

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION**

GENLYTE THOMAS GROUP LLC,
a Delaware Limited Liability Company

Plaintiff,

v.

HUBBELL INCORPORATED
a Connecticut Corporation, and its subsidiary
HUBBELL LIGHTING, INC.
a Connecticut Corporation

SERVE: Richard W. Davies
584 Derby Milford Road
Orange, Connecticut 06477

Defendants.

Civil Action No. 3:08CV-372-H

JURY DEMANDED

COMPLAINT

Plaintiff, Genlyte Thomas Group LLC (“Genlyte Thomas”), by counsel, for its Complaint against Defendants, Hubbell Incorporated and its subsidiary Hubbell Lighting, Inc. (collectively, “Hubbell”), complains and alleges as follows:

INTRODUCTION

1. This is an action, in part, for infringement of United States Patent No. 7,374,310 entitled Garage Light Luminaire With Circular Compact Fluorescent Emergency Lighting Optics (“the ‘310 Patent”), which arises under the patent laws of the United States. This Complaint comprises causes of action for patent infringement, wherein Hubbell through its Kim Lighting Division has infringed, and continues to infringe, Genlyte Thomas’ ‘310 Patent. Genlyte Thomas seeks preliminary and

permanent injunctive relief; all gains, profits and advantages realized by Hubbell from their infringement; all damages sustained by Genlyte Thomas as a result of the infringement; the trebling of all damages awarded to Genlyte Thomas as a result of Hubbell's willful infringement; and all costs and fees, including reasonable attorneys' fees, incurred by Genlyte Thomas in this action.

THE PARTIES

2. Plaintiff, Genlyte Thomas, is a limited liability corporation organized and existing under the laws of Delaware, having its principal place of business at 10305 Ormsby Park Place, Louisville, Kentucky 40223.

3. Defendant, Hubbell Incorporated, is, upon information and belief, a corporation organized and existing under the laws of Connecticut, having its principal place of business at 584 Derby Milford Road, Orange, Connecticut 06477. Upon information and belief, Richard W. Davies, 584 Derby Milford Road, Orange, Connecticut 06477 is Hubbell Incorporated's Registered Agent for service of process.

4. Defendant, Hubbell Lighting, Inc., is, upon information and belief, a corporation organized and existing under the laws of Connecticut, having its principal place of business at 584 Derby Milford Road, Orange, Connecticut 06477. Upon information and belief, Richard W. Davies, 584 Derby Milford Road, Orange, Connecticut 06477 is Hubbell Lighting Inc.'s Registered Agent for service of process.

5. Hubbell, upon information and belief, conducts business through one or more operating divisions, including the Kim Lighting Division having an address of 16555 East Gale Avenue, City of Industry, California 91745. Upon information and

belief, Hubbell Incorporated owns the subsidiary Hubbell Lighting, Inc. and that Hubbell Lighting, Inc. conducts business through, and controls, the Kim Lighting Division.

JURISDICTION AND VENUE

6. This action arises under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*, and is between citizens of different states. Jurisdiction is proper under 28 U.S.C. §§ 1331, 1332, 1338(a).

7. Hubbell, upon information and belief, transacts business nationwide in that Hubbell's products, including the products which are alleged to infringe Genlyte Thomas' '310 Patent, are sold and offered for sale throughout the United States, including within the state of Kentucky and including within this judicial district. Specifically, on information and belief certain of Hubbell's products, namely Kim Lighting's infringing PGL5 series and PGL6 series Universal Parking Garage Luminaire with fluorescent standby (collectively, "the Kim Lighting Garage Fixture"), is placed in the stream of commerce by Hubbell directly and through its relationship with distributors or otherwise with knowledge that they will be offered for sale and/or re-sold at distributors' stores nationwide including at locations within the state of Kentucky and within this judicial district. Upon further information and belief, Kim Lighting has bid the Kim Lighting Garage Fixture on a project for the University of Louisville Health Sciences Campus. In addition, Hubbell advertises its products nationwide, including the Kim Lighting Garage Fixture, and offers it for sale within the state of Kentucky including within this judicial district.

