



5. On information and belief, Arkema S.A. has and continues to direct, control, authorize, participate in, assist and cooperate with Arkema Inc. in connection with the acts complained of herein.

6. On information and belief, Arkema manufactures refrigerants and refrigerant blends for use in commercial and residential refrigeration equipment and air-conditioning systems in the United States, including refrigerant blends marketed and sold under the tradenames Forane® 404A, Forane® 407A and Forane® 407C.

7. On information and belief, Arkema sells, offers to sell, and promotes the use of Forane® 404A, Forane® 407A and Forane® 407C refrigerant blends within this Judicial District.

#### **JURISDICTION AND VENUE**

8. This action arises under the United States Patent Laws, 35 U.S. C. §§ 271 and 281-285. Jurisdiction in this Court is proper under 28 U.S.C. §§ 1331, 1338(a).

9. On information and belief, this Court has personal jurisdiction over Arkema Inc. because Arkema Inc. is registered and qualified to do business in Delaware and because Arkema Inc. regularly transacts business in the Judicial District by selling, offering to sell and promoting the use of infringing refrigerate blends in Delaware.

10. On information and belief, this Court has personal jurisdiction over Arkema S.A. because Arkema S.A. regularly transacts business in this Judicial district by selling, offering to sell and promoting the use of infringing refrigerant blends in Delaware.

11. On information and belief, Arkema Inc. has acted, and will continue to act, as agent or alter ego of Arkema S.A. with respect to the acts complained of herein.

12. The acts and contacts of Arkema Inc. are also attributable to Arkema S.A. for jurisdictional purposes.

13. On information and belief, the activities of Arkema Inc. that are the basis for this Complaint have been and remain under the direction and control of its parent company Arkema S.A. Accordingly, Arkema S.A. is also subject to personal jurisdiction in this Judicial District pursuant to, *inter alia*, 10 Del. Code § 3104.

14. Arkema S.A. is further subject to personal jurisdiction in this Judicial District because, *inter alia*, its wholly owned subsidiary, Arkema Inc., has registered with the Delaware Secretary of State to conduct business within this Judicial District.

15. Venue is proper in this Judicial District under 28 U.S.C. § 1391(b) and (c) and § 1400(b).

**COUNT I: CLAIM FOR PATENT INFRINGEMENT  
OF UNITED STATES PATENT NO. 6,183,660**

16. On February 6, 2001, United States Patent No. 6,183,660 was duly and legally issued in the names of Yukio Omure, Masahiro Noguchi and Katsuki Fujiwara for an invention entitled “Refrigerant.” A true and correct copy of United States Patent No. 6,183,660 (“the ‘660 patent”) is attached hereto as Exhibit A. Plaintiff Daikin is the owner of the ‘660 patent.

17. On information and belief, the refrigerant blend manufactured, sold, offered for sale and promoted by Arkema under the tradename Forane® 404A contains approximately 44 weight % pentafluoroethane (*e.g.*, R-125), approximately 52 weight % 1,1,1-trifluoroethane (*e.g.*, R-143a) and approximately 4 weight % 1,1,1,2-tetrafluoroethane (*e.g.*, R-134a).

18. During a meeting between representatives of Daikin and Arkema S.A. in October 2006, Daikin advised Arkema of Daikin’s U.S. patent rights covering Forane® 404A and Forane® 407C refrigerant blends. Arkema was offered a license to Daikin’s U.S. patents,

but never formally responded to Daikin's offer. In July 2008, Daikin sent an email to Arkema S.A. and indicated that the Forane® 404A and Forane® 407C refrigerant blends being sold and offered for sale by Arkema S.A.'s U.S. subsidiary, Arkema Inc., infringe Daikin's '660 and '219 patents. Daikin again offered to license these U.S. patents to Arkema. Arkema has refused to take a license to Daikin's '660 and '219 patents and has maintained that it believes the patents are not enforceable. At no time did Arkema S.A. suggest or indicate that discussions or negotiations regarding infringement of and/or the need for a license to Daikin's U.S. patent rights should be directed to Arkema S.A.'s U.S. subsidiary, Arkema Inc.

19. Since at least as early as October 2006, Arkema has been aware of the '660 patent, has refused to take a license to Daikin's '660 patent and, despite knowledge of the '660 patent, has continued to manufacture, use, sell, offer for sale and promote infringing refrigerant blends.

20. On information and belief and without authority or license from Daikin, Arkema has been, and is currently, directly and indirectly infringing one or more claims of the '660 patent pursuant to 35 U.S.C. § 271 *et seq.*, by manufacturing, using, offering to sell, selling and promoting refrigerant blends, including Forane® 404A within the United States.

21. Daikin has been and continues to suffer damages resulting from Arkema's infringement of the '660 patent pursuant to 35 U.S.C. § 284. Daikin will suffer additional and irreparable harm unless this Court enjoins Arkema pursuant to 35 U.S.C. § 283.

22. Daikin has no adequate remedy at law.

23. On information and belief, Arkema's acts of infringement of the '660 patent have been carried out deliberately and willfully, and with knowledge of the '660 patent, entitling

Daikin to an assessment of treble damages pursuant to 35 U.S.C. § 284. This is an exceptional case entitling Daikin to its attorneys' fees pursuant to 35 U.S.C. § 285.

**COUNT II: CLAIM FOR PATENT INFRINGEMENT  
OF UNITED STATES PATENT NO. 6,187,219**

24. On February 13, 2001, United States Patent No. 6,187,219 was duly and legally issued in the names of Yukio Omure, Masahiro Noguchi and Katsuki Fujiwara for an invention entitled "Refrigerator and Difluoromethane/Pentafluoroethane/1,1,1,2-Tetrafluoroethane Working Fluid." A true and correct copy of United States Patent No. 6,187,219 ("the '219 patent") is attached hereto as Exhibit B. Plaintiff Daikin is the owner of the '219 patent.

