

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**PDS ELECTRONICS, INC.
d/b/a DX Engineering
1212 Southeast Avenue
Tallmadge, Ohio 44278**

Plaintiff.

vs.

**MFJ ENTERPRISES, INC.
300 Industrial Park Road
Starkville, Mississippi 39759**

Defendant.

CASE NO.: 5:09 cv 1274

JUDGE

COMPLAINT AND JURY DEMAND

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NOW COMES Plaintiff, PDS Electronics, Inc. d/b/a DX Engineering ("PDS"), by and through undersigned counsel, and for its Complaint at law against MFJ Enterprises, Inc. ("MFJ") makes the following allegations:

THE PLAINTIFF

1. PDS is an Ohio corporation with its principal place of business located in Tallmadge, Ohio.
2. Paul D. Sergi ("Sergi") is an individual and a resident of the State of Ohio. Sergi is also Chief Executive Officer of PDS.
3. PDS is authorized to transact business in the State of Ohio, and is transacting business in this judicial district.
4. PDS is in the business of designing, manufacturing, selling, and supplying

radio communication equipment, and parts therefor.

5. After the investment of substantial time, expense, and expertise, Sergi developed a novel radial plate for an antenna.

6. Sergi's novel radial plate for an antenna (the "Radial Plate") is protected under United States Patent Number 6,927,740 (the "'740 Patent"), a true and accurate copy of which is attached hereto as **Exhibit "A"** and incorporated herein by reference. The '740 Patent was issued prior to the events giving rise to this action.

7. On or about November 8, 2005, Sergi assigned all right, title and interest in the '740 Patent to PDS.

THE DEFENDANT

8. MFJ is a Mississippi corporation with its principal place of business located in Starkville, Mississippi.

9. MFJ is a manufacturer and a supplier of radio communication equipment, and is transacting business in this judicial district.

JURISDICTION AND VENUE

10. This Court has jurisdiction under 28 U.S.C. §§ 1331 and 1338(a) for the claims of patent infringement arising out of MFJ's violation of the U.S. Patent Code, 35 U.S.C. §§ 271, 281-85.

11. MFJ regularly conducts business in Ohio including, but not limited to, sales and/or shipping of products to PDS, and, upon information and belief has committed acts of patent infringement in this judicial District, with events or omissions giving rise to the claims asserted in this Complaint occurring in this judicial District. Venue is proper in the Northern District of Ohio ("District") under 28 U.S.C. §§ 1391(b) and 1400(b).

GENERAL ALLEGATIONS

12. Since the Radial Plate was commercially introduced, PDS and Sergi have labeled all of their Radial Plates with the required statutory patent notice.

13. Neither PDS nor Sergi has authorized MFJ to make, use, sell, offer for sale, or import into the United States products covered by the '740 Patent.

COUNT ONE-PATENT INFRINGEMENT- THE '740 PATENT

14. Each and every allegation set forth in the above-numbered paragraphs is hereby incorporated by reference just as if it was explicitly set forth hereunder.

15. MFJ has been and still is infringing one or more claims of the '740 Patent by making, using, selling, and/or offering to sell radial plates, including, without limitation, Part No. MFJ-2814, embodying the patented invention, and will continue to do so unless enjoined by this Court. A true and accurate copy of a printout of Part No. MFJ-2814, as advertised by MFJ for sale on its website is attached hereto as **Exhibit "B"**, and incorporated herein by reference.

16. Upon information and belief, MFJ has had actual knowledge of the '740 Patent since on or about August 9, 2005, the date the '740 Patent issued.

17. Pursuant to 35 U.S.C. §283, PDS is entitled to injunctive relief in accordance with the principles of equity to prevent the infringement of rights secured by its patent.

18. Pursuant to 35 U.S.C. §284, PDS is entitled to damages adequate to compensate for the infringement, although in no event less than a reasonable royalty, together with interest and costs to be taxed to the infringer. Further, damages should be

trebled pursuant to 35 U.S.C. §284 in light of MFJ's knowing, willful, conscious, and deliberate infringement of the patent rights at issue.

19. The infringing activity of MFJ brings this cause within the ambit of the exceptional case contemplated by 35 U.S.C. §285, thus PDS requests the award of reasonable attorneys fees and costs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demand judgment as follows:

A. Preliminarily and permanently enjoining and restraining Defendant MFJ, their officers, directors, employees, agents, servants, successors and assigns, and any and all persons acting in privity, under its control, or in concert with MFJ, from further infringement of the '740 Patent;

B. Awarding Plaintiff its damages, including lost profits, together with prejudgment interest and costs, and increasing said damages to three times the amount found or assessed as provided by 35 U.S.C. § 284 and by 15 U.S.C. § 1117;

C. Awarding Plaintiff punitive damages for Defendant MFJ's tortious conduct;

D. Declaring this an exceptional case within the meaning of 35 U.S.C. § 285 and of 15 U.S.C. § 1117, and awarding Plaintiff reasonable attorney's fees and costs and disbursements in this action; and

E. Granting to Plaintiff such other and further relief as this Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury of any and all issues triable of right by a jury in the above-captioned action.

DATED: June 4, 2009

Respectfully submitted:

/s/ Mark J. Skakun

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