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U.S. DISTRICT COURT  
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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

ORECK CORPORATION  
PLAINTIFF

v.

MATSUSHITA ELECTRIC  
CORPORATION OF AMERICA  
DEFENDANT

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CASE NUMBER:

**02-3214**

SECTION:

MAGISTRATE:

**SECT. R MAG. 5**

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COMPLAINT

Plaintiff, Oreck Corporation, through undersigned counsel, hereby alleges as follows:

1. This is an action for declaratory judgment under the provisions of 28 U.S.C. §§ 2201 and 2202.
2. Venue properly lies within this judicial district under the provisions of 28 U.S.C. § 1391. This Court has jurisdiction of this matter under the provisions of 28 U.S.C. § 1338(a).
3. Plaintiff is organized under the laws of the State of Delaware, and has its principal place of business in this judicial district.

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4. Defendant is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at One Panasonic Way, Secaucus, New Jersey. It is engaged in the business of manufacturing vacuum cleaners, and other household products.

5. Defendant claims to be the owner of United States Patent No. 4,591,369, which issued on May 22, 1986, and 4,597,131, which issued on July 1, 1986. Defendant has implied in judicial pleadings in another action that the plaintiff has infringed the aforesaid patents. Plaintiff has a reasonable concern that the defendant will file suit claiming that Oreck Corporation is liable for patent infringement.

6. Plaintiff denies any infringement of the aforesaid patents, and further denies that the patents are valid and/or enforceable. There exists an actual, present, and justiciable controversy between the parties with respect to the plaintiff's purported infringement of the patents as well as the validity of those patents.

7. Plaintiff has not infringed and is not now infringing and has not induced others to infringe the defendant's patents.

8. Defendant's patents are invalid and void for failing to comply with the requirements of patentability under the provisions of 35 U.S.C. §§ 102, 103, and 112. The above mentioned patents are invalid and void for the reasons stated below:

- (a) Prior to the alleged invention by the applicant for the patents at issue or more than one year prior to the dates of the applications for such letters patent, the alleged inventions were patented or described in printed publications in the United States or in foreign countries.

- (b) The applicants were not the original or first or sole inventors or discoverers of the alleged inventions purported to be patented, but they had previously been devised by others.
- (c) Prior to the alleged inventions by the applicants, the alleged inventions had been known to or used by others.
- (d) For more than one year prior to the filing of the patent applications, the alleged inventions, or all material or substantial parts of such inventions, had been in public use or on sale in this country.
- (e) The differences between the subject matters sought to be patented and the prior art are such that the subject matters as a whole would be obvious, at the time the alleged inventions were made, to a person having ordinary skill in the art to which the subject matters pertained, and such subject matters did not involve patentable inventions.
- (f) If the patents at issue are construed to cover the products made or sold by the plaintiff, the patents are invalid in view of the prior art.
- (g) In view of the prior state of the art and the language of the claims of the patents, and by reason of the proceedings had or taken in the United States Patent and Trademark Office and the prosecution of the patent applications, defendant is estopped from maintaining that the claims of the patents or any of them have such scope as to cover or embrace any products that plaintiff may have made, used, or sold.
- (h) Unless the defendant is enjoined, it will assert that plaintiff is infringing defendant's above-mentioned patents and will interfere with plaintiff's business with regard to its products.

9. Plaintiff is entitled to and hereby demands a trial by jury on all issues.

**WHEREFORE**, Oreck Corporation prays that:

a. This Court grant and enter a judgment declaring that United States Patent Nos. 4,591,369 and 4,597,131 are invalid and void and that such patents are not infringed by the products made, used, or sold by the plaintiff.

b. This Court enter a judgment or decree that plaintiff has the right to continue to make, use, and sell its products without any threat or other interference against plaintiff by defendant, based on or arising out of the ownership of the patents at issue.

c. This Court enter a judgment and decree that the patents at issue owned by the defendants are unenforceable against the plaintiff.

d. Defendant be enjoined pending the final adjudication of this action, and permanently afterwards, from prosecuting or bringing or threatening to bring any action against any buyers or users of plaintiff's products for alleged infringement of defendant's claimed patent rights.

e. Defendant be enjoined pending the final adjudication of this action, and permanently afterwards, from charging or asserting that the manufacture, use, or sale of the products manufactured and sold by plaintiff is in violation or infringes defendant's alleged patent rights under the patents.

f. The costs of this action be assessed against defendant.

g. Plaintiff have such other and further relief as is just, including attorneys fees.

Dated this 23<sup>rd</sup> day of October, 2002.

Respectfully submitted,

**ORECK, BRADLEY, CRIGHTON,  
ADAMS & CHASE**



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