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 FRESNO VALVES & CASTINGS, INC.

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 9  
 10 UNITED STATES DISTRICT COURT  
 EASTERN DISTRICT OF CALIFORNIA

11 FRESNO VALVES & CASTINGS, INC., a ) Case No.  
 12 California corporation, )  
 13 Plaintiff, ) **COMPLAINT FOR DECLARATORY**  
 ) **JUDGMENT**  
 14 vs. ) AND  
 15 )  
 16 B-K LIGHTING, INC., a California corporation, ) **DEMAND FOR JURY TRIAL**  
 )  
 17 Defendant. )  
 18 )

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1 Plaintiff Fresno Valves & Castings, Inc. (“Fresno Valves”) alleges as follows for its Complaint  
2 for Declaratory Judgment against defendant B-K Lighting, Inc. (“B-K”):

3 **PARTIES**

4 1. Fresno Valves is a California corporation with its principal place of business in Selma,  
5 California. Fresno Valves is engaged in the business of designing, manufacturing and selling  
6 irrigation fittings, stainless steel filtration products, and lighting products.

7 2. B-K is a California corporation with its principal place of business in Madera,  
8 California. Upon information and belief, B-K’s primary business is designing, manufacturing and  
9 selling outdoor lighting fixtures.

10 **NATURE OF THE DISPUTE**

11 3. In this action, Fresno Valves seeks a declaration that: (i) it does not directly or  
12 indirectly infringe United States Patent No. RE39,084 (“‘084 Patent”) owned by B-K; (ii) the ‘084  
13 Patent is invalid; and (iii) U.S. Patent No. 6,161,984 (“‘948 Patent”) owned by B-K is unenforceable  
14 and no enforceable claims are infringed by Fresno Valves.

15 **JURISDICTION AND VENUE**

16 4. This Court has jurisdiction over the subject matter of this lawsuit pursuant to 28 U.S.C.  
17 §§ 2201-2202, 1331 and 1338(a).

18 5. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b), (c) and (d), and  
19 1400(b). B-K is subject to personal jurisdiction in this district because, among other reasons, it has  
20 purposefully directed activities to this district, maintains at least one office in this district, and has  
21 general and systematic contacts with this district.

22 **BACKGROUND**

23 6. Upon information and belief, B-K owns the ‘084 Patent and the ‘984 Patent.

24 7. On May 10, 2006, B-K filed a complaint in the Central District of California for patent  
25 infringement against Vision3 Lighting (“Vision3”). B-K’s complaint against Vision3 accused Vision3  
26 of infringing the ‘084 Patent and the ‘984 Patent.

1 8. Although B-K named Vision3 as a defendant, Vision3 has no legal capacity to defend  
2 against the lawsuit initiated by B-K. Vision3 Lighting is a trade name for a product line of Fresno  
3 Valves used for marketing and selling certain lighting products.

4 9. In correspondence dated June 9, 2006; July 14, 2006; and July 20, 2006, Fresno Valves  
5 informed B-K that Vision3 is not a legal entity with capacity to defend a case. B-K refused to dismiss  
6 its complaint against non-entity Vision3 and continues to pursue its complaint against non-entity  
7 Vision3.

8 10. Fresno Valves believes that a lawsuit by B-K asserting infringement of the '084 Patent  
9 and the '984 Patent against Fresno Valves is imminent. In view of B-K's pursuit of its complaint  
10 against Vision3 and the relationship between the non-entity Vision3 product line and Fresno Valves,  
11 Fresno Valves is under a reasonable apprehension of imminent suit by B-K with respect to the '084  
12 Patent and the '984 Patent.

13 11. The '084 Patent issued on May 5, 2006 as a reissue of the '948 Patent. Upon issuance  
14 of the reissued '084 Patent, the original '948 Patent is effectively surrendered in accordance with 35  
15 U.S.C. 252. B-K thus surrendered the '984 Patent on May 5, 2006 and it is unenforceable.

16 **COUNT I**

17 **DECLARATORY JUDGMENT OF NON-INFRINGEMENT,**

18 **INVALIDITY AND UNENFORCEABILITY**

19 12. Fresno Valves incorporates and re-alleges the allegations of paragraphs 1-11 as if set  
20 forth fully herein.

21 13. A valid and justiciable controversy has arisen and exists between B-K and Fresno  
22 Valves regarding the '084 and '948 Patents. Fresno Valves desires a judicial determination and a  
23 declaration of the respective rights of the parties regarding the '084 and '948 Patents.

24 14. Fresno Valves has not directly or indirectly infringed any valid and enforceable claim  
25 of the '084 Patent or the '948 Patent.

26 15. Each claim of the '084 Patent is invalid.

27 16. Each claim of the '948 Patent is unenforceable and invalid.

**REQUEST FOR RELIEF**

WHEREFORE, Fresno Valves requests that this Court:

- a. declare that Fresno Valves has not and is not directly or indirectly infringing any valid or enforceable claim of U.S. Patent No. RE39,084 or U.S. Patent No. 6,161,948;
- b. declare that U.S. Patent No. RE39,084 is invalid;
- c. declare that U.S. Patent No. 6,161,948 is unenforceable and invalid;
- d. declare this to be an exceptional case under 35 U.S.C. § 285 and award Fresno Valves its attorneys' fees, costs and expenses in connection with this action; and
- e. award Fresno Valves such other and further relief as to which it may be entitled.

Dated: July 28, 2006

/s/ Lisa S. Buccino

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