

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

IVOCAR NORTH AMERICA, INC.,

Plaintiffs,

- VS -

JENERIC/PENTRON INCORPORATED,

Defendant.

Civil Action No. 61-4100

COMPLAINT

(Jury Trial Demanded)

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CV

0492

E (Sr)

Plaintiff Ivocar North America, Inc., by its attorney Nixon Peabody LLP, and as and for its complaint, alleges that:

PARTIES

1. Ivocar North America, Inc. is a Delaware corporation with its principal place of business at 175 Pineview Drive, Amherst, New York. Ivocar dedicates itself to the manufacture, marketing, and distribution of dental products, including fixed, removable, restorative and preventative products throughout North America.

2. On information and belief, defendant Jeneric/Pentron Incorporated ("Jeneric/Pentron") is a Connecticut corporation having its principal place of business at 53 North Plains Industrial Road, Wallingford, Connecticut.

JURISDICTION AND VENUE

3. This action arises under the Patent Laws of the United States, 35 U.S.C. §§ 1 et seq. Subject matter jurisdiction is conferred by 28 U.S.C. §§ 1331 and 1338(a).

4. On information and belief, Jeneric/Pentron is and has been doing business, either directly or through its agents, in this judicial district and elsewhere in the United States.

5. Personal jurisdiction over Jeneric/Pentron exists under New York CPLR §§ 301 and 302.

6. Venue in this judicial district is proper pursuant to 28 U.S.C. §1400(b), as defined by 28 U.S.C. §§ 1391(b) and (c).

THE ASSERTED PATENT

7. United States Patent No. 5,219,799 (“the ‘799 patent”), entitled “Lithium Disilicate-Containing Glass-Ceramics Some Of Which Are Self-Glazing” was issued by the United States Patent and Trademark Office on June 15, 1993. A copy of the ‘799 patent is attached hereto as Exhibit A.

8. George H. Beall, Lina M. Echeverria, Joseph W. Morrissey, and Joseph E. Pierson are the co-inventors of the ‘799 patent.

9. On October 7, 1991, an assignment of the ‘799 patent by inventors George H. Beall, Lina M. Echeverria, Joseph W. Morrissey, and Joseph E. Pierson to Corning, Inc., Corning, New York 14831 was recorded in the U.S. Patent and Trademark Office at Reel 005876, Frame 0813.

10. On May 23, 2000, an assignment of the ‘799 patent by Corning, Inc. to Ivoclar North America, Inc. was executed.

INFRINGEMENT

11. On information and belief, Jeneric/Pentron has infringed and continues to infringe the ‘799 patent directly, contributorily, and/or by inducement, in this district and elsewhere in the United States, by making, offering to sell, selling, and/or using products, such as the OPC 3G

All-Ceramic System, Core and Overlay Porcelains, that embody and/or employ the claimed inventions of the '799 patent, and will continue to do so unless enjoined therefrom by the Court.

12. Jeneric/Pentron's infringement of the '799 patent has caused and will continue to cause Plaintiff substantial and irreparable injury, for which Plaintiff is entitled to receive injunctive relief and damages adequate to compensate it for such infringement.

13. On information and belief, Jeneric/Pentron's infringement of the '799 patent has been and is being committed in a willful manner, and in deliberate and intentional disregard of Plaintiff's rights.

DEMAND FOR JURY TRIAL

14. Plaintiff demands a trial by jury to the extent permitted by applicable law.

DEMAND FOR RELIEF

WHEREFORE, Plaintiff prays that this Court enter judgment in its favor and against Jeneric/Pentron and grant the following relief:

A. Permanently enjoin Jeneric/Pentron, its employees and its agents, and any others acting in concert with Jeneric/Pentron, from infringing the '799 patent;

B. Award Plaintiff its damages resulting from Jeneric/Pentron's infringement of the '799 patent;

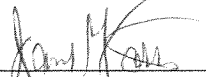
C. Award Plaintiff treble damages pursuant to 35 U.S.C. § 284 as a result of Jeneric/Pentron's willful infringement of the '799 patent;

D. Declare this case exceptional pursuant to 35 U.S.C. § 285 and award Plaintiff its costs and attorney fees; and

E. Grant Plaintiff such other relief as is just and proper.

Dated: June 6, 2000

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