

**THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA**

CUSTOM DYNAMICS LLC)

Plaintiff,)

v.)

RADIANTZ LED LIGHTING, INC.)

Defendant.)

COMPLAINT

PARTIES

1. Plaintiff Custom Dynamics LLC is a limited liability company organized and existing under the laws of the State of North Carolina and having its principal place of business at 12335 Wake Union Church Road, Suite 203, Wake Forest, North Carolina 27587.

2. Defendant Radiantz LED Lighting, Inc. (“Radiantz”) is a corporation organized and existing under the laws of the State of California and having its principal place of business in Brookings, Oregon. Defendant has conducted business and is currently engaged in doing business in Wake County, North Carolina.

JURISDICTION AND VENUE

3. This is an action for declaratory judgment in a case of actual controversy between Custom Dynamics and Radiantz arising under the Declaratory Judgment Act 28 U.S.C. §§2201 and 2202, and United States patent laws, 35 U.S.C. §100, et seq., seeking a judgment of non-infringement and invalidity of U.S. Patent No. 6,371,637, titled “Compact, Flexible, LED array,” and issued by the United States Patent and Trademark Office on April 16, 2002 (“the ‘637 patent”). A copy of that patent is attached hereto as Exhibit A. This action further seeks penalties against Radiantz for false marking, pursuant to 35 U.S.C. §292.

4. There is an actual controversy within the jurisdiction of this court concerning the non-infringement and invalidity of the '637 patent and concerning the §292 false marking claim. This court has subject matter jurisdiction over the federal claims for declaratory judgment pursuant to 28 U.S.C. §1338, and has diversity jurisdiction pursuant to 28 U.S.C. §1332.

5. Upon information and belief, Radiantz has regularly engaged in business in this judicial district. The Court has personal jurisdiction over the Radiantz. Venue is proper in this district pursuant to 28 U.S.C § 1391.

FACTS

6. Custom Dynamics markets and sells motorcycle lighting accessories via the Internet and from its showroom in Wake Forest, North Carolina. Custom Dynamics offers one of the largest selections in the world of light-emitting diode (LED) motorcycle accessories for retail sale.

7. For several years prior to this lawsuit, Custom Dynamics purchased LED arrays from Radiantz. In late 2007, the relationship between the parties deteriorated and eventually collapsed, the details and consequences of which are the subject of a previously filed and pending lawsuit before this court.

8. Radiantz now sells motorcycle LED accessories at retail, in competition with Custom Dynamics.

9. In October 2007, Custom Dynamics informed Radiantz of its intention to manufacture and sell motorcycle license plate frames that incorporate an LED array having similarities to products previously purchased by Custom Dynamics from Radiantz.

10. On November 5, 2007, the president and owner of Radiantz, Mr. Mitch Valentine, called the president for Custom Dynamics and informed him that Radiantz “declares war” on Custom Dynamics and that they could expect to see Radiantz in court.

11. Shortly thereafter, Radiantz initiated a spurious State court lawsuit against Custom Dynamics in Orange County, California. Among other false accusations, Radiantz accuses Custom Dynamics of copying Radiantz’s products, including products alleged by Radiantz to be covered by the ‘637 patent.

12. Based upon information and belief, Radiantz is the sole assignee of the ‘637 patent.

13. In late December 2007, Custom Dynamics began marketing a license plate frame with an LED array.

14. Based on the past statements of Radiantz, their aggressive pursuit of legal claims against Custom Dynamics, and based on Radiantz’s overly broad marking of ‘637 patent rights on its LED lighting products, Custom Dynamics has a real and reasonable apprehension that Radiantz will imminently initiate litigation based on the ‘637 patent.

15. Since the cessation of commercial relations with Radiantz, Custom Dynamics desires to market and sell, a high-density, low-profile LED lighting system, similar to products that Custom Dynamics previously purchased from Radiantz. A schematic showing this product design is attached hereto as Exhibit B. Because of Radiantz’s past threats, legal actions, and assertion of its patent rights, Custom Dynamics has a real and reasonable apprehension that Radiantz will initiate litigation against Custom Dynamics for marketing and selling this LED array.

