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Attorneys for Plaintiff
3FORM, INC.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
CENTRAL DIVISION**

3FORM, INC., a Utah corporation,

Plaintiff,

v.

LUMICOR, INC., a Washington corporation,

Defendant.

Civil Action No. 2:09-cv-00990

**FIRST AMENDED COMPLAINT
FOR PATENT INFRINGEMENT**

(JURY TRIAL DEMANDED)

Plaintiff 3form, Inc. (“Plaintiff” or “3form”) hereby complains against defendant Lumicor, Inc. (“Defendant” or “Lumicor”) and for claims of relief for patent infringement alleges as follows:

PARTIES

1. Plaintiff is a Utah corporation with its principal executive offices located at 2300 South 2300 West, Salt Lake City, Utah 84119.

2. Upon information and belief, Defendant is a corporation organized and existing under the laws of the State of Washington, with its principal executive offices located at 1400 Monster Road SW, Renton, Washington 98055.

JURISDICTION AND VENUE

3. This is a civil action for patent infringement brought by Plaintiff for acts committed by Defendant arising under the patent laws of the United States, and more specifically under 35 U.S.C. §§ 271, 281, 283, 284, and 285. Jurisdiction of this Court is founded upon 28 U.S.C. §§ 1331 and 1338(a).

4. This also is a civil action with complete diversity of citizenship between Plaintiff and Defendant with the amount in controversy exceeding \$75,000. Jurisdiction of this Court is founded upon 28 U.S.C. § 1332.

5. Upon information and belief, Defendant has transacted business, contracted to supply goods or services, and caused injury within the State of Utah, and has otherwise purposely availed itself of the privileges and benefits of the laws of the State of Utah, and is therefore subject to the jurisdiction of this Court pursuant to Rule 4(k)(1)(A) of the Federal Rules of Civil Procedure and Utah Code Ann. § 78-27-24.

6. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400(b).

FIRST CLAIM FOR RELIEF
(Infringement of U.S. Patent No. 7,008,700)

7. Plaintiff hereby incorporates the allegations of the preceding paragraphs 1 through 6 of this Complaint into this First Claim for Relief as though fully set forth hereat.

8. U.S. Patent No. 7,008,700 (“the ‘700 Patent”) issued from the United States Patent and Trademark Office (“USPTO”) on March 7, 2006, bearing the title “Architectural

laminated panel with embedded compressible objects and methods for making the same.” (A true and correct copy of the ‘700 Patent is attached hereto as Exhibit A and incorporated herein by this reference.)

9. Plaintiff is the owner of all right, title, and interest in and to the ‘700 Patent, including the right to sue for and recover all past, present, and future damages for infringement of the ‘700 Patent, and to enjoin acts of infringement of the ‘700 Patent.

10. Plaintiff has not licensed or otherwise authorized Defendant to practice the ‘700 Patent.

11. Defendant, directly or through its subsidiaries, divisions, or groups, has infringed and continues to infringe one or more claims of the ‘700 Patent by making, using, selling and/or offering to sell, or allowing others to make, use, sell and/or offer for sale, in the United States and this judicial district, products, such as the “Lumicor Natural Décor panels,” including, but not limited to, those entitled “Zito,” “Serengeti,” “Kenya,” Savannah,” and “Pampas Reed,” that are covered by, embody, or practice the method of one or more of the claims of the ‘700 Patent. Defendant is liable for infringement of the ‘700 Patent pursuant to 35 U.S.C. § 271.

12. Defendant’s acts of infringement have caused damage to Plaintiff, and Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of Defendant’s wrongful acts in an amount subject to proof at trial.

13. As a consequence of the infringement complained of herein, Plaintiff has been irreparably damaged to an extent not yet determined, and will continue to be irreparably damaged by such acts in the future unless Defendant is enjoined by this Court from committing further acts of infringement of the ‘700 Patent.

14. One or more of Defendant's acts of infringement were made and/or are made with knowledge of the '700 Patent. Such acts constitute willful infringement and make this case exceptional pursuant to 35 U.S.C. §§ 284 and 285 and entitle Plaintiff to enhanced damages and reasonable attorneys' fees.

