

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

NANOSYS, INC.
2625 Hanover Street
Palo Alto, CA 94304

Plaintiff,

v.

NANOCO TECHNOLOGIES LTD.

46 Grafton Street
Manchester, M13 9NT
UK

and

SIGMA-ALDRICH CORPORATION

3050 Spruce Street
St. Louis, Missouri 63103

Defendants.

Civil Action No.:

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Nanosys, Inc. ("Nanosys"), through its undersigned attorneys, for its Complaint against Defendants Nanoco Technologies Ltd. ("Nanoco") and Sigma-Aldrich Corporation ("Sigma") alleges as follows:

NATURE OF THE ACTION

1. This action arises under the patent laws of the United States (35 U.S.C. §§ 271 *et seq.*) based upon Defendants' infringement of U.S. Patent Nos. 6,861,155 B2 ("the '155 patent"); 6,322,901 B1 ("the '901 patent"); 7,125,605 B2 ("the '605 patent"); 6,821,337 B2 ("the '337 patent"); and 7,138,098 ("the '098 patent")(the foregoing patents are collectively referred to as

the "Patents-in-Suit"), all owned by Massachusetts Institute of Technology ("MIT") and exclusively licensed to Plaintiff Nanosys.

THE PARTIES

2. Nanosys is a Delaware corporation, having its principal place of business at 2625 Hanover Street, Palo Alto, California 94304. Founded in 2001, Nanosys is an industry-leading nanotechnology company that is developing, manufacturing and selling products based on a technology platform of high performance inorganic nanostructures. Nanosys' technology is covered by a portfolio of over 500 patents and patent applications, including patents in the quantum dot field, that is currently being applied to opportunities in multiple industries including energy, electronics, optoelectronics, life science, and defense. Current application areas of Nanosys technology include flat-panel displays, non-volatile memory, fuel cells, solid-state lighting, chemical analysis chips and medical devices.

3. Upon information and belief, Nanoco is a United Kingdom corporation, having its principal place of business at 46 Grafton Street Manchester, M13 9NT, United Kingdom.

4. Upon information and belief, Sigma is a Delaware corporation, having a principal place of business at 3050 Spruce Street, St. Louis, Missouri 63103.

5. Upon information and belief, Sigma is the U.S. and worldwide distributor for Nanoco's line of luminescent quantum dot nanocrystals, marketed under the Lumidot brand. As such, Sigma is the agent of its principal, Nanoco.

JURISDICTION AND VENUE

6. This action for patent infringement arises under the patent laws of the United States, United States Code, Title 35.

7. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

8. Upon information and belief, this Court has personal jurisdiction over Sigma because Sigma has a regular and established place of business in this judicial district and because, on information and belief, Sigma has sold Nanoco products that infringe one or more of the Patents-in-Suit in this judicial district.

9. Upon information and belief, this Court has personal jurisdiction over Nanoco because its agent, Sigma, has a regular and established place of business in this judicial district and because, on information and belief, Nanoco has sold directly or through its agent, Sigma, products that infringe one or more of the Patents-in-Suit in this judicial district. Nanoco's contacts within the forum state include its infringement of the Patents-In-Suit by selling, marketing and offering infringing products on its website to its customers who reside in, or may be found in, this judicial district.

10. Venue is proper in this district under 28 U.S.C. §§ 1391 and 1400(b) because the Defendants are subject to personal jurisdiction in the forum and are therefore deemed to reside in this district. On information and belief, Defendants have committed acts of infringement in the district. And, on information and belief, Sigma has a regular and established place of business in the district. Venue is also proper under 28 §1391(d) because Nanoco is an alien that may be sued in any district.

THE ACCUSED PRODUCTS

11. Upon information and belief, Nanoco and/or Sigma make, use, offer to sell, sell and import luminescent quantum dot nanocrystals in the United States, including but not limited to the Lumidot brand products (the "Accused Products"). On information and belief, Nanoco

and/or Sigma import the Accused Products into the United States or offer to sell, sell, or use the Accused Products within the United States that are claimed in, or that were made by a process that is claimed in, one or more of the Patents-in-Suit. The Accused Products are marketed on both Nanoco's and Sigma's websites and are available for sale on Sigma's website and via hyperlinks through Nanoco's website.

