

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

_____)	
Keytech U.S.A., Inc.,)	
<i>Plaintiff,</i>)	CIVIL ACTION NO.
v.)	
Amphenol Corporation, Inc.)	
<i>Defendant.</i>)	
_____)	

**COMPLAINT FOR DECLARATORY JUDGMENT
AND DEMAND FOR JURY TRIAL**

Plaintiff, Keytech U.S.A., Inc. (“Keytech”), for their complaint against Amphenol Corporation, Inc. (“Amphenol”), alleges as follows:

Nature Of The Action

1. Keytech brings this action for declaratory judgment of patent non-infringement and invalidity under the Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*, and the patent laws of the United States, 35 U.S.C. § 1 *et seq.*, for a judgment declaring the claims of U.S. Patent No. 5,848,914 of Lang *et al.* and U.S. Patent No. 6,135,818 of Lang *et al.*, both entitled “Die Cast Electrical Connector Shell With Integral Trapezoidal Shield And Offset Cable Gripping Teeth, And Electrical Contact Arrangement Therefor” are not infringed by Keytech and are invalid.

2. Amphenol purports to own U.S. Patent No. 5,848,914 of Lang *et al.* (“the 914 patent”) and U.S. Patent No. 6,135,818 of Lang *et al.* (“the 818 patent”), true and accurate copies of which are attached hereto as Exhibits A and B, respectively. The ‘914 patent was filed on January 24, 1997, and the ‘818 patent was filed on September 8, 1998. Under “Related U.S. Application Data” of the ‘818 patent, it is indicated that the ‘818 patent is a continuation of the ‘914 patent.

3. During the month of January 2007, Keytech was approached by Nortel, Inc. (“Nortel”), a Canadian based company and worldwide retailer of communications products. Nortel solicited Keytech’s services in supplying Nortel’s subcontractors with an InfiniBand 8x cable assembly. Nortel provided Keytech with specifications for the cable assembly.

4. On or about December 21, 2007, Keytech began supplying Nortel’s subcontractors with a cable assembly known as “Nortel Specification Part No. 216448-B, Rev 01, UPC Code 056097 04088 7.”

5. On or about January 4, 2008, a person who identified himself as Ray Strauss, General Manager of Amphenol’s Cable Assembly Division, telephoned Steven Marian, President of Keytech.

6. During the phone call, Strauss referred to Nortel’s cable assembly UPC Code 056097 04088 7 and Keytech’s approximate unit price to Nortel, inquired as to whether Keytech is supplying this cable assembly to Nortel, and further informed Marian of a potential patent infringement.

7. During a second phone call to Marian on January 7, 2008, Strauss further informed Marian that Nortel cancelled purchase orders with Amphenol. Marian informed Strauss during this phone call that he no knowledge of these circumstances. Strauss informed Marian that Amphenol has granted licensing agreements to several other companies specific to the patents in question. Marian requested Strauss to provide a draft licensing agreement for discussion purposes. In response, Strauss indicated to Marian that Amphenol would not likely engage in a licensing agreement with Keytech.

8. In a letter dated January 4, 2008 (attached hereto as Exhibit C), which Keytech received on January 7, 2008, Charles Wolfe, an attorney at the law firm of Blank Rome, LLP identified his firm as counsel for Amphenol. Wolfe alleged that Keytech is offering a cable assembly which “could potentially infringe claims” of the ‘914 and ‘818 patents. Wolfe further demanded that Keytech “immediately cease and desist from offering for sale or selling such infringing products.”

9. Counsel for Keytech, Gary Lambert, contacted Wolfe in an email (attached hereto as Exhibit D) dated January 16, 2008, requesting additional time to respond to Wolfe’s letter of January 4, 2008. Wolfe responded with an email (attached

hereto as Exhibit E), dated January 16, 2008 refusing additional time unless Keytech immediately stopped shipments of the alleged products, and stating that any such shipments constitute deliberate and willful patent infringement. Wolfe further responded with a confirmatory facsimile (attached hereto as Exhibit F), also dated January 16, 2008, reiterating his email.

10. Amphenol has asserted alleged rights under the '914 and '818 patents, based on Keytech's ongoing and/or planned activity.

11. Keytech contends that it has the right to engage in the accused activity without license of the '914 and '818 patents. By virtue of the acts of Amphenol's agents, Keytech has a reasonable apprehension that Amphenol will initiate a patent infringement suit with respect to these patents.

