

United States District Court,
S.D. Ohio, Western Division,

WORKER AUTOMATION, INC.,
Plaintiff/Counterclaim Defendant,
v.

GENESIS SYSTEMS GROUP,
Defendant/Counterclaim Plaintiff.

No. 3:02cv241

Jan. 22, 2004.

Barry S. Galen, Attorney at Law, Dayton, OH, for Plaintiff/Counterclaim Defendant.

Joel Robert Chambers, Theodore R. Remaklus, Wood, Herron & Evans, Cincinnati, OH, Jeffrey D. Harty, Michael G. Voorhees, R. Scott Johnson, Mckee Voorhees & Sease PLC, Des Moines, IA, for Defendant/Counterclaim Plaintiff.

REPORT AND RECOMMENDATIONS FN1

SHARON L. OVINGTON, United States Magistrate Judge.

On November 14, 2003, District Judge Thomas M. Rose entered an Order adopting a Report and Recommendation filed by the undersigned Judicial Officer. In so doing, Judge Rose granted, in part, Defendant Genesis Systems Group's Motion for Summary Judgment of Literal Infringement of U.S. Patent No. 5,873,569. (Doc. # 54).

This matter is before the Court upon Defendant's Motion for Entry of Injunctive Relief and Memorandum in Support (Doc. # s 61, 62), to which Plaintiff Worker Automation, Inc. has not responded.

Defendant seeks an Order entering injunctive relief in its favor pursuant to 35 U.S.C. s. 283 for the purpose of preventing Plaintiff Worker Automation from violating Defendant's patent rights. Section 283 provides federal district courts with authority to "grant injunctions in accordance with the principles of equity to prevent the violation of any right secured by patent, on such terms as the court deems reasonable."

When a patent holder has proved its infringement claim, "it is contrary to the laws of property, of which the patent law partakes, to deny the patentee's right to exclude others from use of his property.... The right to exclude recognized in a patent is but the essence of the concept of property." Richardson v. Suzuki Motor Co., Ltd., 868 F.2d 1226, 1246-47 (Fed.Cir.1989) (citation and internal punctuation omitted). Consequently, "[i]t is the general rule that an injunction will issue when infringement has been adjudged, absent a sound reason for denying it." Richardson, 868 F.2d at 1247.

In the instant case, Defendant is entitled to injunctive relief under s. 283 because it has established its infringement claim and because there appears no sound reason in the circumstances of this case to deny injunctive relief. The only question giving pause is the absence of opposition by Plaintiff Worker Automation to Defendant's Motion for Injunctive Relief. This gives pause because the case is currently pending on Plaintiff Worker Automation's Motion for Relief from Judgment (Doc. # 58) and as a result, Plaintiff Worker Automation may be under the impression that consideration of injunctive relief is premature. This, however, would be an incorrect assumption in light of Judge Rose's Order granting Defendant's Motion for Summary Judgment of Literal Infringement and given the time deadline set by S.D. Ohio Civ. R. 7.2. Yet, in the event the Court grants Plaintiff Worker Automation's Motion for Relief from Judgment, the merits of Defendant's Motion for Summary Judgment of Literal Infringement may again be at issue. If so, Entry of injunctive relief in Defendant's favor would be premature. FN2

Accordingly, for the above reasons, alternative recommendations are warranted at this point in the case.

IT IS THEREFORE RECOMMENDED THAT:

1. In the event Plaintiff Worker Automation Inc.'s Motion for Relief from Judgment (Doc. # 58) is denied, Defendant Genesis Systems Group's Motion for Summary Judgment of Literal Infringement of U.S. Patent No. 5,873,569 (Doc. # 61) should be GRANTED and the following injunction should be entered:

Plaintiff and Counterclaim-Defendant Worker Automation, Inc., its officers, agents, servants, employees, attorneys and those persons in active concert or participation with them are permanently enjoined and restrained during the life of United States Letters Patent 5,873,569 from infringing the claims of this patent by any acts of making, using, offering for sale or selling or inducing others to make, use or sell the patented work piece positioner or colorable variations thereof, including but not limited to the act of making, using, offering for sale or selling or inducing others to make, use, or sell any in the line of products currently known as the ARCworker FW.

2. Alternatively, in the event Plaintiff Worker Automation Inc.'s Motion for Relief from Judgment (Doc. # 58) is granted, Defendant Genesis Systems Group's Motion for Summary Judgment of Literal Infringement of U.S. Patent No. 5,873,569 (Doc. # 61) should be denied as premature.

FN1. Attached hereto is a NOTICE to the parties regarding objections to this Report and Recommendations.

FN2. This Report expresses no opinion regarding the merits of Plaintiff Worker Automation's Motion for Relief from Judgment.

S.D.Ohio,2004.

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