

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK



INNOVELIS, INC.

Plaintiff,

CIVIL ACTION NO. _____

vs.

ZEIKOS, INC., THE TJX COMPANIES, INC.
& JOHN DOES 1-10

Defendants

JURY TRIAL DEMANDED

13 CV 5650

JUDGE GARDEPHE

COMPLAINT

Plaintiff Innovelis, Inc. ("Plaintiff"), by and through its attorneys, for its complaint against Zeikos, Inc., The TJX Companies, Inc. & John Does 1-10 (collectively "Defendants") avers as follows:

PARTIES

1. Innovelis, Inc. ("Innovelis") is a corporation organized and existing under the laws of the State of Washington, with its principal place of business at 4713 231st Place SE, Sammamish, WA 98075.
2. Zeikos, Inc. ("Zeikos") is a corporation organized and existing under the laws of the State of New York, with its principal place of business at 1410 Broadway 12th Floor, New York 10018.
3. The TJX Companies, Inc. ("TJX") is a corporation organized and existing under the laws of Massachusetts with its principal place of business at 770 Cochituate Road, Framingham, MA 01701.

JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, Title 35 of the United States Code (for example, §§ 271, 281, 283, 284 and 285) as hereinafter more fully appears. This Court has jurisdiction over the subject matter of the action pursuant to 28 U.S.C. §§ 1331 and 1338.
5. This Court has personal jurisdiction over Zeikos because Zeikos is a New York Corporation.
6. This Court has personal jurisdiction over TJX because TJX conducts business in the State of New York and within this District.
7. Venue is proper in this District under 28 U.S.C. §§ 1391(b), 1391(c), and/or 1400(b).

COUNT ONE –INFRINGEMENT OF U.S. PATENT NO. D597,069 S

8. On July 28, 2009, United States Letters Patent No. D597,069 S (the “’069 patent,” attached as Exhibit A) were duly and legally issued for an invention in an Headphone Positioning Device. Plaintiff is the owner of the Letter Patent.
9. Defendants have infringed and are still infringing the ’069 patent directly and indirectly by making, importing, offering for sale, using and selling iHip Gadgets Ear Hook, a sports ear hook for earphones (See Exhibit B), and will continue to do so unless enjoined by this Court.
10. Plaintiff has suffered actual damages due to Defendants’ infringement of the ’069 patent.
11. Plaintiff has no adequate remedy at law against Defendants’ infringement and, unless Defendants are enjoined from their infringement of the ’069 patent, Plaintiff will suffer irreparable harm.
12. Defendants have knowledge of the ’069 patent and such infringement is and continues to be willful and deliberate.

13. As a result of Defendants' acts of infringement, plaintiff has suffered and will continue to suffer damages in an amount to be proven at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands following relief:

A. A judgment in favor of plaintiff that Defendants has infringed, directly and indirectly by way of inducement and/or contributory infringement, the '069 patent;

B. A judgment in favor of plaintiff that Defendants has infringed, directly and indirectly by way of inducement and/or contributory infringement, the '069 patent;

C. A permanent injunction, enjoining Defendants and their officers, directors, agents, servants, employees, affiliates, divisions, branches, subsidiaries, parents, and all others acting in concert or privity with any of them for infringing, inducing the infringement of, or contributing to the infringement of the aforementioned patents;

D. An award to plaintiff of the damages to which it is entitled under at least 35 U.S.C. § 284 for Defendant's past infringement and any continuing or future infringement, including both compensatory damages and treble damages for willful infringement;

E. A judgment and order requiring Defendant to pay the costs of this action (including all disbursements), as well as attorneys' fees as provided by 35 U.S.C. § 285;

F. An award to plaintiff of pre-judgment and post-judgment interest on its damages; and

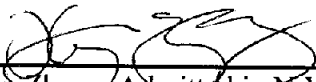
G. Such other further relief in law or equity to which plaintiff may be justly entitled.

JURY DEMAND

Plaintiff demands a trial by jury.

Dated: August 12, 2013

Respectfully submitted,

By: 
Xiyang Zhang, Admitted in N.Y.
Kao H. Lu (Pro hac vice to be filed)
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