

UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF VIRGINIA

FILED

2008 DEC 31 P 1:10

CLERK OF DISTRICT COURT
ALEXANDRIA, VIRGINIA

Aaron Design, Inc.)
8F, No. 29, Alley 73, Lin-Shen Road)
Shi-Chi Town, Taipei, Taiwan R.O.C.)

Plaintiff)

v.)

Impact Merchandising, LLC)
6262 Patterson Pass Road)
Livermore, California 94550)

Defendants)

2: 08cv 633

COMPLAINT FOR PATENT
INFRINGEMENT

Plaintiff, Aaron Design, Inc., brings this action against the Defendant, Impact Merchandising, LLC (Impact), and for his cause of action alleges as follows:

The Parties

1. Aaron Design, Inc. has been granted an exclusive license to United States Patent Nos. 6,171,117 and 6,170,958, both issued to Tseng-Lu Chien on January 9, 2001, and U.S. Patent No. 6,158,868, issued to Tseng-Lu Chien on December 12, 2000, by licensor Tseng-Lu Chien, the owner of the entire right, title and interest in and to U.S. Patent Nos. 6,171,117, 6,170,958, and 6,158,868.
2. Aaron Design, Inc. is a corporation organized and existing under the laws of Taiwan, R.O.C. and residing in Taipei, Taiwan.

3. Upon information and belief, Impact is a limited liability partnership organized and existing under the laws of California, and has a headquarters located at 6262 Patterson Pass Road, Livermore, California 94550.

Jurisdiction and Venue

4. This is an action for infringement of United States Letters Patent Nos. 6,171,117 (the '117 patent), 6,170,958 (the '958 patent), and 6,158,868 (the '868 patent) against Defendant Impact under the Patent Laws of the United States, Title 35 United States Code §1 *et seq.* Accordingly, jurisdiction is properly based on Title 35 United States Code, particularly §§ 271 and 281, and Title 28 United States Code, particularly § 1338(a).
5. Venue is proper in this Court under Title 28 United States Code §§1391(b) and (c) and 1400(b).

The Patents

6. On January 9, 2001, the '117 and '958 patents were duly and legally issued for inventions respectively entitled "Connector Arrangement For An Electro-Luminescent Lighting Element And Night Light Using Such An Arrangement" and "Electro-Luminescent Night Light Having An Improved Housing And Connector Arrangement Therefor." On December 12, 2000, the '868 patent was duly and legally issued for an invention entitled "Night Light with Analog Time Piece."
7. Mr. Tseng-Lu Chien is the inventor named in each of the '117, '958, and '868 patents and has not assigned any rights in either of the '117, '958, and '868 patents. Mr. Tseng-Lu Chien has granted Aaron Design, Inc. an exclusive license to sell products covered by and to enforce the '117, '958, and '868 patents.

8. Impact has offered for sale and sold an electro-luminescent night light protected by the '117, '958, and '868 patents.

Background of Action

9. On May 31, 2007, Mr. George Chen of Bacon & Thomas, PLLC purchased an electro-luminescent night light at a Target store in Virginia. The purchased night light was sold under the name First Alert® Luminess™ Clock Night Light. The package listed Impact as supplier.
10. After an investigation, a letter was sent to Impact on October 10, 2007, in order to notify Impact that the First Alert® Luminess™ Clock Night Light sold by Target infringed various patents owned by Mr. Tseng-Lu Chien, including the '117, '958, '868, and '440 patents.
11. In a telephone conference with Mr. Tseng-Lu Chien's counsel on December 6, 2007, Mr. Paul Savereide, attorney for Impact, represented that Impact was no longer supplying the product to Target.
12. Upon further investigation subsequent to Mr. Paul Savereide's representation that Impact was no longer supplying the product to Target, Mr. Tseng-Lu Chien found that Target continued to prominently display and sell the First Alert® Luminess™ Clock Night Light distributed by Impact. A second First Alert® Luminess™ Clock Night Light was purchased at a Target store on January 28, 2008, and a third sample was purchased at a Target store on February 7, 2008.

Infringement

13. Paragraphs 1 through 12 are incorporated herein by reference.
14. The '117 patent (copy attached as Exhibit A) claims an electro-luminescent night light

including an arrangement for supplying power from a plug to the electro-luminescent element in the night light. The First Alert[®] Luminess[™] Clock Night Light includes a corresponding arrangement for supplying power from a plug to the electro-luminescent element in the night light.

15. Impact has offered to sell and/or sold a clock night light embodying the invention claimed in at least claims of the 1-3, 6, 7, 8, 10, and 11 of the '117 patent, and therefore, infringe those claims.
16. The '958 patent (copy attached as Exhibit B) also claims an electro-luminescent night light including an arrangement for supplying power from a plug to the electro-luminescent element in the night light. The First Alert[®] Luminess[™] Clock Night Light includes a corresponding arrangement for supplying power from a plug to the electro-luminescent element in the night light.
17. Impact has offered to sell and/or sold, and continue to offer to sell and/or sell a clock night light embodying the invention claimed in at least claims of the 1, 2, 4, 9, 15, and 16 of the '958 patent, and therefore, infringe those claims.
18. The '868 patent (copy attached as Exhibit C) claims an electro-luminescent night light with a time piece including a power source contained with the assembly. The First Alert[®] Luminess[™] Clock Night Light includes a circuit board within the assembly that constitutes a power source for the time piece.
19. Impact has offered to sell and/or sold, and continue to offer to sell and/or sell a clock night light embodying the invention claimed in at least claims 1-4, 11, 12, 14, 15, and 17 of the '868 patent, and therefore, infringe those claims.

22. As a consequence of the infringement, Aaron Design, Inc. has been damaged to an extent not yet determined and seeks an award of damages adequate to compensate for the infringement, together with interest, costs and attorneys' fees.

Relief Requested

WHEREFORE, Plaintiff Aaron Design, Inc. requests the following:

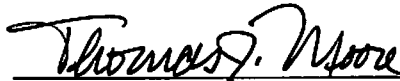
- a. That this Court adjudge the '117 patent is valid and infringed by Impact.
- b. That this Court adjudge the '958 patent is valid and infringed by Impact.
- c. That this Court adjudge the '868 patent is valid and infringed by Impact.
- d. That a permanent injunction be issued enjoining Impact, and those in privy with Impact from further infringement of the '117, '958, and '868 patents, as provided by Title 35 United State Code §283.
- e. That an accounting be had for the damages arising out of said infringement by Target and Impact and those in privy with Impact.
- f. That Aaron Design, Inc. be awarded damages adequate to compensate for the infringing activities of Impact and those in privy with Impact, together with prejudgment and post-judgment interest thereon and costs as fixed by the Court, as provided by Title 35 United States Code § 284.
- g. That the infringement by Impact of one or more claims of the '117, 958, and '868 patents be declared willful and deliberate, and that the Court increase the damages by three times the amount found or assessed, as provided by Title 35 United States Code § 284.
- h. That the Court declare this an exceptional case and that Aaron Design, Inc. be granted its

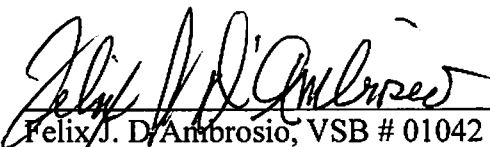
reasonable attorneys' fees in accordance with Title 35 United States Code § 285.

- i. That this Court grant Aaron Design, Inc. such other and further relief as it may deem just and proper.

Dated this 31st day of December, 2008.

Respectfully submitted,

By 
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