

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CONTROLTEC, LLC,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. _____
)	
ANTHONY, INC. and)	JURY TRIAL DEMANDED
HILL PHOENIX, INC.,)	
)	
Defendants.)	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff ControlTec, LLC (“ControlTec”) for its Complaint against Defendants Anthony, Inc. (“Anthony”) and Hill Phoenix, Inc. (“Hill Phoenix”) (collectively, “Defendants”) hereby alleges as follows:

BACKGROUND

1. ControlTec is a leading manufacturer and supplier in the anti-sweat controls sector for grocery stores with its headquarters in Laramie, Wyoming. For the last twenty years, ControlTec has sold, installed, and monitored its control systems throughout the United States, and it continues to do so today. ControlTec’s systems include its AS-20 system, which gives grocery stores complete control of all frozen and medium temperature equipment.

2. ControlTec’s AS-20 system combines anti-sweat controls for energy-hungry glass display doors with optional 24-hour temperature sensing and monitoring for refrigerator food cases. ControlTec has manufactured and installed thousands of AS-20 systems throughout the United States. The AS-20 system is designed for easy retrofit installation or factory installation.

3. ControlTec’s AS-20 system includes a local controller unit connected with an array of case sensors including an internal case temperature sensor, an external case frame temperature

sensor, and a dew point sensor. The case frame temperature sensor and dew point sensor are housed to thermally isolate sensing elements thereof from effects of frame temperature changers and ambient air temperature in the vicinity of a sensing element and to limit heat transfer by the housing to the sensing elements, thereby improving sensing accuracy and apparatus performance.

4. ControlTec's AS-20 system incorporates patented sensor technology that uses a revolutionary dew point sensor to control anti-sweat heaters in glass display doors. Instead of running these heaters 24 hours a day, seven days a week, ControlTec's AS-20 sensor technology determines when the display doors will condensate and turns the heaters on automatically before condensation begins. The system then turns the heaters off when they are no longer needed.

5. ControlTec's AS-20 sensor technology is protected by patents regarding systems for refrigeration unit condensation prevention and related methods. From at least 2018, upon information and belief, Defendants began making, offering for sale, and selling infringing control units and installing them in grocery stores around the country, blatantly infringing ControlTec's intellectual property that is the core of its business.

6. ControlTec brings this lawsuit to recover its damages and stop the Defendants from continuing their wrongful infringement.

PARTIES

7. ControlTec is a Wyoming limited liability company with its principal place of business at 62 Turnberry Drive, Sheridan, Wyoming 82801.

8. On information and belief, Defendant Anthony, Inc. is a Delaware corporation with its principal place of business at 12391 Montero Avenue, Sylmar, California 91342.

9. On information and belief, Defendant Hill Phoenix, Inc. is a Delaware corporation with its principal place of business at 2016 Gees Mill Road, Conyers, Georgia 30013.

10. On information and belief, the parent company of Defendant Hill Phoenix, Dover Corporation, acquired Defendant Anthony in 2012, thereby making Defendant Hill Phoenix and Defendant Anthony affiliated companies. Currently, Defendant Hill Phoenix and Defendant Anthony remain affiliated companies and work together in the commercial refrigerated food space.

11. More specifically, Defendants work together to make, use, offer to sell, and sell refrigeration unit anti-sweat controllers for use on glass refrigerator doors used in grocery stores.

NATURE OF THE ACTION

12. This action is for infringement of United States Patent Nos. 7,207,181 (the “’181 Patent”) and 7,421,847 (the “’847 Patent”) (collectively, the “Patents-in-Suit”) under the patent laws of the United States, 35 U.S.C. §§ 1, *et seq.*

13. This action involves the Defendants’ manufacture, use, sale, or offer for sale of infringing products, methods, processes, services, and systems involving refrigeration unit anti-sweat controllers that infringe one or more the claims of the Patents-in-Suit.

