

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

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CLERK, U.S. DIST. COURT
MINNEAPOLIS, MN

_____)
Talon Innovations Corporation,)
)
Plaintiff,)
)
v.)
)
Microflex Technologies, LLC,)
)
Defendant.)
_____)

Civil Action No. _____

TRIAL BY JURY DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT AND JURY DEMAND

Plaintiff Talon Innovations Corporation, ("Talon"), for its complaint against Defendant Microflex Technologies LLC ("Microflex"), states as follows:

PARTIES

1. Plaintiff Talon is a Corporation organized under the laws of the State of Minnesota, with a principal place of business at 1003 Industrial Drive South, Sauk Rapids, MN 56379.
2. On information and belief, Defendant Microflex is a Limited Liability Corporation organized under the laws of the State of California, and has a principal place of business at 1185 E Stanford Ct., Anaheim, CA 92805.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the acts of Congress relating to patents, namely the Patent Laws of the United States, 35 U.S.C. §§ 1 *et seq.* This Court thereby has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

SCANNED
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U.S. DISTRICT COURT MPLS

4. Defendant Microflex has committed and continues to commit acts of patent infringement in the District of Minnesota. Defendant Microflex has purposefully and voluntarily placed the infringing products into the stream of commerce with the expectation that these products will be purchased by consumers in the District of Minnesota. For example, on information and belief, Defendant Microflex's products are sold to, *inter alia*, one or more semiconductor manufacturers located in the District of Minnesota. Therefore, this Court has specific jurisdiction over Defendant Microflex. Moreover, this District is a proper venue pursuant to 28 U.S.C. §§ 1391(b) and 1400(b).

**COUNT I:
DIRECT INFRINGEMENT OF U.S. PATENT NO. 5,713,582**

5. Plaintiff Talon incorporates by reference herein the allegations of paragraphs 1 through 4.

6. Plaintiff Talon is the owner of all right, title and interest in and to U.S. Patent No. 5,713,582 ("the '582 patent"), entitled "Seal Retainer" which issued on February 3, 1998. A true and correct copy of the '582 patent is attached as Exhibit A.

7. Plaintiff Talon has never licensed Defendant Microflex under the '582 patent nor otherwise authorized Defendant Microflex to practice the '582 patent.

8. On information and belief, Defendant Microflex has infringed, is infringing and will continue to infringe the '582 patent by making, using, selling and/or offering to sell in the United States, including within this District, certain seal retainers and sealing assemblies covered by, *inter alia*, one or more of claims 1-6, 8, 12, 13 and 15-27 of the '582 patent without Plaintiff Talon's authorization in violation of 35 U.S.C. § 271(a).

9. On information and belief, Defendant Microflex's manufacture, sale and/or offers to sell, *inter alia*, its part nos. MSA-028-111; MSA-028-111F; MSA-028-111M; MSA-028-111-M86; MSA-028-211; MSA-028-311; MSA-028-115; MSA-028-115M-SW; MSA-028-215; MSA-028-315; MSA-043-115; MSA-043-115F; MSA-043-215; MSA-043-315; and MSA-028-111-U directly infringe claims of the '582 patent.

10. Each of Defendant Microflex's products identified in paragraph 9 is a sealing assembly that includes at least one annular seal with first and second longitudinally facing sealing surfaces and an outwardly facing cavity located therebetween; and a seal retainer coupled thereto. The seal retainer comprises a substantially flat, flexible body portion lying in a plane and with at least one seal receiving aperture; and a plurality of resilient retaining elements integrally formed with the body portion as a one-piece, unitary member, with two retaining elements extending inwardly into each seal receiving aperture to a free end and being cantilevered relative to the body portion to permit the free end to be resiliently deflected out of the plane of the body to engage a cavity in the seal. The seal retainer is constructed of a thin material having a thickness ranging from approximately 0.003 inch to approximately 0.005 inch.

11. As a result of the infringement by Defendant Microflex, Plaintiff Talon has been, is being, and will continue to be irreparably harmed. Plaintiff Talon has no adequate remedy at law.

12. On information and belief, Defendant Microflex will continue its infringing activities, and continue to damage Plaintiff Talon, unless enjoined by this Court. Plaintiff Talon's damages from the aforesaid actions of Defendant Microflex are not yet determined.

13. Defendant Microflex was well aware of the '582 patent prior to the commission of the infringing acts alleged herein, including through the discussion thereof during the prosecution of Defendant Microflex's own United States Patent Application serial no. 09/882,343.

14. Defendant Microflex's reckless, egregious and willful infringement of the '582 patent makes this an exceptional case under 35 U.S.C. § 285.

**COUNT II:
INDIRECT INFRINGEMENT OF U.S. PATENT NO. 5,713,582**

15. Plaintiff Talon incorporates by reference herein the allegations of paragraphs 1 through 14.

16. Users of certain of Defendant Microflex's products infringe, *inter alia*, one or more of claims 1-6, 8, 12, 13 and 15-28 of the '582 patent. On information and belief, one or more semiconductor manufacturers in the District of Minnesota, *inter alia*, use Defendant Microflex's infringing products in an infringing manner.

17. For example, on information and belief, semiconductor manufacturers use Defendant Microflex's infringing products to create a seal in their gas delivery systems by providing a thin seal retainer lying in a plane with a substantially flat body portion, at least one seal receiving aperture and at least one resilient retaining element integrally formed with the body portion; coupling a seal within the seal receiving aperture via deflecting the at least one retaining element out of the plane of the body portion, such that a free end of each retaining element engages a cavity formed in the seal; placing the seal retainer with the at least one seal coupled thereto between a first member and a second member; and coupling the first and second members together such that their opposed surfaces engage and compress the seal.

18. On information and belief, Defendant Microflex has and continues to promote, advertise and instruct customers and potential customers about its infringing products and how to use their products, including infringing uses.

19. On information and belief, Defendant's products are not staple articles or commodities of commerce suitable for substantial non-infringing use.

20. On information and belief, Defendants' actions have and continue to constitute active inducement of and contributory infringement of, *inter alia*, one or more of claims 1-6, 8, 12, 13 and 15-28 of the '285 patent in violation of 35 U.S.C. § 271(b) and (c).

RELIEF REQUESTED

THEREFORE, Plaintiff Talon prays for judgment and relief including:

(A) Judgment that Defendant Microflex has been and continues to infringe one or more claims of the '582 patent pursuant to 35 U.S.C. § 271(a), (b) and (c);

(B) A preliminary and permanent injunction enjoining Defendant Microflex and its officers, agents, servants, employees, attorneys, related business entities and those in active concert or participation with it from infringing the '582 patent;

(C) An award of damages incurred by Plaintiff Talon as a result of Defendant Microflex's infringement of the '582 patent;

(D) An award trebling the damages pursuant to 35 U.S.C. § 284 as a result of Defendant Microflex's willful infringement of the '582 patent;

(E) An assessment of costs, including reasonable attorney fees pursuant to 35 U.S.C. § 285, and prejudgment interest against Defendant Microflex; and

(F) Such other and further relief as this Court may deem just and proper.

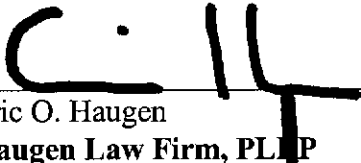
JURY DEMAND

Plaintiff Talon demands trial by jury on all issues so triable.

Respectfully submitted,

Date: July 14, 2009

By:


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