

FILED

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

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U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO, FLORIDA

SRI HERMETICS, INC.,
a Florida corporation,

Plaintiff,

vs.

Case No. 6:05-cv-1661 Orl-18KRS

**PACIFIC AEROSPACE &
ELECTRONICS, INC.,**
a corporation,
Defendant.

**JURY TRIAL REQUESTED
INJUNCTIVE RELIEVE REQUESTED**

COMPLAINT

COMES NOW Plaintiff SRI HERMETICS, INC. ("Plaintiff"), and for its complaint against Defendant PACIFIC AEROSPACE & ELECTRONICS, INC. , ("PA&E"), states:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff is a corporation organized and existing under the laws of the State of Florida, having a principal place of business in Melbourne, Florida.
2. Defendant Pacific Aerospace & Electronics, Inc., is a corporation organized and existing under the laws of the State of Washington, having a principal place business in Wenatchee, Washington. PA&E is the purported owner of United States Patent Nos. 5,041,019 ("019 Patent"); 5,110,307 ("307 Patent"); and 5,405,272 ("272 Patent"). PA&E also claims an interest in other Patents.
3. Upon information and belief, PA&E is regularly engaged in interstate

commerce throughout the United States, including the State of Florida and within this Judicial District and Division. PA&E has asserted claims of infringement against Plaintiff in this Judicial District and Division, has attended trade shows, sold goods and otherwise has continuous and systematic contacts with this Judicial District and Division. PA&E otherwise has sufficient minimum contacts with the State of Florida for this Court to exercise specific personal jurisdiction over the Defendant.

4. As set out in greater detail below, Plaintiff seeks in this action a declaration under 28 U.S.C. §2201(a) that the Patents purportedly owned by Defendant is invalid or unenforceable. Count Four is a claim for unfair competition for Defendant's threats and false statements made by Defendant to Plaintiff's clients and potential clients in an effort to gain an unfair competitive advantage in the marketplace.

5. The subject matter of Counts One, Two and Three arise under the patent laws of the United States, and this Court therefore has jurisdiction over the subject matter under 28 U.S.C. §1338(a). This Court enjoys jurisdiction over Count Four as it raises a Federal question, or alternatively, under supplemental jurisdiction.

6. This Court has jurisdiction over the parties, and venue properly lies within this judicial district and division under 28 U.S.C. §1391(c).

COUNT ONE

**Action for Declaratory Judgment of Non-Infringement,
Invalidity or Non- Enforceability of the '019 Patent**

7. This Count One is an action by Plaintiff for declaratory judgment under 28 U.S.C. §2201 that Defendant's '019 Patent is not infringed by Plaintiff, or if construed so broadly as to be arguably infringed, is invalid or unenforceable.

8. Plaintiff here restates and incorporates by reference into this Count One the allegations of Paragraphs 1 through 6 above.

9. Plaintiff is engaged, *inter alia*, in the sale and distribution of electrical connectors.

10. Defendant is the purported owner of the '019 Patent, a copy of which is attached as Exhibit A.

11. Defendant has on more than one occasion asserted that Plaintiff infringes the '019 Patent. Plaintiff has not infringed the '019 Patent. Upon information and belief, if a colorable claim of infringement can be made, the '019 Patent is invalid or unenforceable.

12. There exists a clear and immediate threat that Defendant will take legal action against Plaintiff, its distributors or customers, alleging infringement of the '019 Patent, or will otherwise continue to make such threats, or assert such claims in the marketplace. Plaintiff is entitled to a resolution of the claims.

13. Faced with the prospect of defending the claims in the marketplace or in an inconvenient forum, Defendant respectfully prays that this Honorable Court

enter a judgment pursuant to 28 U.S.C. §2201 declaring that Defendant's '019 Patent is not infringed, is invalid and/or unenforceable.

WHEREFORE, Plaintiff respectfully prays that this Honorable Court enter a Judgment under 28 U.S.C. §2201 declaring that Defendant's '019 Patent is not infringed, is invalid or unenforceable, award reasonable attorneys' fees and costs, and such other and further relief as this Court deems just and proper.

COUNT TWO

Action for Declaratory Judgment of Non-Infringement, Invalidity or Non- Enforceability of the '307 Patent

14. This Count One is an action by Plaintiff for declaratory judgment under 28 U.S.C. §2201 that Defendant's '307 Patent is not infringed by Plaintiff, or if construed so broadly as to be arguably infringed, is invalid or unenforceable.