JURISDICTION AND VENUE

14. This Court has original jurisdiction over the subject matter of this Complaint under 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, including 35 U.S.C. §§ 271, *et seq.*

15. Defendants are subject to personal jurisdiction in this judicial district at least because: (1) both Defendants are incorporated in Delaware; (2) both Defendants have registered agents for service of process in Delaware; (3) both Defendants have purposefully availed themselves of the privileges of conducting business in this judicial district by, among other things, offering Defendants’ products and services to customers, business affiliates, and partners located

in this judicial district; and (4) both Defendants have committed acts of patent infringement of one or more claims of the Patents-in-Suit in this judicial district.

16. Venue in this district is proper under 28 U.S.C. § 1400(b) because both Defendants are Delaware corporations and are therefore deemed to reside within this district. *TC Heartland LLC v. Kraft Food Group Brands LLC*, 581 U.S. 258, 267-270 (2017).

CONTROLTEC'S INVENTION AND THE PATENTS-IN-SUIT

17. ControlTec is a leading innovator and manufacturer of anti-sweat controllers used in grocery store refrigeration units. Through its investment in research and development and commitment to innovation, ControlTec developed a revolutionary refrigeration unit condensation prevention system that provides unrivaled accuracy, energy conservation, and regulatory compliance.

18. ControlTec has been recognized as a market leader in the retail food refrigeration industry and has successfully installed and monitored thousands of its AS-20 control units over the years.

19. On April 24, 2007, the United States Patent Office ("USPTO") duly and legally issued U.S. Patent No. 7,207,181, entitled "Refrigeration Unit Condensation Prevention." A true and correct copy of the '181 Patent is attached to this Complaint as Exhibit 1.

20. On September 9, 2008, the USPTO duly and legally issued U.S. Patent No. 7,421,847, entitled "Refrigeration Unit Condensation Prevention." A true and correct copy of the '847 Patent is attached to this Complaint as Exhibit 2.

21. ControlTec is the owner by assignment of the Patents-in-Suit from Brad Geuke. A true and correct copy of the assignments from Mr. Geuke to ControlTec is attached to this

Complaint as Exhibit 3. ControlTec owns all rights and title to the Patents-in-Suit, including the right to enforce and recover damages for infringement of the Patents-in-Suit.

22. All maintenance fees for the Patents-in-Suit have been timely paid, and there are no fees currently due.

DEFENDANTS' INFRINGING ACTIVITIES

23. Defendants make, offer for sale, sell, and install commercial refrigeration units and refrigerated doors for use in grocery stores across the country. These units also include anti-sweat control units (the “Anthony Energy Controllers”) that are standard equipment on all of Defendants’ frozen and medium temperature refrigerated doors (e.g., part number 60-22715-0002): “The Anthony Energy Controller comes standard factory installed on all Domestic (US & CANADA) Anthony Walk-In Cooler/Freezer Frames. . . .” https://www.anthonyintl.com/docs/default-source/2020-literature-updates/energy-controllers-1-page-flyer_rev-c-09-20.pdf (last visited July 25, 2024).

