a component of a patented machine, manufacture, combination or composition, or a material or apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use, shall be liable as a contributory infringer.” 35 U.S.C. § 271(c).

53. At all relevant times, Fabbian has known and intended that installation of its Metro F49/F49 Metro product constitutes infringement of the method claims of the ‘541 Patent.

54. When the third-party representatives, contractors, or customers install the accused F49 Metro system, they directly infringe the method claims of ‘541 Patent.

55. The Metro F49 products are made and especially adapted for use in infringement of the method claims of the ‘541 Patent.

56. The Metro F49 products are not staple articles or commodities of commerce suitable for substantial noninfringing use.

57. Fabbian has known since at least as early as March 30, 2021, that its representatives, contractors, and/or customers commit direct infringement of the '541 Patent when installing the F49 Metro system.

58. Fabbian at all relevant times intended that its representatives, contractors, and/or customers commit direct infringement of the '541 Patent when installing the F49 Metro system.

59. Fabbian has had actual knowledge of the '541 Patent since at least March 30, 2021, by virtue of the cease-and-desist letter sent by Pure Edge.

60. Fabbian had actual knowledge of the '541 Patent prior to commencing its contributory infringement.

61. Fabbian has profited by its contributory infringement of the '541 Patent, and Pure Edge has suffered actual harm as a result of Fabbian's contributory infringement.

62. As a direct and proximate result of Fabbian's contributory infringement, Pure Edge has suffered irreparable harm and monetary and other damages in an amount to be determined.

63. Fabbian's contributory infringement has been and continues to be willful. Accordingly, Pure Edge is entitled to treble damages under 35 U.S.C. § 284 and this is an exceptional case under 35 U.S.C. § 285.

64. Unless Fabbian is preliminarily and permanently enjoined by this Court from continuing its contributory infringement of the '541 Patent, Pure Edge will continue to suffer additional irreparable harm, including loss of market share and erosion of its patent rights.

#### **PRAYER FOR RELIEF**

Wherefore, Plaintiff Pure Edge Lighting LLC requests that this Court find in its favor and grant Plaintiff the following relief:

- A. That Judgment be entered that Fabbian S.R.L. has committed direct infringement of the '541 Patent under 35 U.S.C. § 271(a).
- B. That Judgment be entered that Fabbian S.R.L. has committed induced infringement of the '541 Patent under 35 U.S.C. § 271(b).
- C. That Judgment be entered that Fabbian S.R.L. committed contributory infringement of the '541 Patent under 35 U.S.C. § 271(c).
- D. That, in accordance with 35 U.S.C. § 283, Fabbian S.R.L., and all their affiliates, employees, agents, officers, directors, attorneys, successors, and assigns and all those acting on behalf of or in active concert or participation with any of them, be preliminarily and permanently enjoined from (1) directly or indirectly infringing the '541 Patent and (2) making, using, selling, and offering for sale the accused F49 Metro products;
- E. A finding that Fabbian S.R.L.'s infringement has been willful;
- F. An award of damages sufficient to compensate Plaintiff for Fabbian S.R.L.'s infringement under 35 U.S.C. § 284, in no event an amount less than a reasonable warranty, including an award of enhanced damages up to three times the amount found or assessed;
- G. That the case be found exceptional under 35 U.S.C. § 285 and that Plaintiff be awarded its attorneys' fees;
- H. Costs and expenses incurred in this action;
- I. An award of prejudgment and post-judgment interest; and
- J. Such other and further relief as the Court may deem just and proper.

**JURY DEMAND**

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

Dated: August 4, 2021

Respectfully submitted,

/s/ Edward L. Bishop

Edward L. Bishop

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