

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

Omni Continuum LLC,

Plaintiff,

v.

NKT Photonics Inc.,

Defendant.

Case No. 1:23-cv-10359

**COMPLAINT FOR PATENT
INFRINGEMENT**

Plaintiff, Omni Continuum LLC (“Omni”) brings this Complaint against NKT Photonics Inc. (“NKT”) for patent infringement:

I. The Parties

1. Plaintiff Omni Continuum LLC is a Michigan limited liability company with a principal place of business at 1718 Newport Creek Drive, Ann Arbor, Michigan.

2. On information and belief, defendant NKT Photonics Inc. is a Delaware corporation with a principal place of business at 23 Drydock Avenue, Boston, Massachusetts.

3. On information and belief, NKT's registered agent for service of process is Corporation Service Company, 84 State Street, Boston, Massachusetts.

II. Jurisdiction and Venue

4. This action arises under Title 35 of the United States Code.

5. The court has subject matter jurisdiction under 28 U.S.C. § 1338(a).

6. The court has personal jurisdiction over NKT because NKT is registered to do business in this state and has a principal place of business here.

7. Venue is proper because NKT has a regular and established place of business in this judicial district.

III. Count 1: Infringement of U.S. Patent No. 7,519,253 B2

8. On April 14, 2009, the United States Patent and Trademark Office issued U.S. Patent No. 7,519,253 B2 ("the '253 patent") to Omni Sciences, Inc. A copy of the patent is attached as Exhibit A.

9. Omni is the owner by assignment of the '253 patent, including the right to collect past damages.

10. The '253 patent is titled, "Broadband or Mid-Infrared Fiber Light Sources."

11. On information and belief, NKT infringes the '253 patent by making, selling, offering for sale, using, and importing super continuum lasers that infringe

one or more claims of the '253 patent. Specifically, on information and belief, NKT's SuperK FIANIUM and SuperK FIANIUM OCT pulsed white light lasers infringe at least Claim 1 of the '253 patent for the reason detailed in the claim chart of Exhibit B, which Omni incorporates into this paragraph by reference. These allegations are based on publicly available information and will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

12. On information and belief, NKT's infringement is continuing.

13. In February 2022, Omni gave NKT notice, via NKT's parent company, that the '253 patent covers NKT's SuperK FIANIUM and SuperK FIANIUM OCT lasers and attaching the claim chart of Exhibit B. (*See* Exhibit C.)

14. NKT made a conclusory denial of infringement but, despite subsequent correspondence and Omni's specific request for details supporting NKT's claim of non-infringement, NKT provided no details or reasons to support its conclusory denial.

15. NKT is willfully infringing the '253 patent.

16. Omni has suffered, and continues to suffer, irreparable harm as a result of NKT's infringement of the '253 patent.

**IV. Count 2:
Infringement U.S. Patent No. 8,971,681 B2**

17. On March 15, 2015, the United States Patent and Trademark Office issued U.S. Patent No. 8,971,681 B2 (“the ‘681 patent”) to Cheetah Omni LLC. A copy of the patent is attached as Exhibit D.

18. Omni is the owner by assignment of the ‘681 patent, including the right to collect past damages.

19. The ‘681 patent is titled, “Broadband or Mid-Infrared Fiber Light Sources.”

20. On information and belief, NKT infringes the ‘681 patent by making, selling, offering for sale, using, and importing super continuum lasers that infringe one or more claims of the ‘681 patent. Specifically, on information and belief, NKT’s SuperK FIANIUM and SuperK FIANIUM OCT pulsed white light lasers infringe at least Claim 1 of the ‘681 patent for the reason detailed in the claim chart of Exhibit E, which Omni incorporates into this paragraph by reference. These allegations are based on publicly available information and will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

21. On information and belief, NKT’s infringement is continuing.

22. In February 2022, Omni gave NKT notice, via NKT's parent company, that the '681 patent covers NKT's SuperK FIANIUM and SuperK FIANIUM OCT lasers and attaching the claim chart of Exhibit E. (*See* Exhibit C.)

23. NKT made a conclusory denial of infringement but, despite subsequent correspondence and Omni's specific request for details supporting NKT's claim of non-infringement, NKT provided no details or reasons to support its conclusory denial.

24. NKT is willfully infringing the '681 patent.

25. Omni has suffered, and continues to suffer, irreparable harm as a result of NKT's infringement of the '681 patent.

V. Damages

26. On information and belief, NKT has been infringing the '253 and '681 patents for at least the past six years.

27. On information and belief, NKT's sales of the SuperK FIANIUM and SuperK FIANIUM OCT pulsed white light lasers have averaged at least \$30 million per year.

28. In prior license negotiations, NKT's parent company agreed to pay an Omni sister company a royalty of 8% on sales of products licensed under patents owned by that company.

29. On information and belief, compensatory damages for NKT's infringement of the '253 and '681 patents, measured as a reasonable royalty, are at least \$14.4 million plus interest and costs.

30. If NKT is found liable for willful infringement, the court may award treble damages and NKT's damages would exceed \$43 million plus interest and costs.

VI. Relief Sought

WHEREFORE, plaintiff asks the Court to:

- A. Find NKT liable for infringement of the '253 and '681 patents under 35 U.S.C. § 271(a);
- B. Award Omni damages against NKT of at least \$14.4 million to compensate Omni for the infringement of the '253 and '681 patents under 35 U.S.C. § 284;
- C. Find NKT's infringement willful and award Omni treble damages under 35 U.S.C. § 284;
- D. Enter a permanent injunction under 35 U.S.C. § 283 to enjoin NKT from making, using, selling, offering for sale, and importing into the U.S. SuperK FIANIUM and SuperK FIANIUM OCT pulsed white light lasers;
- E. Award Omni its reasonable attorney fees under 35 U.S.C. § 285;

- F. Award Omni interest and costs; and
- G. Award Omni such other relief as is just.

VII. Jury Demand

Omni requests a trial by jury.

Respectfully submitted,

**LAW OFFICE OF
MICHAEL C. MOSCHOS**

Dated: February 17, 2023

/s/ Michael C. Moschos
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