

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

LDARTOOLS, INC.

Plaintiff,

vs.

INSPECTIONLOGIC CORPORATION,

Defendant.

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Case No. _____

JURY TRIAL DEMANDED

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff LDARtools, Inc. (“LDARtools” or “Plaintiff”) brings this action against Defendant Inspectionlogic Corporation (“ILC” or “Defendant”) and alleges:

THE PARTIES

1. Plaintiff LDARtools is a corporation organized and existing under the laws of the State of Texas with a principle place of business at 1102 Dickinson Avenue, Dickinson, Texas 77539.

2. Defendant ILC is corporation organized and existing under the laws of the State of Delaware. Defendant’s principle place of business is at 11601 Interchange Drive, Louisville, Kentucky 40229. On information and belief, Defendant’s registered agent in Kentucky is CT Corporation System, 306 W. Main Street, Ste. 512, Frankfort, KY 40601. On information and belief, Defendant ILC has engaged in business in the state of Texas but has not designated or maintained a resident agent in Texas for service of process. Accordingly, substitute service may be made on CT Corporation and/or Defendant ILC via the Texas Secretary of State in accordance with Tex. Civ. Prac & Rem. Code §§ 17.026 and 17.044.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the provisions of the patent laws of the United States of America, 35 U.S.C. § 100 *et seq.*, including § 271.

4. Subject-matter jurisdiction over LDARtool's claims is conferred upon this Court by 28 U.S.C. §§ 1331 and 1338(a).

5. On information and belief, ILC maintains offices in the State of Kentucky and has customers located in the State of Texas and this Judicial District, and sells products in the State of Texas and in this Judicial District including the products specifically identified below.

6. Defendant is subject to personal jurisdiction in the State of Texas and this Judicial District and is doing business in this Judicial District, including the actions described below. Defendant has minimum contacts with the State of Texas, has purposefully availed itself of the privileges of conducting business in the State of Texas and this Judicial District, and regularly conducts business within the State of Texas and this Judicial District. Plaintiff's causes of action arise directly from Defendant's sales, marketing, business contacts and other activities in the State of Texas and in this Judicial District. For example, Defendant advertises that it serves locations in Texas. It has referred to having one of its biggest clients in Texas. On information and belief, Defendant sells its software Products (discussed below) to companies such as TEAM Industrial Services in Alvin, Texas and Bayport Technical in La Porte, Texas. Defendant has participated in symposia in Texas related to its software Products (discussed below). Additionally, a team from the City of Houston and the EPA used Defendant's software Products for testing at Shell's Deer Park location.

7. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400(b). Certain acts of infringement and inducement described below have taken place in this Judicial District.

INFRINGEMENT OF THE '384 PATENT

8. LDARtools realleges and incorporates by reference the allegations in paragraphs 1-7.

9. On February 2, 2010, U.S. Patent No. 7,657,384 (“the ‘384 patent”) entitled “Management of Response to Triggering Events in Connection with Monitoring Fugitive Emissions”, a copy of which is attached hereto as **Exhibit 1**, was duly and legally issued. LDARtools is the owner by assignment of all right, title, and interest in and to the ‘384 patent, including the right to sue for and recover all past, present, and future damages for infringement of the ‘384 patent.

10. Defendant ILC has had knowledge of the ‘384 patent.

11. Defendant ILC has been performing actions that constitute direct and/or indirect infringement of the ‘384 patent. For example, on information and belief, Defendant has been knowingly inducing its customers to engage in direct infringement by encouraging use of Defendant’s products, including, for example, its “LeakDAS Mobile Edition” (LME), and possibly also its “LeakDAS version 4” and its LeakDAS Tablet Systems (collectively, “Products”). Defendant’s acts of inducement have included selling and/or providing such Products to its customers; advertising such Products on its website and through YouTube videos; and providing instructions to its customers regarding use of such Products, e.g., in a document published by ILC entitled “LeakDAS Version 4 – The Complete Guide” (the “LeakDAS Complete Guide”) Defendant is therefore liable for inducement under 35 U.S.C. § 271(b).

