

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

Orbital Technologies Corporation,

Civil File No. _____

Plaintiff,

v.

**COMPLAINT FOR PATENT
INFRINGEMENT**

PFO Lighting, Inc.

Defendant.

Jury Trial Demanded

Plaintiff Orbital Technologies Corporation (“Orbitec”), for its Complaint against PFO Lighting, Inc. (“PFO”), states and alleges as follows:

PARTIES

1. Orbitec is a Wisconsin corporation that has a principal place of business at 1212 Fourier Drive, Madison, WI 53717. Orbitec is a recognized leader in designing LED lighting for use in biological research and promoting plant growth.

2. Upon information and belief, PFO is a Washington corporation with its principal place of business at 9808 NE 126th Ave. Bldg D, Vancouver, WA 98682.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 1 et seq. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

4. This Court has personal jurisdiction over PFO because PFO conducts substantial business in Wisconsin and is committing infringing acts in Wisconsin.

5. Venue in this District is proper under 28 U.S.C. §§ 1391 and 1400(b) because PFO is a corporation that resides within the District. Via its website, PFO sells and offers to sell the infringing products directly to customers in this District. In addition, PFO sells the infringing products through some 250 distributors, including at least two that are based in this District: one in Madison and one in Rhinelander.

PATENT INFRINGEMENT

6. On May 22, 2007, United States Patent No. 7,220,018 (“the ‘018 patent”) issued. The patent is entitled “Marine LED Lighting System and Method.” The named inventors are Thomas M. Crabb, of Middleton, WI; Robert C. Morrow, of Madison, WI; Jeffrey C. Emmerich, of Madison, WI; and Marty Gustafson, of Cross Plains, WI. They conceived the invention as a way to use Orbitec’s expertise in designing LED lighting specifically to promote life in marine habitats.

7. Orbitec is the current assignee of the ‘018 patent. A copy of the ‘018 patent is attached to this Complaint as Exhibit A.

8. The ‘018 patent is directed to a method and apparatus for using an LED lighting system to promote growth in a marine habitat.

9. On information and belief, since 2006, PFO has been making, using, selling, and offering to sell its Solaris LED Illumination System (“the Solaris”) in the United States and elsewhere.

10. The Solaris is an LED lighting system designed for use with marine habitats. Through at least advertising and instructions for use, PFO actively induces its customers to combine the Solaris with marine habitats such as aquariums.

11. On information and belief, since 2007, PFO also has been making, using, selling, and offering to sell its Galileo LED Illumination System (“the Galileo”) in the United States and elsewhere.

12. The Galileo is an LED lighting system designed for use with marine habitats. Through at least advertising, PFO actively induces its customers to combine the Galileo with marine habitats such as aquariums.

COUNT I
(Direct Patent Infringement – Solaris)

13. Plaintiff realleges Paragraphs 1 through 12.

14. PFO has infringed, and unless enjoined will continue to infringe, the ‘018 patent under 35 U.S.C. 271(a), (f)(1), and (f)(2) by making, using, selling, or offering to sell the Solaris LED Illumination System. These acts of infringement have occurred with knowledge of the ‘018 patent and have been reckless and willful, making this case exceptional under 35 U.S.C. § 284.

15. As a result of PFO’s acts of infringement, Orbitec is entitled to compensatory damages and preliminary and permanent injunctions against further direct infringement.

COUNT II
(Contributory Patent Infringement – Solaris)

16. Plaintiff realleges Paragraphs 1 through 15.

17. PFO contributes to infringement of the ‘018 patent in violation of 35 U.S.C. § 271(c) by selling and offering to sell the Solaris. The Solaris is a non-staple component of an infringing apparatus that has no substantial noninfringing use. These acts of

infringement have occurred with knowledge of the '018 patent and have been reckless and willful, making this case exceptional under 35 U.S.C. § 284.

18. As a result of PFO's acts of infringement, Orbitec is entitled to compensatory damages and preliminary and permanent injunctions against further contributory infringement.

COUNT III
(Inducing Patent Infringement – Solaris)

19. Plaintiff realleges Paragraphs 1 through 18.

20. PFO actively induces infringement of the '018 patent under 35 U.S.C. 271(b) by encouraging its customers to use the Solaris in an infringing manner. These acts of infringement have occurred with knowledge of the '018 patent and have been reckless and willful, making this case exceptional under 35 U.S.C. § 284.

21. As a result of PFO's acts of inducement, Orbitec is entitled to compensatory damages and preliminary and permanent injunctions against further activity that induces infringement.

COUNT IV
(Direct Patent Infringement – Galileo)

22. Plaintiff realleges Paragraphs 1 through 21.

23. PFO has infringed, and unless enjoined will continue to infringe, the '018 patent under 35 U.S.C. 271(a), (f)(1), and (f)(2) by making, using, selling, or offering to sell the Galileo LED Illumination System. These acts of infringement have occurred with knowledge of the '018 patent and have been reckless and willful, making this case exceptional under 35 U.S.C. § 284.

24. As a result of PFO's acts of infringement, Orbitec is entitled to compensatory damages and preliminary and permanent injunctions against further direct infringement.

COUNT V
(Contributory Patent Infringement – Galileo)

25. Plaintiff realleges Paragraphs 1 through 24.

26. PFO contributes to infringement of the '018 patent in violation of 35 U.S.C. § 271(c) by selling and offering to sell the Galileo. The Galileo is a non-staple component of an infringing apparatus that has no substantial noninfringing use. These acts of infringement have occurred with knowledge of the '018 patent and have been reckless and willful, making this case exceptional under 35 U.S.C. § 284.

27. As a result of PFO's acts of infringement, Orbitec is entitled to compensatory damages and preliminary and permanent injunctions against further contributory infringement.

COUNT VI
(Inducing Patent Infringement – Galileo)

28. Plaintiff realleges Paragraphs 1 through 27.

29. PFO actively induces infringement of the '018 patent under 35 U.S.C. 271(b) by encouraging its customers to use the Galileo in an infringing manner. These acts of infringement have occurred with knowledge of the '018 patent and have been reckless and willful, making this case exceptional under 35 U.S.C. § 284.

30. As a result of PFO's acts of inducement, Orbitec is entitled to compensatory damages and preliminary and permanent injunctions against further activity that induces infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for a preliminary injunction that enjoins PFO from any further infringement of the '018 patent. In addition, Plaintiff prays for a judgment:

A. That PFO has committed both direct and contributory infringement and has actively induced infringement of Orbitec's '018 patent;

B. That includes a permanent injunction enjoining PFO from directly infringing, from contributing to the infringement, and from actively inducing infringement of the '018 patent;

C. That awards Orbitec compensatory damages, not less than a reasonable royalty, resulting from PFO's infringement of the '018 patent;

D. That awards Orbitec treble damages based on PFO's reckless and willful infringement of the '018 patent;

E. That awards Orbitec any other relief the Court determines to be reasonable and just under the circumstances.

JURY DEMAND

Pursuant to Rule 38(b), Plaintiff requests a trial by jury.

Dated: April 17, 2008

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