

SHAWN J. KOLITCH, OSB No. 063980

E-mail: shawn@khpatent.com

PIERRE C. VAN RYSSELBERGHE, OSB No. 915230

E-mail: pvr@khpatent.com

JAMES R. ABNEY, OSB No. 971949

E-mail: abney@khpatent.com

KOLISCH HARTWELL, P.C.

520 S.W. Yamhill Street, Suite 200

Portland, Oregon 97204

Telephone: (503) 224-6655

Facsimile: (503) 295-6679

Attorneys for Plaintiffs

Computer Stores Northwest, Inc. and Scalar Corporation

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

**COMPUTER STORES NORTHWEST,
INC. and SCALAR CORPORATION,**

Plaintiffs,

v.

**DUNWELL TECH, INC. and ANMO
ELECTRONICS CORPORATION,**

Defendants.

Case No. 10-CV-00284-KI

**SECOND AMENDED COMPLAINT
FOR PATENT INFRINGEMENT**

DEMAND FOR JURY TRIAL

For their Second Amended Complaint, plaintiffs Computer Stores Northwest, Inc. and Scalar Corporation allege, based on actual knowledge with respect to plaintiffs and plaintiffs' acts, and on information and belief with respect to other matters, as follows:

NATURE OF THE CASE

1. This is a civil suit for patent infringement under the patent laws of the United States, 35 U.S.C. §§ 1 et seq., and specifically under 35 U.S.C. §§ 271 and 281.

THE PARTIES

2. Plaintiff Computer Stores Northwest, Inc. (“CSNW”) is an Oregon corporation, with a principal place of business and a mailing address at 6077A S.W. Lakeview Boulevard, Lake Oswego, Oregon 97035.

3. Plaintiff Scalar Corporation (“Scalar”) is a Japanese corporation, with a principal place of business and a mailing address at San-Ei Building 1-22-2, 2nd Floor, Nishi-Shinjuku, Shinjuku-Ku, Tokyo 160-0023, Japan.

4. Defendant Dunwell Tech, Inc. (“Dunwell”) is a California corporation doing business at least as BigC.com and SunriseDino.com, with a principal place of business and a mailing address at 20655 S. Western Avenue #116, Torrance, California 90501.

5. Defendant AnMo Electronics Corporation (“AnMo”) is a company with its headquarters and a mailing address at 5F-1, No.76, Sec. 2, Dung-Da Road, Hsinchu 300, Taiwan.

6. AnMo’s distributor in the United States is BigC.com.

7. AnMo owns or controls the websites at <http://www.anmo.com.tw/> and <http://www.dino-lite.com/>. Both websites can be accessed throughout the United States, including in the State of Oregon.

8. Attached as Exhibit F are selected web pages from <http://www.anmo.com.tw/> and <http://www.dino-lite.com/> that (a) identify that AnMo manufactures, or caused to be manufactured, one or more microscopes under the name Dino-Lite, (b) identify that the United States distributor of AnMo’s Dino-Lite products is www.BigC.com, and (c) contain product information about the

Dino-Lite products, and software and user manuals related to the Dino-Lite products, that are available for viewing and downloading from AnMo into the United States, including into the State of Oregon. Page 10 of Exhibit F shows it is possible to download into the State of Oregon from the AnMo website executable software related to the Dino-Lite products.

JURISDICTION & VENUE

9. This Court has federal question jurisdiction under 28 U.S.C. §§ 1331 and 1338(a), because of the claim under 35 U.S.C. § 271 for patent infringement.

10. This Court has personal jurisdiction in this action because AnMo and Dunwell conduct business in the State of Oregon, purposely direct activities to the State of Oregon, and know or should know that their products will reach the State of Oregon in the stream of commerce, in connection with the allegations of this lawsuit.

11. Venue is proper in this judicial district under 28 U.S.C. § 1391 and 1400.

THE ASSERTED PATENT

12. Plaintiff Scalar owns U.S. Patent No. 5,442,489 (“the ‘489 patent”), issued August 15, 1995. Scalar has granted an exclusive U.S. license to Plaintiff CSNW, giving CSNW the right to manufacture, sell, and offer for sale certain products under the ‘489 patent.