8. Upon information and belief, Hubbell's transacting of business within this judicial district, either separately or in cooperation with a distributor, has resulted and does result in infringement of the '310 Patent within this district, as set forth below.

9. Venue properly resides in the United States District Court for the Western District of Kentucky pursuant to 28 U.S.C. §§ 1391(b) and (c), and/or 28 U.S.C. § 1400(b).

THE '310 PATENT

10. Genlyte Thomas is the owner of, and claims rights under, the '310 Patent, which was issued by the United States Patent and Trademark Office ("PTO") on May 20, 2008 in the names of inventors Claude Barozzini and Robert Summerford, said '310 Patent issuing from application serial no. 11/535,138 having a filing date of September 26, 2006. A copy of the '310 Patent is attached hereto as Exhibit A and incorporated by reference herein.

11. At or around the time of filing of the '310 Patent, the inventors assigned their rights, title and interest in and to the '310 Patent to Genlyte Thomas, which Assignment was duly recorded in Assignment Records of the PTO on August 31, 2007 at Reel No.019771 Frame No. 0007. By virtue of that assignment, the '310 Patent was issued to Genlyte Thomas as shown on the face of the patent, and Genlyte Thomas is the record owner of the '310 Patent.

12. By virtue of its ownership of the '310 Patent, Genlyte Thomas has the exclusive right to, and to authorize others to, make, use, sell or offer to sell, and import into the United States embodiments of the inventions claimed in the '310 Patent. Genlyte

Thomas has not authorized Hubbell to make, use, sell or offer to sell, or import into the United States any product under the '310 Patent.

COUNT I—INFRINGEMENT OF THE '310 PATENT

13. Genlyte Thomas repeats and realleges the allegations contained in paragraphs 1 through 12 of the Complaint, and further states:

14. Upon information and belief, Hubbell, through its Kim Lighting Division and/or other agent or agents, without permission or license from Genlyte Thomas, has unlawfully and wrongfully made, sold, offered for sale, or imported, and is now making, selling, offering for sale, or importing, in direct competition with Genlyte Thomas within the United States, the Kim Lighting Garage Fixture. A copy of the product description for the Kim Lighting Garage Fixture downloaded and reprinted from Hubbell's/Kim Lighting's website (www.kimlighting.com) is attached as Exhibit B and incorporated by reference herein. Hubbell's Kim Lighting Garage Fixture contains, embodies and employs the invention(s) described and claimed in the '310 Patent, in violation of Genlyte Thomas' exclusive rights thereunder, all to the great loss and injury to Genlyte Thomas.

15. Upon information and belief, Hubbell has made, sold, offered to sell or imported, and continues to make, sell, offer to sell or import, its Kim Lighting Garage Fixture for Hubbell's own benefit and for the benefit of Hubbell's distributors, including regular sales of the Kim Lighting Garage Fixture within this judicial district, in direct violation of Genlyte Thomas' exclusive rights under the '310 Patent.

16. Hubbell's unlawful making, selling, offering for sale, and unlawful importation; or contributing to the making, using, selling or offering to sell within the

United States, and unlawful importation into the United States; or unlawful inducement of others to make, use, sell or offer to sell within the United States, or import Hubbell's Kim Lighting Garage Fixture into the United States including regular sales of same within this judicial district constitutes infringement of at least one claim of the '310 Patent.

17. Upon information and belief, Hubbell has derived, received, and will derive and receive from the aforesaid infringement of the '310 Patent, substantial gains, profits, and advantages, including gains profits and advantages from regular sales of infringing devices within this judicial district, in amounts to be proven at trial. As a direct and proximate result of the aforesaid infringement, Genlyte Thomas has been, and will be, greatly damaged and has been, and will be, deprived and prevented from receiving, if such further infringement is not restrained and enjoined by this Court, all the gains and profits to which Genlyte Thomas is lawfully entitled and which they would have derived and received, but for the aforesaid infringement by Hubbell.

