

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF CONNECTICUT

LEWMAR, INC.,	)	
Plaintiff,	)	
v.	)	Civil Action No.
CONDATIS LLC,	)	
Defendant.	)	

**COMPLAINT FOR DECLARATORY JUDGMENT**

Plaintiff Lewmar, Inc. ("Lewmar" or "Plaintiff") alleges as follows for its complaint against the Defendant Condati LLC ("Condati" or "Defendant"):

**Nature of the Action**

1. This is a civil action arising under the Patent Laws of the United States, Title 35 U.S.C. § 1 *et seq.*, including a specific remedy sought based upon the laws authorizing action for declaratory judgment in the courts of the United States, 28 U.S.C. §§ 2201, 2202.

2. Plaintiff Lewmar is a corporation organized and existing under the laws of the state of Connecticut, having a place of business at 351 New Whitfield Street, Guilford, Connecticut 06437.

3. Upon information and belief Defendant Condati LLC is a limited liability company organized and existing under the laws of the state of Maryland having a place of business at 101 E. Park Boulevard, Suite 600, Plano, Texas 75074.

**Jurisdiction and Venue**

4. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over the Defendant because the Defendant is transacting and doing business in Connecticut.

6. Defendant has acquired a number patents thereby assembling a patent portfolio, and is in the business of attempting to license its patent portfolio to various parties in the marine industry.

7. Defendant does not manufacture any products.

8. Defendant does not compete with Plaintiff with respect to any product and/or service.

9. Defendant acquired the patents at issue herein for the purpose of extracting money from alleged infringers.

10. The inventors of the patents at issue herein assigned the patents to Defendant and have no future interest in the patents or money extracted in connection with licensing the patents.

11. Defendant is a non-practicing entity (NPE), whose sole business is approaching manufacturers and sellers of products and attempting to extract license fees.

12. Defendant has conducted business in Connecticut by virtue of it having contacted Plaintiff within Connecticut and having attempted to coerce Plaintiff into entering into a license agreement.

13. Thereby, Defendant has conducted business, and in fact, its sole business, within Connecticut.

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

15. There is an actual and justiciable controversy between the Plaintiff and Defendant pursuant to 28 U.S.C. § 2201.

**First Cause of Action: Declaratory Judgment  
of Invalidity of U.S. Patent No. 6,655,309**

16. Paragraphs 1 through 15 are incorporated by reference as if fully restated herein.

17. On December 2, 2003, United States Patent No. 6,655,309 (“the ‘309 patent”) entitled “Apparatus For Maneuvering Boats” was issued naming as inventor James Michael Stephens. A true copy of the ‘309 patent is attached hereto as Exhibit A.

18. The ‘309 patent is directed to an apparatus for aiding in steering and maneuvering a boat.

19. Upon information and belief, Defendant is the owner of all right, title and interest in the ‘309 patent.

20. Plaintiff sells wireless radio frequency remote control kits that have been accused by Defendant of infringing the ‘309 patent.

21. Defendant has asserted that Plaintiff’s wireless radio frequency remote control kits infringe one or more claims of the ‘309 patent.

22. The ‘309 patent is invalid and/or unenforceable under 35 U.S.C. § 1 et seq., including but not limited to § 102, § 103 and § 112.

23. Accordingly Plaintiff seeks a declaration that the ‘309 patent is invalid and/or unenforceable.

**Second Cause of Action: Declaratory Judgment  
for Non-Infringement of U.S. Patent No. 6,655,309**

24. Paragraphs 1 through 23 are incorporated by reference as if fully restated herein.

25. The design and operation of Plaintiff's wireless radio frequency remote control kits are so dissimilar from the claims of the '309 patent as properly construed, that there is no literal or equivalent infringement.

26. Accordingly Plaintiff seeks a declaration that the design and operation of its wireless radio frequency remote control kits do not infringe any claim of Defendant's '309 patent.

**Third Cause of Action: Declaratory Judgment  
of Invalidity of U.S. Patent No. 6,865,997**

27. Paragraphs 1 through 26 are incorporated by reference as if fully restated herein.

28. On March 15, 2005, United States Patent No. 6,865,997 ("the '997 patent") entitled "Apparatus For Maneuvering Boats" was issued naming as inventor James Michael Stephens. A true copy of the '997 patent is attached hereto as Exhibit B.

29. The '997 patent is directed to an apparatus for aiding in steering and maneuvering a boat.

30. Upon information and belief, Defendant is the owner of all right, title and interest in the '997 patent.

31. Plaintiff sells wireless radio frequency remote control kits that have been accused by Defendant of infringing the '997 patent.

32. Defendant has asserted that Plaintiff's wireless radio frequency remote control kits infringe one or more claims of the '997 patent.

33. The '997 patent is invalid and/or unenforceable under 35 U.S.C. § 1 et seq., including but not limited to § 102, § 103 and § 112.

