

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION.

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U.S. DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNIVERSITY OF ILLINOIS FOUNDATION,

Plaintiff,

v.

BLONDER-TONGUE LABORATORIES, INC.

and

ALLIED RADIO CORPORATION,

Defendants.

CIVIL ACTION NO.

66 C 567

PLAINTIFF'S REPLY TO COUNTERCLAIM OF
DEFENDANT BLONDER-TONGUE LABORATORIES, INC.

1. Summary of Counterclaim Paragraph 1. Counter-claimant Blonder-Tongue Laboratories, Inc. (BT) is a corporation of the State of New Jersey, having a principal place of business in Newark, New Jersey.

Plaintiff admits the allegations of paragraph 1.

2. Summary of Counterclaim Paragraph 2. The University of Illinois Foundation (Foundation) and the University of Illinois are non-profit corporations of the State of Illinois, the Foundation being owned and controlled by the University.

Plaintiff admits that both the University of Illinois Foundation and the University of Illinois are non-profit corporations organized and existing under the laws of the State of Illinois and that each has a place of business in Urbana,

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Illinois. Plaintiff denies that it is owned or controlled by the University of Illinois or that it is an alter ego of said University.

3. Summary of Counterclaim Paragraph 3. JFD Electronics Corporation (JFD) is a corporation of the State of New York and has engaged with the Foundation in acts of unfair competition.

Plaintiff denies that it has engaged in any acts of unfair competition or in any of the other purportedly actionable activities set forth in the counterclaim, either with JFD or with anyone else. As to the other allegations of the paragraph, plaintiff is without sufficient knowledge or information with which to form a belief as to the truth thereof.

COUNT I -- FOR UNFAIR COMPETITION

4. Summary of Counterclaim Paragraph 4. Statement of jurisdiction.

The allegations of paragraph 4 are admitted, except that plaintiff is without sufficient knowledge or information to form a belief as to whether the amount in controversy under this count exceeds ten thousand dollars.

5. Summary of Counterclaim Paragraph 5. The Foundation has exclusively licensed Isbell Patent No. 3,210,767 to JFD in certain fields.

Plaintiff admits that it has exclusively licensed JFD under Isbell Patent No. 3,210,767 in the field of receiving

antennas for television and FM broadcasting for a royalty based on a percentage of the sales of antennas covered by the patent which are manufactured and sold by JFD. The other allegations of the paragraph are denied.

6. Summary of Counterclaim Paragraph 6. The Foundation has the primary responsibility of policing the patent and aiding the commercial sale of antennas by JFD.

Plaintiff admits that, under the terms of its contract with JFD, it has the primary right to police Patent No. 3,210,767 against infringement, but denies that it has the primary responsibility to do so. The other allegations of the paragraph are denied.

7. Summary of Counterclaim Paragraph 7. The Foundation and JFD have conspired to restrain competition.

The allegations of this paragraph, including subparagraphs (a) through (j), are denied.

COUNT II -- ANTI-TRUST

8. Counterclaim Paragraph 8. This count arises under the anti-trust laws of the United States, including the Sherman and Clayton Acts, as amended.

Plaintiff is without sufficient knowledge or information to form a belief as to the truth of the allegation of this paragraph, particularly in view of the failure of the counterclaim to set forth the particular section(s) of the anti-trust law or laws on which BT is relying.

9. Summary of Counterclaim Paragraph 9. Reallegation of counterclaim paragraphs 1-7.

Plaintiff reasserts its answers to paragraphs 1-7 of the counterclaim. Plaintiff is without sufficient knowledge or information to form a belief as to whether JFD is one of the largest antenna manufacturers in the United States. Plaintiff denies the other allegations of the paragraph.

COUNT III -- PATENT INFRINGEMENT

10. Counterclaim Paragraph 10. This count arises under the patent laws of the United States.

The allegation of this paragraph is admitted.

11. Counterclaim Paragraph 11. Counterclaimant reasserts the allegations of paragraphs 1-9 of this counterclaim.

Plaintiff reasserts its answers to paragraphs 1-9.

12. Summary of Counterclaim Paragraph 12. BT is the owner of Patent No. 3,259,904, which was legally issued.

Plaintiff admits that Patent No. 3,259,904 was issued on July 5, 1966, but denies that it was legally issued.

Plaintiff is without sufficient knowledge or information to form a belief as to whether BT is now the owner of this patent.

13. Summary of Counterclaim Paragraph 13. Patent No. 3,259,904 covers antennas manufactured by BT.

Plaintiff admits that it charges that the GOLDEN DART and GOLDEN ARROW antennas manufactured by BT infringe

Isbell Patent No. 3,210,767, but it is without sufficient knowledge or information to form a belief as to whether these antennas are covered by Patent No. 3,259,904. ✓

14. Summary of Counterclaim Paragraph 14. Plaintiff infringes Patent No. 3,259,904.

The allegations of this paragraph are denied.

COUNT IV -- DECLARATORY JUDGMENT

15. Counterclaim Paragraph 15. Counterclaimant reasserts the allegations of paragraphs 1-14 of this counterclaim.

Plaintiff reasserts its answers to paragraphs 1-14.

16. Summary of Counterclaim Paragraph 16. A justiciable controversy exists between the parties.

The allegations of this paragraph are admitted.

17. Summary of Counterclaim Paragraph 17. The BT antennas, charged by plaintiff to infringe, are not covered by the claims of Isbell Patent No. 3,210,767.

Plaintiff is without sufficient knowledge or information to form a belief as to whether the BT antennas charged as infringements of Isbell Patent 3,210,767 are covered by Patent No. 3,259,904. The other allegations of the paragraph are denied.

18. Summary of Counterclaim Paragraph 18. Isbell
Patent No. 3,210,767 is invalid and void.

The allegations of this paragraph are denied.

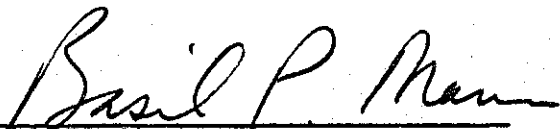
19. Summary of Counterclaim Paragraph 19. Isbell
Patent No. 3,210,767 is unenforceable against BT.

The allegation of this paragraph is denied.

WHEREFORE, plaintiff prays that the counterclaim be
dismissed in its entirety with costs to plaintiff.

MERRIAM, MARSHALL, SHAPIRO & KLOSE

By:



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CERTIFICATE OF SERVICE

Two copies of the foregoing "PLAINTIFF'S REPLY TO
COUNTERCLAIM OF DEFENDANT BLONDER-TONGUE LABORATORIES, INC."
were sent to:

John Rex Allen, Esquire
HOFGREN, BRADY, WEGNER, ALLEN,
STELLMAN & McCORD
Suite 2200
20 North Wacker Drive
Chicago, Illinois 60606

by first-class United States mail, postage prepaid, this
23rd day of September, 1966.

Original Signed by
BASIL P. MANN

Basil P. Mann
Attorney for Plaintiff