

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

FLOWER TURBINES, INC.

Plaintiff,

v.

UNIVERSAL ENERGY INC. and
VENTANA TEK, LLC.

Defendants.

Civ. No. 2:22-cv-01230

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Flower Turbines, Inc. (“FT” or “Plaintiff”), by and through its attorneys, hereby alleges for its Complaint against Universal Energy Inc. (“UEI”) and Ventana Tek, LLC (“Ventana”) (collectively, “Defendants”) on personal knowledge as to its own activities and on information and belief as to all other matters, as follows:

NATURE OF THE ACTION

1. This action arises under 35 U.S.C. § 271 for Defendants’ infringement of Plaintiff’s U.S. Patent No. 9,255,567 (the “’567 Patent”), (the “FT Patent” or “Plaintiff’s Patent” and attached hereto as Exhibit A).

PARTIES

2. Plaintiff FT is a Delaware corporation with a principal place of business at 240 Central Avenue 1J, Lawrence, New York 11559.

3. Upon information and belief, Defendant UEI is a Delaware corporation with a principal place of business at 95 North 1800 West, Unit Number 12, Lindon, Utah 94042.

4. Upon information and belief, Defendant Ventana is a Utah limited liability company with a principal place of business at 12 W. 100 North Street, Suite 201, American

Fork, Utah 84003.

5. Upon information and belief, Ventana is a wholly owned subsidiary of UEI.

JURISDICTION AND VENUE

6. This is an action for patent infringement under 35 U.S.C. § 271 *et seq.*

7. Subject matter jurisdiction over the claims is conferred upon this Court by 28 U.S.C. § 1331 (federal question jurisdiction) and 28 U.S.C. § 1338(a) (patent jurisdiction).

8. This Court also has personal jurisdiction over Defendants. Defendants are subject to personal jurisdiction because Defendants committed acts giving rise to this action and have established greater than minimum contacts within this District. Defendants have committed infringing actions within this District and transact business in this District, via, *inter alia*, marketing their products or services in this District, and/or seeking investors in this District.

9. The exercise of personal jurisdiction comports with Defendants' right to due process because they have purposefully availed themselves of the privilege of conducting activities nationally, including within this District, such that they should reasonably anticipate being hailed into court here.

10. Venue is proper in this District pursuant to 28 U.S.C. § 1400(b) at least because Defendants have committed acts of infringement in this District, and Plaintiff resides in this District.

THE PATENTS-IN-SUIT

11. Plaintiff re-alleges and incorporates the allegations of all of the paragraphs in this complaint as if fully set forth herein.

12. On December 12, 2006, the United States Patent and Trademark Office

(“USPTO”) issued the ‘567 Patent, entitled TWO-BLADED VERTICAL AXIS WIND TURBINES.

13. Plaintiff FT is the owner by assignment of all right, title and interest in and to the ‘567 Patent, including all right to recover for any and all infringement thereof. All necessary maintenance fees for the ‘567 Patent have been timely paid in full. The ‘567 Patent is valid and enforceable.

14. Defendants have known of the ‘567 Patent at least since September 20, 2021, when Plaintiff’s CEO, informed Defendants of their infringement. Accordingly, Defendants’ infringement is willful.

COUNT I
(Infringement of U.S. Patent No. 9,255,567)

15. Plaintiff re-alleges and incorporates the allegations of all of the paragraphs in this complaint as if fully set forth herein.

16. Upon information and belief, Defendants have directly infringed, and continue to directly infringe, literally or under the doctrine of equivalents, individually or jointly, at least claims 1, 2, 5, 6, 9 and 16 due to their marketing, sale, manufacture, offering for sale and/or designing the Dynamiq Wind Turbine (the “Infringing Product”).

17. Independent claim 1 of the ‘567 Patent recites, for example, a vertical axis turbine. The vertical axis turbine includes at least one curved blade. The curved blade is of the drag type. The at least one curved blade includes a leading portion and a trailing portion. The at least one curved blade includes at least two lips. Each of the lips is configured for reducing three-dimensional aerodynamic effects on the turbine. Each of the lips is defined as a horizontal structure substantially corresponding to the curvature of the

trailing portion of the at least one curved blade. Each of the lips extends along the trailing portion of the blade, so as to be spaced apart from each other at regular intervals. Each of the lips protrudes from the trailing portion of the blade.

