

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MODULAR INTERNATIONAL INC.,)	
and IRWIN H. KOTOVSKY,)	
)	
Plaintiffs,)	
)	
vs.)	Civil Action No.
)	
RSA LIGHTING LLC and)	Filed Electronically
COOPER LIGHTING, INC.,)	
)	
Defendants.)	

COMPLAINT

Parties

1. Modular International Inc. (“Modular”) is a corporation engaged in the business of designing, manufacturing and selling commercial lighting fixtures and systems, with its principal place of business located at 3941 California Avenue, Pittsburgh, Pennsylvania 15212.

2. Irwin H. Kotovsky (“Kotovsky”) is owner and chief executive of Modular.

2. On information and belief, Defendant RSA Lighting LLC (“RSA”) is a limited liability company having its principal place of business located at 7945 Orion Avenue, Van Nuys, California, and at all times material hereto has been engaged in the business of manufacturing and selling commercial lighting fixtures and systems.

3. Defendant Cooper Lighting, Inc. (“Cooper”) is a corporation with its principal place of business at 1121 Highway 74S, Peachtree City, Georgia, and at all times material hereto has been engaged in the business of manufacturing and selling commercial lighting fixtures and systems.

4. At all times material hereto, Cooper has owned, controlled and operated RSA as a division of Cooper.

Jurisdiction and Venue

5. This action arises under the Patent Laws of the United States, 35 U.S.C. § 1, et seq. for infringement by the Defendants of patents owned by Modular. This Court has jurisdiction over the subject matter of this action under the provisions of 28 U.S.C. §§ 1331 and 1338.

6. This Court has personal jurisdiction over the Defendants by virtue of their contacts, dealings and relationships with and in the Western District of Pennsylvania. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

Nature of the Action

7. The Defendants have manufactured, offered for sale, displayed and exhibited and sold a line of lighting products, which they call “Combo Lite Continuous Channel” and/or “Continuous Channel,” which infringe on United States Patents owned by the Plaintiffs and Plaintiffs have suffered and continue to suffer monetary damages as a result.

Count I **Infringement of U.S. Patent No. 6,234,644**

8. The Plaintiffs hereby incorporate by reference the foregoing paragraphs hereof.

9. Modular is the owner/assignee of U.S. Patent No. 6,234,644 (“the ‘644 Patent”), which was duly and legally issued to Kotovksy on May 22, 2001 and which is entitled: “Method and apparatus for a lighting and/or mechanical system.” A true and correct copy of the patent sans drawings is attached hereto, incorporated herein and marked as Exhibit 1.

10. The Defendants have infringed, contributorily infringed and/or actively induced infringement, and are infringing, contributorily infringing and/or actively inducing infringement of the '644 Patent in the United States by at least making, importing, causing to be imported, using, causing to be used, offering to sell, causing to be offered for sale, selling and/or causing to be sold systems and methods that infringe one or more of the claims of the '644 Patent.

11. On information and belief, the Defendants' infringement, contributory infringement and/or active inducement of others' infringement of the '644 Patent have taken place with full knowledge of the '644 Patent and has been intentional, deliberate and willful, making this an exceptional case and entitling Plaintiffs to increased damages and reasonable attorneys' fees pursuant to 35 U.S.C. §§ 284 and 285.

12. On information and belief, the Defendants will continue to infringe and/or actively induce others to infringe the '644 Patent unless and until it is enjoined by this Court.

13. The Plaintiffs have suffered and will continue to suffer further damages and immediate and irreparable harm unless and until the Defendants are enjoined by this Court from continuing such infringement.

Count II
Infringement of U.S. Patent No. 6,634,764

14. The averments of paragraphs 1 through 13 are incorporated herein by reference.

15. Modular is the owner/assignee of U.S. Patent No. 6,634,764 ("the '764 Patent"), which was duly and legally issued to Kotovsky on October 21, 2003 and which is entitled "Method and apparatus for a lighting and/or mechanical system." A true and correct copy of the '764 Patent is attached hereto, incorporated herein and marked as Exhibit 2.

16. The Defendants have infringed, contributorily infringed and/or actively induced infringement, and are infringing, contributorily infringing and/or actively inducing infringement

of the '764 Patent in the United States by at least making, importing, causing to be imported, using, causing to be used, offering to sell, causing to be offered for sale, selling and/or causing to be sold systems and methods that infringe one or more of the claims of the '764 Patent.

17. On information and belief, the Defendants' infringement, contributory infringement and/or active inducement of others' infringement of the '764 Patent have taken place with full knowledge of the '764 Patent and has been intentional, deliberate and willful, making this an exceptional case and entitling the Plaintiffs to increased damages and reasonable attorneys' fees pursuant to 35 U.S.C. §§ 284 and 285.

18. On information and belief, the Defendants will continue to infringe and/or actively induce others to infringe the '764 Patent unless and until it is enjoined by this Court.

19. The Plaintiffs have suffered and will continue to suffer further damages and immediate and irreparable harm unless and until the Defendants are enjoined by this Court from continuing such infringement.

Count III
Infringement of U.S. Patent No. 6,997,267

20. The averments of paragraphs 1 through 19 are incorporated herein by reference.

21. Modular is the owner/assignee of U.S. Patent No. 6,997,267 ("the '267 Patent"), which was duly and legally issued to Kotovsky on February 4, 2006 and which is entitled: "Method and apparatus for a lighting and/or mechanical system." A true and correct copy of the 267 Patent is attached hereto, incorporated herein and marked as Exhibit 3.

22. The Defendants have infringed, contributorily infringed and/or actively induced infringement, and are infringing, contributorily infringing and/or actively inducing infringement on the 267 Patent in the United States by at least making, importing, causing to be imported,

using, causing to be used, offering to sell, causing to be offered for sale, selling and/or causing to be sold systems and methods that infringe one or more of the claims of the '267 Patent.

23. On information and belief, the Defendants' infringement, contributory infringement and/or active inducement of others' infringement on the '267 Patent have taken place with full knowledge of the '267 Patent and has been intentional, deliberate and willful, making this an exceptional case and entitling the Plaintiffs to increased damages and reasonable attorneys' fees pursuant to 35 U.S.C. §§ 284 and 285.

24. On information and belief, the Defendants will continue to infringe and/or actively induce others to infringe the '267 Patent unless and until it is enjoined by this Court.

25. The Plaintiffs have suffered and will continue to suffer further damages and immediate and irreparable harm unless and until the Defendants are enjoined by this Court from continuing such infringement.

Prayer for Relief

WHEREFORE, the Plaintiffs demand judgment against each of the Defendants for the following:

(1) A preliminary and permanent injunction enjoining each of the Defendants and their privies from making, using, offering to sell, selling, exhibiting and importing into the United States the products, methods and systems, which fall within the scope of any claim of the patents in suit;

(2) An award of compensatory and exemplary damages plus interest, costs and attorneys' fees;

- (3) Such other relief as the Court may deem just and proper.

Respectfully submitted,

PICADIO SNEATH MILLER & NORTON, P.C.

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