

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
EASTERN DIVISION**

Virtek Vision International ULC,

Plaintiff,

v.

Assembly Guidance Systems, Inc. dba Aligned
Vision,

Defendant.

Civil Action No. 1:20-cv-10857

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Virtek Vision International ULC (“Virtek”) for its Complaint against Defendant Assembly Guidance Systems, Inc. dba Aligned Vision (“Aligned Vision”) alleges as follows:

BACKGROUND AND NATURE OF THE ACTION

1. This is a civil action for infringement of U.S. Patent No. 10,052,734 (“the ’734 Patent”) under the Patent Act, 35 U.S.C. § 100, et seq, based on Defendant Aligned Vision’s use, and its contribution to and inducing of others’ use of its TARGETGUIDE product. A copy of the ’734 Patent is attached as Exhibit A.

2. Virtek brings this action in response to the repeated, knowing, and willful infringement by Aligned Vision of Virtek’s patent rights in its novel laser projection method, which is disclosed and claimed in the ’734 Patent.

A. Virtek’s Invention of an Improved Laser Projection Method

3. Virtek is a market leader in products using technologies to help manufacturing companies precisely position components during manufacturing processes. Sometimes called “optical guidance” or “laser projection” systems, these technologies use a laser to project an

image onto a three-dimensional surface, called a “workpiece” or “work surface.” The projected image acts like a stencil on the workpiece, allowing a worker to manually or semi-automatically place or mount components precisely onto the space marked by the image. Laser projectors use extremely narrow linear light beams ensure this precise placement, often with tolerances of 1.0 mm and less.

4. To be effective, the laser projection system needs to be in positional alignment with the workpiece. Conventional laser projection systems and methods achieved this alignment by requiring a complete scan of the entire area surrounding the workpiece to identify the boundaries and location of the workpiece. But this scanning method takes time to achieve proper positional alignment and requires a re-scan of the workspace after any movement of the workpiece.

5. With the investment of substantial time and money, Virtek developed an ingenious technique that overcame these issues and substantially reduced the manufacturing time and costs for items manufactured with an industrial laser projection system. Specifically, Virtek’s technology uses a secondary light source to illuminate reflective targets that are attached at specific locations on the workpiece. Using Virtek’s invention, light from the secondary source is reflected from these targets and is used to find a general location for the targets. The general target locations can then be used to rapidly identify a more precise target location by directing the laser projector where to scan the targets. Once the precise target locations are known, the invention can properly place the projected laser image or template onto the workpiece. Virtek’s technique allows the speedy positional alignment of the laser projection system to the workpiece without the need for the laser projector to completely scan the entire area around the workpiece searching for the targets.

B. Virtek Discloses the Invention to Aligned Vision, and Aligned Vision Steals It

6. Virtek filed provisional application number 62/408,944 on October 17, 2016, disclosing its invention to the USPTO. The '734 Patent claims priority to this provisional application.

7. Following this filing, in early 2017, Virtek met with Aligned Vision to discuss a possible business arrangement between the parties. The parties agreed that the information disclosed as a part of these discussions would be kept confidential, and that the parties would not use each other's disclosed information except to evaluate the possible arrangement.

8. Virtek and Aligned Vision also signed a non-disclosure agreement related to these discussions.

9. Virtek relied on these promises in deciding to attend the meeting and for what it disclosed at the meeting.

10. At the meeting, Virtek disclosed its technologies and business information to Aligned Vision. One of the technologies it disclosed was called Virtek's "FlashAlign™" technology. The slides accompanying the FlashAlign™ disclosures included the marking "Multiple Patents Granted & Pending."

11. The technology described by Virtek to Aligned Vision as FlashAlign™ is the same technology disclosed and claimed in the '734 Patent.

12. Following the meetings, the parties were unable to reach a business arrangement. Relying on the parties' mutual promises of confidentiality and respect for the others' information, Virtek moved on.

13. Just over two years later, however, Virtek discovered that Aligned Vision was selling a product, called TARGETGUIDE, which allowed a user to utilize the same laser-

alignment technology that was disclosed and discussed at the parties' meetings. It is also the same technology that is disclosed in the '734 Patent.

14. Thus, instead of entering into a business arrangement with Virtek, Aligned Vision decided to just take Virtek's technology and use it for its own purposes.

C. Aligned Vision Misleads Virtek and Continues Infringing

15. On or about June 2019, Aligned Vision began advertising its TARGETGUIDE system on its website. See attached Exhibit B.