THE PATENTS-IN-SUIT

12. MIT is the owner of the entire right, title and interest in and to the '155 patent, issued by the United States Patent and Trademark Office ("USPTO") on March 1, 2005 and entitled "Highly Luminescent Color Selective Nanocrystalline Materials." The named inventors of this patent are Mounji Bawendi, Klavs F. Jensen, Bashir O. Dabbousi, Javier Rodriguez-Viejo and Frederic Victor Mikulec. MIT has exclusively licensed the '155 patent to Nanosys, and Nanosys has the right to recover for infringement of the '155 patent. A true and correct copy of the '155 patent is attached to this Complaint as Exhibit A.

13. MIT is the owner of the entire right, title and interest in and to the '901 patent, issued by the USPTO on November 27, 2001 and entitled "Highly Luminescent Color-Selective Nano-Crystalline Materials." The named inventors of this patent are Mounji Bawendi, Klavs F. Jensen, Bashir O. Dabbousi, Xavier Rodriguez-Viejo and Frederic Victor Mikulec. MIT has exclusively licensed the '901 patent to Nanosys, and Nanosys has the right to recover for infringement of the '901 patent. A true and correct copy of the '901 patent is attached to this Complaint as Exhibit B.

14. MIT is the owner of the entire right, title and interest in and to the '605 patent, issued by the USPTO on October 24, 2006 and entitled "Highly Luminescent Color Selective Nanocrystalline Materials." The named inventors of this patent are Mounji Bawendi, Klavs F.

Jensen, Bashir O. Dabbousi, Javier Rodriguez-Viejo and Frederic Victor Mikulec. MIT has exclusively licensed the '605 patent to Nanosys, and Nanosys has the right to recover for infringement of the '605 patent. A true and correct copy of the '605 patent is attached to this Complaint as Exhibit C.

15. MIT is the owner of the entire right, title and interest in and to the '337 patent, issued by the USPTO on November 23, 2004 and entitled "Preparation of Nanocrystallites." The named inventors of this patent are Mounqi Bawendi and Nathan E. Stott. MIT has exclusively licensed the '337 patent to Nanosys, and Nanosys has the right to recover for the infringement of the '337 patent. A true and correct copy of the '337 patent is attached to this Complaint as Exhibit D.

16. MIT is the owner of the entire right, title and interest in and to the '098 patent, issued by the USPTO on November 21, 2006 and entitled "Preparation of Nanocrystallites". The named inventors of this patent are Mounqi Bawendi and Nathan E. Stott. MIT has exclusively licensed the '098 patent to Nanosys, and Nanosys has the right to recover for infringement of the '098 patent. A true and correct copy of the '098 patent is attached to this Complaint as Exhibit E.

COUNT I

(Infringement of the '155 Patent Pursuant to 35 U.S.C. § 271)

17. The allegations of paragraphs 1-16 above are repeated and re-alleged as if set forth fully herein.

18. Upon information and belief, Defendants' making, using, offering to sell, importing and/or selling within the United States of the Accused Products infringes, literally or

under the doctrine of equivalents, one or more claims of the '155 patent pursuant to 35 U.S.C. § 271(a), (b), (c), (f) and/or (g).

19. Upon information and belief, Defendants' infringement of the '155 patent has been knowing and willful.

20. Defendants' infringement of the '155 patent has caused and continues to cause Plaintiff to suffer substantial money damages and has caused and continues to cause harm to its business plans.

21. Defendants' infringement of the '155 patent has caused and continues to cause Plaintiff to suffer irreparable harm for which there is no adequate remedy at law.

COUNT II

(Infringement of the '901 Patent Pursuant to 35 U.S.C. § 271)

22. The allegations of paragraphs 1-16 above are repeated and re-alleged as if set forth fully herein.

23. Upon information and belief, Defendants' making, using, offering to sell, importing and/or selling within the United States of the Accused Products infringes, literally or under the doctrine of equivalents, one or more claims of the '901 patent pursuant to 35 U.S.C. § 271(a), (b), (c), (f) and/or (g).

24. Upon information and belief, Defendants' infringement of the '901 patent has been knowing and willful.

25. Defendants' infringement of the '901 patent has caused and continues to cause Plaintiff to suffer substantial money damages and has caused and continues to cause harm to its business plans.

26. Defendants' infringement of the '901 patent has caused and continues to cause Plaintiff to suffer irreparable harm for which there is no adequate remedy at law.

COUNT III

(Infringement of the '605 Patent Pursuant to 35 U.S.C. § 271)

27. The allegations of paragraphs 1-16 above are repeated and re-alleged as if set forth fully herein.

28. Upon information and belief, Defendants' making, using, offering to sell, importing and/or selling within the United States of the Accused Products infringes, literally or under the doctrine of equivalents, one or more claims of the '605 patent pursuant to 35 U.S.C. § 271(a), (b), (c), (f) and/or (g).

