

# United States District Court

EASTERN DISTRICT OF WISCONSIN

Armament Systems & Procedures, Inc.

v.

**SUMMONS IN A CIVIL CASE**

Walgreen Company

CASE NUMBER: 06-cv-0829

TO: (Name and Address Defendant)

Walgreen Company  
200 Wilmot Road  
Deerfield, IL 60015

**YOU ARE HEREBY SUMMONED** and required to serve upon PLAINTIFF'S ATTORNEY (Name and Address)

Attorney Michael J. Hanrahan  
Attorney Diane Slomowitz  
Fox, O'Neill & Shannon, S.C.  
622 North Water Street, Suite 500  
Milwaukee, WI 53202

Attorney Richard S. Kuhlman  
Attorney Michael S. Pildes  
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Chicago, IL 60603

Attorney Wanda E. Jones  
Jones Law Offices  
60 North Jefferson, P.O. Box 1759  
Nashville, IN 47448-1759

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must filed with the Clerk of this Court within a reasonable period of time after service.

SOFRON B. NEDILSKY

AUG - 3 2006

CLERK

DATE



**RETURN OF SERVICE**Service of the Summons and complaint was made by me<sup>(1)</sup>

DATE

NAME OF SERVER

TITLE

*Check one box below to indicate appropriate method of service* Served personally upon the defendant. Place where served: Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.

Name of person with whom the summons and complaint were left:

 Returned unexecuted: Other (specify):**STATEMENT OF SERVICE FEES**

TRAVEL

SERVICES

TOTAL

**DECLARATION OF SERVER**

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on

*Date**Signature of Server**Address of Server*

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

U.S. DISTRICT COURT  
EASTERN DISTRICT - WI  
UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN

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ARMAMENT SYSTEMS AND  
PROCEDURES, INC.,

Plaintiff,

v.

WALGREEN COMPANY,

Defendant.

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06-C-0829

**COMPLAINT**

Plaintiff, ARMAMENT SYSTEMS AND PROCEDURES, INC. [hereinafter "ASP"], by its undersigned counsel, complains as follows against Defendant, Walgreen Company [hereinafter "Walgreen's"]:

1. This is an action for patent infringement, arising under the patent laws of the United States, 35 U.S.C. §§1 et seq.
2. This Court has jurisdiction under 28 U.S.C. §§1331 and 1338.
3. ASP is a company organized and existing under the laws of Wisconsin, and maintains its principal place of business at 2511 East Capitol Drive, Appleton, Wisconsin 54911, in the Eastern District of Wisconsin.
4. Upon information and belief, Walgreen's is a company organized and existing under the laws of Illinois, and maintains its principal place of business at 200 Wilmot Road, Deerfield, IL 60015.

### Count I

5. ASP is the lawful owner of the entire right, title, and interest in and to U.S. Patent No. 6,357,890, issued by the United States Patent Office on March 19, 2002. The Inventors of the '890 Patent are Kevin L. Parsons, Donald A. Keller and W. Clay Reeves [hereinafter "the '890 Patent"].

6. ASP has marked all flashlights manufactured and sold by ASP under the '890 Patent with notice in accordance with 35 U.S.C. §287(a).

7. Walgreen's has infringed and continues to infringe the '890 Patent directly, or indirectly by inducing infringement or contributorily infringing, in the Eastern District of Wisconsin and in other districts. Products sold by Walgreen's that infringe the '890 Patent include, without limitation, the Evolution Key Ring Carabiner.

8. Upon information and belief, Walgreen's acts of infringement of the '890 Patent have been willful.

9. Walgreen's has made unlawful gains and profits from its acts of infringement of the '890 Patent.

10. ASP has been and will continue to be seriously and irreparably injured by Walgreen's acts of infringement of the '890 Patent, unless Walgreen's is enjoined by this Court.

11. As a result of Walgreen's acts of infringement of the '890 Patent, ASP has been damaged in an amount not yet ascertained.

## Count II

12. ASP is the lawful owner of the entire right, title, and interest in and to U.S. Patent No. 6,749,317 issued by the United States Patent Office on June 15, 2004 [hereinafter "the '317 Patent"]. The Inventors of the '317 Patent are Kevin L. Parsons and W. Clay Reeves.

13. ASP has marked all flashlights manufactured and sold by ASP under the '317 Patent with notice in accordance with 35 U.S.C. §287(a).

