

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, 35 U.S.C. § 1 et seq., and this Court has jurisdiction under 28 U.S.C. §§ 1331, 1332, and 1338.

4. Venue is proper in this district under 28 U.S.C. §§ 1391 and 1400.

BACKGROUND OF THE CASE

5. For many years, National Biological has engaged in the development, manufacture, and sale of phototherapy equipment designed and proven to treat of a wide variety of skin conditions.

6. As a result of these efforts, National Biological has become widely recognized in the medical profession as a source of high quality and innovative phototherapy treatment equipment.

7. National Biological has expended considerable time, effort, and money in the development of a unique device disclosed in the application for United States Letters Patent Serial No. 08/166,092.

8. The aforementioned patent application was allowed by the United States Patent and Trademark Office and granted United States Letters Patent No. 5,601,619 on February 11, 1997.

9. National Biological is the owner of all right, title, and interest in United States Letters Patent No. 5,601,619 (also, “Patent ‘619”).

10. On or about November 23, 2010, National Biological discovered that Richmond Light was circulating marketing literature promoting a “Programmable Digital Timer” device with identical properties and characteristics of National Biological’s patented device for the purpose of trading upon the substantial commercial acceptance of National Biological’s technology in the marketplace.

11. National Biological’s comparison of Richmond Light devices to Patent ‘619 confirmed that Richmond Light’s devices—specifically, the S2800 Model—included at least all of the

claim limitations of at least one Patent '619 claim, and as a result were infringing National Biological's patent rights.

12. National Biological did not give Richmond Light permission to practice the invention covered by United States Letters Patent No. 5,601,619.

13. On May 19, 2010, counsel for National Biological notified Richmond Light that the manufacture, marketing, and sale of their devices—including, but not limited to, the S2000 Series (specifically, Model S2800) and all Jordan Light® models—infringed National Biological's rights in Patent '619, and demanded that they immediately terminate such infringing and unlawful conduct. (See Exhibit 1, attached).

14. On July 6, 2010, counsel for Richmond Light forwarded correspondence indicating that their analysis concluded there was no infringement of National Biological's Patent '619. (See Exhibit 2, attached).

15. Upon information and belief, as of the filing date of the above-captioned action, Richmond Light continues to manufacture, market, and/or sell, within this district and elsewhere, devices which infringe Patent '619.

16. As a result of Richmond Light's competitive activities and infringement, National Biological has suffered and will continue to suffer grievous damage unless and until enjoined by this Court.

FIRST CLAIM FOR RELIEF
(Infringement of U.S. Patent 5,601,619)

17. The allegations of paragraphs 1-16 are incorporated for this Count I as though fully set forth herein.

18. National Biological is the owner of all right, title, and interest in and to United States Letters Patent 5,601,619 (Patent '619)(Exhibit 3) entitled "Phototherapeutic Device and Method."

19. Patent '619 was duly issued by the United States Patent and Trademark Office, and is valid and enforceable.

20. Upon information and belief, Richmond Light makes, uses, and sells and/or offers for sale products, domestically and internationally, that infringe claims of Patent '619. For example, upon information and belief, Richmond Light's S2000 Series product line (specifically, Model S2800) and Jordan Light® product lines, infringes Patent '619. Upon information and belief, an opportunity for further investigation and discovery will reveal that additional Richmond Light products infringe Patent '619.

21. Upon information and belief, Richmond Light is willfully infringing or is contributing to or inducing the infringement of one or more claims of Patent '619 by manufacturing, using, selling and/or offering to sell infringing products in the United States.

22. By reason of said acts by Richmond Light, National Biological has been, and will continue to be, seriously damaged and irreparably injured unless Richmond Light is preliminarily and permanently enjoined by this Court from the actions complained of herein, and thus National Biological is without adequate remedy at law.

REQUEST FOR RELIEF

WHEREFORE, National Biological Corporation prays for the entry of a judgment by this Court against Richmond Light:

A. declaring that Richmond Light has infringed United States Letters Patent No. 5,601,619;

B. ordering that Richmond Light, its officers, agents, servants, employees, attorneys, and all other persons in active concert or participation with Richmond Light, be preliminarily and permanently enjoined and restrained from further infringing National Biological's United States Letters Patent No. 5,601,619 during its term;

C. awarding damages, together with interest, to compensate National Biological for the past infringement by Richmond Light of United States Letters Patent No. 5,601,619;

D. awarding National Biological prejudgment interest according to law;

E. finding this to be an exceptional case, and directing that Richmond Light pay National Biological treble damages, the costs of this action and its reasonable attorneys fees pursuant to 35 U.S.C. §284-285; and

F. for such other relief as this Court deems just and proper.

Dated September 24, 2010.

s/Nathan B. Webb

Roger D. Emerson (#0033371)
Roger.Emerson@etblaw.com
Daniel A. Thomson (#0070586)
dat@etblaw.com
Nathan B. Webb (#0084506)
nbw@etblaw.com
1914 Akron-Peninsula Road
Akron, OH 44313
330.434.9999
330.434.8888 – Facsimile
Attorneys for National Biological Corporation

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DEMAND FOR JURY TRIAL

In accordance with Fed. R. Civ. P. 38(b), Plaintiff, National Biological Corporation, hereby demands a trial by jury on all issues triable by a jury.

Dated: September 24, 2010

EMERSON THOMSON BENNETT

s/Nathan B. Webb