

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

CLERISY CORP. and REED TRANSITION
TECHNOLOGIES, LLC,

Plaintiffs,

v.

AIRWARE HOLDINGS, INC. (d/b/a AIRWARE
LABS) and CROWN DYNAMICS CORP.,

Defendants.

Civil Action No. 6:12-cv-06396

JURY TRIAL DEMANDED

COMPLAINT AND JURY DEMAND

Plaintiffs Clerisy Corp. and Reed Transition Technologies, LLC (collectively, “Plaintiffs”) bring this action against Defendants AirWare Holdings, Inc. (d/b/a AirWare Labs) and Crown Dynamics Corp. (collectively, “Defendants”) and allege as follows:

NATURE OF ACTION

1. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code.

PARTIES

2. Plaintiff Clerisy Corp. (“Clerisy”) is a corporation organized and existing under the laws of the State of New York and has a place of principal business at 3543 Winton Place, Rochester, New York 14623. Clerisy manufactures, markets, and distributes Aromahaler® Nasal SoftStrips™ products, which deliver therapeutic blends of essential oils and provide innovative, safe, and effective solutions for managing and improving consumers’ health and wellness. Aromahaler® Nasal SoftStrips™ are doctor-developed, internationally patented, and FDA market approved for over-the-counter uses.

3. Plaintiff Reed Transition Technologies, LLC (“Reed Transition Technologies”) is a limited liability company organized and existing under the laws of the State of Nevada and has a business address at 80 Elberta Drive, Sedona, Arizona 86336.

4. On information and belief, Defendant AirWare Holdings, Inc. (d/b/a AirWare Labs) is a wholly-owned subsidiary of Crown Dynamics Corp. and is a corporation organized and existing under the laws of the State of Nevada and has a business address at 8399 East Indian School Road, Suite 202, Scottsdale, Arizona 85251.

5. On information and belief, Defendant Crown Dynamics Corp. is a corporation organized and existing under the laws of the State of Delaware and has a business address at 8399 East Indian School Road, Suite 202, Scottsdale, Arizona 85251.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction in this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. On information and belief, Defendants ship and sell products and advertise their products nationwide, including in the State of New York and this judicial district.

8. On information and belief, Defendants’ products have been offered for sale and continue to be offered for sale in the State of New York and this judicial district, for example, through at least one or more interactive Internet websites and through retail Internet websites such as www.amazon.com, www.drugstore.com, www.walgreens.com, and www.target.com.

9. Defendants are subject to personal jurisdiction in this judicial district because, among other reasons, on information and belief, Defendants do business and direct business activities toward consumers within the State of New York and this judicial district.

10. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391.

CLAIM FOR PATENT INFRINGEMENT

Infringement of U.S. Patent No. 6,295,982

11. Plaintiffs hereby incorporate the allegations of Paragraphs 1 through 10 as if fully set forth herein.

12. U.S. Patent No. 6,295,982 (“the ’982 Patent”), entitled “Apparatus for and Methods of Administering Volatile Substances into an Inhalation Flow Path,” was duly issued by the United States Patent and Trademark Office on October 2, 2001, a copy of which is attached as Exhibit A.

13. The ’982 Patent is valid and enforceable.

14. Reed Transition Technologies is the owner by assignment of the ’982 Patent. Clerisy is the sole licensee of the ’982 Patent and has the right to prosecute any and all claims against third-party infringers or infringements of the ’982 Patent.

15. Clerisy marks its Aromahaler® Nasal SoftStrips™ products in accordance with 35 U.S.C. § 287.

16. On information and belief, Defendants market, sell, and distribute “AIR” branded nasal products nationwide, including AIR TRAVEL, AIR DECONGEST, AIR SLEEP/SNORE, AIR HEADACHE, AIR NAUSEA, and AIR SPORT branded products, which are promoted by Defendants as being infused with aromatherapeutic essential oils.

