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**IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF NEW JERSEY**

EMISSIVE ENERGY CORPORATION,

Plaintiff,

v.

OLIGHTSTORE USA, INC.,

Defendant.

Case No.

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Emissive Energy Corporation (“Emissive”) brings this action for patent infringement against defendant OLightStore USA, Inc. (“Defendant” or “OLight USA”), and alleges as follows:

THE PARTIES

1. Emissive is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 2201 Heritage Parkway, Mansfield, Texas.

2. Upon information and belief, Defendant is a corporation organized and existing under the laws of the State of New Jersey, with its principal place of business at 79511 Angleton Ct., Unit B, Lorton, Virginia 22079.

JURISDICTION AND VENUE

3. This action arises under the Patent Act, 35 U.S.C. § 1, *et seq.*

4. The Court has original subject matter jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. The Court has personal jurisdiction over Defendant because Defendant is incorporated and therefore resides in the State of New Jersey, has purposefully availed itself of the privileges of conducting business in the State of New Jersey and in this judicial district, and upon information and belief, manufactures, sells, offers to sell and/or imports into the stream of commerce infringing products throughout the United States, including within this judicial district, which acts form a substantial part of the events giving rise to Emissive's claims.

6. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400(b).

FACTUAL ALLEGATIONS

7. Emissive designs, manufactures, and sells high performance flashlights and other handheld lighting equipment. Its products are sold domestically and internationally through several channels including retailers, distributors, and Internet sales. Through its INFORCE® brand, Emissive provides customers with industry leading rifle, pistol and helmet lights and accessories that are protected by various patents.

8. On November 8, 2016, the United States Patent and Trademark Office (the "USPTO") issued U.S. Patent No. 9,488,439 (the "'439 patent"), entitled "Pistol Mounted Light and Operation Thereof." A true copy of the '439 patent is attached hereto as Exhibit 1.

9. Emissive is the assignee of all right, title and interest in and to the '439 patent.

10. On November 7, 2017, the USPTO issued U.S. Patent No. 9,810,411 (the “‘411 patent”), entitled “Pistol Mounted Light and Operation Thereof.” A true copy of the ‘411 patent is attached hereto as Exhibit 2.

11. Emissive is the assignee of all right, title and interest in and to the ‘411 patent.

12. Together, the ‘439 patent and ‘411 patent are referred to herein as the “Asserted Patents.” Upon information and belief, OLight USA is aware of and has notice of the Asserted Patents.

13. Emissive’s product offerings under the INFORCE® brand include products embodying the ‘439 and ‘411 patents, such as its WILD1 and WILD2 weapon integrated lighting devices.

14. OLight USA offers lighting devices in direct competition with Emissive. OLight USA is making, using, selling, offering for sale and/or importing into the United States the PL-Pro Valkyrie Tactical Light, Baldr Pro, Baldr Pro R, Baldr IR, PL-3 Valkyrie, PL-3r Valkyrie and Valkyrie Turbo LEP (the “Accused Products”).

15. The Accused Products are flashlights for use with a pistol comprising a housing having a light source disposed at a first end thereof and a switching mechanism disposed at an opposing second end thereof, a mounting rail clamping assembly extending from said housing, said switching mechanism including a switch, paddle actuator, and spring configured as claimed in the ‘439 and ‘411 patents. As set forth below, the Accused Products infringe, either literally or under the Doctrine of Equivalents, at least Claims 1 and 6 of the ‘439 patent and Claims 1 and 8 of the ‘411 patent.

16. Emissive marked the packaging for its products embodying the ‘439 and ‘411 patents, such as its WILD1 and WILD2 weapon integrated lighting devices, with the ‘439 and ‘411 patents, and thus gave at least constructive notice of the ‘439 and ‘411 patents to the public,

including to OLight USA.

17. OLight USA had actual notice of the Asserted Patents no later than September 13, 2023, at which time it received notice from Emissive of the '439 and '411 patents and the infringing Accused Products.

18. Notwithstanding actual notice of Emissive's patent rights, OLight USA continues to offer for sale and sell the Accused Products.

COUNT I
(Patent Infringement - U.S. Patent No. 9,488,439)

19. The preceding paragraphs are hereby incorporated by reference as if fully set forth herein.

20. Emissive is the owner of all right, title and interest in the '439 patent. The '439 patent has been and remains in full force and effect since its issuance.

21. OLight USA has been, and is now, infringing the '439 patent in violation of 35 U.S.C. § 271(a) by making, using, selling, offering for sale and/or importing into the United States the Accused Products that infringe at least Claims 1 and 6 of the '439 patent.

