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ATTORNEYS FOR PLAINTIFFS

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

SUSUMU INTERNATIONAL (USA), INC.
and CYNTEC CO., LTD.,

Plaintiffs,

v.

VISHAY DALE ELECTRONICS, INC.,

Defendants.

Civil Action No. 07-3529

**FIRST AMENDED COMPLAINT AND
JURY DEMAND**

Plaintiffs Susumu International (USA), Inc. and Cyntec Co., Ltd., by way of complaint against Defendant Vishay Dale Electronics, Inc. allege as follows:

PARTIES

1. Plaintiff Susumu International (USA), Inc. ("Susumu") is a corporation organized and existing under the laws of the State of New Jersey and having a regular and established place of business at 406 Bergen Boulevard, Suite 300-78, Palisades Park, New Jersey 07650, within this district.

2. Plaintiff Cyntec Co., Ltd. ("Cyntec") is a corporation organized and existing under the laws of Taiwan and having a regular and established place of business at No. 2 Research and Development 2nd Road, Science-Based Industrial Park, Hsin-chu, Taiwan, Republic of China.

3. Upon information and belief, Defendant Vishay Dale Electronics, Inc. (“Vishay Dale”) is a corporation existing under the laws of the State of Delaware having a regular and established place of business at 1122 23rd Street, Columbus, Nebraska 68601.

JURISDICTION AND VENUE

4. Susumu and Cyntec bring this action under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, to obtain a judicial declaration that United States Patent No. 6,204,744 (“the ‘744 patent”), United States Patent No. 6,460,244 (“the ‘244 patent”), United States Patent No. 6,946,944 (“the ‘944 patent”), United States Patent No. 7,034,645 (“the ‘645 patent”) and United States Patent No. 7,221,249 (“the ‘249 patent”) (collectively “the patents-in-suit”) are invalid and/or not infringed by Susumu, Cyntec or their customers. This action arises under the patent laws of the United States, 35 U.S.C. §1 *et seq.*, and is based upon an actual and justiciable controversy between the parties with respect to the validity and infringement of the patents-in-suit. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331, 1338(a), 2201 and 2202. Diversity of citizenship also exists under 28 U.S.C. § 1332, and the amount in controversy exceeds \$75,000, exclusive of costs and interest.

5. Upon information and belief, Vishay Dale regularly does business in New Jersey and distributes its products through third parties located in New Jersey.

6. Upon information and belief, Brothers Electronics, Inc. (“Brothers”) is an authorized distributor of Vishay Dale headquartered in East Brunswick, New Jersey with a location in Medford, New Jersey. Upon information and belief, Brothers sells, offers for sale, has sold or has offered for sale more than ninety (90) different Vishay Dale product models including certain inductors, crystals, chokes/coils and connectors. Upon information and belief, Brothers’ inventory has included more than 250,000 Vishay Dale products.

7. Upon information and belief, New Yorker Electronics (“New Yorker”) is an authorized distributor of Vishay Dale headquartered in Northvale, New Jersey. Upon information and belief, New Yorker sells, offers for sale, has sold or has offered for sale Vishay Dale products including resistors, networks, trimmers, inductors, chokes/coils and connectors.

8. Upon information and belief, TTI, Inc. (“TTI”) is an authorized distributor of Vishay Dale with a location in Moorestown, New Jersey. Upon information and belief, TTI sells, offers for sale, has sold or has offered for sale Vishay Dale products including resistors, inductors and choke/coils.

9. Upon information and belief, Allied Electronics (“Allied”) is an authorized distributor of Vishay Dale with locations in East Brunswick, New Jersey and Moorestown, New Jersey. Upon information and belief, Allied sells, offers for sale, has sold or has offered for sale Vishay Dale products including resistors, networks, trimmers, inductors, oscillators, chokes/coils and connectors.

10. Upon information and belief, Arrow Electronic Components (“Arrow”) is an authorized distributor of Vishay Dale with a location in Whippany, New Jersey. Upon information and belief, Arrow sells, offers for sale, has sold or has offered for sale Vishay Dale products including resistors, networks, trimmers, inductors, oscillators, chokes/coils and connectors.

