UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

OMNI MEDSCI, INC.,

Plaintiff,

v.

LEICA MICROSYSTEMS, INC.,

Defendant.

Case No. 1:17-cv-1977

COMPLAINT FOR PATENT INFRINGEMENT AND DEMAND FOR JURY TRIAL

Plaintiff, Omni MedSci, Inc., alleges as follows:

The Parties

1. Plaintiff, Omni MedSci, Inc. ("Omni MedSci"), is a Michigan corporation having its principal place of business at 1718 Newport Creek Drive, Ann Arbor, Michigan 48103.

2. On information and belief,[1] Defendant, Leica Microsystems, Inc. ("Leica"), is a Delaware corporation having its principal place of business at 1700 Leider Lane, Buffalo Grove,

[1] Allegations made "on information and belief" will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

IL 60089. Its designated agent for service of process is CT Corporation System, 208 S. LaSalle St., Suite 814, Chicago, Illinois 60604.

Jurisdiction and Venue

3. This is a complaint for patent infringement under 35 U.S.C. §§ 101, *et seq*. The Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338.

4. The court has personal jurisdiction over Leica because Leica's principal place of business is in this district.

5. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400 because Leica's principal place of business is in this district.

The Patent-in-Suit

6. The Patent Office issued U.S. Patent No. 9,476,769 B2 ("the '769 Patent"), attached as Exhibit A, on October 25, 2016.

7. The named inventor of the '769 Patent is Dr. Mohammed N. Islam.

8. The '769 Patent is assigned to Omni MedSci, Inc.

9. The title of the '769 Patent is "Broadband or Mid-Infrared Fiber Light Sources."

10. The patent describes, and claims in claim 21-32, an optical system for use in a spectroscopy procedure.

11. On information and belief, Leica makes, and sells in the United States and elsewhere, confocal microscope systems that use fiber light sources to perform spectroscopy. Examples of those systems are Leica's TCS SP5 X and TCS SP8 X confocal microscopes ("Accused Leica Microscopes"). This is without prejudice to asserting infringement of additional Leica confocal microscopes as case investigation and discovery proceed.

Infringement of the '769 Patent

12. On information and belief, the Accused Leica Microscopes infringe at least, without limitation, claims 21-32 of the '769 Patent. Leica's infringement is described further below with respect to exemplary claim 21. The analysis below is based on publicly available information.

13. The preamble of Claim 21 states, "A white light spectroscopy system." On information and belief, the Accused Leica Microscopes are white light spectroscopy systems. This is confirmed, for example, by Leica's literature, attached at Exhibit B.

14. Claim 21 further requires, "a super continuum light source." On information and belief, the Accused Leica Microscopes use super continuum light source lasers from NKT Photonics. See, for example, Exhibit B and C.

15. Claim 21 further requires, "an input light source, including one or more semiconductor diodes, to generate an input beam that comprises a wavelength shorter than 2.5 microns." On information and belief, the Accused Leica Microscopes use the NKT Photonics super continuum light source, which includes at least one semiconductor diode that generates a light beam having a wavelength shorter than 2.5 microns. On information and belief, the NKT Photonics lasers used in the Accused Leica Microscopes meet this claim limitation as evidenced, for example, in Exhibits C and D.

16. Claim 21 further requires, "one or more optical amplifiers to receive at least a portion of the input beam and form an amplified optical beam having a spectral width." As evidenced in Exhibits C and D, on information and belief, the NKT lasers used in the Accused Leica Microscopes meet this claim limitation.

17. Claim 21 further requires, "a nonlinear element comprising a photonic crystal fiber to receive at least a portion of the amplified optical beam and to broaden the spectral width of the received amplified optical beam to 100 nm or more through a nonlinear effect forming an output beam." On information and belief, the NKT lasers used in the Accused Leica Microscopes meet this limitation as evidenced in Exhibits C, D, and E.

18. Claim 21 further requires, "wherein at least a portion of the output beam is in the visible wavelength range from approximately 0.4 microns to approximately 0.6 microns." On information and belief, the NKT lasers used in the Accused Leica Microscopes meet this limitation as evidenced in Exhibits D and F.

19. Claim 21 further requires, "wherein the output beam has a repetition rate of 1 Megahertz or higher." On information and belief, the NKT lasers used in the Accused Leica Microscopes meet this limitation as evidenced in Exhibits B and E.

20. Claim 21 further requires, "at least one of a lens and a mirror configured to receive at least a portion of the output beam and to deliver at least part of the received output beam to a sample." On information and belief, the Accused Leica Microscopes meet this limitation as evidenced in Exhibits B and G.

21. Claim 21 further requires, "a detection system comprising one or more narrow band filters followed by one or more detectors to permit approximately simultaneous measurement of at least two wavelengths from the sample." On information and belief, the Accused Leica Microscopes meet this limitation as evidenced in Exhibits B, F, and G.

22. On information and belief, Leica directly infringes the '769 Patent by offering for sale in the U.S., selling in the U.S., and importing into the U.S. the Accused Leica Microscopes.

23. Leica's infringement has damaged Omni MedSci and that damage will continue unless Leica is enjoined from infringing.

24. On information and belief, Leica had actual notice of the published patent application that preceded the issuance of the '769 patent.

25. Leica had actual notice of the claims of the '769 patent since at least August 11, 2016 and continued to infringe nonetheless.

26. Omni MedSci has not sold any products covered by the '769 Patent and is therefore not required to mark any products.

Prayer for Relief

WHEREFORE, Omni MedSci requests entry of judgment against Leica as follows:

A. Finding Leica liable for infringement of the '769 Patent and that the infringement has been willful;

B. Awarding Omni MedSci damages under 35 U.S.C. § 271 adequate to compensate for Leica's infringement;

C. Awarding Omni MedSci pre-issuance damages under 35 U.S.C. § 154(d);

D. Preliminary and permanent injunctive relief restraining Leica, together with any officers, agents, servants, employees, and attorneys, and such other persons in active concert of participation with them, who receive actual notice of the Order, from further infringement of the'769 Patent;

E. A declaration that this case is exceptional within the meaning of 35 U.S.C. § 285 and awarding Omni MedSci its reasonable attorney fees, costs, and disbursements;

F. Awarding Omni MedSci interest in all damages awarded; and

G. Granting Omni MedSci all other relief to which it is entitled.

Demand for Jury Trial

Omni MedSci demands a trial by jury for all issues so triable.

Dated: March 14, 2017

Respectfully submitted,

/s/ Thomas A. Lewry
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