22. The Accused Products meet all of the limitations of claim 1 of the '439 patent. The PL-Pro Valkyrie is exemplary of all the Accused Products in having features that are recited by at least claim 1 of the '439 patent. Specifically, as illustrated in Exhibit 3, the PL-Pro Valkyrie is a flashlight for use with a pistol, the pistol having a trigger guard and a mounting rail extending forwardly of the trigger guard, said flashlight comprising:

- a. a housing having a light source disposed at a first end thereof and further having a switching mechanism disposed at an opposing second end thereof, said housing having a longitudinal axis extending between said first and second ends thereof;
- b. a mounting rail clamping assembly extending from said housing wherein said switching mechanism is located adjacent a forward end of said trigger guard when said mounting rail clamping assembly is secured to said mounting rail,

- c. said switching mechanism including a switch and a paddle actuator,
- d. said paddle actuator further having an actuator arm portion at an opposing end thereof, said paddle actuator being mounted on a hinge pin which has an axis perpendicular to said longitudinal axis of said housing, whereby said paddle portion extends rearwardly adjacent to a side of a forward end of said trigger guard, said paddle portion extending rearwardly from said hinge pin in a plane which runs parallel to said longitudinal axis of said housing,
- e. said actuator arm portion extending inwardly from said hinge pin in a plane which extends perpendicular to said longitudinal axis of said housing,
- f. said paddle actuator being hingeably movable about said hinge pin between an unactuated position wherein said paddle portion extends rearward, said actuator arm portion extends inwardly and said actuator arm portion is spaced from said switch, and an actuated position wherein said paddle portion is pivoted inwardly toward said trigger guard in response to engagement of the pad surface by a user, and said actuator arm portion is pivoted rearwardly toward said switch, and said actuator arm portion engages said switch,
- g. said switching mechanism further including a spring captured between said paddle actuator and said housing, said spring normally biasing said paddle actuator to said unactuated position.

23. The Accused Products also meet all of the limitations of claim 6 of the '439 patent. The PL-Pro Valkyrie is exemplary of all the Accused Products in having features that are recited by at least claim 6 of the '439 patent. Specifically, as illustrated in Exhibit 3, the PL-Pro Valkyrie is a flashlight for use with a pistol, the pistol having a trigger guard and a mounting rail extending forwardly of the trigger guard, said flashlight comprising:

- a. a housing having a light source disposed at a first forward end thereof and further having a switching mechanism disposed at a second rearward end thereof, said housing having a longitudinal axis extending between said first and second ends thereof;
- b. a mounting rail clamping assembly extending from said housing, wherein said switching mechanism is located adjacent a forward end of said trigger guard when said mounting rail clamping assembly is secured to said mounting rail,
- c. said switching mechanism including a switch and an L-shaped paddle actuator,

- d. said paddle actuator having a paddle portion with an outwardly facing pad surface at one end thereof, said paddle actuator further having an actuator arm portion at an opposing end thereof, said paddle actuator being mounted on a hinge pin which has an axis extending perpendicular to said longitudinal axis of said housing, whereby said paddle portion extends rearwardly adjacent to a side of a forward end of said trigger guard, said paddle portion extending rearwardly from said hinge pin in a plane which runs parallel to said longitudinal axis of said housing,
- e. said actuator arm portion extending inwardly from said hinge pin in a plane which extends perpendicular to said longitudinal axis of said housing, said actuator arm portion being adjacent to said switch,
- f. said paddle actuator being hingeably movable about said hinge pin whereby said paddle portion pivots inwardly toward said trigger guard and said actuator arm portion pivots forwardly to engage said switch.

24. As set forth above, OLight USA had pre-suit knowledge of the '439 patent.

Accordingly, OLight USA's actions constitute willful and intentional infringement of the '439 patent.

25. OLight USA's infringing conduct has and will continue to damage Emissive.

26. OLight USA's infringing conduct in violation of 35 U.S.C. § 271(a) will continue, resulting in continuing irreparable harm to Emissive, unless enjoined by the Court.

COUNT II
(Patent Infringement - U.S. Patent No. 9,810,411)

27. The preceding paragraphs are hereby incorporated by reference as if fully set forth herein.

28. Emissive is the owner of all right, title and interest in the '411 patent. The '411 patent has been in full force and effect since its issuance.

29. OLight USA has been, and is now, infringing the '411 patent in violation of 35 U.S.C. § 271(a) by making, using, selling, offering for sale and/or importing into the United States the Accused Products that infringe at least Claims 1 and 8 of the '411 patent.