11. Upon information and belief, Avnet Electronics Marketing (“Avnet”) is an authorized distributor of Vishay Dale with locations in Mount Laurel, New Jersey and Parsippany, New Jersey. Upon information and belief, Avnet sells, offers for sale, has sold or has offered for sale Vishay Dale products including resistors, networks, trimmers, inductors, chokes/coils and connectors.

12. Upon information and belief, Future Electronics (“Future”) is an authorized distributor of Vishay Dale with locations in Mt. Laurel, New Jersey and Parsippany, New Jersey. Upon information and belief, Future sells, offers for sale, has sold or has offered for sale Vishay Dale products including resistors, networks, trimmers, inductors, chokes/coils and connectors.

13. Upon information and belief, Vishay Dale distributes products covered by the patents-in-suit directly and/or through third parties located in New Jersey. Upon information and belief, chokes/coils sold or offered for sale by Brothers, New Yorker, TTI, Allied, Arrow, Avnet

and Future in New Jersey as authorized distributors of Vishay Dale are manufactured under one or more of the patents-in-suit.

14. Personal jurisdiction is proper before this Court under both the U.S. Constitution and the New Jersey Long-Arm Statute. N.J. CT. R. 4:4-4.

15. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1391 because the claims involve federal questions of patent law and Vishay Dale is subject to personal jurisdiction in this District.

FACTUAL BACKGROUND

16. Vishay Dale filed suit against Susumu and Cyntec in the United States District Court of Nebraska (“the Nebraska case”).

17. Because Susumu and Cyntec are not subject to jurisdiction in Nebraska, Susumu and Cyntec have filed this suit in New Jersey, where Susumu is based, to resolve the dispute between the parties.

18. In the Nebraska case, Vishay Dale served a complaint on Susumu at its New Jersey office alleging infringement of the ‘744, ‘244, ‘944, and ‘645 patents. This complaint was served on June 5, 2007. In its complaint, Vishay Dale alleged that Susumu was making, selling, distributing, and/or using “product[s]” that infringe its patents.

19. In the Nebraska case, Vishay Dale served an amended complaint on counsel for Susumu on July 18, 2007 further alleging infringement of the ‘249 patent. In its amended complaint, Vishay Dale again alleged that Susumu was making, selling, distributing, and/or using “product[s]” that infringe its patents.

20. In the Nebraska case, Vishay Dale attempted to serve a complaint on Cyntec on July 5, 2007 alleging infringement of the ‘744, ‘244, ‘944, and ‘645 patents. In its complaint, Vishay alleged that Cyntec was making, selling, distributing and/or using “product[s]” that infringe its patents.

21. In the Nebraska case, Vishay Dale attempted to serve an amended complaint on counsel for Cyntec on July 18, 2007 further alleging infringement of the ‘249 patent. In its

amended complaint, Vishay Dale again alleged that Cytotec was making, selling, distributing, and/or using “product[s]” that infringe its patents.

COUNT I

(Declaratory Judgment Regarding the ‘744 Patent)

22. Paragraphs 1 through 21 of this Complaint are incorporated by reference as if fully set forth herein.

23. In the Nebraska case, Vishay Dale alleges that Susumu and Cytotec have infringed the ‘744 patent.

24. Susumu and Cytotec deny infringement of any valid claim of the ‘744 patent. The making, selling, distributing, and/or using of the accused Susumu and Cytotec products did not and does not infringe any valid claim of the ‘744 patent. In addition, the making, selling, distributing, and/or using of the accused Susumu and Cytotec products did not and does not contribute to or induce the infringement of any valid claim of the ‘744 patent. Susumu and Cytotec have the right to make, sell, distribute, and/or use the accused Susumu and Cytotec products, unhampered by Vishay Dale.

25. Vishay Dale’s legal action has adversely and unlawfully affected the ability of Susumu and Cytotec to market, sell and distribute its products.

