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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

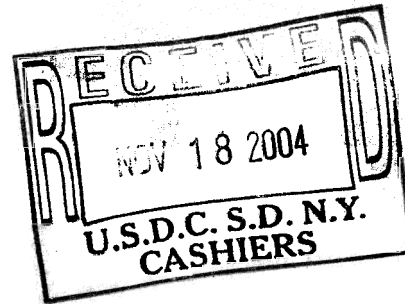
HEAT-TIMER CORPORATION,

Plaintiff,

v.

TEKMAR CONTROL SYSTEMS LTD.,

Defendant.



JUDGE MARRERO
04 CV 09115

COMPLAINT AND JURY DEMAND

COMPLAINT

Plaintiff Heat-Timer Corporation ("Heat-Timer"), as and for its complaint against defendants Tekmar Control Systems Ltd. ("Tekmar"), alleges as follows:

PARTIES

1. Heat-Timer is a corporation organized and existing under the laws of the State of Delaware with its principal place of business located at 20 New Dutch Lane, Fairfield, NJ 07004.
2. Upon information and belief, Tekmar is a corporation organized and existing under the laws of Canada with its principal place of business located at 5100 Silver Star Road, Vernon, British Columbia V1B 3K4, Canada.

JURISDICTION AND VENUE

3. The jurisdiction of this Court arises under 28 U.S.C. §1331 and U.S.C. §1338(a).
4. Venue is proper in this district pursuant to 28 U.S.C. §1391 and 28 U.S.C. §1400(b), for the reasons, inter alia, that the defendant does business in this district and has committed acts of infringement in this district.

GENERAL ALLEGATIONS

5. On August 27, 1991, United States Letters Patent No. 5,042,431 entitled "Multiple Boiler Control System and Method of Operation" (the "'431 Patent"), was duly and legally issued to Heat-Timer as assignee of the inventors and the '431 patent is incorporated by reference in this Complaint.
6. At all times since that date, Heat-Timer has been and still is the owner of all right, title and interest in and to the '431 patent.
7. Pursuant to 35 U.S.C. §282, the '431 patent is presumed to be valid
8. Tekmar has infringed and is infringing and is inducing infringement of one or more of the claims of the '431 patent by making, using and selling products and/or methods, as claimed in the '431 patent.
9. Heat-Timer had notified defendant of its issued patent, in accordance with 35 U.S.C. §287, but defendant continues to engage in infringing activities in disregard of Heat-Timer's patent rights.

10. Defendant's infringement has been willful, deliberate and intentional and will continue unless enjoined by the court.
11. This is an exceptional case, pursuant to 35 U.S.C. §285
12. Defendant has unjustly profited from its infringement of the '431 patent and has caused Heat-Timer to lose profits Heat-Timer would have made but for defendant's infringement.

FIRST CLAIM FOR RELIEF

Patent Infringement in Violation of
35 U.S.C. §271

- 13 Heat-Timer realleges and incorporates by reference, as if fully set forth herein, paragraphs 1 through 12 of this complaint.
14. The above-described acts of defendant constitutes infringement of the '431 patent under 35 U.S.C. §271
15. As a direct consequence of Defendant's infringement, Plaintiff has sustained damages and Plaintiff will suffer irreparable injury unless such infringing activities are enjoined by this Court.

WHEREFORE, plaintiff Heat-Timer demands judgment as follows:

- (a) A declaration that U.S. Patent No. 5,042,431 is valid and enforceable;
A declaration that Defendant has directly infringed and/or induced infringement of one or more claims of the '431 patent;
Order a permanent injunction that Tekmar, its officers, agents, employees, successors, and assigns, and all persons or entities

acting on its behalf, or in privity with them, or acting in concert with them, enjoining them from engaging in conduct which infringes the '431 patent, pursuant to 35 U.S.C. §283;

- (c) That Heat-Timer be awarded an accounting for damages, under 35 U.S.C. § 284, adequate to compensate for Tekmar's infringement and an award of damages, together with interest and costs as fixed by the court, pursuant to 35 U.S.C. §284;
- (d) A judgment that defendant wilfully infringed the '431 patent and an award of treble damages, pursuant to 35 U.S.C. §284;
- (e) A declaration that this is an exceptional case, pursuant to 35 U.S.C. §285, and that Heat-Timer be awarded its attorneys' fees, costs and expenses, and
- (f) That Heat Timer be awarded such other relief as this court deems appropriate.

JURY DEMAND

Plaintiff demands a trial by jury.

Dated: November 17, 2004
New York, New York

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