	Normal Temp					Low Temp		
	35°F Walk-In					-10°F Walk-In		
	401	101	INFINITY 90	INFINITY 60	VISTA C	401	101	INFINITY 90
Temperature/Environment								
RH Protection (at 75°F Ambient)	55	65	65	65	65	55	65	65
Application								
Cooler	✓	✓	✓	✓	✓			
Freezer						✓	✓	✓
Heavy-Duty Beer Cave		OPTIONAL						
Glass Pack Configuration								
Glass Standard - 3-pane		✓	✓			✓	✓	✓
Glass Standard - 2-pane	✓			✓	✓			
Standard Package								
Energy Controller	✓	✓	✓	✓	✓	✓	✓	✓
Magnetic Door Gasket	✓	✓	✓			✓	✓	✓
LifePlus Gasket "with 3 Year Warranty"		✓	✓				✓	✓
Automatic Hold-Open & Door Stop	✓	✓	✓	✓	✓	✓	✓	✓
Hinge Pin	✓	✓	✓	✓	✓	✓	✓	✓
Torque & Sag Adjust	✓	✓	✓	✓	✓	✓	✓	✓
Reversible	✓	✓	✓		✓	✓	✓	✓
Handle	TRIMLINE	SLIMLINE	VISTA ARCH	VISTA ARCH	FULL LENGTH	TRIMLINE	SLIMLINE	VISTA ARCH
Full Length Handle	OPTIONAL	OPTIONAL	OPTIONAL		STANDARD	OPTIONAL	OPTIONAL	OPTIONAL
Lighting Options								
Optimax 7 Lower Power	✓					✓		
Optimax 7 Standard Power	OPTIONAL	✓	✓	✓	✓	OPTIONAL	✓	✓
Optimax 7 French Swing		OPTIONAL	OPTIONAL	OPTIONAL	OPTIONAL			
Swing Availability								
Standard L/R	✓	✓	✓	✓	✓	✓	✓	✓
French-Swing without Mullion		OPTIONAL	OPTIONAL	OPTIONAL	OPTIONAL			
Heat Settings								
Door Rail Heat						✓	✓	✓
Pass-Thru Options								
Matching Pass-Thru Door	✓	✓	✓					
Optional Glass (1/3 Glass with 2/3 Solid Panel)	✓	✓						
Energy Consumption*								
Energy Consumption (kWh/Day)	3.30	3.20	3.20	4.10	3.58	9.26	10.01	10.05

Anthony Energy
Controllers

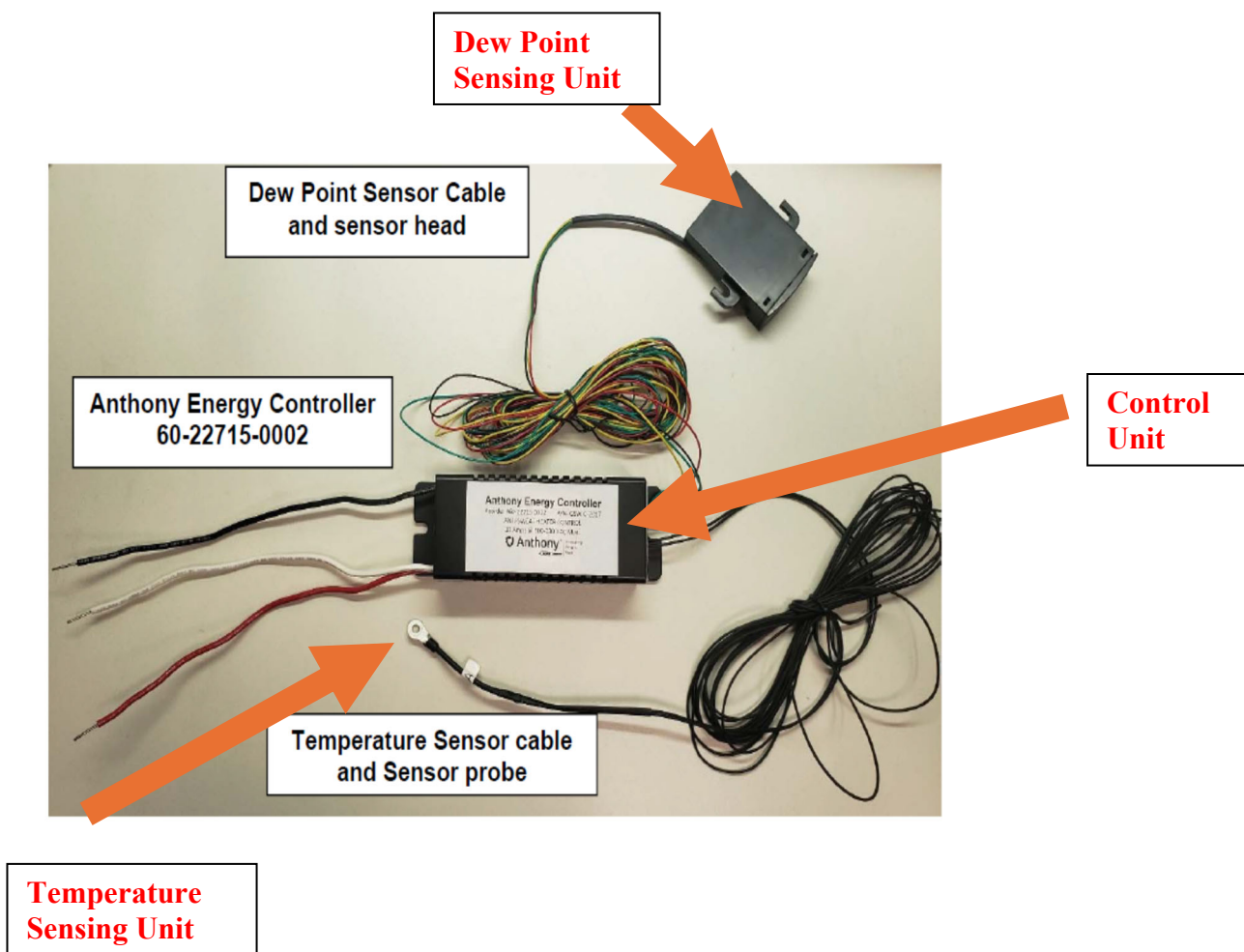
24. Starting in 2017, upon information and belief, the Department of Energy (“DOE”) began requiring an enhanced anti-sweat control unit—like the Anthony Energy Controllers—on all medium and frozen temperature refrigerators in grocery stores. *See* 10 C.F.R. § 431.306. On information and belief, around the same time the DOE changed its regulations requiring anti-sweat control units on refrigerator doors, Defendants changed their anti-sweat unit controller to a design that infringes the Patents-in-Suit.