SECOND CLAIM FOR RELIEF
(Infringement of U.S. Patent No. 7,550,057)

15. Plaintiff hereby incorporates the allegations of the preceding paragraphs 1 through 14 of this Complaint into the Second Claim for Relief as though fully set forth hereat.

16. U.S. Patent No. 7,550,057 ("the '057 Patent") issued from the USPTO on June 23, 2009, bearing the title "Architectural laminate panel with embedded compressible objects and methods for making the same." (A true and correct copy of the '057 Patent is attached hereto as Exhibit B and incorporated herein by this reference.)

17. Plaintiff is the owner of all right, title, and interest in and to the '057 Patent, including the right to sue for and recover all past, present, and future damages for infringement of the '057 Patent, and to enjoin acts of infringement of the '057 Patent.

18. Plaintiff has not licensed or otherwise authorized Defendant to practice the '057 Patent.

19. Defendant, directly or through its subsidiaries, divisions, or groups, has infringed and continues to infringe one or more claims of the '057 Patent by making, using, selling and/or offering to sell, or allowing others to make, use, sell and/or offer for sale, in the United States, and/or this judicial district, products, such as the "Lumicor Natural Décor panels," including, but not limited to, those entitled "Zito," "Serengeti," "Kenya," Savannah," and "Pampas Reed," that

are covered by, embody, or practice the method of one or more of the claims of the '057 Patent. Defendant is liable for infringement of the '057 Patent pursuant to 35 U.S.C. § 271.

20. Defendant's acts of infringement have caused damage to Plaintiff, and Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of Defendant's wrongful acts in an amount subject to proof at trial.

21. As a consequence of the infringement complained of herein, Plaintiff has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged by such acts in the future unless Defendant is enjoined by this Court from committing further acts of infringement of the '057 Patent.

22. One or more of Defendant's acts of infringement were made and/or will be made with knowledge of the '057 Patent. Such acts constitute willful infringement and make this case exceptional pursuant to 35 U.S.C. §§ 284 and 285 and entitle Plaintiff to enhanced damages and reasonable attorneys' fees.

THIRD CLAIM FOR RELIEF
(Infringement of U.S. Patent No. 7,660,750)

23. Plaintiff hereby incorporates the allegations of the preceding paragraphs 1 through 22 of this Complaint into the Second Claim for Relief as though fully set forth hereat.

24. U.S. Patent No. 7,660,750 ("the '750 Patent") issued from the USPTO on February 9, 2010, bearing the title "Viewing and ordering customized resin panels through web-based interfaces." (A true and correct copy of the '750 Patent is attached hereto as Exhibit C and incorporated herein by this reference.)

25. Plaintiff is the owner of all right, title, and interest in and to the '750 Patent, including the right to sue for and recover all past, present, and future damages for infringement of the '750 Patent, and to enjoin acts of infringement of the '750 Patent.

26. Plaintiff has not licensed or otherwise authorized Defendant to practice the '750 Patent.

27. Defendant, directly or through its subsidiaries, divisions, or groups, has infringed and continues to infringe one or more claims of the '750 Patent by making and/or using, or allowing others to make and/or use, in the United States and this judicial district, a web-based interface that allows the consumer to view and order customized resin panels, under the name "Lumicor Design Studio," that is covered by, embodies, or practices the method of one or more of the claims of the '750 Patent. Defendant is liable for infringement of the '750 Patent pursuant to 35 U.S.C. § 271.

28. Defendant's acts of infringement have caused damage to Plaintiff, and Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of Defendant's wrongful acts in an amount subject to proof at trial.

29. As a consequence of the infringement complained of herein, Plaintiff has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged by such acts in the future unless Defendant is enjoined by this Court from committing further acts of infringement of the '750 Patent.

30. Upon information and belief, one or more of Defendant's acts of infringement were made or will be made with knowledge of the '750 Patent. Such acts constitute willful infringement and make this case exceptional pursuant to 35 U.S.C. §§ 284 and 285 and entitle Plaintiff to enhanced damages and reasonable attorneys' fees.

