

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MIDTRONICS, INC.,)	
)	
Plaintiff,)	
)	Civil Action No. 06 CV 3917
vs.)	
)	Judge Milton I. Shadur
AURORA PERFORMANCE)	Magistrate Judge Nan R. Nolan
PRODUCTS LLC d/b/a ARGUS)	
ANALYZERS and BPOWER INC.,)	JURY TRIAL DEMANDED
)	
Defendants.)	
)	

**SECOND AMENDED COMPLAINT FOR
INFRINGEMENT OF UNITED STATES PATENT NO. 5,821,756**

Plaintiff alleges as follows:

The Parties

1. Plaintiff Midtronics, Inc. (“Midtronics”) is an Illinois corporation having its principal place of business in Willowbrook, Illinois.
2. Upon information and belief, Defendant Aurora Performance Products LLC d/b/a Argus Analyzers (“Argus Analyzers”) is a Rhode Island limited liability company having its principal offices in Jamestown, Rhode Island.
3. Argus Analyzers does business or has sold its AA500 and AA500P electronic battery testing devices in this judicial district.
4. Upon information and belief, Defendant BPPower Inc. (“BPPower”) is Taiwanese corporation having its principal offices at 7F, No. 2, Lane 270, Sec. 3, Pei-Sheng Rd., Sheng Keng, Taipei Hsien, Taiwan.
5. Upon information and belief, BPPower manufactures the Argus Analyzers AA500 and AA500P electronic battery testing devices and sold these devices to Argus Analyzers in the

United States with the understanding that these devices would be resold to customers in the United States.

Jurisdiction and Venue

6. This is an action for patent infringement that arises under the patent laws of the United States, title 35 U.S.C. §§ 1 *et seq.* This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

7. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(c) and (d) and 1400(b).

The Patent in Suit

8. On October 13, 1998, United States Patent No. 5,821,756 (“the ‘756 Patent”) duly and legally issued to Stephen J. McShane, Kevin I. Bertness, and Keith S. Champlin. The ‘756 Patent is entitled “ELECTRONIC BATTERY TESTER WITH TAILORED COMPENSATION FOR LOW STATE-OF CHARGE.” A copy of the ‘756 Patent is attached hereto as Exhibit A.

9. The ‘756 Patent is assigned to Midtronics.

Patent Infringement of United States Patent Number 5,821,756

10. Upon information and belief, Argus Analyzers has manufactured, used, offered for sale, or sold in this judicial district and elsewhere in the United States, electronic battery testing devices that infringe at least claim 1 of the ‘756 Patent, including the AA500 and AA500P electronic battery testing devices or other products utilizing similar technology.

11. Upon information and belief, BPPower manufactured or sold to Argus Analyzers electronic battery testing devices that infringe at least claim 1 of the ‘756 Patent, including the AA500 and AA500P electronic battery testing devices or other products utilizing similar

technology, knowing and intending that Argus Analyzers would sell such devices to customers in this judicial district and throughout the United States.

12. Argus Analyzers' and BPPower's infringement is willful.

13. The infringement of the '756 Patent by Argus Analyzers and BPPower has injured and continues to injure and damage Midtronics. The injury to Midtronics is irreparable and will continue unless and until Argus Analyzers and BPPower are enjoined from further infringement.

JURY DEMAND

14. Plaintiff demands a trial by jury on all issues so triable in this Complaint.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

A. That United States Patent No. 5,821,756 be judged valid, enforceable, and infringed by Argus Analyzers and BPPower and that Defendants' infringement be judged to be willful;

B. That Argus Analyzers and BPPower be ordered to account and pay to Midtronics the damages to which it is entitled as a consequence of the infringement;

C. That such damages be trebled for the willful, deliberate, and intentional infringement of the '756 Patent, as alleged herein;

D. That Midtronics be awarded prejudgment interest and their costs, disbursements, and attorneys' fees here in accordance with 35 U.S.C. § 285;

E. That the Court preliminarily and permanently enjoin Argus Analyzers and BPPower, their subsidiaries, parent, divisions, agents, servants, employees, and those acting in concert with them from making, using, selling, importing, offering for sale, or distributing the AA500, AA500P, and any other devices that are found to infringe; from contributing to the

infringement of and inducing infringement of the '756 Patent; and for all further and proper injunctive relief; and

F. That Midtronics be awarded other and further relief as this Court may deem just and proper under the circumstances.

Respectfully submitted,

Date: May 22, 2008

/s/Robert L. Wagner

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