25. Upon information and belief, Defendant Anthony manufactures, offers for sale, sells, and installs refrigerated doors for its 401 series and 101 series. Upon information and belief, both the 401 and 101 series contain Anthony Energy Controllers (e.g., part number 60-22715-0002).

26. Upon information and belief, Hill Phoenix also manufactures, offers for sale, sells, and installs refrigerated doors, as well as the display units and reach in merchandiser units that house the refrigerator doors. Upon information and belief, Hill Phoenix, in both its Infinity Series (Infinity 090; Infinity 060) and Vista C Series, contain Anthony Energy Controllers (e.g., part number 60-22715-0002).

27. The Anthony Energy Controllers—as configured and used in the refrigerator doors in Defendants’ 101 series, 401 series, Infinity Series and Vista C Series, and all versions and variations that include the same or similar Anthony Energy Controller (e.g., part number 60-22715-0002) (collectively, the “Accused Anti-Sweat Controlled Products”)—infringe one or more claims of the Patents-in-Suit.

28. A non-limiting example of the Anthony Energy Controller, which is incorporated into the Accused Anti-Sweat Controlled Products, is as follows:



29. In the above picture, the Anthony Energy Controller includes a frame temperature sensing unit adapted for monitoring temperature of one of the display case door or display case frame, which also includes a carrier having a temperature sensor thereat. The temperature sensor cable and sensor probe are part of the frame temperature sensing unit. The carrier is the wire shown (“Temperature Sensor cable”). The temperature sensor is the end of the wire (“Sensor probe”).

30. The Anthony Energy Controller includes a dew point sensing unit adapted for monitoring ambient air temperature and relative humidity outside of the display case, including a carrier having at least one dew point sensing component thereat.

31. The Anthony Energy Controller also includes a control unit communicating with said sensing units and including processing means connected for activating the display case frame/door heater when monitored display case door or frame temperature drops below a preselected set point above a dew point value derived from monitored ambient temperature and relative humidity.

32. The Anthony Energy Controllers are mounted to a refrigerator door in a way that infringes the Patents-In-Suit.

33. On information and belief, Anthony makes, uses, offers for sale, or sells the Accused Anti-Sweat Controlled Products in the United States, and Defendants then distribute, install, use, or otherwise provide the Accused Anti-Sweat Controlled Products to customers within the United States.

