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JOHN P. HEHMAN
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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

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U.S. DISTRICT COURT
SOUTHERN DIST. OHIO
EAST. DIV. COLUMBUS

UNIVERSITY OF CINCINNATI :
2600 Clifton Avenue :
Cincinnati, Ohio 45221 :

Plaintiff, :

v. :

CRAYOLA LLC :
1100 Church Lane :
Easton, Pennsylvania 18044 :

Defendant. :

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Case No. _____

Judge JUDGE WATSON

MAGISTRATE JUDGE DEEVERS

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff University of Cincinnati (“UC” or “the University”), for its complaint against the Defendant Crayola LLC (“Crayola”), avers as follows:

NATURE OF THE ACTION

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

THE PARTIES

2. UC is a public institution of higher learning located in Cincinnati, Ohio, operated under Chapter 3361 of the Ohio Revised Code, and is engaged in undergraduate, graduate, and professional education, in scientific and other research to the extent that it has been recognized as a leading research institution, and in the translation of research results and of other intellectual property assets into benefits for the good of the public, and numerous related activities.

3. On information and belief, Crayola is a Delaware Limited Liability Company having its principal place of business in Easton, Pennsylvania.

JURISDICTION AND VENUE

4. This is an action for patent infringement and arises under the Patent Laws of the United States, Title 35, United States Code. Federal question jurisdiction is conferred pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b)-(c), and 1400(b).

6. Crayola has manufactured and sold, and is currently manufacturing and offering for sale, a group of products which include one or more versions of the Glow Board, the Glow Dome, and the Glow Book (collectively, the “Glow Products”). The Glow Products are sold and offered for sale in this judicial district.

BACKGROUND FACTS

7. Some of the results of the University’s scientific research, in the field of optical physics, are disclosed and claimed in U.S. Patent No. 7,430,355 (“the ‘355 patent”) issued on September 30, 2008 to Jason C. Heikenfeld et al. A copy of the ‘355 patent is attached hereto as Exhibit A. The ‘355 patent generally includes claims directed to a device having one or more light sources and one or more waveguides, as well as photoluminescent features coupled to the one or more waveguides, with light of a lower wave length being guided to the photoluminescent features which responds by emitting light of a higher wave length, creating glowing or luminescent visible images, with the option of controlling the light sources in sequence to produce different images from different photoluminescent features, e.g. alternating or flashing.

8. UC is the owner by assignment of the ‘355 patent, and holds all right, title, and interest in and to the ‘355 patent.

9. The Glow Products incorporate the core technology disclosed and claimed in the '355 patent.

Count One
Infringement of U.S. Letters Patent No. 7,430,355

10. The allegations of paragraphs 1-9 are incorporated herein by reference as though fully set forth herein.

11. Crayola has infringed and continues to infringe, and/or has contributed to and/or induced infringement of, one or more claims of the '355 patent, including claims 1, 8, 11, 23, 23, 24, 26, 27, 30, 32, 33, 42, 48, and 49 by its manufacture, use, offer for sale, sale and/or importation into the United States of the Glow Products, and is liable to the University for its infringement of the '355 patent pursuant to 35 U.S.C. § 271.

12. The acts of infringement complained of herein have been carried out willfully and with full knowledge by Crayola of the '355 patent and notice of its infringement thereof.

13. As a result of Crayola's actions, the University has suffered and continues to suffer substantial injury by not being adequately compensated for use of the results of its scientific research as in part disclosed and claimed in the '355 patent, and such injury will continue, unless Crayola is enjoined by this Court.

WHEREFORE, Plaintiff University of Cincinnati prays for relief against Defendant Crayola LLC as follows:

- A. That a judgment be entered that Crayola LLC has infringed, and/or has induced or contributed to infringement of the '355 patent;
- B. That Crayola LLC, its agents, sales representatives, agents, and employees, associates, attorneys, corporate parents, subsidiaries, or affiliates, successors and assigns, and any and all persons or entities acting at, through, under or in active concert or participation with any or all of them, be enjoined and restrained

permanently from infringing, inducing infringement of, and contributing to infringement of the '355 patent;


- C. That a judgment be entered that Crayola LLC be required to pay to the University all damages sustained by the University due to such patent infringement, including compensatory damages, and that such damages be trebled pursuant to 35 U.S.C. § 284 for the willful acts of infringement complained of herein;
- D. That this case be adjudged and decreed exceptional under 35 U.S.C. § 285 entitling the University to an award of its reasonable attorney fees and that such reasonable attorney fees be awarded;
- E. That the University be awarded its costs and prejudgment interest on all damages;
- F. That Crayola be required to file with the Court within thirty (30) days after entry of the final judgment of this case a written statement under oath setting forth in detail the manner in which Crayola has complied with the judgment; and,
- G. That the University be awarded such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiff University of Cincinnati hereby demands and requests trial by jury.

Respectfully submitted,

Michael DeWine
Attorney General of the State of Ohio

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