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Blackbird Technologies*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

<p>BLACKBIRD TECH LLC d/b/a BLACKBIRD TECHNOLOGIES, Plaintiff, v. SIGNIFY NORTH AMERICA CORPORATION, Defendant.</p>	<p>C.A. No. 2:21-CV-18463 JURY TRIAL DEMANDED</p>
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FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Blackbird Tech LLC d/b/a/ Blackbird Technologies (“Blackbird Technologies”) hereby alleges for its First Amended Complaint for Patent Infringement against Defendant Signify North America Corporation (“Signify” or “Defendant”), on personal knowledge as to its own activities and on information and belief as to all other matters, as follows:

THE PARTIES

1. Plaintiff Blackbird Technologies is a company organized under the laws of Delaware, with its principal place of business located at One Boston Place, Suite 2600, Boston,

MA, 02108.

2. Defendant Signify North America Corporation is a corporation organized under the laws of Delaware, with its principal place of business located at 200 Franklin Square Drive, Somerset, NJ, 08873.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the provisions of the Patent Laws of the United States of America, title 35, United States Code §§ 100, *et sec.*

4. Subject-matter jurisdiction over Blackbird Technologies' claims is conferred upon this Court by 28 U.S.C. § 1331 (federal question jurisdiction) and 28 U.S.C. § 1338(a) (patent jurisdiction).

5. This Court has personal jurisdiction over Defendant because Defendant is subject to general and specific jurisdiction in the state of New Jersey. Defendant is subject to personal jurisdiction because Defendant has transacted business within New Jersey and committed acts of patent infringement in New Jersey. Defendant has made certain minimum contacts with New Jersey such that the maintenance of this suit does not offend traditional notions of fair play and substantial justice. Defendant regularly conducts business in New Jersey, including by marketing, selling, and/or offering for sale accused LED lighting products through its website, <https://www.lighting.philips.com/main/prof/led-lamps-and-tubes/led-tubes>, which is accessible throughout the United States, including New Jersey, and through distributors located in New Jersey, such as Home Depot and Graybar. Defendant inserts the accused products into the stream of commerce, with the knowledge and intention that they be offered and sold to, and used by, New Jersey residents. Defendant also maintains an office at 200 Franklin Square Drive, Somerset, New Jersey 08873. The exercise of personal jurisdiction comports with Defendant's right to due process

because, as described below, Defendant has purposefully availed itself of the privilege of conducting activities within New Jersey such that it should reasonably anticipate being haled into court here. As alleged herein, acts by Defendant in this District have caused injury to Blackbird Technologies.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 (b) and (c) and § 1400(b) because Defendant transacts business within this District, has a regular and established place of business in this District, and offers for sale in this District products that infringe U.S. Patent No. 7,086,747.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 7,086,747

7. Blackbird Technologies reasserts and incorporates herein by reference the allegations of all preceding paragraphs of this Complaint as if fully set forth herein.

8. On August 8, 2006, U.S. Patent No. 7,086,747 (the “’747 Patent”) entitled, “Low-Voltage Apparatus for Satisfying After-Hours Lighting Requirements, Emergency Lighting Requirements, and Low Light Requirements,” a true and correct copy of which is attached hereto as “Exhibit A,” was duly and legally issued by the U.S. Patent and Trademark Office. Blackbird Technologies is the owner by assignment of all right, title, and interest to the ’747 Patent, including all right to recover for any and all past infringement thereof.

9. The ’747 Patent is valid and enforceable.

10. Signify has in the past and continues to infringe literally, and/or under the Doctrine of Equivalents, one or more of the claims of the ’747 Patent, including at least independent claim 12, by making, using, importing, selling and/or offering to sell, in this judicial district and elsewhere in the United States, certain retrofit LED tube lights including, but not limited to, Signify’s MasterConnect T8 bulbs (*e.g.*, 14T8/48-850/IF21/MC IA 10/1), Specialty LED tubes

