

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
5:09-cv-464**

ELECTRONIC SYSTEMS PROTECTION,)
INC.,)
)
Plaintiff,)
)
v.)
)
INNOVOLT, INC.)
)
Defendant.)
_____)

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff ELECTRONIC SYSTEMS PROTECTION, INC. (“ESPI” or “Plaintiff”) hereby files this Complaint for Patent Infringement against Defendant INNOVOLT, INC. (“Innovolt” or “Defendant”), showing the Court as follows:

1. ESPI is a corporation formed under the laws of the State of Delaware, having a principal place of business at 517 N. Industrial Drive, Zebulon, North Carolina 27597.
2. Defendant Innovolt, on information and belief, is a corporation formed under the laws of the State of Delaware, having a principal place of business at 14 Piedmont Center, 3535 Piedmont Road NE, Suite 1205, Atlanta, Georgia 30305.
3. This is an action for federal patent infringement pursuant to 35 U.S.C. § 1 *et seq.* This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a), and venue has been properly laid in this district pursuant to 28 U.S.C. §§ 1391.

4. On information and belief, Defendant is conducting business by servicing its product market, either directly or indirectly, in the State of North Carolina and this judicial district. On information and belief, Defendant has knowingly sent infringing products to purchasers in this State and District. On information and belief, Defendant is placing infringing products into the stream of commerce with knowledge, or reasonable foreseeability, that a termination point of the stream is the State of North Carolina and this judicial district.

5. ESPI is the owner, by assignment, of all right, title, and interest in and to United States Patent No. 6,744,613 (“the ‘613 patent”) entitled “System and Method for Filtering Multiple Adverse Characteristics from a Power Supply Source.” A true and correct copy of the ‘613 patent is attached hereto as Exhibit A.

6. The ‘613 patent was duly and lawfully issued by the United States Patent and Trademark Office on June 1, 2004. The ‘613 patent and all of its claims are presumed valid pursuant to 35 U.S.C. § 282.

7. ESPI is in the business of marketing and selling power filters, among other products. On information and belief, products sold under the ‘613 patent have been properly marked pursuant to 35 U.S.C. § 287.

8. On information and belief, Defendant is engaged in the business of manufacturing, using, marketing, distributing, offering for sale and selling power filters, including a power filter referred to as Innovolt’s Plug In Protector, Model No. CV-PAA-1011, Innovolt’s Power Manager, Model Nos. CV-TFB-2411 and CV-TFB-3411, and Model Nos. CV-TFA-2110 and CV-TFA-3110.

9. On information and belief, Defendant has been offering for sale and selling, and presently is offering for sale and selling, through established streams of commerce throughout

the United States, including to customers and potential customers in this judicial district, power filters that infringe one or more claims of the '613 patent.

10. On information and belief, Defendant is liable for said infringement by virtue of its direct participation in, contribution to, and/or inducement of the infringement of the '613 patent.

11. Defendant has committed the acts of infringement complained of herein without the consent or authorization of Plaintiff and in derogation of 35 U.S.C. § 271. On information and belief, Defendant's acts of infringement will continue unabated unless and until enjoined by this Court.

12. Defendant has harmed Plaintiff by virtue of Defendant's acts of infringing the '613 patent.

13. Plaintiff is entitled to damages from Defendant pursuant to 35 U.S.C. § 284 and injunctive relief from this Court pursuant to 35 U.S.C. § 283.

WHEREFORE, Plaintiff prays for the entry of a judgment:

1. Holding that Defendant has infringed the '613 patent;
 2. Awarding Plaintiff damages adequate to compensate for all such unauthorized acts of infringement pursuant to 35 U.S.C. § 284;
 3. To the extent applicable, declaring this case as exceptional pursuant to 35 U.S.C. § 285;
 4. Awarding Plaintiff its attorneys' fees and other costs and expenses;
 5. Awarding Plaintiff interest to the extent permitted by law;
 6. Permanently enjoining Defendant from any further acts of infringement; and
 7. Awarding such other and further relief as this Court may deem just and proper.
- Plaintiff demands a trial by jury on all issues so triable.

Date: October 23, 2009

Respectfully submitted,

/s/ David E. Fox

David E. Fox

N.C. State Bar No. 10332

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