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UNITED STATES DISTRICT COURT
FOR NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

DYSON, INC.,
Plaintiff,

v.

KENNETH J. WEGER,
Defendant.

050 2268
Case No.

JUDGE LINDBERG

MAGISTRATE JUDGE KEYS

COMPLAINT

Dyson, Inc., by its undersigned counsel, as and for its complaint against defendant Kenneth J. Weger, alleges on knowledge as to itself and upon information and belief as to all other matters as follows:

PARTIES

1. Plaintiff Dyson, Inc. ("Dyson") is a corporation organized under the laws of the State of Illinois with its principal place of business in Chicago, Illinois. Since 2002, Dyson has sold Dyson-branded vacuum cleaners throughout the United States.

2. Defendant Kenneth J. Weger is a resident of Lake in the Hills, Illinois.

JURISDICTION AND VENUE

3. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331, 1338(a), 2201 and 2202.

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b).

COUNT I

(Declaratory Judgment of Noninfringement and Invalidity)

5. Dyson realleges and incorporates by reference the allegations of paragraphs 1-4 above.

6. On March 30, 2005, counsel for Mr. Weger sent a letter to James Dyson, Dyson Limited, (a) stating that Mr. Weger is the owner of United States Patent No. 5,794,305 (the '305 patent), (b) claiming that Dyson's new line of vacuum cleaners, called DC15, would infringe the '305 patent if that product were manufactured, used, sold, offered for sale or imported in or into the United States, and (c) requesting that Dyson contact Mr. Weger's counsel promptly before the DC15 is introduced in the United States.

7. By letter dated April 6, 2005, Dyson responded to the March 30 letter, informing Mr. Weger's counsel that it did not believe that the DC15 model vacuum cleaner would read onto any of the claims of the '305 patent and asking for an explanation of Mr. Weger's infringement contentions.

8. Mr. Weger's counsel responded by letter dated April 12, 2005. In that letter, Mr. Weger's counsel reiterated Mr. Weger's belief that Dyson's DC15 model vacuum cleaner reads on the '305 patent and enclosed pictures purporting to explain the basis for that contention. The letter asked for a prompt response from Dyson in view of the publicized April 21, 2005, launch date for the DC15 in the United States.

9. Dyson plans to introduce the DC15 model vacuum cleaners in the United States on April 21, 2005. In anticipation of that launch, Dyson has already used, sold, offered for sale and imported into the United States DC15 model vacuum cleaners.

10. Dyson's use, sale, offer for sale or importation of DC15 model vacuum cleaners has not infringed, and will not in the future infringe, any claim of the '305 patent, either literally, under the doctrine of equivalents, or in any other manner.

11. The '305 patent is void and invalid for failure to comply with the requirements of the patent laws of the United States, 35 U.S.C. § 1 *et seq.*, including, but not limited to §§ 101, 102, 103, and/or 112 and the rules, regulations and laws pertaining thereto.

12. Based on the aforementioned facts and allegations, an actual controversy exists between Dyson and Mr. Weger as to the noninfringement and invalidity of the '305 patent.


PRAYER FOR RELIEF

WHEREFORE, Dyson demands judgment:

- A. Declaring that Dyson's use, sale, offer for sale and importation of DC15 model vacuum cleaners does not infringe the '305 patent;
- B. Declaring that the '305 patent is invalid.
- C. Finding that this is an exceptional case under 35 U.S.C. § 285 and awarding Dyson its reasonable attorneys fees and costs; and
- D. Granting Dyson such other and further relief as this Court may deem just and proper.

PLAINTIFF DEMANDS TRIAL BY JURY.

Dated: April 18, 2005

By: 

One of the Attorneys for Plaintiff

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