18. Dependent claim 2 of the '567 Patent further recites that the at least one curved blade has a single curvature.

19. Dependent claim 5 of the '567 Patent further recites that the at least one curved blade includes component pieces. The component pieces connect at one of the lips.

20. Dependent claim 6 of the '567 Patent further recites wherein each lip occurs approximately every 0.6 meters of length.

21. Dependent claim 9 of the '567 Patent further recites that the two curved blades are horizontally stackable.

22. Dependent claim 16 of the '567 Patent further recites that each of the lips extends for approximately three centimeters for each approximate meter of blade length.

23. Upon information and belief, one or both of Defendants designed, and currently makes, uses, sells, offers to sell, and/or imports into the United States the Infringing Product. The Infringing Product incorporates the features claimed in numerous claims in the '567 Patent.

24. The Infringing Product includes a vertical axis turbine. For example, the Infringing Product includes a vertical axis turbine with at least one curved blade of the drag type, with the at least one curved blade including a leading portion and a trailing portion, and two lips. For example:



25. The Infringing Product includes each of the lips being configured for reducing three-dimensional aerodynamic effects on the turbine, and defined as a horizontal structure substantially corresponding to the curvature of the trailing portion of the at least one curved blade.

26. In the Infringing Product, each of the lips extends along the trailing portion of the blade, so as to be spaced apart from each other at regular intervals, and protrudes from the trailing portion of the blade.

27. The Infringing Product further includes that the at least one curved blade

has a single curvature.

28. The Infringing Product further includes that the at least one curved blade includes component pieces. The component pieces connect at one of the lips.

29. The Infringing Product further includes wherein each lip occurs approximately every 0.6 meters of length.

30. The Infringing Product further includes that the two curved blades are horizontally stackable.

31. The Infringing Product further includes that each of the lips extends for approximately three centimeters for each approximate meter of blade length.

32. Upon information and belief, Defendants infringe the '567 Patent by manufacturing and selling the Infringing Product under 35 U.S.C. §271(a).

33. Upon information and belief, each of the Defendants have been actively inducing infringement of the '567 Patent under 35 U.S.C. §271(b). Such inducements include, but are not limited to, with specific intent to encourage the infringement, knowingly inducing customers to use infringing articles and methods that each of the Defendants knows or should know infringes one or more claims of the '567 Patent. Each of Defendants instructs its customers to make and use the Infringing Product by operating in accordance with their specification, thereby inducing infringement of the '567 Patent.

34. As a result of Defendants' infringement of the '567 Patent, Plaintiff has suffered monetary damages, and is entitled to an award of damages adequate to compensate it for such infringement under 35 U.S.C. §284, including lost profits and/or a reasonable royalty.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment against Defendants as follows:

A. A declaration in favor of Plaintiff and against Defendants on each Claim contained herein and a final judgment incorporating the same;

B. A determination by the Court that one or more claims of the '567 Patent, either literally or under the doctrine of equivalents;

C. An award of actual damages to Plaintiff in an amount to be proven at trial, together with prejudgment and post-judgment interests and costs, and an ongoing royalty for continued infringement;

D. Adjudging that Defendants have infringed at least the claims set forth herein, in violation of 35 U.S.C. §§ 271(a) and (b);

E. An accounting of all infringing sales including without limitation those sales not presented at trial;

F. An order finding that Defendants' infringement has been willful, and that the circumstances presented justify trebling the damages awarded to Plaintiff, as provided by 35 U.S.C. § 284;

G. Ordering a permanent injunction or for Defendant to continue to pay royalties to Plaintiff for infringement of the Plaintiff Patents, on a going-forward basis at an increased amount to account for willfulness;

H. The costs and expenses of the suit incurred herein;

I. Plaintiff's attorneys' fees reasonably expended in this action;

J. Declaring Plaintiff as the prevailing parties and this case as exceptional, and awarding Plaintiff its reasonable attorneys' fees, pursuant to 35 U.S.C. § 285; and

K. Granting Plaintiff such further relief as this Court deems just and proper under the circumstances.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff demands a trial by jury of all issues so triable.

Dated: March 7, 2022

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