16. Shortly thereafter, on July 2, 2019, Counsel for Virtek contacted Aligned Vision notifying it of the issued '734 Patent and demanding it immediately cease and desist "further marketing, sales and exposition of the TARGETGUIDE due to its infringement[.]" See attached Exhibit C.

17. Following Virtek's letter, Aligned Vision removed TARGETGUIDE as a product from its website. It also represented to Virtek that it had removed TARGETGUIDE from the market.

18. At the same time, the parties began discussing Aligned Vision's infringement. Despite months of conversations, the parties were not able to reach an agreement regarding Aligned Vision's use and sale of the TARGETGUIDE product. At no time during these discussions did Aligned Vision state it was going to re-introduce TARGETGUIDE into the market.

19. Based on Aligned Vision's representations, Virtek understood and believed that Aligned Vision was not marketing or selling TARGETGUIDE to any customers in the United States. Virtek therefore elected not to take any immediate legal action against Aligned Vision.

20. On April 21, 2020, however, Virtek discovered that Aligned Vision had placed TARGETGUIDE back onto its website as a product.

21. Upon information and belief, the TARGETGUIDE listed on Aligned Vision's website is the same product Aligned Vision listed on its website in June of 2019.

22. Upon information and belief, Aligned Vision marketed, sold, and offered for sale the TARGETGUIDE product after August, 2019 and before April, 2020.

23. Upon information and belief, Aligned Vision marketed, sold, and offered for sale the TARGETGUIDE product after it represented to Virtek that it had removed TARGETGUIDE from the market.

24. Based on these ongoing marketing and sales efforts, and in view of Aligned Vision's misrepresentations regarding these efforts, Virtek had no choice but to bring this action to halt Aligned Vision's ongoing infringement.

D. Aligned Vision's Infringing TARGETGUIDE System

25. Upon information and belief, Aligned Vision demonstrates and markets its TARGETGUIDE system to its customers in the United States.

26. Upon information and belief, Aligned Vision instructs and trains its customers in the United States on how to use the TARGETGUIDE system as a laser-projection system.

27. Upon information and belief, TARGETGUIDE is used as part of a laser projector assembly (the "TARGETGUIDE Assembly"), which Assembly is capable of locating reflective targets on a work surface in order to precisely project a laser image onto the surface.

28. Upon information and belief, TARGETGUIDE includes a light source that can be used to transmit a secondary, non-laser light towards reflective targets placed upon a work surface.

29. Upon information and belief, the TARGETGUIDE Assembly can identify a pattern of the targets from the reflected illumination from the non-laser light source, and from that pattern can identify a general location for each of the targets.

30. Upon information and belief, the TARGETGUIDE Assembly scans the targets with a laser beam after identifying the pattern of the targets.

31. Upon information and belief, the TARGETGUIDE Assembly can then determine a precise location of the targets using the light reflected from the laser beam.

32. Upon information and belief, the TARGETGUIDE Assembly can use the precise location of the targets to direct the laser projector assembly to project a laser image onto the work surface.

33. In using this method, TARGETGUIDE can reduce the amount of time it takes to project a laser image onto a work surface.

THE PARTIES

34. Virtek is a Canadian unlimited liability company having a principal place of business at 785 Bridge St. West, Waterloo, Ontario, Canada N2V 2K1.

35. Aligned Vision is a Massachusetts Corporation having a principal place of business at 27 Industrial Avenue, Chelmsford, MA, USA 01824.

36. Virtek and Aligned Vision are competitors in the laser projection industry.

JURISDICTION AND VENUE

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

38. This Court has personal jurisdiction over Aligned Vision because Aligned Vision maintains its headquarters and principal place of business in Massachusetts. This Court also has

personal jurisdiction over Aligned Vision because, upon information and belief, Aligned Vision regularly solicits and conducts business in Massachusetts and engages in other persistent courses of conduct in Massachusetts. This Court also has personal jurisdiction over Aligned Vision because, upon information and belief, Aligned Vision commits acts of infringement in Massachusetts, including but not limited to using methods that directly infringe one or more claims of Virtek's patent and also by making, selling and offering to sell products that its customers then use to directly infringe one or more claims of Virtek's patent.

39. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400 at least because Aligned Vision maintains a regular and established place of business in Massachusetts and has committed, and continues to commit, acts of infringement in Massachusetts, including but not limited to using methods that directly infringe one or more claims of Virtek's patent and also by making, selling and offering to sell products that its customers then use to directly infringe one or more claims of Virtek's patent.