34. On or about July 10, 2017, the DOE changed its regulations and requirements related to refrigerator doors. More specifically, upon information and belief, in 2017 the DOE enhanced energy efficiency requirements from the 2009 requirements, mandating that if anti-sweat heaters are over a certain wattage, a controller is required.

35. As a result, upon information and belief, Defendants changed their control units in their refrigerator doors to make them compliant with the new DOE requirements.

36. On information and belief, Anthony has actual notice of the Patents-in-Suit based on business dealings of the parties. On or around 2005, ControlTec, under an agreement with Anthony, was to develop and manufacture anti-sweat-control devices for refrigeration doors and Anthony was to pay ControlTec and provide testing laboratories for such devices. Accordingly, Anthony was aware of ControlTec's development and patenting of the technology represented in the Patents-in-Suit.

37. ControlTec has marked its products with the '181 Patent since shortly after the USPTO granted the '181 Patent.

38. ControlTec was forced to bring this lawsuit to protect its business and enforce its intellectual property rights.

39. Defendants have, and continue to, willfully, knowingly, and intentionally infringe the Patents-in-Suit.

COUNT I
(Defendants' Direct Infringement of the '181 Patent)

40. Paragraphs 1 through 39 are incorporated by reference as if fully restated herein.

41. The '181 Patent is a valid, enforceable, and patent-eligible patent that was duly issued by the USPTO. Exhibit 1.

42. ControlTec is the owner, by valid assignment, of the '181 Patent with full rights to pursue recovery of damages for infringement, including full rights to recover past and future damages. Exhibit 3.

43. On information and belief, Defendants have directly infringed (literally and equivalently), and continue to directly infringe, at least claim 14 of the '181 Patent in violation of 35 U.S.C. § 271(a) by, for example and without limitation, making, using, selling, or offering for sale one or more of the Accused Anti-Sweat Controlled Products in the United States.

44. Claim 14 of the '181 Patent claims:

Claim 14. A system for condensation control at a refrigerated display case having at least one door, a frame and at least one frame/door heater, said system comprising:

a temperature sensing unit in contact with the display case frame to monitor case frame temperature;

a dew point sensing unit on the display case to monitor ambient air temperature and relative humidity outside the display case; and

control means for receiving data from said sensing units and utilizing monitored case frame temperature, ambient air temperature and relative humidity to anticipate formation of condensation at the display case and activating and deactivating the frame/door heater responsive thereto.

45. For example, upon information and belief, Defendants' Accused Anti-Sweat Controlled Products infringe each of the above limitations of claim 14 of the '181 Patent.

46. A more detailed analysis of Defendants' infringement of claim 14 of the '181 Patent can be found in the claims charts that are attached to this Complaint as Exhibit 4 and incorporated into this Complaint for all purposes.

47. Defendants have committed these acts of infringement in the United States and without license or authorization.

48. Defendants' infringement of the '181 Patent has been, and continues to be, willful, knowing, and intentional.

49. ControlTec has suffered economic harm because of Defendants' infringing activities in an amount to be proven at trial, but in no case less than a reasonable royalty.

COUNT II
(Defendants' Direct Infringement of the '847 Patent)

50. Paragraphs 1 through 49 are incorporated by reference as if fully restated herein.

51. The '847 Patent is a valid, enforceable, and patent-eligible patent that was duly issued by the USPTO. Exhibit 2.

52. ControlTec is the owner, by valid assignment, of the '847 Patent with full rights to pursue recovery of damages for infringement, including full rights to recover past and future damages. Exhibit 3.

53. On information and belief, Defendants have directly infringed (literally and equivalently), and continue to directly infringe, at least claim 8 of the '847 Patent in violation of 35 U.S.C. § 271(a) by, for example and without limitation, making, using, selling, or offering for sale one or more of the Accused Anti-Sweat Controlled Products in the United States.

