

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

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CAGENIX, INC., a Tennessee  
corporation,

Plaintiff,

v.

CASE NO. 2:12-cv-02527

TECHNIQUE D'USINAGE SINLAB INC.,  
a Canadian corporation

Defendant.

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**COMPLAINT FOR DECLARATORY JUDGMENT**

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COMES NOW the plaintiff, Cagenix, Inc. (“Plaintiff” or “Cagenix”) and, for its declaratory judgment complaint against Defendant Technique D’Usinage Sinlab Inc. (“Sinlab”), alleges and states as follows:

**I. THE PARTIES**

1. Plaintiff is a Tennessee corporation with its principal office in Memphis, Tennessee.

2. Sinlab is a foreign corporation organized and existing under the laws of Canada, having its principal place of business at 3517 Boulevard de la Grande-Allée, Boisbriand, Québec J7H 1C2, Canada. Its registered office address is 52 rue des Feux-Follets, Morin-Heights, Québec J0R 1H0, Canada.

## **II. JURISDICTION**

3. This is an action by Cagenix against Sinlab for a declaration of noninfringement of several patents. This Court has subject matter jurisdiction over this declaratory judgment action pursuant to 28 U.S.C. § 1331 as Plaintiff's claims arise under the Federal Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and under the patent laws of the United States, 28 U.S.C. § 1338(a).

4. Venue is proper in this judicial district under 28 U.S.C. § 1391.

5. Upon information and belief, Sinlab is subject to the personal jurisdiction of this Court due to its patent enforcement activities within the forum including, without limitation, entering into an exclusive licensing agreement with a company that conducts business in Tennessee.

6. In the alternative, and upon information and belief, this Court has personal jurisdiction over Sinlab pursuant to Federal Rule of Civil Procedure 4(k)(2). Plaintiff's cause of action for a declaration of patent noninfringement arises under federal law; on information and belief, Sinlab is not subject to the jurisdiction of the courts of general jurisdiction of any state; and, upon information and belief, this Court's exercise of personal jurisdiction over Sinlab satisfies the constitutional requirements of due process because Sinlab has availed itself of the laws of the United States and has, in the aggregate, sufficient minimum contacts with the United States as a whole.

### **COUNT I – DECLARATORY JUDGMENT**

7. Plaintiff incorporates and re-alleges all prior paragraphs of this Complaint as if fully set forth herein.

8. Sinlab is the assignee of United States Patent Nos. 8,021,153; 7,866,980; 7,331,786; 6,814,575; and 6,382,975; hereinafter referred to collectively as "the Patents."

9. Sinlab has charged Cagenix with infringement of the Patents and threatened legal action against Cagenix. Specifically, Sinlab sent Cagenix a cease-and-desist letter dated June 14, 2012 in which it stated that Cagenix “is infringing upon the Patents in direct violation of 35 U.S.C. § 271” and declared that, if Cagenix refused to comply with its demands by July 2, 2012, “immediately [sic] legal action will be taken by [Sinlab] to protect the Patents,” including the filing of a lawsuit on July 3, 2012. A copy of that letter is attached hereto as Exhibit A.

10. Cagenix is presently producing and offering for sale the products that Sinlab alleged are infringing on the Patents.

11. On information and belief, Sinlab sent similar cease-and-desist letters in or around June 2012 to several other U.S. companies alleging infringement of the Patents.

12. In view of Sinlab’s accusations of infringement of the Patents and its threats of legal action, Cagenix has a reasonable fear and apprehension that patent infringement litigation will be brought against it.

13. Despite Sinlab’s threats to the contrary, Cagenix’s products do not infringe any of the claims of the Patents.

14. By reason of the foregoing, an actual controversy between Plaintiff and Defendant exists as to the alleged infringement of the Patents.

15. To resolve the legal and factual questions raised by Sinlab’s assertions of infringement by Cagenix and to afford relief from the uncertainty and controversy which Sinlab’s assertions have precipitated, Cagenix is entitled to a declaratory judgment of its rights under 28 U.S.C. §§ 2201-02 that the sale by Cagenix of its products is not infringing on the Patents owned by Sinlab.

WHEREFORE, Plaintiff prays for the following relief:

- a. That the Court enter judgment declaring that Plaintiff's products have not and do not infringe any valid and enforceable claim of the United States Patent Nos. 8,021,153; 7,866,980; 7,331,786; 6,814,575; and 6,382,975;
- b. That the Court issue an injunction enjoining and restraining Sinlab and all those in privity with it from suing or threatening suit against Plaintiff for patent infringement;
- c. That the Court enter judgment declaring this case to be exceptional pursuant to 35 U.S.C. § 285; and
- d. That the Court award to Plaintiff counsel fees, costs, and all other relief that the Court deems appropriate.

Respectfully submitted,

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