FIRST CLAIM FOR RELIEF
Direct Infringement of the '734 Patent
(35 U.S.C. § 271(a))

40. Virtek incorporates by reference the allegations of the preceding paragraphs as if fully recited herein.

41. The '734 Patent is valid and enforceable.

42. Upon information and belief, Aligned Vision has been, and currently is, directly infringing at least Claim 1 of the '734 Patent by using and demonstrating its TARGETGUIDE system in the United States.

43. Specifically, the following facts show that Aligned Vision's TARGETGUIDE system meets each element of Claim 1 of the '734 patent.

44. When using and demonstrating its TARGETGUIDE system, Aligned Vision provides a laser projector assembly with a laser source for projecting a laser image onto a work surface.

45. When using and demonstrating its TARGETGUIDE system, Aligned Vision also provides a secondary light source for illuminating the work surface.

46. When using and demonstrating its TARGETGUIDE system, Aligned Vision further provides a photogrammetry device for generating an image of the work surface.

47. When using and demonstrating its TARGETGUIDE system, Aligned Vision additionally provides a laser sensor for sensing a laser beam.

48. When using and demonstrating its TARGETGUIDE system, Aligned Vision affixes reflective targets onto a work surface.

49. When Aligned Vision is using and demonstrating its TARGETGUIDE system, a secondary light source transmits light toward a work surface having reflective targets affixed to it, and the reflective targets reflect the transmitted light toward a photogrammetry device.

50. When Aligned Vision is using and demonstrating its TARGETGUIDE system, a photogrammetry device identifies a pattern of reflective targets on the work surface in a three-dimensional coordinate system using light reflected by the targets from a secondary light source.

51. When Aligned Vision is using and demonstrating its TARGETGUIDE system, and after identifying a pattern of reflective targets on the work surface in a three-dimensional coordinate system, the reflective targets are then scanned with a laser beam generated by a laser source as directed by the identified pattern of the reflective targets.

52. When Aligned Vision is using and demonstrating its TARGETGUIDE system, and after identifying a pattern of the reflective targets on the work surface in a three-dimensional

coordinate system, the targets scanned by the laser beam reflect the laser beam towards the laser sensor, which then calculates a precise location of the targets from the reflected laser beam.

53. And, when Aligned Vision is using and demonstrating its TARGETGUIDE system, a precise location of targets on the work surface is used to direct a laser projector where to project a laser image onto the work surface.

54. These actions constitute direct infringement of at least Claim 1 of the '734 Patent.

55. Aligned Vision has had knowledge of the '734 Patent and its infringement since at least its receipt of the July 2, 2019 letter from counsel for Virtek.

56. Aligned Vision's infringement has been knowing, intentional, willful and deliberate. As described in paragraphs 6-24 above, Aligned Vision learned of Virtek's patent-pending technology in 2017 through meetings with Virtek, used the information from that meeting to develop the TARGETGUIDE system, removed the TARGETGUIDE system from its website when Virtek notified Aligned Vision of its infringement of the '734 Patent, represented to Virtek that it had removed TARGETGUIDE from the market, and then, without telling Virtek, continued to sell the infringing TARGETGUIDE system and put it back on its website.

57. Aligned Vision's infringement has caused substantial and irreparable harm to Virtek's business and property rights. Specifically, as competitors with Virtek, Aligned Vision's infringement has caused and will continue to cause lost sales, lost customers, and a decrease in market share. Virtek will continue to suffer this harm unless Aligned Vision is enjoined from its infringement pursuant to 35 U.S.C. § 283. Plaintiff has no adequate remedy at law.

58. Aligned Vision's infringement also is causing Virtek to suffer injuries for which it is entitled to monetary relief pursuant to 35 U.S.C. § 284, including lost profits.

59. Aligned Vision's deliberate infringement without any reasonable justification makes this an exceptional case, entitling Virtek to an award of treble damages under 35 U.S.C. § 284 and an award of attorney fees under 35 U.S.C. § 285.

SECOND CLAIM FOR RELIEF
Contributory Infringement of the '734 Patent
(35 U.S.C. § 271(c))

60. Virtek incorporates by reference the allegations of the preceding paragraphs as if fully recited herein.

61. As described in Paragraphs 6-24 above, Aligned Vision learned of the technology of the '734 Patent when the parties first discussed a business arrangement in early 2017, and used the information from that meeting to develop the TARGETGUIDE system. Aligned Vision has had knowledge of the '734 Patent, which disclosed and claimed the same technology, and therefore knowledge of its infringement since at least its receipt of the July 2, 2019 letter from counsel for Virtek.