54. Claim 8 of the '847 Patent claims:

Claim 8. A method for condensation control at a refrigerated display case having at least one door, a frame and at least one frame/door heater, said method comprising the steps of:

placing a temperature sensing unit in contact with the display case frame to monitor case frame temperature;

mounting a dew point sensing unit on the display case to monitor ambient air temperature and relative humidity outside the display case; and

utilizing monitored case frame temperature, ambient air temperature and relative humidity to anticipate formation of condensation at the display case and activating and deactivating the frame/door heater responsive thereto.

55. For example, upon information and belief, Defendants' Accused Anti-Sweat Controlled Products infringe each of the above limitations of claim 8 of the '847 Patent.

56. A more detailed analysis of Defendants' infringement of claim 8 of the '847 Patent can be found in the claim charts that are attached to this Complaint as Exhibit 5 and incorporated into this Complaint for all purposes.

57. Defendants have committed these acts of infringement in the United States and without license or authorization.

58. Defendants' infringement of the '847 Patent has been, and continues to be, willful, knowing, and intentional.

59. ControlTec has suffered economic harm because of Defendants' infringing activities in an amount to be proven at trial, but in no case less than a reasonable royalty.

COUNT III
(Defendants' Induced Infringement of the '181 Patent)

60. Paragraphs 1 through 59 are incorporated by reference as if fully restated herein.

61. On information and belief, Defendants knowingly and intentionally induce others to infringe at least claim 14 of the '181 Patent in violation of 35 U.S.C. § 271(b) by instructing or aiding others to use the Accused Anti-Sweat Controlled Products in the United States in a manner that infringes at least claim 14 of the '181 Patent.

62. Since at least 2005, Defendants have been aware of the Patents-in-Suit, including the '181 Patent, and of the infringing nature of the Accused Anti-Sweat Controlled Products.

63. Despite their knowledge of the '181 Patent, Defendants continue to actively encourage, aid, and instruct their customers to implement and use the Accused Anti-Sweat Controlled Products in the United States in ways that directly infringe the '181 Patent (e.g., by instructing grocery store chains how to use the anti-sweat controller on the Accused Anti-Sweat Controlled Products in their grocery stores). Defendants do so knowingly and intending that their customers will commit infringing acts.

64. Defendants also continue to provide the Accused Anti-Sweat Controlled Products to customers in the United States, despite Defendants' knowledge of the '181 Patent, thereby

specifically intending for and inducing their customers to infringe the '181 Patent through their customers' normal and customary use of the Accused Anti-Sweat Controlled Products.

65. ControlTec has suffered economic harm because of Defendants' induced infringement in an amount to be proven at trial, but in no case less than a reasonable royalty.

COUNT IV
(Defendants' Contributory Infringement of the '181 Patent)

66. Paragraphs 1 through 65 are incorporated by reference as if fully restated herein.

67. On information and belief, Defendants have also knowingly and willfully contributed, and continue to contribute, to their customers' direct infringement of the '181 Patent in violation of 35 U.S.C. § 271(c) by using, selling, or offering to sell the Accused Anti-Sweat Controlled Products to customers in the United States.

68. Since at least 2005, Defendants have been aware of the Patents-in-Suit, including the '181 Patent, and of the infringing nature of the Accused Anti-Sweat Controlled Products.

69. As described above, Defendants provide customers with the Accused Anti-Sweat Controlled Products that are specially made and adapted for use with their anti-sweat heaters in grocery stores. The Accused Anti-Sweat Controlled Products, and specifically their anti-sweat heaters, are not a staple article of commerce or suitable for any non-infringing use. Use and implementation of the Accused Anti-Sweat Controlled Products by Defendants and their customers in the United States infringes at least claim 14 of the '181 Patent.

70. ControlTec has suffered economic harm because of Defendants' contributory infringement in an amount to be proven at trial, but in no case less than a reasonable royalty.