(e.g., 14T8/48-835/IF20/VLC 10/1), T12 bulbs (e.g., 16T12/LED/48-865/UF18/G), T5 bulbs (e.g.,14T5HE/LED/46-840/IF21/G/DIM), T8 bulbs (e.g., 16T8/LED/48-850/UF18/G10/1), PL-C/T bulbs (e.g., 10.5W (26W), G24q/ GX24q, Soft White, Non-dimmable), PL-L bulbs (e.g., 16.5PL-L/COR/22-830/IF22/P/4P/DIM 10/1), PL-S bulbs (e.g., 5PL-S/LED/13H/840/IF5/P/2P 20/1), LED Corn Cob bulbs (e.g., 18CC/LED/830/ND E26 G2 BB 6/1), LED Urban TrueForce bulbs (e.g., 55ED28/LED/740/ND 120-277V G2 4/1), LED Wallpack Retrofit bulbs (e.g., 20WP/LED/840/ND E26 G2 BB 6/1), and LED Highbay bulbs (e.g., 165HB/LED/740/ND WB DL 2/1) (collectively, “the LED Tube Lights”), which are covered by at least one claim of the ’747 Patent, including at least independent claim 12, as discussed in the following paragraphs of this First Amended Complaint. Signify’s infringing activities violate 35 U.S.C. § 271.

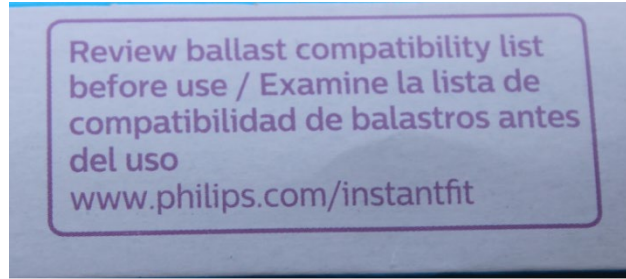
11. For example, Signify’s 16T8/LED/48-850/UF18/G10/1 LED Tube (https://www.usa.lighting.philips.com/prof/led-lamps-and-tubes/led-tubes/t12/929001966004_NA/product) (“the 16T8 LED Tube”) is covered by every element of claim 12 of the ’747 Patent literally and/or under the doctrine of equivalents, as shown below. Upon information and belief, the 16T8 LED Tube is representative of the accused LED Tube Lights.

12. The 16T8 LED Bulb is an “energy-efficient lighting apparatus for retrofit with an existing light fixture having a ballast cover,” as recited in claim 12. As shown below, the 16T8 LED Bulb is a lighting apparatus—*i.e.*, an LED lamp:



Signify’s product installation instructions describe the 16T8 LED Tube as energy-efficient and designed for retrofit with an existing light fixture having a ballast cover (*i.e.*, a fluorescent fixture):





Signify's specifications and marketing materials also describe the 16T8 LED Tube as energy-efficient and designed for retrofit.

Benefits

- ✔ Lowers lighting costs
- ✔ Offers professional upgrade to LED lighting technology
- ✔ Reduced installation time, no need to replace ballasts

Features

- ✔ Compatible with both Magnetic and Electronic ballasts
- ✔ Meets the latest UL1993 standards
- ✔ Reliable performance
- ✔ Easy installation, just plug-and-play (UL Type A)

<https://www.usa.lighting.philips.com/prof/led-lamps-and-tubes/led-tubes/t12>.

T12

16T8/LED/48-850/UF18/G 10/1

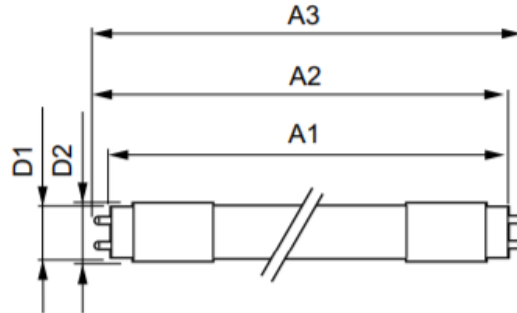
Philips UniversalFit TLEDs offer unique ballast compatibility working with both electronic (instant-start) and magnetic ballasts while meeting the revised UL1993 standards. The UniversalFit TLEDs are engineered to deliver excellent lighting effects and substantial energy savings while providing unmatched user & installer safety.

https://www.usa.lighting.philips.com/api/assets/v1/file/PhilipsLighting/content/fp929001966004-pss-en_us/929001966004_NA.en_US.PROF.FP.pdf. Signify's materials also depict the 16T8

LED Tube as having pins compatible with fluorescent fixtures.