13. The ‘489 patent covers handheld portable magnifiers. These magnifiers may be used, for example, for educational, scientific, or law enforcement purposes, and may display images on a display such as a computer monitor. The ‘489 patent is derived from a patent application that was filed in the U.S. Patent and Trademark Office (“USPTO”) on September 23, 1994. USPTO examined the application, determined that the claimed invention was novel and nonobvious, and awarded the ‘489 patent on August 15, 1995. A copy of this patent, as originally issued, is attached as Exhibit A.

14. On August 6, 2007, Scalar requested reexamination of various claims of the '489 patent from USPTO, based on prior art references uncovered during prosecution of the Korean and Japanese counterparts to the '489 patent. Specifically, Scalar requested reexamination of claims 1, 6, 7, 11, 16, 23 and 28 of the '489 patent in view of the newly uncovered references. A copy of Scalar's August 6, 2007 reexamination request is attached as Exhibit B.

15. The '489 patent was fully examined again by a new Primary Examiner and two Conferee Examiners at USPTO, and on March 30, 2010, USPTO issued an Ex Parte Reexamination Certificate, confirming the patentability of original claim 6, amended claims 1, 7, 11, 16, 19, 23 and 28, and newly presented claims 33-50. A copy of the Ex Parte Reexamination Certificate is attached as Exhibit C. A copy of the reexamined patentable claims is attached as Exhibit D.

16. In conjunction with CSNW's status as exclusive U.S. licensee, the reexamined '489 patent gives Plaintiffs CSNW and Scalar the right to exclude others from making, using, offering for sale, and selling the claimed invention within the United States, and from importing the claimed invention into the United States.

17. Since at least as early as September 12, 2006, plaintiffs have marked their products covered by the '489 patent with U.S. Pat. No. 5,442,489 in compliance with 35 U.S.C. § 287.

THE INFRINGING PRODUCTS

18. Defendants AnMo and Dunwell are making, using, offering for sale, selling, and/or importing handheld portable magnifiers and teaching the use of such magnifiers, including but not necessarily limited to the "Dino-Lite" series of handheld portable magnifiers. The Dino-Lite product line includes at least the AM3xx series, the AM4xx series, the AD4xx series, and

individual models AM211, AMH-RUT, AMB-DT-U1, AMH-EUT, AMH-EAN, and AMK412-C200, all of which are covered by one or more claims of the reexamined '489 patent. These products include, among other covered features, an imaging system and a light source enclosed within a one-handed graspable case and configured to display an image on an associated monitor display. A copy of the 2009 Dino-Lite catalog advertising the infringing products and describing their features is attached as Exhibit E.

19. AnMo is manufacturing, or causing to be manufactured, the Dino-Lite products that are being distributed and sold in the United States, including in the State of Oregon.

20. AnMo identifies on its website that its United States distributor for the Dino-Lite products is BigC.com. AnMo is importing, or causing to be imported, the Dino-Lite products into the United States for distribution by BigC.com in the United States, including in the State of Oregon.

21. BigC.com is importing, or causing to be imported, into the United States the Dino-Lite products. The Dino-Lite products are sold in the United States, including in the State of Oregon, by entities doing business at least as BigC.com and SunriseDino.com, which are commonly owned by Dunwell.

CAUSE OF ACTION – INFRINGEMENT OF THE '489 PATENT

22. AnMo and Dunwell have infringed and are infringing the '489 patent by making, using, selling, offering to sell, and/or importing handheld portable magnifiers under the name "Dino-Lite," including but not necessarily limited to the Dino-Lite AM3xx series, the AM4xx series, the AD4xx series, and individual models AM211, AMH-RUT, AMB-DT-U1, AMH-EUT, AMH-EAN, and AMK412-C200, all of which are covered by one or more claims of the '489 patent, without authorization from CSNW or Scalar.

23. Infringement by AnMo and Dunwell has been and continues to be willful, with knowledge of the '489 patent and AnMo and Dunwell's infringement thereof, entitling plaintiffs to increased damages under 35 U.S.C. § 284 and to attorneys' fees incurred in prosecuting this action under 35 U.S.C. § 285.

