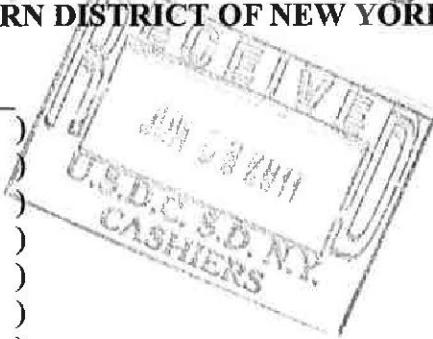


11 CV 3807
UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK



SMARTRAC TECHNOLOGY LTD.
and
SMARTRAC TECHNOLOGY US, INC.,

Plaintiffs,

v.

LEIGHTON TECHNOLOGIES, LLC,

Defendant.

Case No. _____

COMPLAINT FOR DECLARATORY JUDGMENT

SMARTRAC Technology Ltd. and SMARTRAC Technology US, Inc. (collectively, "Smartrac"), for the Complaint for Declaratory Judgment against Leighton Technologies, LLC ("Leighton"), state:

JURISDICTION AND VENUE

1. This action arises under the patent laws of the United States, Title 35, United States Code.
2. Jurisdiction is predicated upon 28 U.S.C. §§ 1331 and 1338(a).
3. Venue over this action is proper pursuant to the provisions of 28 U.S.C. §§ 1391(b), 1391(c) and 1400.
4. Plaintiffs herein seek a declaratory judgment under the provisions of 28 U.S.C. § 2201.

PARTIES

5. SMARTRAC N.V. is a leading supplier of components used in Radio Frequency Identification (RFID) systems. RFID is an automatic identification method that stores and remotely retrieves data. SMARTRAC N.V., in and through its subsidiaries, produces components including standard and customized inlays for contactless transmission of data. SMARTRAC N.V. is a Dutch N.V., publicly traded on the Frankfurt Stock Exchange, with its corporate headquarters located at Strawinskyalaan 851, 1077XX, Amsterdam, The Netherlands.

6. Plaintiff SMARTRAC Technology Ltd. is a wholly-owned subsidiary of SMARTRAC N.V., with corporate headquarters located at 142 Moo 1, Hi-Tech Industrial Estate, Tambon Ban Laean, Amphor Bang-pa-in, Phra Nakorn Sri Ayutthaya 13160, Thailand, which manufactures and sells Smartrac RFID products.

7. Plaintiff SMARTRAC Technology US Inc. is another wholly-owned subsidiary of SMARTRAC N.V., incorporated in Delaware, with an office located at 1546 Lake Drive West, Chanhassen, Minnesota, 55317, which manufactures and sells Smartrac RFID products.

8. On information and belief, Defendant Leighton is a corporation organized and existing under the laws of the State of New York with its principal place of business at 75 Montbello Road, Suffern, New York 10901.

PATENTS-IN-SUIT

9. Keith R. Leighton claims to be the inventor of several United States patents, including U.S. Patent Nos. 6,214,155 (the “155 Patent”); 6,514,367 (the “367 Patent”); 5,817,207 (the “207 Patent”); 6,036,099 (the “099 Patent”); 6,441,736, reissued as RE40,145 (the “736 Patent”); and 6,557,766 (the “766 Patent”) (collectively, the “Leighton Patents”).

The Leighton Patents relate generally to the process of the manufacture of certain plastic cards containing embedded microchips.

RELATED LITIGATION

10. Judge Colleen McMahon in this District previously presided over a related case brought by Leighton involving four of the six Leighton Patents at issue in this case. In the prior case, Judge McMahon issued several important decisions concerning the technology at issue, including a detailed *Markman* ruling, before the parties settled. That case was captioned *Leighton Technologies LLC v. Oberthur Card Systems, S.A.*, C.A. No. 04-Civ-2496 (CM) (S.D.N.Y).

11. In January 2010, Leighton filed suit against the United States of America in the United States Court of Federal Claims, Case No. 10-3C. In Leighton's complaint against the United States, Leighton asserted that any product complying with International Standards Organization (ISO) standard no. 14443 infringes one or more claims of Leighton Patents.

12. Smartrac sells products to customers in the United States that comply with ISO 14443.

13. In the past, Leighton has accused several Smartrac customers of infringing the Leighton Patents based, at least in part, on products supplied to those customers by Smartrac, including several entities which are now licensed, including Oberthur Card Systems, S.A., HID Global Corporation, AllSafe Technologies, Inc., CPI Card Group-Colorado, and Gemalto, Inc.

14. Most recently, Leighton has lodged accusations of infringement based, at least in part, on Smartrac products supplied to its customers in two co-pending cases.

15. First, in its Court of Federal Claims case mentioned above, Leighton amended its complaint on December 17, 2010, to allege infringement of the '207 and '155 Leighton Patents by U.S. ePassports.

16. The ePassports are, on information and belief, supplied to the U.S. Government by Infineon-Technologies North America, and the inlays for those ePassports are supplied to Infineon's parent company Infineon Technologies AG by Plaintiff SMARTRAC Technology US, Inc.

17. Second, on January 27, 2011, Leighton filed another case asserting infringement of five of the six Leighton Patents by one of Smartrac's customers, Giesecke & Devrient America, Inc., in the Eastern District of Virginia, bearing Docket No. 2:11-cv-052-RBS-DEM.

18. On information and belief, the majority of the accused products in the case against Giesecke & Devrient America, Inc. include inlays supplied by SMARTRAC Technology Ltd.