12. On information and belief, ILC's inducement of infringement of the '384 patent has therefore been with notice and knowledge of the patent and, further, has been willful and deliberate.

13. Defendant's acts of indirect infringement have caused damage to LDARtools, and LDARtools is entitled to recover from Defendant the damages it has sustained as a result of Defendant's wrongful acts in an amount subject to proof at trial.

14. As a consequence of the infringement complained of herein, Plaintiff has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged by such acts in the future unless Defendant is enjoined by this Court from committing further acts of infringement. Plaintiff is therefore entitled to a preliminary and permanent injunction.

INFRINGEMENT OF THE '366 PATENT

15. LDARtools realleges and incorporates by reference the allegations in paragraphs 1-14.

16. On November 23, 2010, U.S. Patent No. 7,840,366 ("the '366 patent") entitled "Calibration Management for Volatile Organic Compound Detector," a copy of which is attached hereto as **Exhibit 2**, was duly and legally issued. LDARtools is the owner by assignment of all right, title, and interest in and to the '366 patent, including the right to sue for and recover all past, present, and future damages for infringement of the '366 patent.

17. Defendant ILC has had knowledge of the '366 patent.

18. Defendant ILC has been performing actions that constitute direct and/or indirect infringement of the '366 patent. For example, on information and belief, Defendant has knowingly been inducing its customers to engage in direct infringement by encouraging use of Defendant's products, including, for example, its "LeakDAS Mobile Edition" (LME), and

possibly also its “LeakDAS version 4” and its LeakDAS Tablet Systems (collectively, “Products”). Defendant’s acts of inducement have included selling and/or providing such Products to its customers; advertising such Products on its website and through YouTube videos; and providing instructions to its customers regarding use of such Products and by publishing the LeakDAS Complete Guide. Defendant is therefore liable for inducement under 35 U.S.C. § 271(b).

19. On information and belief, ILC’s inducement of infringement of the ‘366 patent has therefore been with notice and knowledge of the patent and, further, has been willful and deliberate.

20. Defendant’s acts of indirect infringement have caused damage to LDARtools, and LDARtools is entitled to recover from Defendant the damages it sustained as a result of Defendant’s wrongful acts in an amount subject to proof at trial.

21. As a consequence of the infringement complained of herein, Plaintiff has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged by such acts in the future unless Defendant is enjoined by this Court from committing further acts of infringement. Plaintiff is therefore entitled to a preliminary and permanent injunction.

INFRINGEMENT OF THE ‘290 PATENT

22. LDARtools realleges and incorporates by reference the allegations in paragraphs 1-21.

23. On October 11, 2011, U.S. Patent No. 8,034,290 (“the ‘290 patent”) entitled “Reigniting Flame in Volatile Organic Compound Device,” a copy of which is attached hereto as **Exhibit 3**, was duly and legally issued. LDARtools is the owner by assignment of all right, title,

and interest in and to the '290 patent, including the right to sue for and recover all past, present, and future damages for infringement of the '290 patent.

24. Defendant ILC has had knowledge of the '290 patent.

25. Defendant ILC has been performing actions that constitute direct and/or indirect infringement of the '290 patent. For example, on information and belief, Defendant has been knowingly inducing its customers to engage in direct infringement by encouraging use of Defendant's products, including, for example, its "LeakDAS Mobile Edition" (LME), and possibly also its "LeakDAS version 4" and its LeakDAS Tablet Systems (collectively, "Products"). Defendant's acts of inducement have included selling and/or providing such Products to its customers; advertising such Products on its website and through YouTube videos; and providing instructions to its customers regarding use of such Products including the publication of the LeakDAS Complete Guide. Defendant is therefore liable for inducement under 35 U.S.C. § 271(b).

26. On information and belief, ILC's inducement of infringement of the '290 patent has therefore been with notice and knowledge of the patent and, further, has been willful and deliberate.

