

CV-02 090

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

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ENTERED

CIVIL ACTION NO. _____★

SPATT, J.
BOYLE, M.

SPECTRONICS CORPORATION,

Plaintiff,

v.

CPS PRODUCTS, INC.,

Defendant.

COMPLAINT

Plaintiff Spectronics Corporation (hereinafter "Spectronics") alleges as follows:

Parties

1. Spectronics is a New York corporation having its principal place of business at 956 Brush Hollow Road, Westbury, New York 11590, Nassau County.

2. On information and belief, defendant CPS Products, Inc. (hereinafter "CPS") is a Florida corporation having its principal place of business at 1010 East 31 Street, Hialeah, Florida 33013. CPS does business in the Eastern District of New York and is subject to the jurisdiction of this Court.

3. Spectronics is the assignee of the entire right, title and interest in United States Letters Patent No. 5,167,140 ("the '140 patent") entitled APPARATUS AND METHOD FOR INFUSING A MATERIAL INTO A CLOSED LOOP SYSTEM, which issued on August 7, 1991. A copy of the '140 patent is attached hereto as Exhibit A.

Jurisdiction and Venue

4. This is a complaint for infringement of a United States patent under 35 U.S.C. §§ 271 and 281.
5. Jurisdiction arises under 28 U.S.C. §§ 1331 and 1338.
6. Venue in this district is proper under 28 U.S.C. § 1391(b) and (c).

COUNT I

PATENT INFRINGEMENT

7. This cause of action for patent infringement arises out of 35 U.S.C. §§ 271(a) and (b).
8. The '140 patent grants Spectronics the right to prevent others from using particular methods of infusing an atomized liquid material, such as a leak detection dye, into an operating pressurized closed-loop system such as an air conditioner. The particular steps performed in these methods are set forth in claims 33 through 37 of the '140 patent.
9. One of the steps common to claims 33 through 37 is the use of an atomizing mist infuser that includes, among other components, a disposable capsule pre-filled with the liquid material. Such disposable capsule is used in combination with the durable, re-usable components of a mist infuser to infuse leak detection dye into an operating pressurized air conditioner.
10. On information and belief, CPS has performed the methods of the '140 patent using such disposable pre-filled capsules from an unauthorized source, UView Ultraviolet Systems.
11. On information and belief, CPS has induced persons in the United States to perform, and such persons have performed, the methods of the '140 patent by selling to such persons the

disposable pre-filled capsules along with instructions to connect the capsules to the components of a mist infuser and infuse the dye into an operating pressurized air conditioner.

12. Some persons who have purchased and used the CPS/UView disposable capsules may have obtained a license from Spectronics to practice the methods of the '140 patent by having earlier purchased a leak detection dye injector kit from Spectronics. However, CPS does not market or sell the disposable capsules solely to persons who use Spectronics' dye injector components, but rather markets and sells the capsules for use with any similar dye injector components.

13. The use of CPS's disposable capsule with dye injector components not purchased from Spectronics, in the manner described in CPS's instructions, is an act of direct infringement of the method claims of the '140 patent.

14. By selling disposable capsules pre-filled with leak detection dye along with such instructions, and without limiting such sales to licensed users or warning that the capsules should not be used except with Spectronics' dye injector components, CPS has induced unlicensed users to infringe the methods of the '140 patent.

15. CPS's acts described above have been done with the intention of inducing infringement and without reasonable belief that infringement would not occur.

16. CPS's inducement of infringement of the '140 patent has deprived, and will deprive, Spectronics of sales which it otherwise would have made.

PRAYERS FOR RELIEF

WHEREFORE, Spectronics Corporation demands judgment against CPS, and demands relief as follows:

A. That this Court preliminarily and permanently enjoin CPS, and those officers, directors, agents, employees and any person or entity in active concert or participation with any of them, from infringing and inducing infringement of the '140 patent;

B. That this Court award Spectronics money damages under 35 U.S.C. § 284 sufficient to compensate Spectronics for the financial damage caused by CPS's infringement, including enhanced damages if the infringement is found to be willful;

and

C. That this Court award to Spectronics such other and further relief as is authorized by statute or is deemed appropriate by this Court.

Respectfully submitted,

SPECTRONICS CORPORATION

Dated: _____

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