14. Walgreen's has infringed and continues to infringe the '317 Patent directly, or indirectly by inducing infringement or contributorily infringing, in the Eastern District of Wisconsin and in other districts. Products sold by Walgreen's that infringe the '317 Patent include, without limitation, the LED Club, Evolution Key Ring Carabiner, and Key Chain Super Bright LED.

15. Upon information and belief, Walgreen's acts of infringement of the '317 Patent have been willful.

16. Walgreen's has made unlawful gains and profits from its acts of infringement of the '317 Patent.

17. ASP has been and will continue to be seriously and irreparably injured by Walgreen's acts of infringement of the '317 Patent, unless Walgreen's is enjoined by this Court.

18. As a result of Walgreen's acts of infringement of the '317 Patent, ASP has been damaged in an amount not yet ascertained.

### Count III

19. ASP is the lawful owner of the entire right, title, and interest in and to U.S. Patent No. 6,796,672 issued on September 28, 2004 by the United States Patent Office [hereinafter "the '672 Patent"]. The Inventor of the '672 Patent is Kevin L. Parsons.

20. ASP has marked all flashlights manufactured and sold by ASP under the '672 Patent with notice in accordance with 35 U.S.C. §287(a).

21. Walgreen's has infringed and continues to infringe the '672 Patent directly, or indirectly by inducing infringement or contributorily infringing, in the Eastern District of Wisconsin and in other districts. Products sold by Walgreen's that infringe the '672 Patent include, without limitation, the Evolution Key Ring Carabiner.

22. Upon information and belief, Walgreen's acts of infringement of the '672 Patent have been willful.

23. Walgreen's has made unlawful gains and profits from its acts of infringement of the '672 Patent.

24. ASP has been and will continue to be seriously and irreparably injured by Walgreen's acts of infringement of the '672 Patent, unless Walgreen's is enjoined by this Court.

25. As a result of Walgreen's acts of infringement of the '672 Patent, ASP has been damaged in an amount not yet ascertained.

### Count IV

26. ASP is the lawful owner of the entire right, title, and interest in and to U.S. Patent No. 6,824,292 issued by the United States Patent Office on November 30, 2004

[hereinafter "the '292 Patent"]. The Inventors of the '292 Patent are Kevin L. Parsons and W. Clay Reeves.

27. ASP has marked all flashlights manufactured and sold by ASP under the '292 Patent with notice in accordance with 35 U.S.C. §287(a).

28. Walgreen's has infringed and continues to infringe the '292 Patent directly, or indirectly by inducing infringement or contributorily infringing, in the Eastern District of Wisconsin and in other districts. Products sold by Walgreens that infringe the '292 Patent include, without limitation, Duracell and Evolution Key Ring Carabiner.

29. Upon information and belief, Walgreen's acts of infringement of the '292 Patent have been willful.

30. Walgreen's has made unlawful gains and profits from its acts of infringement of the '292 Patent.

31. ASP has been and will continue to be seriously and irreparably injured by Walgreen's acts of infringement of the '292 Patent, unless Walgreen's is enjoined by this Court.

32. As a result of Walgreen's acts of infringement of the '292 Patent, ASP has been damaged in an amount not yet ascertained.

#### Count V

33. ASP is the lawful owner of the entire right, title, and interest in and to U.S. Patent No. 6,857,757 issued by the United States Patent Office on February 22, 2005 [hereinafter "the '757 Patent"]. The Inventors of the '757 Patent are Kevin L. Parsons and W. Clay Reeves.

34. ASP has marked all flashlights manufactured and sold by ASP under the '757 Patent with notice in accordance with 35 U.S.C. §287(a).

35. Walgreen's has infringed and continues to infringe the '757 Patent directly, or indirectly by inducing infringement or contributorily infringing, in the Eastern District of Wisconsin and in other districts. Products sold by Walgreen's that infringe the '757 Patent include, without limitation, Garrity Super Bright Micro Light and Keychain Super Bright LED.

36. Upon information and belief, Walgreen's acts of infringement of the '757 Patent have been willful.

37. Walgreen's has made unlawful gains and profits from its acts of infringement of the '757 Patent.

38. ASP has been and will continue to be seriously and irreparably injured by Walgreen's acts of infringement of the '757 Patent, unless Walgreen's is enjoined by this Court.