25. On information and belief, the refrigerant blend manufactured, sold, offered for sale and promoted by Arkema under the tradename Forane® 407A contains approximately 20 weight % difluoromethane (*e.g.*, R-32), approximately 40 weight % pentafluoroethane (*e.g.*, R-125) and approximately 40 weight % 1,1,1,2-tetrafluoroethane (*e.g.*, R-134a).

26. On information and belief, the refrigerant blend manufactured, sold, offered for sale and promoted by Arkema under the tradename Forane® 407C contains approximately 23 weight % difluoromethane (*e.g.*, R-32), approximately 25 weight % pentafluoroethane (*e.g.*, R-125) and approximately 52 weight % 1,1,1,2-tetrafluoroethane (*e.g.*, R-134a).

27. During a meeting between representatives of Daikin and Arkema S.A. in October 2006, Daikin advised Arkema of Daikin's U.S. patent rights covering Forane® 404A and Forane® 407C refrigerant blends. Arkema was offered a license to Daikin's U.S. patents, but never formally responded to Daikin's offer. In July 2008, Daikin sent an email to Arkema S.A. and indicated that the Forane® 404A and Forane® 407C refrigerant blends being sold and offered for sale by Arkema S.A.'s U.S. subsidiary, Arkema Inc., infringe Daikin's '660 and '219

patents. Daikin again offered to license these U.S. patents to Arkema. Arkema has refused to take a license to Daikin's '660 and '219 patents and has maintained that it believes the patents are not enforceable. At no time did Arkema S.A. suggest or indicate that discussions or negotiations regarding infringement of and/or the need for a license to Daikin's U.S. patent rights should be directed to Arkema S.A.'s U.S. subsidiary, Arkema Inc.

28. Since at least as early as October 2006, Arkema has been aware of the '219 patent, has refused to take a license to Daikin's '219 patent and, despite knowledge of the '219 patent, has continued to manufacture, use, sell, offer for sale and promote infringing refrigerant blends.

29. On information and belief and without authority or license from Daikin, Arkema has been, and is currently, directly and indirectly infringing one or more claims of the '219 patent pursuant to 35 U.S.C. § 271 *et seq.*, by manufacturing, using, offering to sell, selling and promoting refrigerant blends, including Forane® 407A and Forane® 407C within the United States.

30. Daikin has been and continues to suffer damages resulting from Arkema's infringement of the '219 patent pursuant to 35 U.S.C. § 284. Daikin will suffer additional and irreparable harm unless this Court enjoins Arkema pursuant to 35 U.S.C. § 283.

31. Daikin has no adequate remedy at law.

32. On information and belief, Arkema's acts of infringement of the '219 patent have been carried out deliberately and willfully, and with knowledge of the '219 patent, entitling Daikin to an assessment of treble damages pursuant to 35 U.S.C. § 284. This is an exceptional case entitling Daikin to its attorneys' fees pursuant to 35 U.S.C. § 285.

**PRAYER FOR RELIEF**

**WHEREFORE**, Daikin respectfully prays for judgment:

(a) Adjudging that Arkema has directly and indirectly infringed United States Patent No. 6,183,660 in violation of 35 U.S.C. § 271 *et seq.*;

(b) Adjudging that Arkema has directly and indirectly infringed United States Patent No. 6,187,219 in violation of 35 U.S.C. § 271 *et seq.*;

(c) Preliminarily and permanently enjoining Arkema, its officers, agents, employees, representatives and all others acting in concert or participation with them from manufacturing, using, selling or offering to sell refrigerants blends that infringe, induces infringement of, or contributes to the infringement of United States Patent No. 6,183,660;

(d) Preliminarily and permanently enjoining Arkema, its officers, agents, employees, representatives and all others acting in concert or participation with them from manufacturing, using, selling or offering to sell refrigerants blends that infringe, induces infringement of, or contributes to the infringement of United States Patent No. 6,187,219;

(e) Ordering an accounting of profits or damages to be accessed by or under the Court's direction, and an awarding to Daikin damages adequate to compensate for Arkema's infringement of United States Patent No. 6,183,660, together with pre- and post-judgment interest as allowed by law;

(f) Ordering an accounting of profits or damages to be accessed by or under the Court's direction, and an awarding to Daikin damages adequate to compensate for Arkema's infringement of United States Patent No. 6,187,219, together with pre- and post-judgment interest as allowed by law;

(g) Entering a judgment that Arkema's infringement has been willful and trebling the award of damages assessed pursuant to 35 U.S.C. § 284 as a consequence of Arkema's willful infringement of U.S. Patent No. 6,183,660;

(h) Entering a judgment that Arkema's infringement has been willful and trebling the award of damages assessed pursuant to 35 U.S.C. § 284 as a consequence of Arkema's willful infringement of U.S. Patent No. 6,187,219;

(i) Issuing of an Order declaring this action to be an exceptional case and awarding Daikin its reasonable attorneys' fees for bringing and prosecuting this action under 35 U.S.C. § 285; and

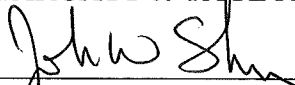
(j) Awarding Daikin such other and further relief that the Court may deem just and proper.



**DEMAND FOR JURY TRIAL**

Daikin hereby requests a jury trial on all the issues properly triable to a jury in this case.

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