COUNT V
(Defendants' Induced Infringement of the '847 Patent)

71. Paragraphs 1 through 70 are incorporated by reference as if fully restated herein.

72. On information and belief, Defendants knowingly and intentionally induce others to infringe at least claim 8 of the '847 Patent in violation of 35 U.S.C. § 271(b) by instructing and/or aiding others to use the Accused Anti-Sweat Controlled Products in the United States in a manner that infringes at least claim 8 of the '847 Patent.

73. Since at least 2005, Defendants have been aware of the Patents-in-Suit, including the '847 Patent, and of the infringing nature of the Accused Anti-Sweat Controlled Products.

74. Despite their knowledge of the '847 Patent, Defendants continue to actively encourage, aid, and instruct their customers to implement and use the Accused Anti-Sweat Controlled Products in the United States in ways that directly infringe the '847 Patent (e.g., by instructing grocery store chains how to use the anti-sweat controller on the Accused Anti-Sweat Controlled Products in their grocery stores). Defendants do so knowingly and intending that their customers will commit infringing acts.

75. Defendants also continue to provide the Accused Anti-Sweat Controlled Products to customers in the United States, despite Defendants' knowledge of the '847 Patent, thereby specifically intending for and inducing their customers to infringe the '847 Patent through their customers' normal and customary use of the Accused Anti-Sweat Controlled Products.

76. Control Tec has suffered economic harm because of Defendants' induced infringement in an amount to be proven at trial, but in no case less than a reasonable royalty.

COUNT VI
(Defendants' Contributory Infringement of the '847 Patent)

77. Paragraphs 1 through 76 are incorporated by reference as if fully restated herein.

78. On information and belief, Defendants have also knowingly and willfully contributed, and continue to contribute, to their customers' direct infringement of the '847 Patent in violation of 35 U.S.C. § 271(c) by using, selling or offering to sell the Accused Anti-Sweat Controlled Products to customers in the United States.

79. As described above, since at least 2005, Defendants have been aware of the Patents-in-Suit, including the '847 Patent, and of the infringing nature of the Accused Anti-Sweat Controlled Products.

80. As described above, Defendants provide customers in the United States with the Accused Anti-Sweat Controlled Products that are specially made and adapted for use with their anti-sweat heaters in grocery stores. The Accused Anti-Sweat Controlled Products are not a staple article of commerce or suitable for any non-infringing use. Use and implementation of the Accused Anti-Sweat Controlled Products by Defendants and their customers infringes at least claim 8 of the '847 Patent.

81. ControlTec has suffered economic harm because of Defendants' contributory infringement in an amount to be proven at trial, but in no case less than a reasonable royalty.

PRAYER FOR RELIEF

WHEREFORE, ControlTec, LLC, respectfully requests the following relief:

1. A judgment that Defendants have directly infringed the '181 Patent;
2. A judgment that Defendants have directly infringed the '847 Patent;
3. A judgment that Defendants have contributorily infringed the '181 Patent;
4. A judgement that Defendants have induced infringement of the '181 Patent;

5. A judgement that Defendants have contributorily infringed the '847 Patent;
6. A judgement that Defendants have induced infringement of the '847 Patent;
7. A judgment that awards ControlTec all appropriate damages under 35 U.S.C. § 284 for Defendants' past infringement and any continuing or future infringement of the Patents-in-Suit, up until the date such judgment is entered, including interest, costs, and disbursements as justified under 35 U.S.C. § 284 to adequately compensate ControlTec for Defendants' infringement;
8. An adjudication that Defendants' infringement of the Patents-in-Suit has been willful and deliberate;
9. An adjudication that ControlTec be awarded treble damages and pre-judgment interest under 35 U.S.C. § 284 as a result of Defendants' willful and deliberate infringement of the Patents-in-Suit;
10. An adjudication that this case is exceptional within the meaning of 35 U.S.C. § 285;
11. An adjudication that ControlTec be awarded the attorneys' fees, costs, and expenses it incurs in prosecuting this action; and
12. An adjudication that ControlTec be awarded such further relief at law or in equity as the court deems just and proper.

DEMAND FOR JURY TRIAL

ControlTec hereby demands a trial by jury of all issues so triable.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Brian P. Egan

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