19. Smartrac supplies products to other customers which are neither licensed, nor at issue in the pending suits against the United States and Giesecke & Devrient America, Inc., which are compliant with ISO 14443, and which are supplied to customers in the United States.

20. Based on the foregoing facts, a justiciable controversy has arisen and exists between Smartrac and Leighton concerning the infringement and invalidity of the Leighton Patents.

COUNT I

DECLARATORY JUDGMENT OF NONINFRINGEMENT OF THE '155 PATENT

21. Plaintiffs incorporate by reference herein all allegations set forth in ¶¶ 1 -20 of this Complaint.

22. Smartrac's products do not infringe upon any valid claim of the '155 patent.

COUNT II

DECLARATORY JUDGMENT OF INVALIDITY OF THE '155 PATENT

23. Plaintiffs incorporate by reference herein all allegations set forth in ¶¶ 1 - 22 of this Complaint.

24. On information and belief, the '155 patent is invalid under one or more provisions of Title 35 of the U.S. Code, §§ 101-116.

COUNT III

**DECLARATORY JUDGMENT OF
NONINFRINGEMENT OF THE '367 PATENT**

25. Plaintiffs incorporate by reference herein all allegations set forth in ¶¶ 1 -24 of this Complaint.

26. Smartrac's products do not infringe upon any valid claim of the '367 patent.

COUNT IV

DECLARATORY JUDGMENT OF INVALIDITY OF THE '367 PATENT

27. Plaintiffs incorporate by reference herein all allegations set forth in ¶¶ 1 - 26 of this Complaint.

28. On information and belief, the '367 patent is invalid under one or more provisions of Title 35 of the U.S. Code, §§ 101-116.

COUNT V

**DECLARATORY JUDGMENT OF
NONINFRINGEMENT OF THE '207 PATENT**

29. Plaintiffs incorporate by reference herein all allegations set forth in ¶¶ 1 -28 of this Complaint.

30. Smartrac's products do not infringe upon any valid claim of the '207 patent.

COUNT VI

DECLARATORY JUDGMENT OF INVALIDITY OF THE '207 PATENT

31. Plaintiffs incorporate by reference herein all allegations set forth in ¶¶ 1 - 30 of this Complaint.

32. On information and belief, the '207 patent is invalid under one or more provisions of Title 35 of the U.S. Code, §§ 101-116.

COUNT VII

**DECLARATORY JUDGMENT OF
NONINFRINGEMENT OF THE '099 PATENT**

33. Plaintiffs incorporate by reference herein all allegations set forth in ¶¶ 1 -32 of this Complaint.

34. Smartrac's products do not infringe upon any valid claim of the '099 patent.

COUNT VIII

DECLARATORY JUDGMENT OF INVALIDITY OF THE '099 PATENT

35. Plaintiffs incorporate by reference herein all allegations set forth in ¶¶ 1 - 34 of this Complaint.

36. On information and belief, the '099 patent is invalid under one or more provisions of Title 35 of the U.S. Code, §§ 101-116.

COUNT IX

**DECLARATORY JUDGMENT OF
NONINFRINGEMENT OF THE '736 PATENT**

37. Plaintiffs incorporate by reference herein all allegations set forth in ¶¶ 1 -36 of this Complaint.

38. Smartrac's products do not infringe upon any valid claim of the '736 patent.

COUNT X

DECLARATORY JUDGMENT OF INVALIDITY OF THE '736 PATENT

39. Plaintiffs incorporate by reference herein all allegations set forth in ¶¶ 1 - 38 of this Complaint.

40. On information and belief, the '736 patent is invalid under one or more provisions of Title 35 of the U.S. Code, §§ 101-116.

COUNT XI

**DECLARATORY JUDGMENT OF
NONINFRINGEMENT OF THE '766 PATENT**

41. Plaintiffs incorporate by reference herein all allegations set forth in ¶¶ 1 - 40 of this Complaint.

42. Smartrac's products do not infringe upon any valid claim of the '766 patent.

COUNT XII

DECLARATORY JUDGMENT OF INVALIDITY OF THE '766 PATENT

43. Plaintiffs incorporate by reference herein all allegations set forth in ¶¶ 1 - 42 of this Complaint.

44. On information and belief, the '766 patent is invalid under one or more provisions of Title 35 of the U.S. Code, §§ 101-116.

WHEREFORE, SMARTRAC Technology Ltd. and SMARTRAC Technology US, Inc., request the following relief in conjunction with the allegations set forth above in this Complaint:

- A. Entry of an Order of this Court declaring that the actions of Plaintiffs do not infringe the Leighton Patents;

- B. Entry of an Order of this Court declaring the Leighton Patents invalid under one or more provisions of Title 35 U.S. Code, §§ 101-116;
- C. Entry of an Order enjoining Leighton, its agents, servants, officers, directors, employees, attorneys, privies, representatives, successors, assigns, and parent and subsidiary entities, and any and all persons in act of concert or participation with any of them, from threatening to assert or asserting any of the Leighton Patents against Smartrac, its agents, employees, or customers;
- D. Entry of an Order of this Court assessing all costs associated with this action to Leighton Technologies, LLC;
- E. Entry of an Order of this Court declaring this case exceptional and awarding Plaintiffs reasonable attorney fees; and
- F. All other relief, both interim and permanent, as is just and proper.

DEMAND FOR JURY TRIAL

Smartrac hereby makes a demand for a trial by jury as to all issues in this lawsuit so triable.

Dated: June 3, 2011

By: Baldassare Vinti

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