62. Upon information and belief, upon gaining knowledge of the '734 Patent, it was or became apparent to Aligned Vision that the operation and use of its TARGETGUIDE system resulted in infringement of the '734 Patent. Indeed, Virtek notified Aligned Vision of its infringement and in response Aligned Vision removed the TARGETGUIDE system from its website and represented to Virtek that it removed the system from the market. But Aligned Vision then continued with its infringement despite this knowledge.

63. These actions and Aligned Vision's knowledge of the '734 Patent and its infringement of the patent show that Aligned Vision sells or offers to sell its TARGETGUIDE system knowing it is especially made or especially adapted for practicing the invention of the '734 Patent and is not a staple article or commodity of commerce suitable for substantial non-

infringing use. Specifically, the TARGETGUIDE system is designed for use in a laser projection system in a manner described in Paragraphs 43-53. It includes a secondary light source intended to transmit a light to be reflected by reflective targets on a work surface, and other structures that can then be used to detect that reflected light and direct the scanning of a laser light on those targets based on the reflected light. The TARGETGUIDE system is designed for this infringing purpose and is not suited for other purposes.

64. Upon information and belief, Aligned Vision has been, and currently is, indirectly infringing at least Claim 1 of the '734 Patent by actively contributing to its customers' direct infringement within the United States.

65. Aligned Vision's acts constitute contributory infringement in violation of 35 U.S.C. § 271(c).

66. Aligned Vision's infringement has been knowing, intentional, willful and deliberate. For example, as described in Paragraphs 6-24 above, Aligned Vision learned of the patented technology, used it to make the TARGETGUIDE system, removed the system from its website when Virtek notified Aligned Vision of its infringement of the '734 Patent, represented to Virtek that it had removed TARGETGUIDE from the market, and then, without telling Virtek, continued to sell the infringing TARGETGUIDE system and put it back on its website.

67. Aligned Vision's infringement has caused substantial and irreparable harm to Virtek's business and property rights. Specifically, as competitors with Virtek, Aligned Vision's infringement has caused and will continue to cause lost sales, lost customers, and a decrease in market share. Virtek will continue to suffer this harm unless Aligned Vision is enjoined from its infringement pursuant to 35 U.S.C. § 283. Plaintiff has no adequate remedy at law.

68. Aligned Vision's infringement also is causing Virtek to suffer injuries for which it is entitled to monetary relief pursuant to 35 U.S.C. § 284, including lost profits.

69. Aligned Vision's deliberate infringement without any reasonable justification makes this an exceptional case, entitling Virtek to an award of treble damages under 35 U.S.C. § 284 and an award of attorney fees under 35 U.S.C. § 285.

THIRD CLAIM FOR RELIEF
Inducing Infringement of the '734 Patent
(35 U.S.C. § 271(b))

70. Virtek incorporates by reference the allegations of the preceding paragraphs as if fully recited herein.

71. Upon information and belief, Aligned Vision has been, and currently is, indirectly infringing at least Claim 1 of the '734 Patent by actively and knowingly inducing its customers to use the TARGETGUIDE system within the United States in accordance with the method claimed in the '734 Patent.

72. Aligned Vision encourages this infringing activity by selling the TARGETGUIDE system to its customers, and providing instructions and related documentation, materials, marketing, advertising, training, or support for the operation of its TARGETGUIDE system. Aligned Vision has done this with knowledge of the '734 Patent. As described above, Aligned Vision has had knowledge of the patent and its infringement since at least its receipt of the July 2, 2019 letter from counsel for Virtek. Further, Aligned Vision has taken these actions with specific intent to encourage infringement of the '734 Patent. As described in paragraphs 6-24 above, Aligned Vision learned of Virtek's patent-pending technology in 2017 through meetings with Virtek, used the information from that meeting to develop the TARGETGUIDE system, removed the TARGETGUIDE system from its website when Virtek notified Aligned

Vision of its infringement of the '734 Patent, represented to Virtek that it had removed TARGETGUIDE from the market, and then, without telling Virtek, continued to sell the infringing TARGETGUIDE system and put it back on its website. These actions show specific intent to encourage infringement.

