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U.S. DISTRICT COURT
INDIANAPOLIS, INDIANA
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SOUTHERN DISTRICT
OF INDIANA
LAURA A. BRIGGS
CLERK

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

MAGNEQUENCH INTERNATIONAL, INC.,

Plaintiff,

v.

Wal-Mart Stores, Inc., Eastman Kodak Company and Dell
Inc.

Defendants.

Cause No.:

1:04-CV-0424 DFH - TAB

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Magnequench International, Inc. ("Magnequench"), for its Complaint against Defendants, Wal-Mart Stores, Inc., Walmart.com USA, LLC, Eastman Kodak Company and Dell Inc. (collectively, "Defendants"), alleges:

NATURE OF THE ACTION

1. Magnequench is the owner by assignment of United States Patent No. 4,851,058; United States Patent No. 4,802,931; and United States Patent No. 4,902,361 (collectively, the "Magnequench Patents"). These three patents generally cover, respectively, neodymium-iron-boron ("Nd-Fe-B") magnets and magnetic materials, Nd-Fe-B magnets and magnetic materials with a particular crystal phase, and bonded Nd-Fe-B magnets.

2. Upon information and belief, Defendants have been and still are infringing, contributing to and actively inducing infringement of the Magnequench Patents in this judicial district and elsewhere in the United States by the manufacture, use, sale, offer for sale and/or importation into the United States of products that incorporate Nd-Fe-B magnets falling within

the scope of the claimed subject matter of the Magnequench Patents. By virtue of Defendants' infringement, Magnequench is entitled to damages and injunctive relief.

THE PARTIES

3. Plaintiff Magnequench is a Delaware corporation having a principal place of business located at 9775 Cross Point Boulevard, Suite 100, Indianapolis, Indiana 46256.

4. Upon information and belief, defendant Wal-Mart Stores, Inc. is a Delaware corporation having a principal place of business located at 702 S.W. 8th Street, Bentonville, Arkansas 72716, U.S.A., and is doing business in this judicial district.

5. Upon information and belief, defendant Eastman Kodak Company is a New Jersey corporation having a principal place of business located at 343 State Street, Rochester, New York 14650, U.S.A., and is doing business in this judicial district.

6. Upon information and belief, defendant Dell Inc. is a Delaware corporation having a principal place of business located at One Dell Way, Round Rock, Texas 78682, U.S.A., and is doing business in this judicial district.

JURISDICTION AND VENUE

7. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35, United States Code. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

8. Venue in this judicial district is proper pursuant to 28 U.S.C. §§ 1391 and/or 1400(b). Personal jurisdiction over defendants comports with the United States Constitution and I.C. 34-8-2-2 of the Indiana Code and Indiana Rule of Trial Procedures 4.4(A) because, upon information and belief, defendants have committed and continue to commit, and have induced and continue to induce others to commit, and have contributed to and continue to contribute to acts of patent infringement in this district as alleged in this complaint.

THE PATENTS IN SUIT

9. Plaintiff Magnequench is the sole owner of United States Patent No. 4,851,058 entitled "High Energy Product Rare Earth-Iron Magnet Alloys" ("058 patent"), which was duly and legally issued by the PTO on July 25, 1989, and which is presumed valid pursuant to 35 U.S.C. § 282. The claims of the '058 patent are directed generally to magnets and magnetic materials containing neodymium and/or praseodymium, iron and boron. A copy of the '058 patent is attached hereto as Exhibit "A".

10. The true and sole inventor of the '058 patent is John J. Croat.

11. Inventor John J. Croat assigned all of his rights in the '058 patent to General Motors prior to the issuance of said patent. This assignment is recorded in the PTO at Reel 4042, Frame 0690.

12. On September 29, 1995, General Motors assigned all right, title and interest in, to and under the '058 patent to Plaintiff Magnequench. This assignment is recorded in the PTO at Reel 7737, Frames 0573-94.

13. Plaintiff Magnequench is the sole owner of United States Patent No. 4,802,931 entitled "High Energy Product Rare Earth-Iron Magnet Alloys" ("931 patent"), which was duly and legally issued by the PTO on February 7, 1989, and which is presumed valid pursuant to 35 U.S.C. § 282. The claims of the '931 patent are directed generally to magnets and magnetic materials containing neodymium and/or praseodymium, iron, and boron, and containing a specified crystal phase. A copy of the '931 patent is attached hereto as Exhibit "B".

14. The true and sole inventor of the '931 patent is John J. Croat.

15. Inventor John J. Croat assigned all of his rights in the '931 patent to General Motors prior to the issuance of said patent. This assignment is recorded in the PTO at Reel 4188, Frame 0400.

16. On September 29, 1995, General Motors assigned all right, title and interest in, to and under the '931 patent to Plaintiff Magnequench. This assignment is recorded in the PTO at Reel 7737, Frames 0573-94.

