

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

RECEIPT # 666186  
AMOUNT \$ 250.00  
STAMP LONG IS. yr  
LOCAL ISSUED yr  
WARRANTY CO. yr  
MOST ISSUED yr  
AO 129 OR 121 yr  
BY DEPT CLK yr  
DATE 8-11-05

FURUKAWA ELECTRIC NORTH AMERICA,  
INC.; and OFS FITEL LLC,

Plaintiffs,

vs.

ANTARES DEVELOPMENT INTERNATIONAL  
LLC,

Defendant.

Civil Action No.

**JURY TRIAL DEMANDED**

*Referred to MJ RB Collins*

**COMPLAINT**

**NATURE OF THE ACTION**

1. Plaintiffs Furukawa Electric North America, Inc. ("FENA") and OFS Fitel LLC ("OFS") (collectively "Plaintiffs"), for their complaint for patent infringement against Defendant Antares Development International, LLC ("Antares"), hereby allege as follows. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35, United States Code.

**PARTIES**

2. Plaintiff FENA is a Delaware corporation with its principal place of business in Norcross, Georgia.

3. Plaintiff OFS is a Delaware limited liability company with its principal place of business in Norcross, Georgia. OFS is a wholly-owned subsidiary of FENA.

4. On information and belief, Defendant Antares is a limited liability corporation organized under the laws of Massachusetts with a principal place of business in Sturbridge, Massachusetts. *See* Declaration of Crawford Cutts (“Cutts Decl.”), ¶ 2-3 (attached hereto as *Exhibit A*).

### **JURISDICTION AND VENUE**

5. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35, United States Code. The Court has jurisdiction under 28 U.S.C. §§ 1331, 1338 and 35 U.S.C. § 271.

6. This Court has personal jurisdiction over Antares by virtue of its activities within this district constituting infringement of the patents identified herein.

7. Venue is proper in this district under 28 U.S.C. §§ 1391 (b), (c) and 1400 (b).

### **FACTUAL BACKGROUND**

#### **Jurisdictional Facts**

8. Plaintiffs are in the business of, among other things, developing, manufacturing and selling optical fiber products.

9. Antares is in the business of selling and/or offering for sale optical fiber products manufactured by Yangtze Optical Fiber and Cable Company Ltd. (“YOFC”). *See* Cutts Decl., ¶ 7.

10. On information and belief, YOFC exports its products from China into the United States. A copy of a January 24, 2005 press release describing YOFC’s activities is attached as Exhibit B.

11. On information and belief, In January of 2005, YOFC appointed Antares as its exclusive agent, responsible for sales, marketing and technical operations in North America.

Since that time, Antares has in fact been attempting to sell YOFC's products within the United States. *See* Cutts Decl., ¶ 7.

12. On information and belief, Antares and YOFC, have offered to sell certain of YOFC's infringing products to one or more customers in Massachusetts.

13. On information and belief, in the first half of 2005, Antares and YOFC offered YOFC's infringing fiber optic products for sale at one or more conferences or trade shows, including but not limited to, the BICSI 2005 Spring Conference in Las Vegas, Nevada, and the January, 2005 BICSI conference in Orlando, Florida.

### **The Patents**

14. On April 11, 1989, U.S. Patent No. 4,820,322 ("322 patent") was duly issued for an invention entitled "Method of and Apparatus for Overcladding a Glass Rod." A copy of the '322 patent is attached as Exhibit C and is made a part of this Complaint. FENA is the owner by assignment of all right, title and interest in the '322 patent, with full and exclusive rights to bring suit to enforce the '322 patent. OFS is the exclusive licensee under the '322 patent.

15. On May 20, 1990, U.S. Patent No. 4,909,816 ("816 patent") was duly issued for an invention entitled "Optical Fiber Fabrication and Resulting Product." A copy of the '816 patent is attached as Exhibit D and is made a part of this Complaint. FENA is the owner by assignment of all right, title and interest in the '816 patent, with full and exclusive rights to bring suit to enforce the '816 patent. OFS is the exclusive licensee under the '816 patent.

16. On March 29, 1996, U.S. Patent No. 5,298,047 ("047 patent") was duly issued for an invention entitled "Method of Making a Fiber Having Low Polarization Mode Dispersion Due to a Permanent Spin." A copy of the '047 patent is attached as Exhibit E and is made a part of this Complaint. FENA is the owner by assignment of all right, title and interest in the

'047 patent, with full and exclusive rights to bring suit to enforce the '047 patent. OFS is the exclusive licensee under the '047 patent.

17. On May 23, 1995, U.S. Patent No. 5,418,881 ("881 patent") was duly issued for an invention entitled "Article Comprising Optical Fiber Having Low Polarization Mode Dispersion, Due to Permanent Spin." A copy of the '881 patent is attached as Exhibit F and is made a part of this Complaint. FENA is the owner by assignment of all right, title and interest in the '881 patent, with full and exclusive rights to bring suit to enforce the '881 patent. OFS is the exclusive licensee under the '881 patent.

### **CLAIMS FOR RELIEF**

#### **COUNT ONE**

#### **(Infringement of the '322 Patent)**

18. Plaintiffs incorporate by reference and reallege the averments of paragraphs 1 through 17, as if fully set forth herein.

19. Antares has been and still is infringing the '322 patent by offering to sell, importing and/or selling within the District of Massachusetts, and elsewhere in the United States, the invention of at least one claim of the '322 patent and has, therefore, infringed and is infringing the '322 patent, either directly or under the doctrine of equivalents, and Antares will continue to do so unless enjoined by the Court.

20. On information and belief, Antares actively has induced and continues to induce others to infringe the '322 patent by actively promoting use of YOFC's infringing products.