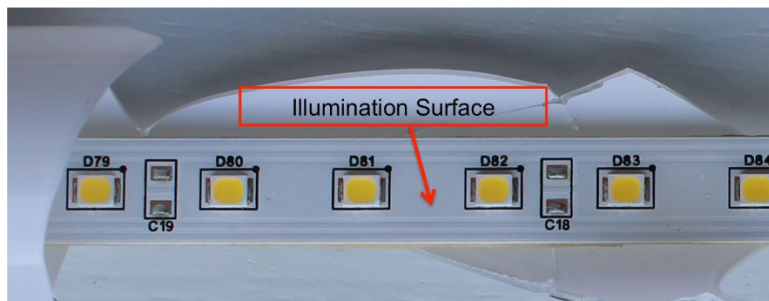
Medium Bi-Pin Fluorescent

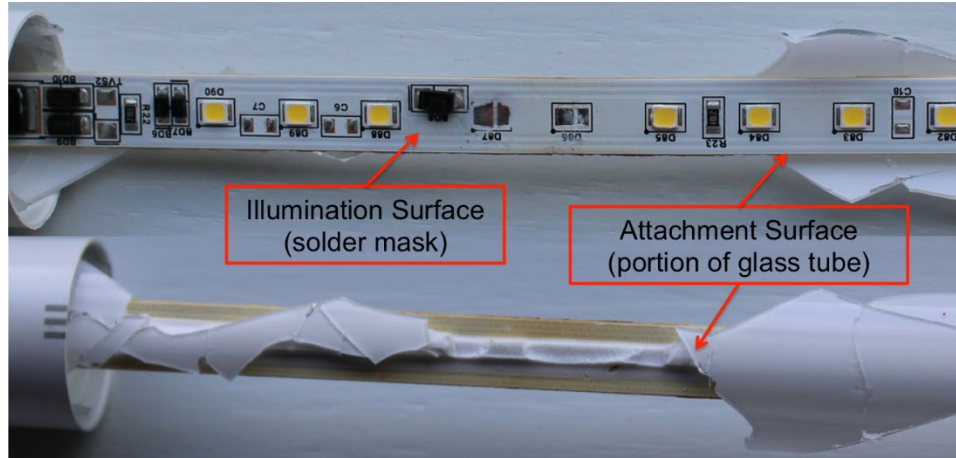
Dimensional drawing



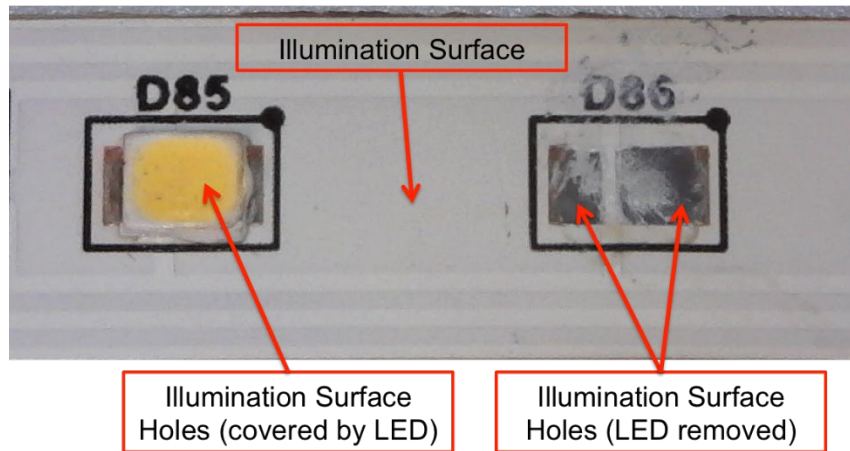
https://www.usa.lighting.philips.com/api/assets/v1/file/PhilipsLighting/content/comf7403346-pss-en_us/LP_CF_7403346_EU.en_US.PROF.CF.pdf

13. As shown below, the 16T8 LED Tube includes “a housing having an attachment surface and an illumination surface,” as recited in claim 12. As shown, the “illumination surface” is the white cover positioned on the top of the circuit board. It is also known as a solder mask. Solder masks are used to enclose the copper circuitry of a circuit board that will not otherwise be covered by components, thereby protecting it against unfavorable environmental conditions (*e.g.*, those causing oxidation) and the unintentional connection of two conductors by stray solder (*i.e.*, “solder bridging”). For LED lamps, solder masks are typically white to enhance the illumination from the LEDs.



