

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

INNOVATIT SEAFOOD SYSTEMS, LLC.)	
116 East Ellendale Estates Court)	
Houma, Louisiana 70360)	
)	
AVURE TECHNOLOGIES, INC.)	
22408 66 TH Avenue South)	
Kent, Washington 98032)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 06-0825 (JR)
)	
COMMISSIONER FOR PATENTS,)	
600 Dulany Street)	
Alexandria, VA 22314)	
)	
Defendant.)	

AMENDED COMPLAINT

1. This suit arises under the patent laws of the United States, 35 U.S. Code, and seeks a review of the decision of the Board of Patent Appeals and Interferences of the United States Patent and Trademark Office in patent application No. 09/949,704. This decision was adverse to the inventor, Ernest A. Voisin ("Voisin"), rejecting claims of an application entitled "A Process of Eliminating Bacteria in Shellfish of Shucking Shellfish and an Apparatus Therefor."

2. Review by this Court is specifically provided for under 35 U.S.C. § 145 and jurisdiction is also proper under 28 U.S.C. §§ 1331(a) and 1338, as the matter in controversy arises under the patent laws of the United States. Venue in this Court is proper under 38 U.S.C. § 145.

3. Plaintiff Innovatit Seafood Systems, L.L.C. was and Avure Technologies, Inc. is the assignee of the entire right, title and interest in and to the invention of Voisin relating to a

post-pressurized bacteria-free raw shellfish (*e.g.*, oysters) that have been subjected to high pressure in the range of 20,000 to 50,000 p.s.i. to render the product substantially bacteria-free, while maintaining sensory characteristics of raw shellfish, disclosed and claimed in U.S. patent application Serial No. 09/949,704 filed in the U.S. Patent and Trademark Office on September 1, 2001 and entitled "A Process of Eliminating Bacteria in Shellfish, of Shucking Shellfish and an Apparatus Therefor."

4. Plaintiff Innovatit Seafood Systems, L.L.C. is a citizen of the State of Louisiana, having its principal place of business at 116 East Ellendale Estates Court, Houma, Louisiana 70360. Plaintiff Avure Technologies, Inc., who joined this action pursuant to Rule 19 FRCP, is a citizen of the State of Washington, having a principal business address at 22408 66th Avenue South, Kent, WA 98032.

5. The U.S. Patent and Trademark Office Examiner determined that Claims 5 and 27 through 38 are anticipated under 35 U.S.C. 102(e) by patent No. 5,773,064 of Tesvich et al.

6. After an administrative hearing based in part on evidentiary records developed by plaintiff and in part on the arguments of plaintiff contained in the brief filed by plaintiff's counsel, the Board of Patent Appeals and Interferences, by a written decision dated February 24, 2006, erroneously affirmed Examiner's rejection of the claims. A copy of the Board's decision is attached hereto as Exhibit A.

7. Plaintiffs submit that the claims of the application are novel and not anticipated by the cited prior art.

WHEREFORE, the plaintiffs pray:

1. That the Court issue an order reversing the decision of the Board of Patent Appeals and Interferences and allowing claims 5 and 27 through 38 of the application;

2. That this Court direct the U.S. Patent and Trademark Office to issue a patent thereon to Avure Technologies, Inc. as the assignee of the entire right, title and interest to the invention; and

3. For such other relief as the Court deems proper.

Respectfully submitted,

/s/ Thomas S. Keaty

Thomas S. Keaty – PRO HOC VICE
Keaty Professional Law Corporation
Number 2 Canal Street
2140 World Trade Center
New Orleans, LA 70130
504-524-2100 – Office
504-524-2105 – Facsimile

Richard J. Oparil
D.C. Bar No. 409723
PATTON BOGGS LLP
2550 M Street, NW
Washington, DC 20037
(202) 457-6000
(202) 457-6315 (fax)

Counsel for Plaintiffs
Innovatit Seafood Systems, LLC and
Avure Technologies, Inc.

Of Counsel:

Scott A.M. Chambers, Ph.D.
D.C. Bar No. 450442
PATTON BOGGS LLP
8484 Westpark Drive
McLean, Virginia 22102
(703) 744-8000
(703) 744-8001 (fax)