

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
MEMPHIS DIVISION**

HUNTER FAN COMPANY,)	
)	
Plaintiff,)	CIVIL ACTION FILE NO.
)	2:06-CV-02108-JPM-tmp
v.)	
)	<u>JURY TRIAL DEMANDED</u>
MINKA LIGHTING, INC.,)	
)	
)	
Defendant.)	

AMENDED COMPLAINT

COMES NOW Plaintiff, Hunter Fan Company, and for its Amended Complaint against Defendant, Minka Lighting, Inc., states the following:

I. THE PARTIES

1. Plaintiff Hunter Fan Company ("Plaintiff"), is a corporation organized and existing under the laws of the State of Delaware, having a principal place of business located at 2500 Frisco Avenue, Memphis, Tennessee 38114.

2. Upon information and belief, Defendant Minka Lighting, Inc. ("Defendant"), is a corporation organized under the laws of the State of California, with its principal place of business at 1151 West Bradford Court, Corona, California 92882.

II. JURISDICTION AND VENUE

3. This is an action against Defendant for patent infringement arising under the Patent Laws of the United States, specifically 35 U.S.C. § 271 and 35 U.S.C. § 281.

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 as it involves a federal question; United States Patent Laws, 28 U.S.C. §1338(a) as it

involves federal patent law; and 28 U.S.C. § 1332 as the action is between citizens of different States, and the amount in controversy in this action, exclusive of interest and costs, exceeds the sum of \$75,000.00.

5. This Court has personal jurisdiction over the Defendant based upon Defendant's sale of goods and the transaction of business in the state of Tennessee and sufficient minimum contacts with the state of Tennessee.

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

III. THE CONTROVERSY

7. Since 1886, Plaintiff and/or its predecessors in interest have been and continue to be engaged in the business of having ceiling fans produced and selling those ceiling fans in the United States.

8. On May 11, 2004, the United States Patent and Trademark Office duly and lawfully issued U.S. Patent No. 6,733,241 B2 ("the '241 patent") to inventor Gregory Michael Bird for the invention entitled "HIGH EFFICIENCY CEILING FAN". (See Exhibit A, Plaintiff's U.S. Patent, Reg. No. 6,733,241 B2).

9. On November 7, 2006, the United States Patent and Trademark Office duly and lawfully issued U.S. Patent No. 7,131,819 B2 ("the '819 patent") to inventor Gregory Michael Bird for the invention entitled "HIGH EFFICIENCY CEILING FAN". (See Exhibit B, Plaintiff's U.S. Patent, Reg. No. 7,131,819 B2).

10. Gregory Michael Bird assigned all rights in the '241 and '819 patents to Plaintiff.

11. Plaintiff incorporates the invention of the '241 and '819 patents into its OCEANUS and ZOE brand ceiling fans and its subsidiary Casablanca Fan Company, incorporates the inventions of the '241 and '819 patents into its SCANDIA and MODENA brand ceiling fans.

12. Defendant has commenced making, using, selling, offering to sell and/or importing into the United States one or more ceiling fans that infringe Plaintiff's '241 and '819 patents.

13. Defendant's ARTEMIS brand ceiling fan infringes Plaintiff's '241 and '819 patents.

14. While the '241 and '819 patents were in full force and effect, Defendant made, used, sold, offered for sale and/or imported Defendant's ARTEMIS ceiling fan in blatant disregard of Plaintiff's patent rights. Indeed, Defendant's infringing acts, including the introduction, promotion and sale of products covered by Plaintiff's '241 and '819 patents, occurred without Plaintiff's knowledge and without any attempt made by Defendant to secure any rights to make, use or sell the patented products.

15. Defendant has been notified of its infringement of Plaintiff's '241 and '819 patents pursuant to 35 U.S.C. § 287.

16. Upon information and belief, Defendant is distributing its ceiling fans, including its ARTEMIS product, throughout the United States and the State of Tennessee.

