

Defendants.

Civ. Action No.: 6:11-cv-794-JMC

2. Upon information and belief, defendant DMF, INC., dba DMF LIGHTING, INC. and DMF LIGHTING (hereinafter referred to as “DMF”) is a corporation organized and existing under the laws of the State of California, having a place of business at 1118 East 23<sup>rd</sup> Street, Carson, California 90745.

3. Upon information and belief, defendant FAHRENHEIT LIGHTING, INC., dba FAHRENHEIT LIGHTING and FAHRENHEIT, is a corporation organized and existing under the laws of the State of Delaware, having a place of business at 1118 East 23<sup>rd</sup> Street, Carson, California 90745 (DMF and FAHRENHEIT LIGHTING, INC. hereinafter collectively referred to as “Defendants”).

### **JURISDICTION AND VENUE**

4. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. Jurisdiction is conferred pursuant to 28 U.S.C. §1338(a).

5. Venue is proper in this Judicial District pursuant to 28 U.S.C. §1391(b) and §1400(b), because Defendants reside in this district, do business in this district and are subject to personal jurisdiction here, a substantial part of the events or omissions giving rise to the claims occurred here, and the alleged infringement is occurring here because Defendants sell infringing products in this Judicial District.

### **COUNT FOR PATENT INFRINGEMENT**

6. Hubbell is the owner by assignment of all right, title and interest in and to United States Letters Patent No. 7,841,135, which is entitled “Fire Assembly For Recessed Electrical Fixtures” and which was duly and legally issued on November 30, 2010 (hereinafter referred to as “the ‘135 Patent”). Hubbell has been the owner of the ‘135 Patent at all times since it was issued. A copy of the ‘135 Patent is attached hereto as Exhibit A.

7. Hubbell Lighting, Inc. is the exclusive licensee of the rights to make, use, sell, offer to sell and import electrical fixtures within the scope of the ‘135 Patent, including the right to sue for and recover monetary and injunctive relief due to any infringement of the ‘135 Patent.

8. Hubbell Lighting’s Progress Lighting division is located in this Judicial District in Greenville, South Carolina, where it makes and sells the electrical fixtures covered by the ‘135 Patent under the trademark FIREBOX, and has done so for several years.

9. On information and belief, Defendants make, use, import, offer for sale and/or sell various types of fire, sound, and IC airtight rated recessed electrical lighting fixtures, including

those sold under the Fahrenheit Lighting designation, (hereinafter “the Fahrenheit Lighting Fixtures”) that infringe the claims of the ‘135 Patent. The infringing Fahrenheit Lighting Fixtures include, but are not limited to, those identified by the designations F3FV, F3FV2, F330-GU10, F3302-GU10, F33LV, F33LV2, F4FV, F4FV2, F4I, F4I2, F44LV, F44LV2, F440-GU10, F4402-GU10, F5FV, F5FV2, F5I, F5I2, F6FH, F6FH2, F6FV, F6FV2, F6I, F6I2, F6L, and F6L2. Defendants offer for sale and sell the Fahrenheit Lighting Fixtures in this Judicial District and throughout the United States. A photocopy of promotional materials illustrating the Fahrenheit Lighting Fixtures is attached hereto as Exhibit B.

10. The offer for sale and/or sale of the Fahrenheit Lighting Fixtures by Defendants in this Judicial District and elsewhere in the United States constitutes direct and/or contributory infringement of, and/or active inducement to infringe the ‘135 Patent under 35 U.S.C. §271.

11. Defendants’ infringement of the ‘135 Patent has been and is in violation of Hubbell’s patent rights, and it is believed that Defendants will continue to infringe Hubbell’s patent rights unless enjoined by this Court.

12. On information and belief, Defendants’ acts of infringement have been and are willful and deliberate, with full knowledge of Hubbell’s rights in the ‘135 Patent.

13. As a result of Defendants’ infringement of the ‘135 Patent, Hubbell has been damaged by loss of sales of its products covered by the ‘135 Patent, loss of profits and/or loss of royalties, or in other respects, and will continue to be damaged in an amount yet to be determined. Hubbell has suffered and will continue to suffer irreparable injury unless the infringing activities of Defendants are enjoined.

14. By virtue of Defendants’ willful and deliberate infringement, this is an “exceptional case” within the meaning of 35 U.S.C. §285 and warrants an award of treble damages pursuant to 35 U.S.C. §284.

WHEREFORE, Plaintiff Hubbell prays for the following relief:

A. Judgment for Hubbell on its cause of action for patent infringement under 35 U.S.C. §271 against Defendants.

B. Preliminary and permanent injunction enjoining Defendants, their officers, directors, agents and employees and all those in active concert or participation with them who receive actual notice of the judgment by personal service or otherwise, from making, using, importing, offering for sale, and selling in the United States any product embodying the invention of the ‘135 Patent and from

any further acts of infringement, contributory infringement and inducement of infringement of the '135 Patent.

C. An award of compensatory and punitive damages, including, but not limited to loss of profits and/or royalties, to Hubbell by reason of the wrongs committed by Defendants, including an award of increased damages pursuant to 35 U.S.C. §284, for Defendants' willful and deliberate patent infringement.

D. An award of interest, including pre- and post-judgment interest, and costs of this action together with Hubbell's reasonable attorneys' fees pursuant to 35 U.S.C. §285.

E. Such other and further relief as this Court deems just and proper.

Respectfully submitted,

Dated: May 9, 2011

s/William Y. Klett, III  
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