COUNT II

(Declaratory Judgment Regarding the ‘244 Patent)

26. Paragraphs 1 through 25 of this Complaint are incorporated by reference as if fully set forth herein.

27. In the Nebraska case, Vishay Dale alleges that Susumu and Cytotec have infringed the ‘244 patent.

28. Susumu and Cytotec deny infringement of any valid claim of the ‘244 patent. The making, selling, distributing, and/or using of the accused Susumu and Cytotec products did not and does not infringe any valid claim of the ‘244 patent. In addition, the making, selling, distributing, and/or using of the accused Susumu and Cytotec products did not and does not

contribute to or induce the infringement of any valid claim of the '244 patent. Susumu and Cyntec have the right to make, sell, distribute, and/or use the accused Susumu and Cyntec products, unhampered by Vishay Dale.

29. Vishay Dale's legal action has adversely and unlawfully affected the ability of Susumu and Cyntec to market, sell and distribute its products.

COUNT III

(Declaratory Judgment Regarding the '944 Patent)

30. Paragraphs 1 through 29 of this Complaint are incorporated by reference as if fully set forth herein.

31. In the Nebraska case, Vishay Dale alleges that Susumu and Cyntec have infringed the '944 patent.

32. Susumu and Cyntec deny infringement of any valid claim of the '944 patent. The making, selling, distributing, and/or using of the accused Susumu and Cyntec products did not and does not infringe any valid claim of the '944 patent. In addition, the making, selling, distributing, and/or using of the accused Susumu and Cyntec products did not and does not contribute to or induce the infringement of any valid claim of the '944 patent. Susumu and Cyntec have the right to make, sell, distribute, and/or use the accused Susumu and Cyntec products, unhampered by Vishay Dale.

33. Vishay Dale's legal action has adversely and unlawfully affected the ability of Susumu and Cyntec to market, sell and distribute its products.

COUNT IV

(Declaratory Judgment Regarding the '645 Patent)

34. Paragraphs 1 through 33 of this Complaint are incorporated by reference as if fully set forth herein.

35. In the Nebraska case, Vishay Dale alleges that Susumu and Cyntec have infringed the '645 patent.

36. Susumu and Cytotec deny infringement of any valid claim of the '645 patent. The making, selling, distributing, and/or using of the accused Susumu and Cytotec products did not and does not infringe any valid claim of the '645 patent. In addition, the making, selling, distributing, and/or using of the accused Susumu and Cytotec products did not and does not contribute to or induce the infringement of any valid claim of the '645 patent. Susumu and Cytotec have the right to make, sell, distribute, and/or use the accused Susumu and Cytotec products, unhampered by Vishay Dale.

37. Vishay Dale's legal action has adversely and unlawfully affected the ability of Susumu and Cytotec to market, sell and distribute its products.

COUNT V

(Declaratory Judgment Regarding the '249 Patent)

38. Paragraphs 1 through 37 of this Complaint are incorporated by reference as if fully set forth herein.

39. In the Nebraska case, Vishay Dale alleges that Susumu and Cytotec have infringed the '249 patent.

40. Susumu and Cytotec deny infringement of any valid claim of the '249 patent. The making, selling, distributing, and/or using of the accused Susumu and Cytotec products did not and does not infringe any valid claim of the '249 patent. In addition, the making, selling, distributing, and/or using of the accused Susumu and Cytotec products did not and does not contribute to or induce the infringement of any valid claim of the '249 patent. Susumu and Cytotec have the right to make, sell, distribute, and/or use the accused Susumu and Cytotec products, unhampered by Vishay Dale.

41. Vishay Dale's legal action has adversely and unlawfully affected the ability of Susumu and Cytotec to market, sell and distribute its products.

COUNT VI

(Tortious Interference with Contractual Relations Under New Jersey Common Law)

42. Paragraphs 1 through 41 of this Complaint are incorporated by reference as if fully set forth herein.

43. Susumu had a reasonable expectation of new and continued advantageous business relationships with current customers of its products in New Jersey and elsewhere in the United States.