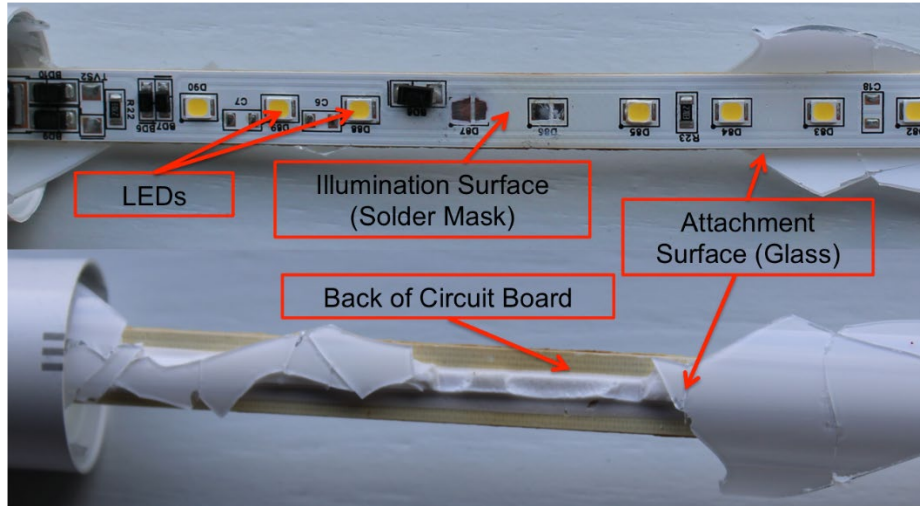


14. The 16T8 LED Tube includes “a plurality of illumination surface holes in the illumination surface,” as recited in claim 12. For example, as shown below, the LEDs are electrically connected to the circuit board through the illumination surface holes, which allow electrical contacts on the LED to mate with electrical contacts on the circuit board.

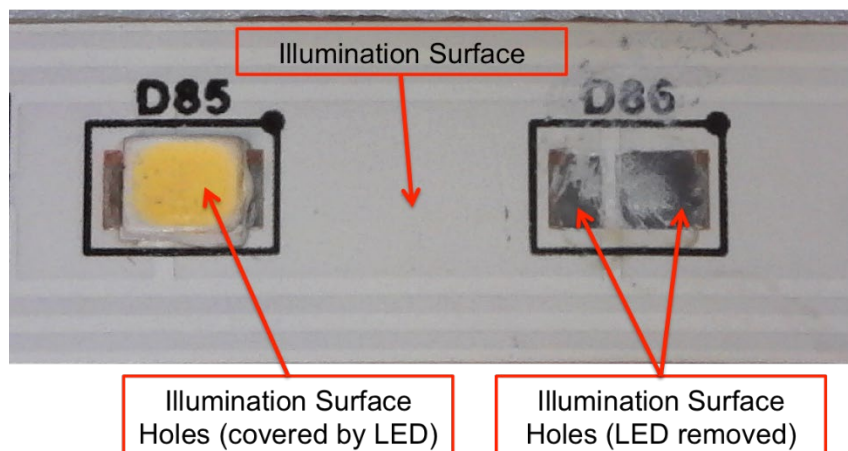


15. The 16T8 LED Tube includes “a circuit board comprising a plurality of light-emitting diodes, wherein the circuit board is positioned adjacent the housing so that the plurality of light-emitting diodes protrude through the plurality of illumination surface holes in the illumination surface,” as recited in claim 12. For example, as shown below, the circuit board is positioned adjacent both the illumination surface and the attachment surface of the housing. For reference, the illumination surface is positioned on the top side of the circuit board and the

attachment surface is positioned on the back side of the circuit board.



