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U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

1:06CV1236

BEAM INDUSTRIES, A DIVISION OF
ELECTROLUX HOME CARE PRODUCTS,
LTD.

and

IOWA STATE UNIVERSITY RESEARCH
FOUNDATION, INC.,

Plaintiffs,

vs.

CANAVAC SYSTEMS, INC.,

Defendant.

CASE NO.

JUDGE

JUDGE O'MALLEY

MAG. JUDGE BAUGHMAN

**COMPLAINT FOR PATENT
INFRINGEMENT**

For their Complaint against Defendant Canavac Systems, Inc., ("Canavac"), Plaintiffs Beam Industries, a division of Electrolux Home Care Products, Ltd. ("Beam") and Iowa State University Research Foundation, Inc. ("ISURF"), state as follows.

NATURE OF THE ACTION AND PARTIES

1. This is a civil action under the patent laws of the United States, specifically 35 U.S.C. §§ 271, 281, 283, 284 and 285, for infringement of U.S. Patent No. 5,737,797 (the “797 Patent”) and U.S. Patent No. 6,052,863 (the “863 Patent”).

2. Plaintiff Beam is a division of a limited partnership organized under the laws of the State of Texas. Beam’s principle place of business is located at 1700 West 2nd Street, Webster City, Iowa 50595-0788. Beam sells devices for built-in vacuum systems, also referred to as “central vacuums.” Beam is a division of Electrolux Home Care Products, Ltd., which has a regular and established place of business at 20445 Emerald Parkway, S.W., Suite 250, Cleveland, Ohio 44135-0920.

3. Plaintiff ISURF is a corporation organized and existing under the laws of the State of Iowa and having a regular and established place of business at 310 Lab of Mechanics, Ames, Iowa 50011-2131. ISURF is affiliated with Iowa State University and, among other things, participates in licensing activities with commercial businesses.

4. Defendant Canavac Systems, Inc., on information and belief, is located at 2795 3rd Ave., Owen Sound, Ontario, Canada, maintaining a postal address at P.O. Box 910, Owen Sound, Ontario, N4K 6H6 Canada.

5. Canavac is believed to be a manufacturer of central vacuums sold through a network of authorized dealer outlets across North America, including various dealers located in the United States. At least certain of the models of central vacuums sold by Canavac (presently believed to include at least models P250, P399, 250Q, 399Q, 399AQ and 911Q) are fitted with intake and exhaust mufflers, which Canavac advertises as having been “designed for minimized sound levels through various sound reducing methods.”

6. Canavac also offers its central vacuums directly for sale to customers in the United States, including customers located in the Northern District of Ohio, through the Internet when no authorized dealer is located within 100 miles of the customer, according to the explicit terms of its Internet solicitation, which can be found at "www.canavac.com". Further, Canavac is believed to manufacture and sell central vacuums and/or parts therefor relating to the inventions set out in the aforesaid patents to The Hoover Company, a division of Maytag Corporation ("Hoover"), which Hoover then offers for sale under its own brand name to customers in the United States, including within the Northern District of Ohio. The Hoover central vacuums, including at least those with the so-called "Hush-6 Upgrade," are believed to be fitted with the intake and exhaust mufflers described previously, the intent of which is to minimize the sound generated by the vacuum. Hoover advertises that the said central vacuums are sold through retailers in the Northern District of Ohio at several locations, including The Home Depot store located at 3460 Mayfield Road, Cleveland Heights, Ohio 44118, which is within the federal Northern District of Ohio.

7. On April 14, 1998, the United States Patent and Trademark Office issued the '797 Patent, naming Stephen P. Rittmueller and others as the inventors, entitled "Central Vacuum With Acoustical Damping." A copy of the '797 Patent is attached hereto as Exhibit A. ISURF and Beam are co-assignees of all rights in the '797 Patent.

8. On April 25, 2000, the United States Patent and Trademark Office issued the '863 Patent, naming Stephen P. Rittmueller and others as the inventors, entitled "Central Vacuum Cleaner Muffler." A copy of the '863 Patent is attached hereto as Exhibit B. ISURF and Beam are co-assignees of all rights in the '863 Patent.

9. This action for patent infringement is authorized by 35 U.S.C. § 281. The federal courts have original and exclusive jurisdiction of the action pursuant to 28 U.S.C. § 1338(a). Venue is appropriate in this district by virtue of 28 U.S.C. § 1391(d) and § 1400.

FIRST CLAIM

10. Canavac makes, sells, offers for sale and imports into the United States central vacuum products and parts therefor which infringe claims of the '797 Patent either literally or pursuant to the doctrine of equivalents, induces others so to infringe, and/or contributes to the infringement thereof by others.

11. Canavac is not authorized to practice the invention of the '797 Patent.

12. If Canavac is permitted to continue its infringement of the '797 Patent, Beam and ISURF will be irreparably injured from the erosion of their patent rights in the '797 Patent.

13. Beam and ISURF have suffered economic loss from the infringement of the '797 Patent by Canavac, and are entitled to be made whole therefor by an award of money damages in their favor.

14. Canavac's infringement of the '797 Patent is believed to be willful and without reasonable justification, entitling Beam and ISURF to enhanced damages pursuant to 35 U.S.C. § 284 and to an award of attorneys' fees and costs pursuant to 35 U.S.C. § 285.

SECOND CLAIM

15. Canavac makes, sells, offers for sale and imports into the United States central vacuum products and parts therefor which infringe claims of the '863 Patent either literally or pursuant to the doctrine of equivalents, induces others so to infringe, and/or contributes to the infringement thereof by others.

16. Canavac is not authorized to practice the invention of the '863 Patent.

17. If Canavac is permitted to continue its infringement of the '863 Patent, Beam and ISURF will be irreparably injured from the erosion of their patent rights in the '863 Patent.

18. Beam and ISURF have suffered economic loss from the infringement of the '863 Patent by Canavac, and are entitled to be made whole therefor by an award of money damages in their favor.

19. Canavac's infringement of the '863 Patent is believed to be willful and without reasonable justification, entitling Beam and ISURF to enhanced damages pursuant to 35 U.S.C. § 284 and to an award of attorneys' fees and costs pursuant to 35 U.S.C. § 285.

WHEREFORE, Beam and ISURF demand a trial by jury of the aforesaid claims, and pray for judgment against Canavac as follows:

A. for temporary, preliminary and permanent injunctive relief enjoining Canavac, its successors and assigns, and all those acting in concert with them, from continued infringement of the '797 and '863 patents.

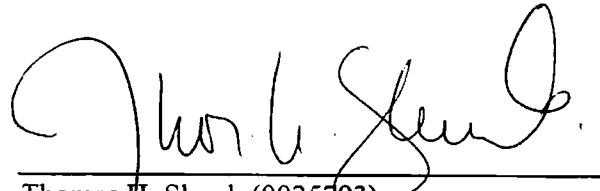
B. for an accounting of all damages and a judgment for general damages against Canavac as compensation for Canavac's wrongful use, exploitation and infringement of the '797 and '863 patents.

C. for an increase in the aforesaid money damages to three times their amount, pursuant to 35 U.S.C. § 284.

D. for an award of pre-judgment and post-judgment interest on the aforesaid trebled general damages award.

E. for an award of attorneys' fees and costs occasioned by the maintenance of this action.

F. for such other and further relief at law or in equity as the Court shall deem just and proper.

A handwritten signature in black ink, appearing to read "Thomas H. Shunk", is written over a horizontal line.

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