44. Susumu's existing relationships were both substantial and likely to provide revenue and profit to Susumu.

45. Vishay Dale knew that Susumu was selling products to customers and alleged sales of products in the Nebraska case. Upon information and belief, Vishay Dale knew that Susumu had existing business relationships and intentionally sought to interfere with those relationships in order to harm Susumu and benefit itself.

46. Susumu's reasonable business expectancies were damaged as a proximate result of Vishay Dale accusing Susumu of patent infringement in the Nebraska case without providing any factual support for its general, conclusory allegations. Vishay Dale did not state any alleged acts of infringement or name a specific product that it accused of infringement.

47. As a result of Vishay Dale's naked allegations of infringement, Susumu had to field inquiries and concerns from existing customers regarding multiple products rather than directed inquiries regarding a specific accused product.

48. Vishay Dale's actions were wrongful and improper in motive and means. These actions were taken without justification.

49. As a result of the unlawful tortious interference of Vishay Dale, Susumu has suffered damages and will continue to suffer damages.

COUNT VII

(Tortious Interference with Prospective Economic Advantage Under New Jersey Common Law)

50. Paragraphs 1 through 49 of this Complaint are incorporated by reference as if fully set forth herein.

51. Susumu had a reasonable expectation of new and continued advantageous business relationships with potential customers of its products in New Jersey and elsewhere in the United States.

52. Susumu's existing and prospective advantageous relationships were both substantial and likely to provide revenue and profit to Susumu.

53. Vishay Dale knew that Susumu was selling products to customers and alleged sales of products in the Nebraska case. Upon information and belief, Vishay Dale knew that Susumu had prospective advantageous business relationships and intentionally sought to interfere with those relationships in order to harm Susumu and benefit itself.

54. Susumu's reasonable business expectancies were damaged as a proximate result of Vishay Dale accusing Susumu of patent infringement in the Nebraska case without providing any factual support for its general, conclusory allegations. Vishay Dale did not state any alleged acts of infringement or name a specific product that it accused of infringement.

55. As a result of Vishay Dale's naked allegations of infringement, Susumu had to field inquiries and concerns from potential customers regarding multiple products rather than directed inquiries regarding a specific accused product.

56. Vishay Dale's actions were wrongful and improper in motive and means. These actions were taken without justification.

57. As a result of the unlawful tortious interference of Vishay Dale, Susumu has suffered damages and will continue to suffer damages.

COUNT VIII

(Unfair Competition Under New Jersey Common Law)

58. Paragraphs 1 through 57 of this Complaint are incorporated by reference as if fully set forth herein.

59. Vishay Dale's acts, conduct and practices, described above, constitute unfair competition in violation of New Jersey state law.

60. As a direct and proximate result of the unfair competition of Vishay Dale, Susumu has suffered damages and will continue to suffer damages.

PRAYER FOR RELIEF

WHEREFORE, Susumu and Cynotec ask this Court to enter judgment in their favor against Vishay Dale granting the following relief:

- A. A declaration that the '744 patent is invalid and/or not infringed by Susumu, Cynotec or any of their products;
- B. A declaration that the '244 patent is invalid and/or not infringed by Susumu, Cynotec or any of their products;
- C. A declaration that the '944 patent is invalid and/or not infringed by Susumu, Cynotec or any of their products;
- D. A declaration that the '645 patent is invalid and/or not infringed by Susumu, Cynotec or any of their products;
- E. A declaration that the '249 patent is invalid and/or not infringed by Susumu, Cynotec or any of their products;
- F. An award of compensatory, consequential and punitive damages for Vishay Dale's unlawful conduct recited herein;
- G. An award of costs of suit and attorneys' fees under any and all applicable statutes; and
- H. Any such other and further relief that this Court deems just and proper.

I.

JURY DEMAND

Susumu and Cyntec hereby demand a trial by jury for all issues so triable.

Dated: October 18, 2007

Respectfully submitted,

By: s/ Steven R. Klein

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