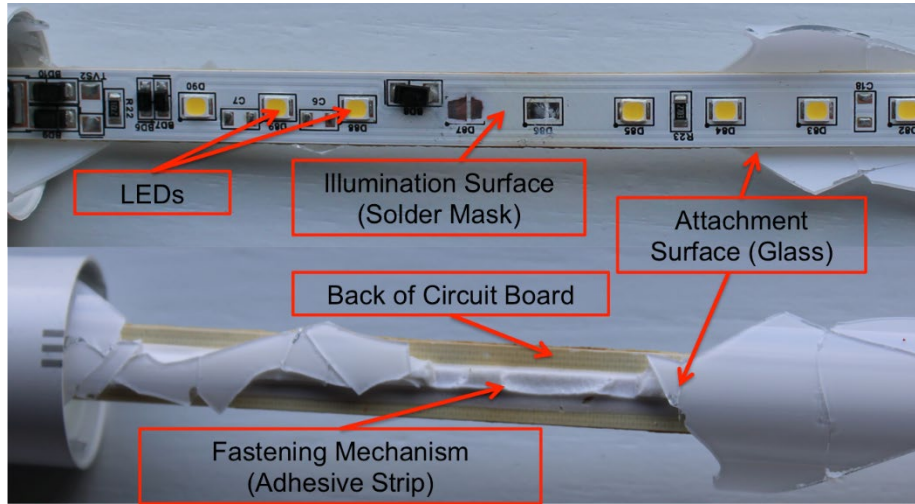
As further shown below, the LEDs protrude through holes in the illumination surface. In the picture below, the LED position labeled D85 corresponds to an LED positioned in the illumination surface holes. LED position D86 corresponds to the circuit board visible through the illumination surface holes when the LED is removed. The LED protrudes through the illumination surface holes to electrically connect the LED to the circuit board.



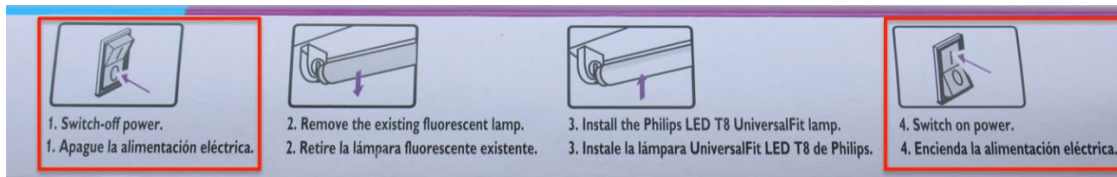
16. The 16T8 LED Tube includes “a fastening mechanism for securing the attachment surface of the lighting apparatus to the illumination surface, wherein the lighting apparatus is coupled to a wall switch and wherein the illumination of the light-emitting diodes is controllable

based upon the position of the wall switch,” as recited in claim 12.

17. For example, as shown below, the 16T8 LED Tube contains a fastening mechanism for securing the attachment surface of the lighting apparatus to the illumination surface. The 16T8 LED Tube secures the illumination surface to the attachment surface by at least an adhesive strip or glue. The adhesive lies between the glass attachment surface and the circuit board.



18. The 16T8 LED Tube is capable of being coupled to a wall switch such that the illumination of the light-emitting diodes is controllable based upon the position of the wall switch. Traditional fluorescent tube lighting systems (used in conjunction with LED retrofit bulbs) have all or substantially all been used in applications where the bulbs are coupled to wall switches. The product packaging for the 16T8 LED Tube illustrates the use of a wall switch to control the illumination of the lamp, as depicted below.





19. Alternatively, Signify has contributed to the infringement of the '747 Patent under 35 U.S.C. § 271(c) by selling or offering to sell within the United States a component of a patented machine or manufacture, 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 the '747 Patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use. Signify has had actual knowledge of the '747 Patent since at least July 20, 2021 via a letter notice of infringement sent by Blackbird Technologies. (*See* Ex. B). Since at least that time, Signify has sold or offered to sell within the United States the LED Tube Lights, which include components of a machine and/or manufacture claimed by the '747 Patent, and/or a material or apparatus for use in practicing a process claimed by the '747 Patent. The LED Tube Lights are a material part of the claimed invention. For example, the LED Tube Lights are components of an energy-efficient lighting apparatus for retrofit with an existing light fixture having a ballast cover, as described in claim 12 of the '747 Patent. When these components are coupled to a wall switch, as described in claim 12 of the '747 Patent, the resulting structure infringes claim 12 of the '747 Patent. By coupling the LED Tube Lights to a wall switch, Signify's customers, and others, have infringed and are continuing to infringe the '747 Patent. Further, Signify knows the LED Tube Lights are especially made or especially adapted for use in an infringement of the '747 Patent and that they are not a staple article or commodity of commerce suitable for substantial noninfringing use. To the extent the LED Tube Lights can be used in configurations where they are not coupled to a wall switch, those uses are insubstantial, particularly when compared with their use in configurations where they are coupled to a wall

switch.