17. Plaintiff Magnequench is the sole owner of United States Patent No. 4,902,361 entitled "Bonded Rare Earth-Iron Magnets" ("361 patent"), which was duly and legally issued by the PTO on February 20, 1990, and which is presumed valid pursuant to 35 U.S.C. § 282. The claims of the '361 patent are directed generally to bonded magnets containing neodymium and/or praseodymium, iron, and boron. A copy of the '361 patent is attached hereto as Exhibit "C".

18. The true and only joint inventors of the '361 patent are Robert W. Lee and John J. Croat.

19. Inventors Robert W. Lee and John J. Croat assigned all of their rights in the '361 patent to General Motors prior to the issuance of said patent. This assignment is recorded in the PTO at Reel 4130, Frame 0758.

20. On September 29, 1995, General Motors assigned all right, title and interest in, to and under the '361 patent to Plaintiff Magnequench. This assignment is recorded in the PTO at Reel 7737, Frames 0573-94.

21. Since their introduction, Nd-Fe-B magnets have been recognized in the magnet industry to be a significant advance over the prior art. The high magnetic strength of Nd-Fe-B magnets permits the miniaturization of many products that use permanent magnets. Indeed, the magnetic properties of Nd-Fe-B magnets have contributed to the development of new electronic devices which would have been impossible or impracticable to make using other types of magnets. Accordingly, Nd-Fe-B magnets have become an essential component in numerous industrial and consumer products made, used and sold in the United States and worldwide.

PATENT INFRINGEMENT

22. Plaintiff Magnequench repeats and realleges the allegations contained in paragraphs 1 through 54 as if fully set forth herein.

23. Upon information and belief, defendant Wal-Mart Stores, Inc. has been and still is infringing, contributing to and actively inducing infringement of the Magnequench Patents in this judicial district and elsewhere in the United States by the use, sale, offer for sale and/or importation into the United States of products, including but not limited to the Sony CDRW Drive (Part No. CRX225A-U).

24. Upon information and belief, defendant Eastman Kodak Company has been and still is infringing, contributing to and actively inducing infringement of the Magnequench Patents in this judicial district and elsewhere in the United States by the manufacture, use, sale, offer for sale and/or importation into the United States of products, including but not limited to the Easyshare Printer Dock 6000, which incorporates Nd-Fe-B magnets falling within the scope of one or more claims of the Magnequench Patents.

25. Upon information and belief, defendant Dell Inc. has been and still is infringing, contributing to and actively inducing infringement of the Magnequench Patents in this judicial district and elsewhere in the United States by the manufacture, use, sale, offer for sale and/or importation into the United States of products, including but not limited to the ZIP 250 Module (Part No. 8P118), the 48X CDRW/DVD ROM (Item No. 313-1694), and the Dimension 4X DVD+R/RW (Item No. 313-1547), which incorporate Nd-Fe-B magnets falling within the scope of one or more claims of the Magnequench Patents.

26. Upon information and belief, each Defendants' infringement of the Magnequench Patents has been and continues to be willful, wanton, deliberate and/or without license.

27. Unless preliminarily and permanently enjoined by this Court, each Defendant will continue its acts of infringement, to Plaintiff Magnequench's substantial and irreparable harm.

WHEREFORE, Plaintiff Magnequench respectfully demands judgment as follows:

A. That this Court enter an order, pursuant to 35 U.S.C. § 271, finding that each of the Defendants has infringed one or more claims of the Magnequench Patents;

B. That this Court, pursuant to 35 U.S.C. § 283, preliminarily and permanently enjoin Defendants, their officers, directors, agents, employees, successors and assigns, and any persons acting in private or in concert with them, from making, using, selling, offering to sell or importing products that infringe one or more claims of the Magnequench Patents;

C. That this Court award damages pursuant to 35 U.S.C. § 284 adequate to compensate Plaintiff Magnequench for Defendants' infringement, but in no event less than a reasonable royalty;

D. That this Court order an accounting to determine the proper amount of such damages;

E. That this Court increase such damages three-fold pursuant to the provisions of 35 U.S.C. § 284 as a result of Defendants' willful, wanton, deliberate and/or unlicensed acts of infringement;


F. That this Court award Plaintiff Magnequench its costs, expenses and disbursements in this action, including reasonable attorney's fees, pursuant to 35 U.S.C. § 285;

G. That this Court order the recall of all existing products of Defendants that infringe one or more claims of the Magnequench Patents and that are within the control of Defendants or their wholesalers and retailers;

H. That this Court order the destruction (or reconfiguration to non-infringing embodiments) of all existing products in the possession of Defendants that infringe one or more claims of the Magnequench Patents; and

I. Such other relief that this Court deems just and proper.

Dated: March 4, 2004

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