39. As a result of Walgreen's acts of infringement of the '757 Patent, ASP has been damaged in an amount not yet ascertained.

#### **Count VI**

40. ASP is the lawful owner of the entire right, title, and interest in and to U.S. Patent No. 6,860,615 issued by the United States Patent Office on March 1, 2005 [hereinafter "the '615 Patent"]. The Inventor of the '615 Patent is Kevin L. Parsons.

41. ASP has marked all flashlights manufactured and sold by ASP under the '615 Patent with notice in accordance with 35 U.S.C. §287(a).



42. Walgreen's has infringed and continues to infringe the '615 Patent directly, or indirectly by inducing infringement or contributorily infringing, in the Eastern District of Wisconsin and in other districts. Products sold by Walgreen's that infringe the '615 Patent include, without limitation, Duracell and Evolution Key Ring Carabiner.

43. Upon information and belief, Walgreen's' acts of infringement of the '615 Patent have been willful.

44. Walgreen's has made unlawful gains and profits from its acts of infringement of the '615 Patent.

45. ASP has been and will continue to be seriously and irreparably injured by Walgreen's acts of infringement of the '615 Patent, unless Walgreen's is enjoined by this Court.

46. As a result of Walgreen's acts of infringement of the '615 Patent, ASP has been damaged in an amount not yet ascertained.

#### Count VII

47. ASP is the lawful owner of the entire right, title, and interest in and to U.S. Patent No. 6,951,410 issued by the United States Patent Office on October 4, 2005 [hereinafter "the '410 Patent"]. The Inventor of the '410 Patent is Kevin L. Parsons

48. ASP has marked all flashlights manufactured and sold by ASP under the '410 Patent with notice in accordance with 35 U.S.C. §287(a).

49. Walgreen's has infringed and continues to infringe the '410 Patent directly, or indirectly by inducing infringement or contributorily infringing, in the Eastern District of Wisconsin and in other districts. Products sold by Walgreen's that infringe the '410

Patent include, without limitation, LED Club, Evolution Key Ring Carabiner and Keychain Super Bright LED.

50. Upon information and belief, Walgreen's acts of infringement of the '410 Patent have been willful.

51. Walgreen's has made unlawful gains and profits from its acts of infringement of the '410 Patent.

52. ASP has been and will continue to be seriously and irreparably injured by Walgreen's acts of infringement of the '410 Patent, unless Walgreen's is enjoined by this Court.

53. As a result of Walgreen's acts of infringement of the '410 Patent, ASP has been damaged in an amount not yet ascertained.

54. This is an exceptional case pursuant to 35 U.S.C. § 285.

#### **Prayer for Relief**

WHEREFORE, ASP requests judgment in its favor as follows:

- A. that Walgreen's has willfully infringed U.S. Patent No. 6,357,890;
- B. that Walgreen's has willfully infringed U.S. Patent No. 6,749,317;
- C. that Walgreen's has willfully infringed U.S. Patent No. 6,796,672;
- D. that Walgreen's has willfully infringed U.S. Patent No. 6,824,292;
- E. that Walgreen's has willfully infringed U.S. Patent No. 6,857,757;
- F. that Walgreen's has willfully infringed U.S. Patent No. 6,860,615;
- G. that Walgreen's has willfully infringed U.S. Patent No. 6,951,410;

H. that Walgreen's shall be permanently enjoined from infringing U.S. Patent Nos. 6,357,890, 6,749,317, 6,796,672, 6,824,292, 6,857,757, 6,860,615, and 6,951,410;

I. that Walgreen's shall pay all damages suffered by ASP as a result of Walgreen's acts of infringement of U.S. Patent Nos. 6,357,890, 6,749,317, 6,796,672, 6,824,292, 6,857,757, 6,860,615, and 6,951,410, and that such damages shall be trebled;

J. that Walgreen's shall pay all prejudgment interest;

K. that Walgreen's shall pay ASP's costs, expenses, disbursements, and attorneys' fees; and

L. that this is an exceptional case and an award of reasonable attorneys' fees pursuant to 35. U.S.C. § 285.

M. that such other and further relief be granted as this Court may deem just and equitable.

Jury Demand

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, ASP demands a trial by jury on all issues triable by jury as of right in this civil action.

Respectfully submitted,

Aug. 3, 2006



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