

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

ACCASVEK, LLC, a Texas Limited Liability
Company,

Plaintiff,

v.

LOCKHEED MARTIN CORPORATION, and
LOCKHEED MARTIN INTEGRATED SYSTEMS,
INC.,

Defendants.

Case No. 2:13-cv-636

COMPLAINT

ACCASVEK, LLC (“Accasvek” or “Plaintiff”) files this Complaint against the Lockheed Martin Corporation and Lockheed Martin Integrated Systems, Inc., also known as Lockheed Martin Simulation, Training & Support (collectively, “Lockheed” or “Defendant”) and alleges as follows:

NATURE OF THE ACTION

1. This is a patent infringement action for Defendants’ unauthorized and infringing manufacture, use, sale, offering for sale, and/or importation of methods and products incorporating Plaintiff Accasvek’s patented inventions.

2. Accasvek is owner of all right, title, and interest in and to United States Patent Nos. 6,261,180 (“the ‘180 Patent”) and 6,293,869 (“the ‘869 Patent”) (collectively, “the Accasvek Patents”), pertaining to laser-based training systems. True and correct copies of the Accasvek Patents are attached hereto as Exhibits A and B.

3. Lockheed manufactures, provides, sells, offers for sale, imports, and/or distributes products and services that infringe the Accasvek Patents.

THE PARTIES

4. Accasvek, LLC is a limited liability company organized and existing under the laws of the State of Texas, with its principal place of business at 3301 W. Marshall Ave., Suite 303, Longview, Texas 75604.

5. Lockheed Martin Corporation is a Maryland corporation with a principal place of business at 6801 Rockledge Drive, Bethesda, MD 20817.

6. Lockheed Martin Integrated Systems, Inc. is a Maryland corporation with a principal place of business at Route 38, Cherry Hill Offices, Cherry Hill, NJ 08358.

JURISDICTION

7. This is an action for patent infringement which arises under the Patent Laws of the United States, Title 35, United States Code. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§1331 and 1338(a).

8. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b), (c), and 1400.

9. This Court has personal jurisdiction over Lockheed Martin Corporation by virtue of its purposeful availment of this Court, including filing suit in this Court in the matter of *Lockheed Martin v. Leica Geosystems Inc.*, 2:01-cv-00113-TJW (E.D. Tex. June 1, 2001).

10. This Court has personal jurisdiction over Lockheed Martin Corporation and Lockheed Martin Integrated Systems, Inc. by virtue of their systematic and continuous contacts with the State of Texas and this Judicial District.

BACKGROUND

11. Lockheed is in the business of making, among other things, laser-based weapons training systems. At issue in this action is Lockheed's Multiple Integrated Laser Engagement System ("MILES") XXI weapons training system that infringes the Accasvek Patents.

12. In or around May 2001, Lockheed was awarded the Multiple Integrated Laser Engagement Systems (MILES) XXI Task Order under the U.S. Army's Simulation, Training and Instrumentation Command Omnibus Contract for live domain training, to produce and field laser-based training systems for live force-on-force training. The MILES XXI training system is a family of infantry, vehicle, anti-tank and independent target systems used for training military and police personnel. The MILES XXI system provides real-time feedback on the result of weapon engagements so users can simulate actual combat in variety of battle scenarios or similar encounters.

13. On February 6, 1998, U.S. Patent Application No. 09/019747 was filed with the U.S. Patent and Trademark Office.

14. On July 17, 2001, Application No. 09/019747 was duly and legally issued to Toymax as the '180 Patent, entitled "Computer Programmable Interactive Toy for a Shooting Game."

15. Since its issuance, the '180 Patent has been in full force and effect. Accasvek is the current owner of the entire right, title, and interest in and to the '180 Patent, including the right to sue for past and present infringements thereof.

16. On December 30, 1999, U.S. Patent Application No. 09/475,561 was filed with the U.S. Patent and Trademark Office.

17. On September 25, 2001, Application No. 09/475,561 was duly and legally issued to Toymax, Inc. as the '869 Patent, entitled "Shooting Game Target with Graphic Image Display Device."

18. Since its issuance, the '869 Patent has been in full force and effect. Accasvek is the current owner of the entire right, title, and interest in and to the '869 Patent, including the right to sue for past and present infringements thereof.

COUNT 1

INFRINGEMENT OF THE '180 PATENT

19. Accasvek repeats and re-alleges the allegations of paragraphs 1 through 18 of the Complaint as if fully set forth herein.

20. Accasvek is the current owner of the entire right, title, and interest in and to the '180 Patent, including the right to sue for past and present infringements thereof.

21. Lockheed has been, and now is, directly infringing the '180 Patent by making, using, making available for another's use, offering to sell, selling in the United States, or importing into the United States Lockheed's MILES XXI weapons training system, and all like systems and related services.

22. By reason of Lockheed's infringing activities, Accasvek is suffering and will continue to suffer substantial damages in an amount to be determined at trial.

COUNT 2

INFRINGEMENT OF THE '869 PATENT

23. Accasvek repeats and re-alleges the allegations of paragraphs 1 through 23 of the Complaint as if fully set forth herein.

24. Accasvek is the current owner of the entire right, title, and interest in and to the '869 Patent, including the right to sue for past and present infringements thereof.

25. Lockheed has been, and now is, directly infringing the '869 Patent by making, using, making available for another's use, offering to sell, selling in the United States, or

importing into the United States Lockheed's MILES XXI weapons training system, and all like systems and related services.

26. By reason of Lockheed's infringing activities, Accasvek is suffering and will continue to suffer substantial damages in an amount to be determined at trial.

DEMAND FOR JURY TRIAL

27. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Accasvek respectfully requests a trial by jury on all issues properly triable by jury.

PRAYER FOR RELIEF

WHEREFORE, Accasvek prays for relief as follows:

- a. Entry of judgment that Lockheed has directly infringed at least one claim of each of the Accasvek Patents;
- b. Entry of judgment awarding Accasvek compensatory damages as a result of Lockheed's infringement of the Accasvek Patents, together with interest and costs, and in no event less than a reasonable royalty;
- c. Entry of judgment awarding Accasvek pre- and post-judgment interest;
- d. Entry of judgment declaring that this case is exceptional and awarding Accasvek its expenses, costs, and attorney fees in accordance with 35 U.S.C. §§ 284 and 285 and Rule 54(d) of the Federal Rules of Civil Procedure;
- e. Any and all other relief as this Court may deem just and proper.

Dated: August 19, 2013

Respectfully submitted,

/s/ James A. Fussell, III
James A. Fussell, III
SPANGLER & FUSSELL P.C.
208 N. Green Street, Suite 300
Longview, Texas 75601
fussell@sfipfirm.com
Phone: (903) 753-9300
Facsimile: (903) 553-0403

Andrew W. Spangler
TX State Bar No. 24041960
Spangler & Fussell P.C.
208 N. Green Street, Suite 300
Longview, Texas 75601
Telephone: (903) 753-9300
Facsimile: (903) 553-0403
Email: spangler@sfipfirm.com

Brian H. Pandya
Adrienne G. Johnson
WILEY REIN LLP
1776 K Street NW
Washington, DC 20006
bpandya@wileyrein.com
ajohnson@wileyrein.com
Phone: (202) 719-7000
Fax: (202) 719-7049

Counsel for Plaintiff Accasvek, LLC