COUNT I
PATENT INFRINGEMENT--U.S. PAT. 6,733,241 B2

17. Plaintiff hereby incorporates and realleges paragraphs one (1) through sixteen (16) as if fully set forth herein.

18. Defendant has made or has had made, used, offered for sale, distributed, sold and/or imported into the United States products which infringe the '241 patent.

19. Defendant's infringement has caused damage to Plaintiff in an amount not yet ascertained.

20. Defendant's infringement constitutes willful and intentional infringement making this an exceptional case and justifying the imposition of treble damages and an award of reasonable attorney fees to Plaintiff within the provisions of 35 U.S.C. §§ 284-85.

21. By reason of the acts of Defendant alleged herein, Plaintiff has suffered, is suffering and will continue to suffer irreparable damage, and unless Defendant is restrained from continuing its wrongful acts, the damage to Plaintiff will be increased.

22. Plaintiff has no adequate remedy at law.

COUNT II
PATENT INFRINGEMENT--U.S. PAT. 7,131,819 B2

23. Plaintiff hereby incorporates and realleges paragraphs one (1) through twenty-two (22) as if fully set forth herein.

24. Defendant has made or has had made, used, offered for sale, distributed, sold and/or imported into the United States products which infringe the '819 patent.

25. Defendant's infringement has caused damage to Plaintiff in an amount not yet ascertained.

26. Defendant's infringement constitutes willful and intentional infringement making this an exceptional case and justifying the imposition of treble damages and an award of reasonable attorney fees to Plaintiff within the provisions of 35 U.S.C. §§ 284-85.

27. By reason of the acts of Defendant alleged herein, Plaintiff has suffered, is suffering and will continue to suffer irreparable damage, and unless Defendant is restrained from continuing its wrongful acts, the damage to Plaintiff will be increased.

28. Plaintiff has no adequate remedy at law.

WHEREFORE, Plaintiff requests a judgment as follows:

1. That the Court adjudge and decree that the Defendant's conduct infringes Plaintiff's patent rights in the '241 and '819 patents in violation of 35 U.S.C. § 271.

2. That Defendant, its officers, agents, servants and employees be forthwith preliminarily enjoined and restrained from making, using, offering to sell, selling or importing

into the United States Defendant's infringing products during the pendency of this civil action, and thereafter permanently enjoined and restrained from making, using, offering to sell, selling, or importing into the United States Defendant's infringing products.

3. That Defendant be directed to file with this Court and serve on Plaintiff within thirty days after the service of an injunction, a report in writing under oath, setting forth in detail the manner and form in which Defendant has complied with the injunction.

4. That Defendant be required to deliver up and destroy all of Defendant's infringing products and all literature, advertisements and other materials displaying Defendant's infringing products.

5. That Defendant account for and pay to Plaintiff all damages available to Plaintiff for Defendant's infringement of the '241 and '819 patents, and that the Court increase the amount of damages to three times the amount found or assessed by the Court because of the willful and deliberate nature of the infringement, in accordance with 35 U.S.C. § 284.

6. That the Court declare this an exceptional case and that Plaintiff be granted its reasonable attorneys' fees in accordance with 35 U.S.C. § 285, as well as its costs.

7. That the Court require Defendant to notify its commercial licensees, dealers, associates, suppliers and customers of said Court Order.

8. That the Court require a full and complete accounting of all monies received by the Defendant as a result of the wrongful making, using, importing, offering for sale and/or sale of Defendant's infringing products, together with an order transferring to Plaintiff any amounts found to be due to Defendant.

9. That Plaintiff have such other and further relief as the Court may deem just.

Respectfully submitted this 13th day of December, 2006.

/s/ L. Clint Crosby

Dorian B. Kennedy

Georgia Bar No.: 414385

L. Clint Crosby (admitted *pro hac vice*)

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CERTIFICATE OF SERVICE

I hereby certify a true and correct copy of the foregoing AMENDED COMPLAINT was served on counsel of record as follows:

VIA FIRST CLASS MAIL

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[SIGNATURE ON FOLLOWING PAGE]

This 13th day of December, 2006.

/s/ L. Clint Crosby

Dorian B. Kennedy

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