73. Aligned Vision's active selling, instructions, documentation and related materials instruct at least one of its customers in the United States to use the TARGETGUIDE system in the same manner as described in Paragraphs 43-53.

74. Specifically, Aligned Vision instructs its customers to use its TARGETGUIDE system by providing a laser projector assembly with a laser source for projecting a laser image onto a work surface, providing a secondary light source for illuminating the work surface, providing a photogrammetry device for generating an image of the work surface, and providing a laser sensor for sensing a laser beam.

75. Aligned Vision instructs its customers to affix reflective targets onto a work surface when using the TARGETGUIDE system.

76. Aligned Vision instructs its customers using its TARGETGUIDE system to transmit light toward a work surface having reflective targets affixed to it using a secondary light source, so that the reflective targets reflect the transmitted light toward a photogrammetry device.

77. Aligned Vision instructs its customers to using its TARGETGUIDE system to use a photogrammetry device to identify a pattern of reflective targets on the work surface in a three-dimensional coordinate system using light reflected by the targets from a secondary light source.

78. Aligned Vision instructs its customers using its TARGETGUIDE system, after identifying a pattern of reflective targets on the work surface in a three-dimensional coordinate

system, to scan the reflective targets are then scanned with a laser beam generated by a laser source as directed by the identified pattern of the reflective targets.

79. Aligned Vision instructs its customers using its TARGETGUIDE system to calculate a precise location of reflective targets from laser beams reflected from the targets.

80. And, Aligned Vision instructs its customers using its TARGETGUIDE system to use a precise location of targets on the work surface determined using that system to direct a laser projector where to project a laser image onto the work surface.

81. Aligned Vision encourages this activity even though it actually knew, reasonably should have known, or willfully blinded itself to, the fact that Virtek had a patent on the relevant technology.

82. Aligned Vision's acts constitute active inducement of patent infringement in violation of 35 U.S.C. § 271(b).

83. Aligned Vision's infringement has been knowing, intentional, willful and deliberate. For example, as described in Paragraphs 6-24 above, Aligned Vision learned of the patented technology, used it to make the TARGETGUIDE system, removed the system from its website when Virtek notified Aligned Vision of its infringement of the '734 Patent, represented to Virtek that it had removed TARGETGUIDE from the market, and then, without telling Virtek, continued to sell the infringing TARGETGUIDE system and put it back on its website.

84. Aligned Vision's infringement has caused substantial and irreparable harm to Virtek's business and property rights. Specifically, as competitors with Virtek, Aligned Vision's infringement has caused and will continue to cause lost sales, lost customers, and a decrease in market share. Virtek will continue to suffer this harm unless Aligned Vision is enjoined from its infringement pursuant to 35 U.S.C. § 283. Plaintiff has no adequate remedy at law.

85. Aligned Vision's infringement also is causing Virtek to suffer injuries for which it is entitled to monetary relief pursuant to 35 U.S.C. § 284, including lost profits.

86. Aligned Vision's deliberate infringement without any reasonable justification makes this an exceptional case, entitling Virtek to an award of treble damages under 35 U.S.C. § 284 and an award of attorney fees under 35 U.S.C. § 285.

JURY DEMAND

87. Pursuant to Federal Rule of Civil Procedure 38(b), Virtek demands a trial by jury of all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Virtek, respectfully requests that this Court enter:

a) Judgment that Aligned Vision has infringed, actively induced infringement of, and contributorily infringed at least one claim of the '734 Patent, in violation of 35 U.S.C. §§ 271(a), (b), and (c);

b) A permanent injunction enjoining Aligned Vision and its employees, agents, officers, directors, attorneys, successors, affiliates, subsidiaries, and assigns, and all other persons acting in active concert and participation with any of the foregoing entities, from infringing, contributing to the infringement of, or inducing the infringement of the '734 Patent;

c) An award of damages adequate to compensate Virtek for Aligned Vision's infringement, together with any infringing acts not presented at trial and prejudgment and post-judgment interest and costs, pursuant to 35 U.S.C. § 284;

d) An order for an accounting of any infringing sales not presented at trial and an award by the Court of additional damages for any such infringing sales;

- e) An award of enhanced damages under 35 U.S.C. § 284 for Aligned Vision's willful infringement of the '734 Patent;
- f) A declaration that this case is exceptional under 35 U.S.C. § 285 and an order awarding Virtek its reasonable attorney fees and costs; and
- g) Any such other and further relief as this Court deems just and proper.

Respectfully submitted,

/s/ Jordan L. Hirsch

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