

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
(Eastern Division)

CONTROL ALT DESIGN, LTD.,)
)
 Plaintiff,)
)
 v.)
)
 TENSOR CORPORATION, ROGER SHERMAN,)
 OFFICE DEPOT, INC., MEIJER, INC.,)
)
 Defendant.)

Civil Action No. 01 C 2362
Judge Joan H. Lefkow
Magistrate Judge Nan R. Nolan

FILED
SEP 14 2001
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT
SEP 19 2001

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Control Alt Design, Ltd., complains of defendants, Tensor Corporation, Roger Sherman, Office Depot, Inc. and Meijer, Inc., as follows:

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. This Court has exclusive jurisdiction over the subject matter under 28 U.S.C. § 1338(a).

2. Control Alt Design, Ltd. ("CAD") is an Illinois corporation with offices at 1601 Lexington Drive, Arlington Heights, Illinois 60004-2813. CAD owns all right, title and interest in and has standing to sue for infringement of United States Patent No. 5,655,833, entitled "Free-Standing Task Lighting Fixture," issued August 12, 1997 (the "'833 patent").

3. Tensor Corporation ("Tensor") is a Massachusetts corporation with offices at 100 Justin Drive, Chelsea, Massachusetts 02150. Tensor has sold infringing products to

customers in this judicial district, including defendants, Office Depot and Meijer, Inc.

4. Roger Neil Sherman is the President, CEO and owner of defendant Tensor. Mr. Sherman approved, directed and authorized Tensor's infringement of the '833 patent. He made the ultimate decision to design, develop, manufacture, sell and market the Tensor products that infringe the '833 patent.

5. Office Depot, Inc. ("Office Depot") is a Delaware corporation registered to do business in Illinois, including a place of business at 370 East Rand Road, Arlington Heights, Illinois 60004.

6. Meijer, Inc. ("Meijer") is a Michigan corporation registered to do business in Illinois, including a place of business at 808 North Route 59, Aurora, Illinois 60504.

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

8. Defendant Tensor has infringed at least claims 14-16 of the '833 patent through, among other activities, the manufacture, use, sale and/or offer for sale of infringing computer lamps (the "Tensor products"). Tensor has also infringed the '833 patent by knowingly and actively inducing others to infringe, and by contributing to the infringement by others by the use, sale and/or offer for sale of the infringing Tensor products.

9. Roger Sherman has directly infringed at least claims 14-16 of the '833 patent by approving, directing and authorizing the manufacture of and approving, directing, authorizing and soliciting

the sale of the infringing Tensor products. Mr. Sherman also induced infringement by knowingly and intentionally aiding and assisting in the infringement of Tensor. He is the sole owner of defendant Tensor and has personally benefitted from the company's infringement. Mr. Sherman has availed himself of this jurisdiction (including his attendance at the January 1998 International Housewares Show in Chicago) in connection with his infringement of the '833 patent.

10. Defendant Office Depot has infringed at least claims 14-16 of the '833 patent through, among other activities, the use, sale and/or offer for sale of the infringing Tensor products in this judicial district.

11. Defendant Meijer has infringed at least claims 14-16 of the '833 patent through, among other activities, the use, sale and/or offer for sale of the infringing Tensor products in this judicial district.

12. Defendants' infringement, contributory infringement and/or inducement to infringe has injured CAD and CAD is entitled to recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

13. Defendants' infringement, contributory infringement and/or inducement to infringe has been willful and deliberate and has injured and will continue to injure CAD, unless and until this Court enters an injunction prohibiting further infringement and, specifically, enjoining further manufacture, use, sale and/or offer for sale of products that come within the scope of the '833 patent.

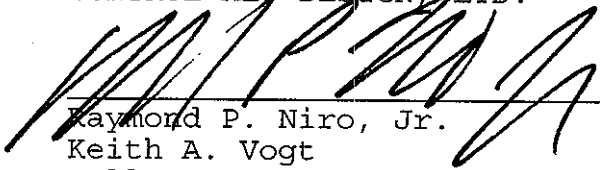
WHEREFORE, plaintiff, CAD, asks this Court to enter judgment against defendants, and against their subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with them, granting the following relief:

- A. An award of damages adequate to compensate CAD for the infringement that has occurred, together with prejudgment interest from the date infringement of the '833 patent began;
- B. Increased damages as permitted under 35 U.S.C. § 284;
- C. A finding that this case is exceptional and an award to CAD of its attorneys' fees and costs as provided by 35 U.S.C. § 285;
- D. A permanent injunction prohibiting further infringement, inducement and contributory infringement of the '833 patent; and,
- E. Such other and further relief as this Court or a jury may deem proper and just.

JURY DEMAND

CAD demands a trial by jury on all issues presented in this First Amended Complaint.

CONTROL ALT DESIGN, LTD.


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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT** was served upon the below-listed counsel of record on the 13th day of September 2001:

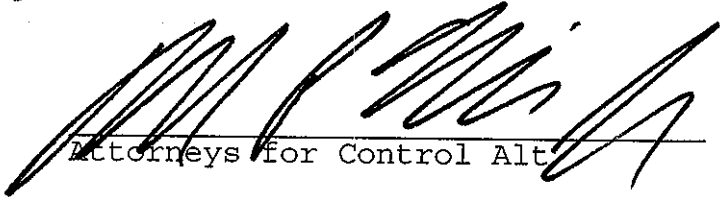
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