27. Defendant's acts of indirect infringement have caused damage to LDARtools, and LDARtools is entitled to recover from Defendant the damages it sustained as a result of Defendant's wrongful acts in an amount subject to proof at trial.

28. As a consequence of the infringement complained of herein, Plaintiff has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged by such acts in the future unless Defendant is enjoined by this Court from committing further acts of infringement. Plaintiff is therefore entitled to a preliminary and permanent injunction.

INFRINGEMENT OF THE '164 PATENT

29. LDARtools realleges and incorporates by reference the allegations in paragraphs 1-28.

30. On February 26, 2013, U.S. Patent No. 8,386,164 (“the ‘164 patent”) entitled “Locating LDAR Components Using Position Coordinates,” a copy of which is attached hereto as **Exhibit 4**, was duly and legally issued. LDARtools is the owner by assignment of all right, title, and interest in and to the ‘164 patent, including the right to sue for and recover all past, present, and future damages for infringement of the ‘164 patent.

31. Defendant ILC has had knowledge of the ‘164 patent.

32. Defendant ILC is performing actions that constitute direct and/or indirect infringement of the ‘164 patent. For example, on information and belief, Defendant is knowingly inducing its customers to engage in direct infringement by encouraging use of Defendant’s products, including, for example, its “LeakDAS Mobile Edition” (LME), and possibly also its “LeakDAS version 4” and its LeakDAS Tablet Systems (collectively, “Products”). Defendant’s acts of inducement include selling or providing such Products to its customers; advertising such Products on its website and through YouTube videos; and providing instructions to its customers regarding use of such Products, including the publication of its LeakDAS Complete Guide. Defendant is therefore liable for inducement under 35 U.S.C. § 271(b).

33. On information and belief, ILC’s inducement of infringement of the ‘164 patent has therefore been with notice and knowledge of the patent and, further, is willful and deliberate.

34. Defendant's acts of indirect infringement have caused damage to LDARtools, and LDARtools is entitled to recover from Defendant the damages it sustained as a result of Defendant's wrongful acts in an amount subject to proof at trial.

35. As a consequence of the infringement complained of herein, Plaintiff has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged by such acts in the future unless Defendant is enjoined by this Court from committing further acts of infringement. Plaintiff is therefore entitled to a preliminary and permanent injunction.

DEMAND FOR JURY TRIAL

LDARtools demands trial by jury on all claims and issues so triable.

PRAYER FOR RELIEF

WHEREFORE, LDARtools prays for entry of judgment that:

A. Defendant ILC has infringed U.S. Patent No. 7,657,384; U.S. Patent No. 7,840,366; U.S. Patent No. 8,034,290; and U.S. Patent No. 8,386,164 (collectively "Patents-at-Issue");

B. Defendant's infringement, contributory infringement, and/or inducement of infringement of the Patents-at-Issue has been willful and deliberate;

C. Defendant account for and pay to LDARtools all damages caused by its infringement of the Patents-at-Issue as complained of herein in accordance with 35 U.S.C. § 284;

D. The amount of damages with respect to Defendant's infringement, contributory infringement, and/or inducement of infringement be increased to three times the amount found or assessed by the Court because of the willful and deliberate nature of the infringement, in accordance with 35 U.S.C. § 284;

E. LDARtools be granted preliminary and permanent injunctive relief pursuant to 35 U.S.C. § 283 enjoining Defendant, its officers, agents, servants, employees, and those persons in active concert or participation with Defendant from further acts of patent infringement;

F. In the event an injunction is not included in the final judgment, an order that Defendant shall be required to pay LDARtools a compulsory, ongoing royalty;

G. LDARtools be granted pre-judgment and post-judgment interest on the damages caused to it by reason of Defendant's patent infringement complained of herein;

H. LDARtools be granted its reasonable attorney's fees;

I. Costs be awarded to LDARtools; and

J. LDARtools be granted such other and further relief as the Court may deem just and proper under the circumstances.

Respectfully submitted,

Dated: January 11, 2013

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