

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MAINE

COLORTRONIX, LLC,

Plaintiff,

v.

HEIDELBERGER
DRUCKMASCHINEN
AKTIENGESELLSCHAFT
a/k/a HEIDELBERG

Defendant.

Civil Action No.

COMPLAINT FOR DECLARATORY JUDGMENT

Colortronix, LLC (hereinafter “Plaintiff” or “Colortronix”), for its Complaint against Defendant Heidelberg Druckmaschinen AG a/k/a Heidelberg (hereinafter “Defendant” or “Heidelberg”), alleges based on personal belief as to itself and on information and belief as to the conduct of Heidelberg as follows:

THE PARTIES

1. Plaintiff Colortronix is a Maine limited liability company with a mailing address of 347 Kelley Road, Hermon, Maine 04401.

2. On information and belief, Heidelberg is a foreign corporation organized under the laws of Germany with a mailing address of Postfach 10 29 40, 69019 Heidelberg, Germany.

3. Heidelberg purports to be the owner by assignment of U.S. Patent No. 5,128,879 (the “879 patent”), entitled “Method and apparatus for acquiring covering data of print areas”, a copy of which is attached as Exhibit 1.

JURISDICTION AND VENUE

4. This is a civil action seeking a declaratory judgment under 28 U.S.C. §§ 2201-02 that Colortronix does not infringe the '879 patent.

5. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331, 1338, and 2201-02, whereas the claims arise under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*, and under the Declaratory Judgment Act, 28 U.S.C. § 2201(a).

6. This Court has personal jurisdiction over Heidelberg because, on information and belief, it has business contacts with this judicial district.

7. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400.

STATEMENT OF FACTS

8. Colortronix manufactures and sells hardware and software products that allow digital information to be networked to printing presses. Specifically, Colortronix sells a product known as the Adelphi key link system for determining ink coverages for presses by using electronic data files from the prepress workflow.

9. On February 26, 2008, Heidelberg sent a cease-and-desist letter to Colortronix alleging it is the owner of the '879 patent and that the Colortronix Adelphi key link system infringes upon the method claims set forth in the '879 patent. *See* copy of February 26, 2008 letter, attached hereto as Exhibit 2.

10. The February 26, 2008 letter demanded that Colortronix “stop infringement” of the '879 patent “by taking a license”, or in the alternative to “ceas[e] the manufacturing and sale of [Colortronix’s] product.”

11. The Adelphi key link system does not infringe any claim of the '879 patent.

12. On March 12, 2008, Colortronix responded in writing to Heidelberg explaining why the Adelphi key link system did not infringe the '879 patent. *See* copy of March 12, 2008 letter, attached hereto as Exhibit 3.

13. On March 25, 2008, Heidelberg again contacted Colortronix and again asserted that the Adelphi key link system infringed upon the '879 patent and again requested that Colortronix take a license in the '879 patent. *See* copy of March 25, 2008 letter, attached hereto as Exhibit 4.

14. Colortronix has no plans to cease the manufacture or sale of the Adelphi key link system nor does it plan to take a license in the '879 patent.

15. Based on the February 26, 2008 letter and the March 25, 2008 letter, Colortronix has an objectively reasonable apprehension that Heidelberg will file suit against it claiming infringement of the '879 patent by the Adelphi key link system.

16. An actual and justiciable controversy exists between Colortronix and Heidelberg as to the alleged infringement of the '879 patent by Colortronix through its manufacture and sale of the Adelphi key link system.

COUNT I – DECLARATORY JUDGMENT OF NON-INFRINGEMENT

17. The allegations of Paragraphs 1-16 above are restated and re-alleged as though fully set forth herein.

18. The manufacture, use, offer for sale and/or sale in the United States of Colortronix's Adelphi key link system does not directly infringe the '879 patent.

19. Colortronix does not contribute to the infringement of, or induce others to infringe, the '879 patent.

20. Colortronix seeks, and is entitled to, a declaratory judgment pursuant to 28 U.S.C. §§ 2201, *et seq.*, that the Adelphi key link system does not infringe the '879 patent.

WHEREFORE, Plaintiff Colortronix requests that this Court:

A. Enter judgment that Colortronix and its Adelphi key link system does not infringe any claim of the '879 patent;

B. Hold that this case is exceptional under 35 U.S.C. § 285, and award Colortronix its reasonable attorney fees and costs pursuant to 35 U.S.C. § 285 or otherwise; and

C. Award Colortronix such further relief as this Court may deem just and proper.

Dated this 10th day of April, 2008, in Bangor, Maine.

Respectfully submitted,

/s/ Anthony D. Pellegrini
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CERTIFICATE OF SERVICE

I hereby certify that on April 10, 2008, I electronically filed Plaintiff's Complaint for Declaratory Judgment with the Clerk of the Court at newcases.bangor@med.uscourts.gov.

Dated: April 10, 2008

/s/ Anthony D. Pellegrini
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