Parties

12. Plaintiff Keytech has its principal place of business at 9 Industrial Park Road, Medway, Massachusetts 02053.

13. Upon information and belief, Defendant Amphenol is a corporation organized under the laws of the State of Delaware, with its principal place of business at 358 Hall Avenue, Wallingford, Connecticut 06492.

Jurisdiction and Venue

14. This action arises under the Declaratory Judgment Act 28 U.S.C. § 2201, *et seq.*, and the patent laws of the United States, 35 U.S.C. § 1 *et seq.*

15. This Court has original jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a), because it involves substantial claims arising under the United States Patent Act, 35 U.S.C. § 1 *et seq.*; and under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, because it is an actual controversy concerning the infringement and validity of the patents-in-suit.

16. There exists an actual, substantial, and continuing justiciable case or controversy between Keytech and Amphenol regarding infringement and validity of the '914 and '818 patents.

17. This Court has personal jurisdiction over Amphenol, because it conducts substantial business in, and has regular and systematic contact with this District.

18. Venue is proper in this District under 28 U.S.C. § 1391(b).

COUNT 1

Declaratory Judgment of Non-Infringement of the '914 and '818 Patents

19. Keytech repeats and incorporates by reference the allegations contained in paragraphs 1 through 18 of its Complaint as though fully set forth herein.

20. No product made, used, sold, or offered for sale by Keytech, infringes any claim of the '914 and '818 patents.

COUNT II

Declaratory Judgment of Invalidity of the '914 and '818 Patents

21. Keytech repeats and incorporates by reference the allegations contained in paragraphs 1 through 20 of its Complaint as though fully set forth herein.

22. On information and belief, the '914 and '818 patents are invalid because the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent.

23. On information and belief, the '914 and '818 patents are invalid because the differences between the subject matter sought to be patented in the '914 and '818 patents and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

24. The '914 and 818 patents share a similar, if not almost identical disclosure. These disclosures state, *inter alia*, the following prior art admissions:

“As is conventional, the backshell is made up of a base and cover...Also, as is conventional, the base and cover are made of a die cast metal...”
U.S. Patent No. 5,848,914, col. 6, lines 26-30.

“Also known are electrical connectors which include cable gripping teeth arranged to deform the outer

jacket of a cable...and connectors with offset cable gripping structures.”

U.S. Patent No. 5,848,914 - Discussion of Related Art, col. 2, lines 50-53.

“There are of course electrical connectors in which a mating front portion is integral with the rear portion of the connector...However, connectors of the type employing a thin wall front shield...as described in numerous patents, including the [5,244,415] patent and U.S. Pat. Nos. 4,678,256, 4,689,728, 4,786,260, 4,822,304, 4,854,890, 4,921,441, and 5,108,294...disclose cable connectors having discreet or separate trapezoidal shield arrangements, rather than integral front shields...”

U.S. Patent No. 5,848,914- Discussion of Related Art, col. 2, lines 37-47.

28. Independent claims 1 and 5 of ‘818 patent include, *inter alia*, the following:

“whereby said shield wall is integrally formed from said base to provide continuous shielding from said arc-shaped passage section to said front shield.”

29. Independent claims 1, 6, and 11 of ‘914 patent include, *inter alia*, the following:

“wherein said front shield is integrally formed from said base to form a single seamless member...”

30. Application Serial No. 09/149,490 corresponds to the issued ‘818 patent. During the prosecution of the Application Serial No. 09/149,490, the patentee stated: “Patentability is believed to lie in the configuration of the front shield and its relation to the backshell” in the Remarks section of the Second Preliminary Amendment Before Examination, dated March 4, 1999.

31. In view of the patentee’s admissions of prior art as described in the disclosure of the ‘914 and ‘818 patents and other existing prior art at the time of the invention, and in further view of the current standard of obviousness, the ‘914 and ‘818 patents are invalid because the differences between the subject matter sought to be patented in the ‘914 and ‘818 patents and the prior art are such that the subject matter as a

whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

RELIEF REQUESTED

WHEREFORE, plaintiff respectfully prays for judgment in its favor and against Amphenol as follows:

- (a) Declaring the manufacture, use, sale, or offer for sale of the connector devices alleged by Amphenol to be infringing do not and will not infringe any valid, enforceable and unexpired claim of the '914 and '818 patents;
- (b) Declaring that the '914 and '818 patents are invalid;
- (c) Awarding Keytech such other relief as the court may deem just and proper.

JURY TRIAL DEMANDED

Keytech demands a trial by jury.

Dated: January 23, 2008

Respectfully Submitted,

Keytech USA, Inc.

By: /s/ Gary E Lambert

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