34. Accordingly Plaintiff seeks a declaration that the '997 patent is invalid and/or unenforceable.

**Fourth Cause of Action: Declaratory Judgment  
for Non-Infringement of U.S. Patent No. 6,865,997**

35. Paragraphs 1 through 34 are incorporated by reference as if fully restated herein.

36. The design and operation of Plaintiff's wireless radio frequency remote control kits are so dissimilar from the claims of the '997 patent as properly construed, that there is no literal or equivalent infringement.

37. Accordingly Plaintiff seeks a declaration that the design and operation of its wireless radio frequency remote control kits do not infringe any claim of Defendant's '997 patent.

**Fifth Cause of Action: Declaratory Judgment  
of Invalidity of U.S. Patent No. 6,264,513**

38. Paragraphs 1 through 37 are incorporated by reference as if fully restated herein.

39. On July 24, 2001, United States Patent No. 6,264,513 (“the ‘513 patent”) entitled “Wireless Marine Control System” was issued naming as inventor Gregory S. Marsh. A true copy of the ‘513 patent is attached hereto as Exhibit C.

40. The ‘513 patent is directed to a control apparatus for remotely controlling relay actuated, electrically controlled systems of a boat.

41. Upon information and belief, Defendant is the owner of all right, title and interest in the ‘513 patent.

42. Plaintiff sells wireless radio frequency remote control kits that have been accused by Defendant of infringing the ‘513 patent.

43. Defendant has asserted that Plaintiff’s wireless radio frequency remote control kits infringe one or more claims of the ‘513 patent.

44. The ‘513 patent is invalid and/or unenforceable under 35 U.S.C. § 1 et seq., including but not limited to § 102, § 103 and § 112.

45. Accordingly Plaintiff seeks a declaration that the ‘513 patent is invalid and/or unenforceable.

**Sixth Cause of Action: Declaratory Judgment  
for Non-Infringement of U.S. Patent No. 6,264,513**

46. Paragraphs 1 through 45 are incorporated by reference as if fully restated herein.

47. The design and operation of Plaintiff’s wireless radio frequency remote control kits are so dissimilar from the claims of the ‘513 patent as properly construed, that there is no literal or equivalent infringement.

48. Accordingly Plaintiff seeks a declaration that the design and operation of its wireless radio frequency remote control kits do not infringe any claim of Defendant's '513 patent.

**Seventh Cause of Action: CUTPA**

49. Paragraphs 1 through 48 are incorporated by reference as if fully restated herein.

50. Defendant's conduct amounts to a violation of the Connecticut Unfair Trade Practices Act, Conn. Gen. Stat. § 42-110b, and has resulted in damage and ascertainable loss to Plaintiff.

51. On information and belief, the complained of activities were undertaken by Defendant in disregard of Plaintiff's rights and of the law.

52. The activities of Defendants have caused and will continue to cause damage and irreparable harm to Plaintiffs.

**Eighth Cause of Action: Laches**

53. Paragraphs 1 through 52 are incorporated by reference as if fully restated herein.

54. Defendant, or its predecessor in interest as owner of the '309 patent and the '997 patent, has been aware of Plaintiff, and of Plaintiff's products and activities, at least as early as a letter sent to Plaintiff by or on behalf of the owner of the '309 patent and the '997 patent, dated May 25, 2004.

55. Despite Defendant's awareness of Plaintiff, and of Plaintiff's products and activities, Defendant waited more than six years, until June 22, 2010, to send another letter to Plaintiff pursuing a claim patent infringement.

56. Defendant's delay in pursuing a claim of patent infringement against Plaintiff was unreasonable and inexcusable, and Plaintiff relied upon Defendant's years of silence to its material detriment and prejudice in that it assumed that Defendant would not be pursuing a claim of patent infringement.

57. Defendant is barred by laches from pursuing a claim for infringement or damages against Plaintiff.

**Prayer for Relief**

WHEREFORE, the Plaintiff prays for a Declaratory Judgment that:

- A. the '309 patent is invalid;
- B. the '997 patent is invalid;
- C. the '513 patent is invalid;
- D. Plaintiff's wireless radio frequency remote control kits do not literally or equivalently infringe any valid or enforceable claims of the '309 patent;
- E. Plaintiff's wireless radio frequency remote control kits do not literally or equivalently infringe any valid or enforceable claims of the '997 patent;
- F. Plaintiff's wireless radio frequency remote control kits do not literally or equivalently infringe any valid or enforceable claims of the '513 patent;
- G. Defendant is barred by laches from pursuing a claim for infringement or damages against Plaintiff;
- H. This is an exceptional case;



- I. Plaintiff be awarded attorney fees; and
- J. Plaintiff be awarded any other relief which the Court deems just and appropriate.

Respectfully submitted,

7/27/10  
Date

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