15. Plaintiff here restates and incorporates by reference into this Count Two the allegations of Paragraphs 1 through 6 above.

16. Plaintiff is engaged, *inter alia*, in the sale and distribution of electrical connectors.

17. Defendant is the purported owner of the '307 Patent, a copy of which is attached as Exhibit B.

18. Defendant has on more than one occasion asserted that Plaintiff infringes the '307 Patent. Plaintiff has not infringed the '307 Patent. Upon information and belief, if a colorable claim of infringement can be made, the '307 Patent is invalid or unenforceable.

19. There exists a clear and immediate threat that Defendant will take legal action against Plaintiff, its distributors or customers, alleging infringement of the '307 Patent, or will otherwise continue to make such threats, or assert such claims in the marketplace. Plaintiff is entitled to a resolution of the claims.

20. Faced with the prospect of defending the claims in the marketplace or in an inconvenient forum, Defendant respectfully prays that this Honorable Court enter a judgment pursuant to 28 U.S.C. §2201 declaring that Defendant's '307 Patent is not infringed, is invalid and/or unenforceable.

WHEREFORE, Plaintiff respectfully prays that this Honorable Court enter a Judgment under 28 U.S.C. §2201 declaring that Defendant's '307 Patent is not infringed, is invalid or unenforceable, award reasonable attorneys' fees and costs, and such other and further relief as this Court deems just and proper.

COUNT THREE

Action for Declaratory Judgment of Non-Infringement, Invalidity or Non- Enforceability of the '272 Patent

21. This Count One is an action by Plaintiff for declaratory judgment under 28 U.S.C. §2201 that Defendant's '277 Patent is not infringed by Plaintiff, or if construed so broadly as to be arguably infringed, is invalid or unenforceable.

22. Plaintiff here restates and incorporates by reference into this Count Three the allegations of Paragraphs 1 through 6 above.

23. Plaintiff is engaged, *inter alia*, in the sale and distribution of electrical connectors.

24. Defendant is the purported owner of the '272 Patent, a copy of which is attached as Exhibit C.

25. Defendant has on more than one occasion asserted that Plaintiff infringes the '272 Patent. Plaintiff has not infringed the '272 Patent. Upon information and belief, if a colorable claim for infringement can be made, the '272 Patent is invalid or unenforceable.

26. There exists a clear and immediate threat that Defendant will take legal action against Plaintiff, its distributors or customers, alleging infringement of the '272 Patent, or will otherwise continue to make such threats, or assert such claims in the marketplace. Plaintiff is entitled to a resolution of the claims.

27. Faced with the prospect of defending the claims in the marketplace or in an inconvenient forum, Defendant respectfully prays that this Honorable Court enter a judgment pursuant to 28 U.S.C. §2201 declaring that Defendant's '272 Patent is not infringed, is invalid and/or unenforceable.

WHEREFORE, Plaintiff respectfully prays that this Honorable Court enter a Judgment under 28 U.S.C. §2201 declaring that Defendant's '272 Patent is not infringed, is invalid or unenforceable, award reasonable attorneys' fees and costs, and such other and further relief as this Court deems just and proper.

COUNT FOUR

Action for Unfair Competition

28. This Count Four is an action by Plaintiff against Defendant for

damages and injunctive relief arising from Defendant's acts of unfair competition under 15 U.S.C. § 1125 and Florida law.

29. Plaintiff here restates and incorporates by reference into this Count Three the allegations of Paragraphs 1 through 27, above.

30. Defendant has engaged in unfair competition by threatening Plaintiff's clients and potential customers and making false or misleading claims about Plaintiff and its products in an effort to gain an unfair advantage in the marketplace.

31. Plaintiff has suffered a compensable injury by reason of Defendant's unfair competition.

32. Plaintiff has suffered irreparable injury and will continue to suffer irreparable injury unless Defendant's conduct is preliminarily and then permanently enjoined.

33. Upon information and belief, Defendant's conduct outlined in this Count Four was engaged in with such a willful, wanton or reckless disregard for Plaintiff's rights as to justify an award of punitive damages.

WHEREFORE, Plaintiff respectfully prays that this Honorable Court enter a Judgment for monetary damages sustained by Plaintiff, punitive damages, injunctive relief precluding Defendant from engaging in unfair competition; reasonable attorneys' fees and costs of this action, and such other and further relief as this Court deems just and proper.

REQUEST FOR JURY TRIAL

Plaintiff requests a trial by jury.

Respectfully submitted November 7, 2005.

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