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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY, a California Non-Profit Organization; and LITTON SYSTEMS, INC., a Delaware Corporation,

Plaintiffs,

vs.

TYCO INTERNATIONAL LTD., a Bermuda Corporation; et al.

Defendants.

CASE NO. Cv-00-10584-TJH-(RCx)
Hearing Date: October 20, 2008
Courtroom: 17
Judge: Hon. Terry J. Hatter, Jr.
Final Pretrial Conf.: October 6, 2008
Trial Date: Not Set

PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR PARTIAL SUMMARY JUDGMENT OF INFRINGEMENT

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on October 20, 2008 or as soon thereafter as the matter may be heard in the above-entitled Court, located at 312 North Spring Street, Los Angeles, California, plaintiffs Litton Systems, Inc. and The Board of Trustees of the Leland Stanford Junior University will, and do hereby, move, pursuant to Rule 56(c) of the Federal Rules of Civil Procedure, for an order granting partial summary judgment of infringement against defendant Pirelli, S.p.A. ("Pirelli"). Upon a proper construction by the Court of the asserted claims of United States Patent No. 4,859,016 (the "'016 patent"), there is no genuine issue of fact as to whether Pirelli infringed the patent.

Plaintiffs' motion is made on the following grounds. In this litigation, Plaintiffs allege that Pirelli manufactured, used, and sold within the United States optical amplifier systems containing devices called erbium-doped fiber amplifiers ("EDFAs") that infringed the '016 patent. There is no material dispute as to the composition or operation of the EDFAs' in Pirelli's optical amplifier systems.

The construction of the claims of the '016 patent is a question of law for this Court to determine. Under the law governing claim construction, claims 11 and 12 of the '016 patent read upon the EDFAs in Pirelli's optical amplifier systems. Accordingly, Pirelli's optical amplifier systems infringed claims 11 and 12 as a matter of law, and partial summary judgment of infringement against Pirelli is appropriate.

Plaintiffs' motion is based on this Notice of Motion and Motion; Plaintiffs' Memorandum of Points and Authorities; the separate Statement of Uncontroverted Facts and Conclusions of Law; the Declaration of Mateo Fowler; the Declaration of Shaoul Ezekiel; the Declaration of Ralph Jacobs; the Declaration of David Yurkerwich; all the pleadings and records on file herein; such matters of which the Court may properly take judicial notice; and upon such other evidence or argument as may be received by the Court. This motion is made following the discussions required by Local Rule 7-3, which took place on July 10, 2008 and July 21, 2008.

DATED: August 26, 2008

QUINN EMANUEL URQUHART OLIVER & HEDGES, LLP

By _____
Sidford L. Brown
Attorneys for Litton Systems, Inc.

DATED: August 26, 2008

WAGNER, ANDERSON & BRIGHT LLP

By Patrick F. Bright by SLB
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