16. Radiantz's threat of patent litigation causes substantial injury to Custom Dynamics in that it puts Custom Dynamics' right to freely compete in the motorcycle lighting industry in jeopardy and places a cloud on Custom Dynamics' right to sell competing products.

17. Based on information and belief, Radiantz markets and sells and/or has marketed and sold various LED lighting products, including a product designated with part number 4003-41, and described as "1' FLEXIBLE GREEN 1 IN. SPACING LED ARRAY KIT."

18. Based on information and belief, Radiantz distributes or has distributed one or more products, including the product described in paragraph 17 above, with the designation "Patent No. US 6,371,637 B1" affixed thereto. A copy of such marking is attached hereto as Exhibit C.

FIRST CLAIM: NON-INFRINGEMENT

19. Custom Dynamics incorporates by reference the allegations of paragraph 1 through 18 above.

20. Based on Radiantz's course of conduct, an actual controversy exists between Custom Dynamics and Radiantz regarding whether any claim of the '637 patent is infringed by any product sold by Custom Dynamics.

21. None of Custom Dynamics' LED products infringes any valid and enforceable claim of the '637 patent literally, directly, contributorily, by way of inducement, and/or under the doctrine of equivalents.

22. Declaratory relief is necessary to avoid legal uncertainty and to protect Custom Dynamics' substantial investment and anticipated future investment in its LED array product lines.

23. Radiantz's attempt to enforce its patent rights against Custom Dynamics damages Custom Dynamics and is likely to continue damaging Custom Dynamics in the future.

24. To resolve the controversy between the parties, this Court should declare that Custom Dynamics does not and has not directly or indirectly infringed, contributed to or induced infringement of any valid and enforceable claim of the '637 patent, either literally or under the doctrine of equivalents.

SECOND CLAIM: INVALIDITY

25. Custom Dynamics incorporates by reference the allegations of paragraphs 1 through 24 above.

26. An actual controversy exists between Custom Dynamics and Radiantz regarding whether one or more claims of the '637 patent are valid.

27. Each of the claims of the '637 patent is invalid for failure to comply with one or more of the requirements set forth in Part II of Title 35 of the United States Code, including, but not limited to, Sections 102, 103, 112, and 132.

28. Declaratory relief is necessary to avoid legal uncertainty and to protect Custom Dynamics' substantial investment and anticipated future investment in its LED array products.

29. Radiantz's attempt to enforce its patent rights against Custom Dynamics damages Custom Dynamics and is likely to continue damaging Custom Dynamics in the future. To resolve the controversy between the parties, this court should declare the '637 patent invalid.

THIRD CLAIM: FALSE MARKING

30. Custom Dynamics incorporates by reference the allegations of paragraphs 1 through 24 above.

31. Radiantz has marked and continues to mark one or more products with words importing that those products are patented, for the purposes of deceiving.

32. Pursuant to 35 U.S.C. §292(a), the penalty for such false marking is up to \$500 for each offense.

33. Pursuant to 35 U.S.C. §292(b), Custom Dynamics is entitled to sue for the penalty, and to recover one-half of any penalty imposed.

PRAYER FOR RELIEF

WHEREFORE, Custom Dynamics prays for a judgment:

- A. Declaring that Custom Dynamics' products do not infringe the '637 patent;
- B. Declaring that each claim of the '637 patent is invalid;
- C. Awarding Custom Dynamics, pursuant to 35 U.S.C. § 285 and other provisions as provided by law, its costs, reasonable attorneys' fees, and other litigation expenses associated with any counterclaim by Radiantz in this action;
- D. Declaring that Radiantz has falsely marked one or more products pursuant to 35 U.S.C. §292, imposing a penalty for such false marking, and awarding one-half of such penalty to Custom Dynamics; and
- E. Awarding Custom Dynamics such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

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

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