FOURTH CLAIM FOR RELIEF
(Infringement of U.S. Patent No. D609,826)

31. Plaintiff hereby incorporates the allegations of the preceding paragraphs 1 through 30 of this Complaint into the Second Claim for Relief as though fully set forth hereat.

32. U.S. Patent No. D609,826 (“the ‘826 Patent”) issued from the USPTO on February 9, 2010, bearing the title “Architectural Panel with Translucent Wood Design.” (A true and correct copy of the ‘826 Patent is attached hereto as Exhibit D and incorporated herein by this reference.).

33. Plaintiff is the owner of all right, title, and interest in and to the ‘826 Patent, including the right to sue for and recover all past, present, and future damages for infringement of the ‘826 Patent, and to enjoin acts of infringement of the ‘826 Patent.

34. Plaintiff has not licensed or otherwise authorized Defendant to practice the ‘826 Patent.

35. Defendant, directly or through its subsidiaries, divisions, or groups, has infringed and continues to infringe one or more claims of the ‘826 Patent by making, using, selling and/or offering to sell, or allowing others to make, use, sell and/or offer for sale, in the United States, and/or this judicial district, products, such as the “Lumicor Natural Décor panels,” including, but not limited to, those entitled “Cherry Veneer” and “Maple Veneer,” that are covered by, embody, or practice the method of one or more of the claims of the ‘826 Patent. Defendant is liable for infringement of the ‘826 Patent pursuant to 35 U.S.C. § 271.

36. Defendant’s acts of infringement have caused damage to Plaintiff, and Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of Defendant’s wrongful acts in an amount subject to proof at trial.

37. As a consequence of the infringement complained of herein, Plaintiff has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged by such acts in the future unless Defendant is enjoined by this Court from committing further acts of infringement of the '826 Patent.

38. Upon information and belief, one or more of Defendant's acts of infringement were made or will be made with knowledge of the '826 Patent. Such acts constitute willful infringement and make this case exceptional pursuant to 35 U.S.C. §§ 284 and 285 and entitle Plaintiff to enhanced damages and reasonable attorneys' fees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for entry of a final order and judgment that:

- A. Defendant has infringed the '700 Patent;
- B. Defendant has infringed the '057 Patent;
- C. Defendant has infringed the '750 Patent;
- D. Defendant has infringed the '826 Patent;
- E. Defendant account for and pay to Plaintiff all damages caused by its infringement of the '700 Patent, the '057 Patent, the '750 Patent, and the '826 Patent, and to enhance such damages by three times in light of Defendant's willful infringement, all in accordance with 35 U.S.C. § 284;
- F. Plaintiff be granted permanent injunctive relief pursuant to 35 U.S.C. § 283 enjoining Defendant, its officers, agents, servants, employees, and all those persons in active concert or participation with them from further acts of patent infringement;

G. Plaintiff be granted pre-judgment and post-judgment interest on the damages caused to it by reason of Defendant's infringement of the '700 Patent, the '057 Patent, the '750 Patent, and the '826 Patent;

H. The Court declare this an exceptional case and that Plaintiff be granted its reasonable attorneys' fees in accordance with 35 U.S.C. § 285;

I. Costs be awarded to Plaintiff; and

J. Plaintiff be granted such other and further relief as the Court may deem just and proper under the circumstances.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands trial by jury on all claims and issues so triable.

DATED: March 15, 2010

Sterling A. Brennan
Matthew A. Barlow
WORKMAN | NYDEGGER A PROFESSIONAL CORPORATION

By /s/ Sterling A. Brennan
Sterling A. Brennan
Attorneys for Plaintiff
3FORM, INC.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT** was served on Defendants by delivering a true copy thereof to the following attorneys of record, on March 15, 2010 in the manner indicated:

Lawrence D. Graham, Esq.
BLACK LOWE & GRAHAM
701 Fifth Avenue, Suite 4800
Seattle, Washington 98104

(Via U.S. Mail)

/s/ Sterling A. Brennan

DOCUMENT NO.: 2736887_1.DOC