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Adventive Ideas, LLC

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

INTERNATIONAL DEVELOPMENT
CORPORATION

Civil Action No. 3:09-CV-
02495-GEB

Plaintiff,

v.

SIMON NICHOLAS RICHMOND AND
ADVENTIVE IDEAS, LLC

Defendants.

DECLARATION OF SIMON NICHOLAS RICHMOND

I, Simon Nicholas Richmond, hereby declare:

I. INTRODUCTION

1. I am the inventor and owner of the two patents for garden solar lights, U.S. Patent Nos. 7,196,477 B2 (the “477 patent”) and U.S. Patent No. 7,429,827 B2 (the “827 patent”), which are at issue in this litigation.

2. I am the owner of Adventive Ideas, LLC (“Adventive”). IDC originally brought this lawsuit making various claims, asserting that each of the ‘477 and ‘827 patents is invalid or not infringed, and including that Adventive and I made a “false” allegation of infringement. Adventive and I have asserted counterclaims that IDC infringes claims 1-9, 13-16, 20-22, and 26 of the ‘477 patent and claims 27-35 of the ‘827 patent (the “Asserted Claims”). This declaration will address the validity issue.

II. PROFESSIONAL BACKGROUND

3. I am the sole inventor on fourteen (14) United States utility and design patents, most of which relate to solar garden lights. I submit this declaration as an expert in the pertinent art of solar garden lights.

4. I received an undergraduate education at the University of New South Wales in Sydney, Australia, where I received a bachelor’s degree in commerce, which consisted of mostly business-related courses covering topics such as accounting, economics, statistics, taxation, and Australian business law. I further received a masters degree in business administration (MBA) from New York University, where my course load included a technical course related to assessing technologies and applying the technologies in a commercial strategic business environment. I took a

physics course in high school, which covered, to some extent, electronic circuits.

5. I was engaged as an employee at HPM at the time of the invention of the subject matter of the '477 patent. While at HPM, I participated in the commercial development of commercial embodiments of the inventions disclosed in the '477 and '827 patents. HPM develops, produces, markets and distributes a wide variety of electronic and electrical equipment in Australia and also arranges for contract manufacturing of its products in China. At the time I joined HPM in 1993, HPM had approximately 1,000 employees and was one of the largest manufacturers and marketers of electronic and electrical products in Australia. During my time with HPM, I held the positions of Director of Corporate Development and Director of Product Development. These positions involved establishing and maintaining relationships with foreign manufacturers and US and South American distributors and suppliers, and being involved in the operation of all aspects of the business of HPM. For example, I found and selected suitable suppliers and was involved in commercial negotiations, contract development discussions, product design, and supplier relationship management. I spearheaded the outsourcing of product manufacturing to China.

6. While at HPM, I was almost solely responsible for product development of low voltage garden lights and, later, solar garden lighting. I was also involved in the development of new electrical accessories such as plug-in timers, power strips, extension cords, light dimmers.

7. In about 2004, I chose to move to the United States with my family. However, at HPM's request, I stayed on for approximately six additional months to perform additional work. As partial compensation for this, and for other services rendered, HPM assigned the United States intellectual property rights relating to the invention of the Australian provisional patent application to me, which rights ultimately matured into the '477 and '827 patents at issue in this case. After I departed from HPM, I continued to pursue the '477 patent application, and later the '827 patent application. I further continued to develop relationships with manufacturers in China and US distributors, and sold commercial embodiments of the claimed inventions in the '477 and '827 patents through trade channels in the U.S. Thus, I have experience with manufacturers in China of the type used by IDC, and including at least one of the factories used by IDC as its primary supplier.

The Level of Ordinary Skill in the Art

8. In view of this professional experience acquired over many years, I am personally familiar with the ordinary level of skill in the pertinent art of solar garden lights, including the type of problems encountered in the art, prior art solutions to those problems, rapidity with which innovations are made, sophistication of the technology, and the educational level of active workers in the field.

9. In my experience and opinion, at the time of the invention, the level of ordinary skill in the field of designing solar garden lights was relatively low - the equivalent of an industrial designer skilled at making basic, functional solar garden lights with various ornamentation, with only basic knowledge of the electrical circuits and components ordinarily used in solar garden lights and how to make minor modifications to them, for sizing the solar cells, batteries, LEDs, etc., and how to assemble them into a functional solar garden light.

10. I do not agree with the opinion of Dr. Duane Laurent, the technical witness named by IDC, as to the level of ordinary skill in the art. It is my opinion that Dr. Laurent has incorrectly assigned a person of ordinary skill a higher level of skill in the art at the time of the invention than existed. Dr. Laurent also has not been consistent in his assessment of the level of ordinary skill. In Dr. Laurent's Declaration dated July 20, 2010, he attested

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