

X6D Claims Infringement for Patent Design of 3D Glasses

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X6D files for infringement on design of 3D glasses against Li-Tek Corporation Company and others.

With films like Avatar and Alice in Wonderland bursting onto the 3D scene it would seem as if the technology was invented just yesterday, however 3D technology has been around since the early 20th century. In fact, the first 3D motion picture shown to a paying audience was in 1922, it was called The Power of Love. But with the seemingly sudden resurgence of 3D technology it is no wonder that lawsuits have begun to arise claiming patent and design rights.

Such is the case with the recent complaint filed by X6D Limited and its partner companies X6D USA, Inc. and XpanD, Inc. The complaint states copyright infringement, patent infringement, California Uniform Trade Secrets Act violations, unfair competition and breach of contract, naming Li-Tek Corporation Company, Global Digital Creations Holdings (GDC), GDC Technology and its CEO Dr. Man-Nang Chong.

Filed March 30, 2010, the complaint names US Patent D603,455 ('455), a design patent on 3D glasses owned by X6D.

X6D claims that Li-Tek is manufacturing and selling 3D glasses that infringe upon their design patent. The complaint also accuses GDC CEO, Dr. Man-Nang Chong of making "unauthorized and incorrect statements" about the origin of X6D's 3D glasses to gain profit. As a result of those statements X6D claims to have lost a \$1.5 million contract with Scrabble Entertainment.

The complaint states, "Li-Tek's marketing materials are almost identical to the appearance of the X6D 3D glasses. The Li-Tek 3D glasses also appear to be designed from the same schematic as the X6D glasses because they utilize the same electrical circuit as the ones used in the X6D 3D glasses."

In the complaint, X6D claims they contracted with GDC and their subsidiaries to sell and distribute "cinema related hardware to various movie theatres around the world, including the United States". To manufacture those 3D glasses X6D enlisted the help of Concept2Creation (C2C) to facilitate the production and commercialization of the glasses.

C2C then entered into an agreement with Li-Tek to manufacture the prototype of the 3D glasses. The complaint states that both C2C and Li-Tek signed confidentiality agreements regarding the information and design of the glasses. X6D claims that Li-Tek then asked for the proprietary source codes for the software used in the 3D glasses, Li-Tek also requested to manufacture the electronic circuit board used in the glasses instead of getting them from a third-party supplier prior to assembly. According to the complaint, when X6D and C2C denied Li-Tek's request for the information, Li-Tek then backed out of the deal.

Subsequently, X6D asked for all their proprietary information to be returned. The complaint states that Li-Tek returned the information but X6D believes the company retained copies of the confidential information in order to produce 3D glasses of their own. According to the complaint Li-Tek contracted with GDC Technology to distribute their brand of 3D glasses.

According to an independent report on patent '455 by Patent Calls, Inc., validity of a design patent infringement claim is determined by a process called the "ordinary observer test". The '455 report states that the item may infringe if it exhibits substantially similar physical characteristics to the designs

demonstrated within the subject patent. According to the “ordinary observer test,” one who, though not an expert, has reasonable familiarity with such objects and is capable of forming a reasonable judgment when confronted with a design as to whether it presents to his or her eye distinctiveness from or similarity to another object may assess if an item uses the subject patent’s claimed design.”

X6D is asking the court for damages for all counts as well as increased damages for “willful and deliberate copyright infringement”. They are also asking for attorney’s fees, costs and pre- and post-judgment interest.

It doesn’t look like 3D technology will slow down anytime soon. In March Samsung and Panasonic started selling the first 3D televisions and next week Comcast will show The Masters golf tournament in 3D, this will be the first linear broadcast of a live event in 3D.

In an interview with USA Today James Cameron, director of Avatar-the highest grossing film of all time-believes 3D is here to stay, “We’ve demonstrated that the 3D market is an extremely lucrative market and this is not a fad, this is not something that is going to go away.”

Only time will tell if the booming technology leads to more and more companies take their 3D competitors to court for patent infringement.

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