FILED
IN CLERKS OFFICE
2003 DEC 11 P 12:49
U.S. DISTRICT COURT
DISTRICT OF MASS.

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

03 12491 MEL

COLOR KINETICS INCORPORATED,

Plaintiff

v.

TIR SYSTEMS LTD.,

Defendant.

MAGISTRATE JUDGE Alexander

Civil Action No.:

52426
AMOUNT $ 150
SUMMONS ISSUED YES
LOCAL RULE 4.1
WAIVER FORM
MCF ISSUED
BY DPTY. CLK. FCM
DATE 12/11/03

**COMPLAINT AND JURY DEMAND**

1. Plaintiff, Color Kinetics Incorporated ("Color Kinetics"), is a Delaware corporation having its principal place of business at 10 Milk Street, Suite 1100, Boston, Massachusetts 02108.

2. On information and belief, Defendant TIR Systems Ltd. ("TIR"), is a Canadian corporation having its principal place of business at 3350 Bridgeway Street, Vancouver, British Columbia, Canada.

3. This action arises under the patent laws of the United States, Title 35 of the United States Code.

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1338(a).

5. Venue in this district is proper pursuant to 28 U.S.C. § 1391(b) and §1400(b). On information and belief, TIR has transacted business, committed acts of infringement, and induced and contributed to acts of infringement in the District of Massachusetts and this action arises from the transaction of that business and that infringement. On information and belief,

TIR also systematically and continuously conducts substantial business in the District of Massachusetts.

**Count I (Patent Infringement)**

6. Color Kinetics repeats and realleges paragraphs 1-5 above.

7. Color Kinetics is the owner of United States Patent No. 6,340,868 (the "'868 patent"), issued on January 22, 2002, and has the right to sue on the '868 patent. A copy of the '868 patent is attached as Exhibit A.

8. Defendant TIR is marketing goods covered by one or more claims of the '868 patent.

9. Defendant TIR has infringed, and is continuing to infringe, the '868 patent by making, selling, offering to sell, and using within the United States goods covered by one or more of the claims of the '868 patent.

10. Defendant TIR is inducing and contributing to infringement by others of the '868 patent, by causing others to make, use, sell, or offer to sell goods covered by the '868 patent within the United States.

11. Defendant TIR's infringement of the '868 patent is and has been willful, has caused and will continue to cause Color Kinetics to suffer substantial damages, and has caused and will continue to cause Color Kinetics to suffer irreparable harm for which there is no adequate remedy at law.

**Count II (Patent Infringement)**

12. Color Kinetics repeats and realleges paragraphs 1-11 above.

13. Color Kinetics is the owner of United States Patent No. 6,211,626 (the "'626 patent"), issued on April 3, 2001, and has the right to sue on the '626 patent. A copy of the '626 patent is attached as Exhibit B.

14. Defendant TIR is marketing goods covered by one or more claims of the '626 patent.

15. Defendant TIR has infringed, and is continuing to infringe, the '626 patent by making, selling, offering to sell, and using within the United States goods covered by one or more of the claims of the '626 patent.

16. Defendant TIR is inducing and contributing to infringement by others of the '626 patent, by causing others to make, use, sell, or offer to sell goods covered by the '626 patent within the United States.

17. Defendant TIR's infringement of the '626 patent is and has been willful, has caused and will continue to cause Color Kinetics to suffer substantial damages, and has caused and will continue to cause Color Kinetics to suffer irreparable harm for which there is no adequate remedy at law.

**Count III (Patent Infringement)**

18. Color Kinetics repeats and realleges paragraphs 1-17 above.

19. Color Kinetics is the owner of United States Patent No. 6,459,919 (the "'919 patent"), issued on October 1, 2002, and has the right to sue on the '919 patent. A copy of the '919 patent is attached as Exhibit C.

20. Defendant TIR is marketing goods covered by one or more claims of the '919 patent.

21. Defendant TIR has infringed, and is continuing to infringe, the '919 patent by making, selling, offering to sell, and using within the United States goods covered by one or more of the claims of the '919 patent.

22. Defendant TIR is inducing and contributing to infringement by others of the '919 patent, by causing others to make, use, sell, or offer to sell goods covered by the '919 patent within the United States.

23. Defendant TIR's infringement of the '919 patent is and has been willful, has caused and will continue to cause Color Kinetics to suffer substantial damages, and has caused and will continue to cause Color Kinetics to suffer irreparable harm for which there is no adequate remedy at law.

WHEREFORE, Color Kinetics requests that this Court:

1. Enter a preliminary and permanent injunction enjoining TIR and its affiliates, subsidiaries, officers, directors, employees, agents, representatives, licensees, successors, assigns, and all those acting for any of them or on their behalf, or acting in concert with them, from further infringement of any and all of the '868, '626, and '919 patents;

2. Award Color Kinetics compensatory damages and its costs and interest;

3. Award Color Kinetics treble damages for TIR's willful infringement of the '868, '626, and '919 patents;

4. Award Color Kinetics its reasonable attorneys' fees under 35 U.S.C. § 285; and

5. Award Color Kinetics such other relief as the Court deems just and proper.

COLOR KINETICS DEMANDS A TRIAL BY JURY ON ALL ISSUES SO TRIABLE.

Respectfully submitted,

COLOR KINETICS INCORPORATED

December 11, 2003

by:

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