24. CSNW and Scalar have suffered, and will continue to suffer, substantial damages in an amount to be proven at trial, through lost profits, lost sales and/or lost royalties, due to infringement of the '489 patent by AnMo and Dunwell.

25. CSNW and Scalar have suffered, and will continue to suffer, permanent and irreparable injury, for which CSNW and Scalar have no adequate remedy at law.

26. CSNW and Scalar are entitled to relief provided by 35 U.S.C. §§ 281, 283, 284, and 285.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs CSNW and Scalar pray for judgment as follows:

A. That AnMo and Dunwell have infringed, and are infringing, the '489 patent in violation of 35 U.S.C. § 271;

B. That AnMo and Dunwell's infringement of the '489 patent is willful;

C. That AnMo and Dunwell be preliminarily and permanently enjoined against all acts of infringement of the '489 patent pursuant to 35 U.S.C. § 283;

D. That AnMo and Dunwell be required to deliver to CSNW or Scalar for destruction any and all articles in their possession and/or under their control that infringe the '489 patent, including but not limited to the Dino-Lite AM3xx series, the AM4xx series, the AD4xx series, and individual models AM211, AMH-RUT, AMB-DT-U1, AMH-EUT, AMH-EAN, and AMK412-C200, along with any associated packaging and advertisements.

E. That AnMo and Dunwell be ordered to pay CSNW and Scalar the damages that CSNW and Scalar have suffered due to infringement of the '489 patent by AnMo and Dunwell, together with interest thereon and costs pursuant to 35 U.S.C. § 284, including profits lost by plaintiffs as a result of infringement of the '489 patent; in any event plaintiffs shall be awarded no less than a reasonable royalty for the unauthorized manufacture and sale of the patented inventions by AnMo and Dunwell;

F. That AnMo and Dunwell be ordered to account for and pay to CSNW and Scalar the total profits Dunwell has received from the sale of products infringing the '489 patent;

G. That this case be declared exceptional pursuant to 35 U.S.C. § 285, due to willful infringement of the '489 patent by AnMo and Dunwell, and that CSNW and Scalar be awarded trebled damages and their reasonable attorneys' fees; and

H. That CSNW and Scalar be awarded such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs Computer Stores Northwest, Inc. and Scalar Corporation hereby demand a trial by jury.

DATED this 22nd day of November, 2010.

Respectfully submitted,

KOLISCH HARTWELL, P.C.

By /s/ Shawn J. Kolitch

SHAWN J. KOLITCH, OSB No. 063980
of Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of November, 2010, true and correct copies of the foregoing SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT were served by the method indicated below on the following persons:

Arthur S. Beeman, Esq. JONES DAY 555 California Street, 26th Floor San Francisco, CA 94104 asbeeman@jonesday.com	<input type="checkbox"/> Via First-Class Mail <input type="checkbox"/> Via Hand Delivery <input type="checkbox"/> Via Overnight Courier <input type="checkbox"/> Via Facsimile <input type="checkbox"/> Via E-mail <input checked="" type="checkbox"/> CM/ECF
Douglas Roberts, Esq. JONES DAY 555 California Street, 26th Floor San Francisco, CA 94104 douglasroberts@jonesday.com	<input type="checkbox"/> Via First-Class Mail <input type="checkbox"/> Via Hand Delivery <input type="checkbox"/> Via Overnight Courier <input type="checkbox"/> Via Facsimile <input type="checkbox"/> Via E-mail <input checked="" type="checkbox"/> CM/ECF
Noel Rodriguez, Esq. JONES DAY 555 California Street, 26th Floor San Francisco, CA 94104 nrodriguez@jonesday.com	<input type="checkbox"/> Via First-Class Mail <input type="checkbox"/> Via Hand Delivery <input type="checkbox"/> Via Overnight Courier <input type="checkbox"/> Via Facsimile <input type="checkbox"/> Via E-mail <input checked="" type="checkbox"/> CM/ECF

By /s/ Shawn J. Kolitch
 Shawn J. Kolitch
 of Attorneys for Plaintiffs