17. Plaintiffs are informed and believe, and thereon allege, that Defendants have infringed, are currently infringing, and will continue to infringe the ’982 Patent, literally or under the doctrine of equivalents, in violation of 35 U.S.C. § 271, by making, using, selling, offering to sell, and/or importing into the United States, nasal products with essential oils which infringe one or more claims of the ’982 Patent. Such products include, by way of example and without

limitation, AIR TRAVEL, AIR DECONGEST, AIR SLEEP/SNORE, AIR HEADACHE, AIR NAUSEA, and AIR SPORT nasal products.

18. Plaintiffs are informed and believe, and thereon allege, that Defendants have induced, and continue to induce, others to infringe the '982 Patent, literally or under the doctrine of equivalents, in violation of 35 U.S.C. § 271, by selling, offering to sell, encouraging, and intending for consumers within the United States to use their nasal products with essential oils in a manner that infringes on the patented process claimed in the '982 Patent by, among other things, contracting for the distribution of the infringing nasal products for sale by retail sales channels nationwide, and marketing the infringing nasal products as being infused with essential oils to provide aromatherapy. Such products include, by way of example and without limitation, AIR TRAVEL, AIR DECONGEST, AIR SLEEP/SNORE, AIR HEADACHE, AIR NAUSEA, and AIR SPORT nasal products.

19. Plaintiffs are informed and believe, and thereon allege, that Defendants have contributorily infringed the '982 Patent, literally or under the doctrine of equivalents, in violation of 35 U.S.C. § 271, by selling, offering to sell, and causing others within the United States to use their nasal products with essential oils in practicing the patented process claimed in the '982 Patent, such products are material to practicing the invention, have no substantial non-infringing uses, and are believed to be known by Defendants to be especially made or adapted for use in infringement of said patent. Such products include, by way of example and without limitation, AIR TRAVEL, AIR DECONGEST, AIR SLEEP/SNORE, AIR HEADACHE, AIR NAUSEA, and AIR SPORT nasal products.

20. Plaintiffs will have put Defendants on notice of the '982 Patent and Defendants' infringement thereof no later than upon service of this Complaint. Moreover, on information and

belief, Defendants had actual knowledge of the '982 Patent, which was marked on Aromahaler® Nasal SoftStrips™ products, or were willfully blind as to the existence of said patent.

21. Defendants' infringement of the '982 Patent has caused damage to Plaintiffs, and Plaintiffs are entitled to recover all damages sustained as a result of Defendants' wrongful acts in an amount yet to be determined and subject to proof at trial.

22. Plaintiffs have been, and are being, irreparably harmed and have incurred, and will continue to incur, damages as a result of Defendants' infringement of the '982 Patent. On information and belief, the infringement of the '982 Patent by Defendants will continue unless enjoined by this Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that the Court:

A. Enter judgment that Defendants have infringed, induced the infringement of, and/or contributed to the infringement of, one or more claims of the '982 Patent;

B. Pursuant to 35 U.S.C. § 283, preliminarily and permanently enjoin Defendants, their subsidiaries, affiliates, owners, officers, agents, servants, employees, directors, partners, representatives and any and all parties in active concert and/or participation with Defendants from directly or indirectly making, having made, selling, offering for sale, using, or importing into the United States all nasal products which infringe one or more claims of the '982 Patent;

C. Pursuant to 35 U.S.C. § 284, award Plaintiffs compensatory damages and order Defendants to account for and pay to Plaintiffs any and all damages caused to Plaintiffs by Defendants' infringement of the '982 Patent;

D. Order Defendants to file and serve a report in writing, and under oath, setting forth the manner and form in which they have complied with the Court's order and injunction;

- E. Order Defendants to pay Plaintiffs' attorneys' fees pursuant to 35 U.S.C. § 285 or other applicable law;
- F. Award Plaintiffs their costs, pre-judgment interest and post-judgment interest; and
- G. Award Plaintiffs such other relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs hereby request a trial by jury on all issues so triable.

Dated: July 26, 2012

Respectfully submitted,

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