18. By virtue of the foregoing infringement of Genlyte Thomas' '310 Patent, Genlyte Thomas is entitled to recover damages as set forth in 35 U.S.C. § 284, in such amount as may be established at trial of this action, including enhanced damages and attorney fees as set forth in 35 U.S.C. § 285.

COUNT II—INJUNCTIVE RELIEF

19. Genlyte Thomas repeats and realleges the allegations contained in paragraphs 1 through 18 of the Complaint, and further states:

20. Upon a finding that Hubbell's Kim Lighting Garage Fixture infringes the '310 Patent, Genlyte Thomas is entitled to an order under 35 U.S.C. § 283 enjoining,

preliminarily and permanently, Hubbell from making, selling or offering for sale, and unlawfully importing Hubbell's Kim Lighting Garage Fixture into the United States; or from inducing others to make, use, sell, offer to sell or import into the United States such infringing products; and from contributing to others' infringement of the '310 Patent..

COUNT III—ACCOUNTING

21. Genlyte Thomas repeats and realleges the allegations contained in paragraphs 1 through 20 of the Complaint, and further states:

22. Genlyte Thomas is in need of an accounting of all earnings achieved by Hubbell as a consequence of Hubbell's making, using, selling, offering to sell or importing of Hubbell's Kim Lighting Garage Fixture which result in infringement of the '310 Patent, and any other products which result in infringement of the '310 Patent.

WHEREFORE, Plaintiff, Genlyte Thomas Group LLC respectfully demands:

- A. That Hubbell be adjudicated an infringer of the '310 Patent;
- B. That pursuant to 35 U.S.C. § 283, preliminary and/or permanent injunctions be issued restraining and enjoining Hubbell, and their respective officers, agents, servants and employees, and all persons in active concert and participation with Hubbell, from directly or indirectly making or causing to be made, offering for sale, selling or causing to be sold, using or causing to be used, or importing or causing to be imported any product in accordance with or embodying any invention(s) set forth and claimed in the '310 Patent, including but not limited to Hubbell's Kim Lighting Garage Fixture.

C. That Hubbell be directed to account to Genlyte Thomas for all gains, profits and advantages realized by Hubbell from its manufacturing and marketing of the Kim Lighting Garage Fixture resulting in infringement of the '310 Patent and unlawful use and practice of the invention(s) patented in and by the '310 Patent, and other products or necessary accessories sold in connection therewith, and other products which infringe the '310 Patent and accessories sold therewith, up to and including the time of trial;

D. That, in addition, Hubbell be ordered to pay to Genlyte Thomas such damages recoverable under 35 U.S.C. § 284 and/or as have actually been sustained by Genlyte Thomas as a result of said infringement of the '310 Patent by Hubbell up to the time of trial;

E. That all damages awarded to Genlyte Thomas be trebled by the Court pursuant to 35 U.S.C. § 284;

F. That Genlyte Thomas recover prejudgment and post judgment interest from Hubbell, pursuant to 35 U.S.C. § 284, on damages awarded to Genlyte Thomas;

G. That Hubbell be ordered to pay to Genlyte Thomas its reasonable attorneys' fees pursuant to 35 U.S.C. § 285;

H. That Genlyte Thomas recover all other costs and disbursements that may be incurred by Genlyte Thomas in this action;

I. That Genlyte Thomas have trial by jury on all issues so triable; and

J. That the Court grant to Genlyte Thomas such other and further relief as it may deem just, proper and equitable.

Respectfully submitted,

/s/ Robert J. Theuerkauf

James E. Milliman

James R. Higgins, Jr.

Robert J. Theuerkauf

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