

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CLERK OF COURT
BY: *[Signature]*

WHIRLPOOL CORPORATION)
 (a Delaware Corporation), and)
WHIRLPOOL PATENTS COMPANY)
 (a Michigan Corporation),)
) Plaintiffs,)
) v.)
LG ELECTRONICS INC.)
 (a Korean Corporation), and)
LG ELECTRONICS U.S.A., INC.)
 (a Delaware Corporation),)
) Defendants.)

Case No. **4:03 CV 0113**

Hon.
Gordon J. Quist
U.S. District Judge

COMPLAINT AND JURY DEMAND

1. Plaintiffs, Whirlpool Corporation and Whirlpool Patents Company (hereinafter sometimes referred to collectively as "Whirlpool"), own and control U.S. Patent Nos. 5,219,370 and 5,233,718 ("the patents"), both of which cover inventions for improved clothes washing. By and through its undersigned attorneys, Whirlpool charges that Defendants LG Electronics Inc. and LG Electronics U.S.A., Inc. (hereinafter sometimes referred to collectively as "LG Electronics") have been, are now, and will be infringing the patents. Whirlpool asks this Court to enjoin the LG Electronics Defendants and to award damages to Whirlpool.

PARTIES

2. Plaintiff Whirlpool Corporation is a Delaware corporation having its principal place of business at 2000 M-63, Benton Harbor, Michigan 49022. Whirlpool Corporation is the parent corporation of Plaintiff Whirlpool Patents Company, and a licensee of the patents.

3. Plaintiff Whirlpool Patents Company is a Michigan corporation having its principal place of business at 500 Renaissance Drive, Suite 102, St. Joseph, Michigan 49085, and owns the patents.

4. On information and belief, Defendant LG Electronics Inc. is a Korean corporation having a principal place of business at LG Twin Towers, 20 Yoido-Dong, Yeongdeungpo-gu, Seoul, Korea 150-721. On information and belief, Defendant LG Electronics Inc. is the parent company of Defendant LG Electronics U.S.A., Inc., and imports into the United States, offers for sale, sells, makes, and/or uses washers including at least the Model WM2432, WM2032, and WM1832 washers, throughout the United States, including in this judicial district.

5. On information and belief, Defendant LG Electronics U.S.A., Inc. is a Delaware corporation having a principal place of business at 1000 Sylvan Avenue, Englewood Cliffs, New Jersey 07632. On information and belief, Defendant LG Electronics U.S.A., Inc., is a wholly-owned subsidiary of Defendant LG Electronics Inc., and acts as a distributor for the products of its parent company. On information and belief, Defendant LG Electronics U.S.A., Inc., imports into the United States, offers for sale, sells, makes, and/or uses washers including at least the Model WM2432, WM2032, and WM1832 washers, throughout the United States, including in this judicial district.

JURISDICTION AND VENUE

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

7. Defendant LG Electronics U.S.A., Inc. is subject to the jurisdiction of this Court under Mich. Comp. Laws §§ 600.711 and/or 600.715 in that it has committed acts of patent infringement in the State of Michigan, including in this judicial district, and has transacted business in the form of importing, offering for sale, selling, making, using, and/or causing to be used infringing products in the State of Michigan, including in this judicial district. Further, upon information and belief, Defendant LG Electronics U.S.A., Inc. imports, offers for sale, sells, makes, uses, and/or causes to be used infringing products in the State of Michigan and this judicial district, and distributes Defendants' infringing products with the knowledge and intent that the infringing products will be sold at specific retail outlets in the State of Michigan and in this judicial district. Still further, upon information and belief, Defendant LG Electronics U.S.A., Inc. causes, urges, directs, and/or encourages customers and consumers to use Defendants' products in an infringing manner in the State of Michigan, including in this judicial district. Therefore, LG Electronics U.S.A., Inc., has both committed the acts of infringement complained of in this district, and has induced others to commit the acts of infringement complained of in this district.

8. Defendant LG Electronics Inc. is subject to the jurisdiction of this Court under Mich. Comp. Laws §§ 600.711 and/or 600.715 in that it has committed acts of patent infringement in the State of Michigan, including in this judicial district, and has transacted business in the form of importing, offering for sale, selling, making, using, and/or causing to be

used infringing products in the State of Michigan, including in this judicial district. Further, upon information and belief, Defendant LG Electronics Inc. imports, offers for sale, sells, makes, uses, and/or causes to be used infringing products for the United States market including the State of Michigan and this judicial district, and distributes Defendants' infringing products with the knowledge and intent that the infringing products will reach and be sold in the United States market including specific retail outlets in the State of Michigan and in this judicial district. Still further, upon information and belief, Defendant LG Electronics Inc. causes, urges, directs, and/or encourages Defendant LG Electronics U.S.A., Inc. to import, offer for sale, sell, make, use, and/or cause to be used infringing products in the State of Michigan, including in this judicial district. Therefore, LG Electronics Inc., has both committed the acts of infringement complained of in this district, and has directed subsidiary LG Electronics U.S.A., Inc. and others to commit the acts of infringement complained of in this district.

9. This judicial district is a proper venue for this action under 28 U.S.C. §§ 1391(b), (c), & (d) and 1400(b) in that a substantial part of the events or omissions giving rise to Whirlpool's claims occurred in this judicial district and Defendants LG Electronics U.S.A., Inc. and LG Electronics Inc. are subject to the jurisdiction of this Court.