21. Upon information and belief, Antares' infringement of the '322 patent has been and continues to be willful and deliberate and with full knowledge of Plaintiffs' patent rights. Antares' willful conduct makes this an exceptional case as provided in 35 U.S.C. § 285.

22. Antares' willful conduct provides a basis for this Court to award enhanced damages, including up to treble damages as provided by 35 U.S.C. § 284.

23. Antares' infringement of the '322 patent has caused and will continue to cause damage and irreparable injury to Plaintiffs, for which there is no adequate remedy at law. Unless enjoined by this Court, Antares will continue its acts of infringement to Plaintiffs' substantial and irreparable damage.

COUNT TWO  
(Infringement of the '816 Patent)

24. Plaintiffs incorporate by reference and reallege the averments of paragraphs 1 through 23, as if fully set forth herein.

25. Antares has been and still is infringing the '816 patent by offering to sell, importing and/or selling within the District of Massachusetts, and elsewhere in the United States, the invention of at least one claim of the '816 patent and has, therefore, infringed and is infringing the '816 patent, either directly or under the doctrine of equivalents, and Antares will continue to do so unless enjoined by the Court.

26. On information and belief, Antares actively has induced and continues to induce others to infringe the '816 patent by actively promoting use of YOFC's infringing products.

27. Upon information and belief, Antares' infringement of the '816 patent has been and continues to be willful and deliberate and with full knowledge of Plaintiffs' patent rights. Antares' willful conduct makes this an exceptional case as provided in 35 U.S.C. § 285.

28. Antares' willful conduct provides a basis for this Court to award enhanced damages, including up to treble damages as provided by 35 U.S.C. § 284.

29. Antares' infringement of the '816 patent has caused and will continue to cause damage and irreparable injury to Plaintiffs, for which there is no adequate remedy at law. Unless

enjoined by this Court, Antares will continue its acts of infringement to Plaintiffs' substantial and irreparable damage.

COUNT THREE  
(Infringement of the '047 Patent)

30. Plaintiffs incorporate by reference and reallege the averments of paragraphs 1 through 29, as if fully set forth herein.

31. Antares has been and still is infringing the '047 patent by offering to sell, importing and/or selling within the District of Massachusetts, and elsewhere in the United States, the invention of at least one claim of the '047 patent and has, therefore, infringed and is infringing the '047 patent, either directly or under the doctrine of equivalents, and Antares will continue to do so unless enjoined by the Court.

32. On information and belief, Antares actively has induced and continues to induce others to infringe the '047 patent by actively promoting use of YOFC's infringing products.

33. Upon information and belief, Antares' infringement of the '047 patent has been and continues to be willful and deliberate and with full knowledge of Plaintiffs' patent rights. Antares' willful conduct makes this an exceptional case as provided in 35 U.S.C. § 285.

34. Antares' willful conduct provides a basis for this Court to award enhanced damages, including up to treble damages as provided by 35 U.S.C. § 284.

35. Antares' infringement of the '047 patent has caused and will continue to cause damage and irreparable injury to Plaintiffs, for which there is no adequate remedy at law. Unless enjoined by this Court, Antares will continue its acts of infringement to Plaintiffs' substantial and irreparable damage.

**COUNT FOUR**  
(Infringement of the '881 Patent)

36. Plaintiffs incorporate by reference and reallege the averments of paragraphs 1 through 35, as if fully set forth herein.

37. Antares has been and still is infringing the '881 patent by offering to sell, importing and/or selling within the District of Massachusetts, and elsewhere in the United States, the invention of at least one claim of the '881 patent and has, therefore, infringed and is infringing the '881 patent, either directly or under the doctrine of equivalents, and Antares will continue to do so unless enjoined by the Court.

38. On information and belief, Antares actively has induced and continues to induce others to infringe the '881 patent by actively promoting use of YOFC's infringing products.

39. Upon information and belief, Antares' infringement of the '881 patent has been and continues to be willful and deliberate and with full knowledge of Plaintiffs' patent rights. Antares' willful conduct makes this an exceptional case as provided in 35 U.S.C. § 285.

40. Antares' willful conduct provides a basis for this Court to award enhanced damages, including up to treble damages as provided by 35 U.S.C. § 284.

41. Antares' infringement of the '881 patent has caused and will continue to cause damage and irreparable injury to Plaintiffs, for which there is no adequate remedy at law. Unless enjoined by this Court, Antares will continue its acts of infringement to Plaintiffs' substantial and irreparable damage.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for judgment and relief against Antares as follows:

A. For an Order adjudging Antares to have infringed one or more claims of the '322, '816, '047, and '881 patents under 35 U.S.C. § 271;

B. For an Order enjoining any further infringement by Antares, its officers, agents, servants, employees, attorneys and all those persons in active concern or participation with them;

C. For an Order that Antares account for the infringement, and pay monetary damages to Plaintiffs sufficient to compensate for the infringement;

D. For an Order enhancing damages up to treble damages under 35 U.S.C. § 284, for the deliberate and willful nature of Antares' infringement;

E. For an Order that Antares pay interest on the damages award in the form of both pre-judgment and post-judgment interest;

F. For an Order declaring that this case is exceptional within the meaning of 35 U.S.C. § 285, and ordering Antares to pay Plaintiffs' costs and expenses and its reasonable attorneys' fees under 35 U.S.C. § 285; and

G. For an Order granting Plaintiffs such other and further relief as the Court deems just and equitable.

**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, the Plaintiffs hereby demand a jury trial on all issues triable of right by a jury.

Dated: August 11, 2005

Respectfully submitted,

By: 

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