29. Upon information and belief, Defendants' infringement of the '605 patent has been knowing and willful.

30. Defendants' infringement of the '605 patent has caused and continues to cause Plaintiff to suffer substantial money damages and has caused and continues to cause harm to its business plans.

31. Defendants' infringement of the '605 patent has caused and continues to cause Plaintiff to suffer irreparable harm for which there is no adequate remedy at law.

COUNT IV

(Infringement of the '337 Patent Pursuant to 35 U.S.C. § 271)

32. The allegations of paragraphs 1-16 above are repeated and re-alleged as if set forth fully herein.

33. Upon information and belief, Defendants' making, using, offering to sell, importing and/or selling within the United States of the Accused Products infringes, literally or

under the doctrine of equivalents, one or more claims of the '337 patent pursuant to 35 U.S.C. § 271(a), (b), (c), (f) and/or (g).

34. Upon information and belief, Defendants' infringement of the '337 patent has been knowing and willful.

35. Defendants' infringement of the '337 patent has caused and continues to cause Plaintiff to suffer substantial money damages and has caused and continues to cause harm to its business plans.

36. Defendants' infringement of the '337 patent has caused and continues to cause Plaintiff to suffer irreparable harm for which there is no adequate remedy at law.

COUNT V

(Infringement of the '098 Patent Pursuant to 35 U.S.C. § 271)

37. The allegations of paragraphs 1-16 above are repeated and re-alleged as if set forth fully herein.

38. Upon information and belief, Defendants' making, using, offering to sell, importing and/or selling within the United States of the Accused Products infringes, literally or under the doctrine of equivalents, one or more claims of the '098 patent pursuant to 35 U.S.C. § 271(a), (b), (c), (f) and/or (g).

39. Upon information and belief, Defendants' infringement of the '098 patent has been knowing and willful.

40. Defendants' infringement of the '098 patent has caused and continues to cause Plaintiff to suffer substantial money damages and has caused and continues to cause harm to its business plans.

41. Defendants' infringement of the '098 patent has caused and continues to cause Plaintiff to suffer irreparable harm for which there is no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Nanosys asks this Court to enter Final Judgment in its favor:

A. A judgment that Nanoco has infringed the '155 patent, the '098 patent, the '337 patent, the '605 patent, and the '901 patent;

B. A judgment that Sigma has infringed the '155 patent, the '098 patent, the '337 patent, the '605 patent, and the '901 patent;

C. Entering a permanent injunction enjoining Nanoco and each of its affiliates, subsidiaries, officers, directors, employees, agents, representatives, licensees, successors, assigns and all those acting for it or on its behalf, or acting in concert or privity with it, from committing further infringement of the '155 patent, the '098 patent, the '337 patent, the '605 patent, and the '901 patent;

D. Entering a permanent injunction enjoining Sigma and each of its affiliates, subsidiaries, officers, directors, employees, agents, representatives, licensees, successors, assigns and all those acting for it or on its behalf, or acting in concert or privity with it, from committing further infringement of the '155 patent, the '098 patent, the '337 patent, the '605 patent, and the '901 patent;

E. An award of compensatory damages under 35 U.S.C. § 284, including, but not limited to, damages for lost profits and reasonable royalties, and damages relating to Nanoco's obtaining public and/or private funding based upon its infringing acts;

F. An award of compensatory damages under 35 U.S.C. § 284, including, but not limited to, damages for lost profits and reasonable royalties, and damages relating to Sigma's obtaining public and/or private funding based upon its infringing acts;

G. An assessment of pre-judgment and post-judgment interest and costs against Nanoco, together with an award of such interest and costs in accordance with 35 U.S.C. § 284.

H. An assessment of pre-judgment and post-judgment interest and costs against Sigma, together with an award of such interest and costs in accordance with 35 U.S.C. § 284.

I. An award against Nanoco of treble damages for willful infringement;

J. An award against Sigma of treble damages for willful infringement;

K. An award of reasonable attorney's fees against Nanoco in favor of Plaintiff;

L. An award of reasonable attorney's fees against Sigma in favor of Plaintiff; and

M. Such further relief that this Court may deem just and appropriate.

JURY DEMAND

Plaintiff Nanosys requests a trial by jury pursuant to Federal Rule of Civil

Procedure 38(b) on all issues so triable.

STAFFORD ROSENBAUM LLP

Date: April 27, 2009

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