BACKGROUND FACTS

A. U.S. Patent No. 5,219,370

10. On June 15, 1993, the United States Patent and Trademark Office ("PTO") duly and legally issued U.S. Patent No. 5,219,370 ("the '370 patent"), entitled "Tumbling Method of Washing Fabric in a Horizontal Axis Washer." A true and correct copy of the '370 patent is attached as Exhibit 1.

11. All rights and title in the '370 patent were assigned by the inventors to Whirlpool Corporation prior to the issuance of the '370 patent. All rights and title in the '370 patent were subsequently assigned to Whirlpool Patents Company, on December 31, 1999. The '370 patent was licensed to Whirlpool Corporation on January 1, 2000.

12. LG Electronics has imported into the United States, offered for sale, sold, made, used, and/or caused to be used washers that practice the invention of the '370 patent. Three such devices, by way of example, are the Model WM2432, WM2032, and WM1832 washers. Further, LG Electronics has induced infringement of and contributorily infringed the '370 patent by causing and/or directing Defendants' customers and consumers to commit the acts of infringement complained of herein.

B. U.S. Patent No. 5,233,718

13. On August 10, 1993, the PTO duly and legally issued U.S. Patent No. 5,233,718 ("the '718 patent"), entitled "Tumbling Method of Rinsing Fabric in a Horizontal Axis Washer." A true and correct copy of the '718 patent is attached as Exhibit 2.

14. All rights and title in the '718 patent were assigned by the inventors to Whirlpool Corporation prior to the issuance of the '718 patent. All rights and title in the '718 patent were subsequently assigned to Whirlpool Patents Company, on December 31, 1999. The '718 patent was licensed to Whirlpool Corporation on January 1, 2000.

15. LG Electronics has imported into the United States, offered for sale, sold, made, used, and/or caused to be used washers that practice the invention of the '718 patent. Three such devices, by way of example, are the Model WM2432, WM2032, and WM1832 washers. Further, LG Electronics has induced infringement of and contributorily infringed the '718 patent

by causing and/or directing Defendants' customers and consumers to commit the acts of infringement complained of herein.

**COUNT I
INFRINGEMENT OF THE '370 PATENT**

16. Whirlpool incorporates the allegations of claims 1 through 15 herein as if set forth in full.

17. Defendants have been, still are, and will continue infringing the '370 patent under 35 U.S.C. § 271(a), (b), and/or (c), unless and until enjoined by this Court.

18. Defendants' infringement of the claims of the '370 patent under 35 U.S.C. § 271(a), (b), and/or (c) has harmed and will continue to harm Whirlpool, unless and until enjoined by this Court. Whirlpool is entitled to compensatory and increased damages from Defendants under 35 U.S.C. § 284.

19. On information and belief, Defendants' infringement of the '370 patent under 35 U.S.C. § 271(a), (b), and/or (c) has been willful and deliberate, rendering this an exceptional case under 35 U.S.C. § 285.

20. Whirlpool has at all times complied with the requirements of 35 U.S.C. § 287.

**COUNT II
INFRINGEMENT OF THE '718 PATENT**

21. Whirlpool incorporates the allegations of claims 1 through 20 herein as if set forth in full.

22. Defendants have been, still are, and will continue infringing the '718 patent under 35 U.S.C. § 271(a), (b), and/or (c), unless and until enjoined by this Court.

23. Defendants' infringement of the claims of the '718 patent under 35 U.S.C. § 271(a), (b), and/or (c) has harmed and will continue to harm Whirlpool, unless and until enjoined

by this Court. Whirlpool is entitled to compensatory and increased damages from Defendants under 35 U.S.C. § 284.

24. On information and belief, Defendants have willfully and deliberately infringed the claims of the '718 patent under 35 U.S.C. § 271(a), (b), and/or (c), rendering this an exceptional case under 35 U.S.C. § 285.

25. Whirlpool has at all times complied with the requirements of 35 U.S.C. § 287.

PRAYER FOR RELIEF

WHEREFORE, Whirlpool prays that this Court grant the following relief and judgment:

- A. A finding that the '370 and '718 patents are valid and infringed by Defendants;
- B. An injunction against Defendants; their officers, agents, servants, employees, and attorneys, as well as all those in active concert or participation with Defendants, from infringing, contributing to the infringement of, or inducing infringement of the '370 and '718 patents, as well as all further and proper relief under 35 U.S.C. § 283;
- C. That Defendants be ordered to recall and deliver to Whirlpool for destruction all existing products that infringe or can be used to infringe the '370 and/or '718 patents;
- D. An award to Whirlpool of such damages as it proves at trial due to Defendants' infringement of the '370 and '718 patents, together with prejudgment interest and costs as fixed by the Court, as provided in 35 U.S.C. § 284;
- E. A finding that Defendants' infringement of the '370 and '718 patents has been willful, entitling Whirlpool to an award of treble damages under § 284, and a trebling of all damages awarded;
- F. A finding that this case is "exceptional" and an award to Whirlpool of its costs and reasonable attorney fees, as provided in 35 U.S.C. § 285; and

G. Such further relief as this Court deems proper.

JURY DEMAND

Whirlpool demands a trial by jury on all issues so triable.

Respectfully submitted,

HOWARD & HOWARD ATTORNEYS, P.C.

Dated: July 31, 2003

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ATTACHMENTS

Exhibit 1. Patent Number: 5,219,370

Exhibit 2. Patent Number: 5,233,718