30. The Accused Products meet all of the limitations of claim 1 of the '411 patent.

The PL-Pro Valkyrie is exemplary of all the Accused Products in having features that are recited by at least claim 1 of the '411 patent. Specifically, as illustrated in Exhibit 4, the PL-Pro

Valkyrie is a flashlight comprising:

- a. a housing having a light source disposed at a first forward end thereof and further having a switching mechanism disposed at a second rearward end thereof, said housing having a longitudinal axis extending between said first and second ends thereof;
- b. said switching mechanism including a rearward facing switch having an actuation axis extending in a direction parallel to said longitudinal axis of said housing and said switching mechanism further having an L-shaped paddle actuator,
- c. said paddle actuator having a paddle portion with an outwardly facing pad surface at one end thereof, said paddle actuator further having an actuator arm portion at an opposing end thereof, said paddle actuator being mounted on a hinge pin which has an axis extending in a direction perpendicular to said longitudinal axis of said housing, whereby said paddle portion extends rearwardly from said hinge pin in a plane which runs parallel to said longitudinal axis of said housing,
- d. said actuator arm portion projecting inwardly from said paddle portion adjacent to said hinge pin, said actuator arm portion projecting inwardly in a plane which extends in a direction perpendicular to said longitudinal axis of said housing, said actuator arm portion having a terminal end portion adjacent to said rearward facing switch,
- e. said paddle actuator being hingeably movable about said hinge pin whereby said paddle portion pivots inwardly and said terminal end portion of said actuator arm portion pivots forwardly to engage and actuate said rearward facing switch in a direction parallel to said longitudinal axis of said housing,
- f. said rearward facing switch being actuable for operation of said light source among a plurality of operating conditions including at least an on condition and an off condition.

31. The Accused Products also meet all of the limitations of claim 8 of the '411 patent. The PL-Pro Valkyrie is exemplary of all the Accused Products in having features that are recited by at least claim 1 of the '411 patent. Specifically, as illustrated in Exhibit 4, the PL-Pro Valkyrie is a flashlight comprising:

- a. a housing having a light source disposed at a first forward end thereof and further having a switching mechanism disposed at a second rearward end thereof, said housing having a longitudinal axis extending between said first and second ends thereof;
- b. said switching mechanism including a rearward facing switch and an L-shaped paddle actuator,
- c. said paddle actuator having a paddle portion with an outwardly facing pad surface at one end thereof, said paddle actuator further having an actuator arm portion at an opposing end thereof, said paddle actuator being mounted on a hinge pin which has an axis extending perpendicular to said longitudinal axis of said housing, whereby said paddle portion extends rearwardly from said hinge pin in a plane which runs parallel to said longitudinal axis of said housing,
- d. said actuator arm portion projecting inwardly from said paddle portion adjacent to said hinge pin, said actuator arm portion projecting inwardly in a plane which extends perpendicular to said longitudinal axis of said housing, said actuator arm portion having a terminal end portion adjacent to said switch,
- e. said paddle actuator being hingeably movable about said hinge pin whereby said paddle portion pivots inwardly and said terminal end portion of said actuator arm portion pivots forwardly to engage said rearward facing switch,
- f. wherein said switching mechanism further comprises a circuit board extending perpendicular to said longitudinal axis, said switch being located on a rearward facing surface of said circuit board.

32. As set forth above, OLight USA had pre-suit knowledge of the '411 patent.

Accordingly, OLight USA's actions constitute willful and intentional infringement of the '411 patent.

33. OLight USA's infringing conduct has and will continue to damage Emissive.

34. OLight USA's infringing conduct in violation of 35 U.S.C. § 271(a) will continue, resulting in continuing irreparable harm to Emissive, unless enjoined by the Court.

PRAYER FOR RELIEF

WHEREFORE, Emissive respectfully requests this Court to:

A. Enter judgment in favor of Emissive and against Defendant on each Count of the Complaint;

B. Issue a permanent injunction enjoining Defendant (including its officers, directors, employees, agents, and all persons acting in concert with them) from infringing, inducing others to infringe, or contributing to the infringement of the Asserted Patents;

C. Order that Defendant pay to Emissive damages for Defendant's infringement of the Asserted Patents under 35 U.S.C. § 284 in an amount sufficient to compensate Emissive, including but not limited to, damages, in no event less than a reasonable royalty;

D. Award treble damages for willful, deliberate and intentional infringement in accordance with 35 U.S.C. § 284;

E. Declare this case exceptional under 35 U.S.C. § 285 and award Emissive its reasonable attorneys' fees and expenses;

F. Order Defendant to pay Emissive costs, pre-judgment interest and post-judgment interest; and

G. Grant other such relief that the Court deems appropriate.

JURY DEMAND

Emissive hereby demands a trial by jury on all issues so triable in this action.

LOCAL RULE 11.2 CERTIFICATION

The matter in controversy is not the subject of any other action pending in any other court or any pending arbitration or administrative proceeding.

HINCKLEY, ALLEN & SNYDER LLP

/s/ Mitchell R. Edwards

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