20. In the further alternative, Signify has actively induced infringement of the '747 Patent under 35 U.S.C. § 271(b) by directing purchasers of products, including, but not limited to, the LED Tube Lights, to couple those products to a wall switch, as described in, for example, claim 12 of the '747 Patent. Signify actively induced these actions while knowing that the induced acts constitute infringement of the '747 Patent. Signify has had actual knowledge of the '747 patent since at least July 20, 2021 via a letter notice of infringement sent by Blackbird Technologies (*see* Ex. B) and, since at least that time, has been aware that the LED Tube Lights infringe the '747 Patent. Signify has induced infringement by, without limitation, making, using, importing, selling and/or offering for sale the LED Tube Lights for use by customers and others and, upon information and belief, providing those customers and others with instructions and information as to arrangements, applications, and uses of the LED Tube Lights that promote and demonstrate how to use the LED Tube Lights in a manner that would infringe the '747 Patent, including by coupling those LED Tube Lights to a wall switch. For example, as shown below, the product packaging for the 16T8 LED Tube illustrates the use of a wall switch to control the illumination of the lamp.



Accordingly, since at least July 20, 2021, Signify has specifically intended its customers to infringe the '747 Patent and has known that its customers' acts constitute infringement.

21. Signify's infringement has been willful or otherwise egregious. Signify has had

actual knowledge of the '747 Patent since at least July 20, 2021 via a letter notice of infringement sent by Blackbird Technologies (*see* Ex. B) and, since that time, has been aware that the LED Tube Lights infringe the '747 Patent. Signify continued to sell the LED Tube Lights despite its knowledge that these products infringe the '747 Patent and Signify knew or should have known that its actions constituted an unjustifiably high risk of infringement of the '749 Patent.

22. Blackbird Technologies is informed and believes, and on that basis alleges, that Signify has gained profits by virtue of its respective infringement of the '747 Patent.

23. Blackbird Technologies has sustained damages as a direct and proximate result of Signify's infringement of the '747 Patent.

24. As a consequence of Signify's infringement of the '747 Patent, Blackbird Technologies is entitled to recovery of past damages in the form of, at a minimum, a reasonable royalty.

25. As a consequence of continued and future infringement of the '747 Patent by Signify complained of herein, Blackbird Technologies is entitled to royalties for its infringement of the '747 Patent on a going-forward basis.

PRAYER FOR RELIEF

WHEREFORE, Blackbird Technologies respectfully requests that this Court enter judgment against Defendant, as follows:

- A. Adjudging that the '747 Patent is valid and enforceable;
- B. Adjudging that Defendant has infringed one or more claims of the '747 Patent, directly or indirectly, literally or under the Doctrine of Equivalents, in violation of 35 U.S.C. § 271;
- C. An award of damages to be paid by Defendant adequate to compensate Plaintiff for its past infringement and any continuing or future infringement up until the date such judgment

is entered, and in no event less than a reasonable royalty, including interest, costs, and disbursements as justified under 35 U.S.C. § 284 and, if necessary to adequately compensate Plaintiff for Defendant's infringement, an accounting of all infringing sales including, but not limited to, those sales not presented at trial;

D. Awarding Blackbird Technologies all damages, including treble damages, based on any infringement found to be willful or otherwise egregious, pursuant to 35 U.S.C. § 284;

E. Ordering Defendant to continue to pay royalties to Blackbird Technologies for infringement of the '747 Patent on a going-forward basis;

F. This case be judged an Exceptional Case under 25 U.S.C. § 285, and costs and attorney's fees be awarded to Blackbird Technologies;

G. Awarding Plaintiff pre-judgment and post-judgment interest at the maximum rate permitted by law on its damages; and

H. Blackbird Technologies be granted such further relief as this Court deems just and proper under the circumstances.

DEMAND FOR JURY TRIAL

Blackbird Technologies demands a trial by jury on all claims and issues so triable.

Dated: December 22, 2021

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