

United States District Court
District of Massachusetts

TERADYNE, INC.,
Plaintiff,
v.
FCI USA, Inc.,
Defendant.

01-12076REK

Civil Action No. _____

35419
AMOUNT \$ 150.00
DEMAND FOR INFO. yes - 1
LOCAL RULE 4.1
WAIVER OF SERV. /
JURY DEMAND
DO NOT OR 121 yes
BY CITY CLK. 55
DATE 11-29-01

Complaint and Jury Demand

Introduction

1. This is an action for a declaratory judgment that United States Patent Nos. 6,024,584 (the "584 patent"), 6,079,991 (the "991 patent"), 6,093,035 (the "035 patent"), 6,139,336 (the "336 patent"), 6,164,983 (the "983 patent"), and 6,247,635 (the "635 patent") are invalid and/or not infringed by plaintiff Teradyne, Inc. ("Teradyne").

Parties

2. Teradyne is a Massachusetts corporation with its headquarters at 321 Harrison Avenue, Boston, Massachusetts 02118.

3. Upon information and belief, defendant FCI USA, Inc. ("FCI") is a corporation with North American headquarters in Eters, Pennsylvania, and a Regional Office for the Northeast at 1500 West Park Drive, Westborough, Massachusetts.

Jurisdiction and Venue

4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331, 1338, 2201, and 2202.

5. This Court has personal jurisdiction over FCI.

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6. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(c).

Facts

7. Teradyne is in the business of, inter alia, high performance interconnect systems. Its products include the NeXLev™ line of connector products.

8. Upon information and belief, FCI is the owner of all right, title, and interest in and to the '584, '991, '035, '336, '983, and '635 patents.

9. FCI has accused Teradyne of infringement of the '584, '991, '035, '336, '983, and '635 patents through manufacture, use, and sale of the NeXLev™ line of products, and has threatened litigation. As a result, Teradyne has a reasonable apprehension that FCI will initiate suit if Teradyne continues to make, use, or sell the NeXLev™ line of products.

10. FCI's accusations give rise to a case of actual controversy within the jurisdiction of this Court, pursuant to 28 U.S.C. §§ 2201 and 2202.

Count I – The '584 Patent

11. Teradyne repeats each allegation of paragraphs 1-10 as if set forth here in full.

12. Neither the NeXLev line of products nor any other product made, used, or sold by Teradyne infringes the '584 patent, and/or the '584 patent is invalid under sections 102, 103, and/or 112 of Title 35 of the United States Code.

13. To resolve the legal and factual questions raised by FCI and to afford relief from the uncertainty and controversy that FCI's accusations have precipitated, Teradyne is entitled to a declaratory judgment that it does not infringe the '584 patent and/or that the '584 patent is invalid.

Count II – The '991 Patent

14. Teradyne repeats each allegation of paragraphs 1-13 as if set forth here in full.

15. Neither the NeXLev line of products nor any other product made, used, or sold by Teradyne infringes the '991 patent, and/or the '991 patent is invalid under sections 102, 103, and/or 112 of Title 35 of the United States Code.

16. To resolve the legal and factual questions raised by FCI and to afford relief from the uncertainty and controversy that FCI's accusations have precipitated, Teradyne is entitled to a declaratory judgment that it does not infringe the '991 patent and/or that the '991 patent is invalid.

Count III – The '035 Patent

17. Teradyne repeats each allegation of paragraphs 1-16 as if set forth here in full.

18. Neither the NeXLev line of products nor any other product made, used, or sold by Teradyne infringes the '035 patent, and/or the '035 patent is invalid under sections 102, 103, and/or 112 of Title 35 of the United States Code.

19. To resolve the legal and factual questions raised by FCI and to afford relief from the uncertainty and controversy that FCI's accusations have precipitated, Teradyne is entitled to a declaratory judgment that it does not infringe the '035 patent and/or that the '035 patent is invalid.

Count IV – The '336 Patent

20. Teradyne repeats each allegation of paragraphs 1-19 as if set forth here in full.

21. Neither the NeXLev line of products nor any other product made, used, or sold by Teradyne infringes the '336 patent, and/or the '336 patent is invalid under sections 102, 103, and/or 112 of Title 35 of the United States Code.

22. To resolve the legal and factual questions raised by FCI and to afford relief from the uncertainty and controversy that FCI's accusations have precipitated, Teradyne is entitled to

a declaratory judgment that it does not infringe the '336 patent and/or that the '336 patent is invalid.

Count V – The '983 Patent

23. Teradyne repeats each allegation of paragraphs 1-22 as if set forth here in full.

24. Neither the NeXLev line of products nor any other product made, used, or sold by Teradyne infringes the '983 patent, and/or the '983 patent is invalid under sections 102, 103, and/or 112 of Title 35 of the United States Code.

25. To resolve the legal and factual questions raised by FCI and to afford relief from the uncertainty and controversy that FCI's accusations have precipitated, Teradyne is entitled to a declaratory judgment that it does not infringe the '983 patent and/or that the '983 patent is invalid.

Count VI – The '635 Patent

26. Teradyne repeats each allegation of paragraphs 1-25 as if set forth here in full.

27. Neither the NeXLev line of products nor any other product made, used, or sold by Teradyne infringes the '635 patent, and/or the '635 patent is invalid under sections 102, 103, and/or 112 of Title 35 of the United States Code.

28. To resolve the legal and factual questions raised by FCI and to afford relief from the uncertainty and controversy that FCI's accusations have precipitated, Teradyne is entitled to a declaratory judgment that it does not infringe the '635 patent and/or that the '635 patent is invalid.

WHEREFORE, Teradyne requests that the Court enter judgment declaring and adjudging that:

- A. Teradyne does not infringe any valid claim of United States Patent Nos. '584, '991, '035, '336, '983, and '635;
- B. United States Patent Nos. '584, '991, '035, '336, '983, and/or '635 are invalid;
- C. FCI and its officers, agents, employees, attorneys, and those persons in active concert with it, are preliminarily and permanently enjoined from asserting or threatening to assert against Teradyne or its customers or potential customers or users of the NeXLev™ line of products any charge of infringement of the '584, '991, '035, '336, '983, and '635 patents;
- D. Teradyne recover its costs and attorneys fees; and
- E. Teradyne have such further relief as the Court may deem just and proper.

Jury Demand

Plaintiff hereby demands a trial by jury on all issues so triable.

TERADYNE, INC.

By its attorneys,



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Dated: November 29, 2001