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11 *Cooler Master Co., Ltd. and CMI USA, Inc.*

12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**
14

15
16 COOLER MASTER CO., LTD. and
CMI USA, INC.,

17 Plaintiffs,

18 v.

19 ASETEK DANMARK A/S,

20 Defendant.
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CASE NO. 3:21-cv-4627

**COMPLAINT FOR DECLARATORY
JUDGMENT OF NON-INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 Plaintiffs Cooler Master Co., Ltd. (“CMC”) and CMI USA, Inc. (“CMI”) (collectively “Cooler
2 Master”) file this Complaint against Defendant Asetek Danmark A/S (“Asetek”) seeking declaratory
3 judgment of non-infringement as to U.S. Patent Nos. 8,240,362 (the “’362 patent”), 8,245,764 (the “’764
4 patent”), 9,733,681 (the “’681 patent”), 10,078,354 (the “’354 patent”), 10,078,355 (the “’355 patent”),
5 10,599,196 (the “’196 patent”), and 10,613,601 (the “’601 patent”) (collectively, “patents-in-suit”). Cooler
6 Master states as follows:

7 **NATURE OF THE ACTION**

8 1. This is an action arising under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.*,
9 and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, seeking a declaratory judgment of non-
10 infringement of the patents-in-suit and for such other relief as the Court deems just and proper.

11 **THE PARTIES**

12 2. Plaintiff CMC is a Taiwanese corporation with a principal place of business at 9F, No. 788-
13 1, Zhongzheng Rd., Zhonghe Dist., New Taipei City 23586, Taiwan, R.O.C.

14 3. Plaintiff CMI is a California corporation with a principal place of business at 2929 East
15 Imperial Highway, Suite 110, Brea, California 92821.

16 4. On information and belief, Defendant Asetek is a Denmark corporation with a principal
17 place of business at Assensvej 2, DK-9220 Aalborg East, Denmark.

18 5. On information and belief, Asetek is the assignee of the patents-in-suit.

19 **JURISDICTION AND VENUE**

20 6. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and
21 1338(a) because this action involves claims arising under the patent laws of the United States, 35 U.S.C. §
22 1 *et seq.*, and under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

23 7. An actual and justiciable controversy exists between Cooler Master and Asetek as to the
24 non-infringement of the patents-in-suit. This is at least because Asetek has recently accused a Cooler
25 Master liquid cooling device of infringing “Asetek’s U.S. Patents 8,240,362, 8,245,764, and other patents”
26 in a letter sent to HP, Inc. (“HP”) and has attempted to enforce a previously entered consent judgment
27 against Cooler Master in this District regarding the ’764 patent (*see generally* ECF No. 400).

28 8. This Court has personal jurisdiction over Asetek because it has directed and continues to

1 direct acts to this District, including acts pertaining to the patents-in-suit. Asetek has, at least, purposefully
2 directed its enforcement activities related to the patents-in-suit into the Northern District of California.

3 9. Asetek's threatening behavior with respect to Cooler Master started at least in 2016, during
4 which Asetek's counsel accused certain Cooler Master products of violating an injunction entered in this
5 District following a 2014 jury trial that had taken place before Judge Tigar. (*See generally Asetek Danmark*
6 *A/S v. CMI USA, Inc.*, Case No. 3:13-cv-00457-JST (N.D. Cal.)). Asetek's counsel also requested product
7 samples from Cooler Master in this District for evaluation in light of the injunction, which were then
8 provided to Asetek's counsel in this District. *See id.*

9 10. Asetek revived its threatening behavior with respect to Cooler Master in September 2020
10 when it sent a letter to Cooler Master's customer HP, accusing a Cooler Master liquid cooling device
11 included in HP products of infringing the '362, '764, and other patents-in-suit and falling within the scope
12 of the above-mentioned injunction (*see id.*, ECF No. 399). HP, which has its principal place of business
13 in this District, forwarded the letter to Cooler Master, which reached out to Asetek shortly after its receipt.
14 Counsel for Asetek and Cooler Master subsequently met-and-conferred during October 2020 in connection
15 with the letter, wherein Asetek maintained its threats with respect to certain Cooler Master products,
16 confirming an actual and justiciable controversy giving rise to the need for declaratory judgment relief.

17 11. Asetek has also recently filed a motion for contempt regarding the '764 patent in this
18 District, seeking to enforce the above-mentioned injunction. (*See generally Asetek Danmark A/S v. CMI*
19 *USA, Inc.*, Case No. 3:13-cv-00457-JST (N.D. Cal.), ECF No. 400.) If Asetek does not prevail on that
20 motion (which should be the result), Cooler Master will remain under a threat of litigation from Asetek as
21 it may remain free to pursue its infringement allegations through a new lawsuit.

22 12. Aside from its purposeful conduct directed to this District, which gave rise to the present
23 declaratory judgment action, Asetek has consented to personal jurisdiction in this District by initially filing
24 suit during 2013 against Cooler Master in this District, by prosecuting the suit through judgment in this
25 District, and by more recently attempting to enforce a consent judgment in this District, which had also
26 been negotiated between Cooler Master and Asetek as part of their settlement, and then entered by the
27 Court, in this District. (*See Asetek Danmark A/S v. CMI USA, Inc.*, Case No. 3:13-cv-00457-JST (N.D.
28 Cal.), ECF No. 16, ¶ 6 (“Asetek admits the allegations of paragraph 6” in ECF No. 15, ¶ 6, which states:

1 “Asetek has invoked the jurisdiction of this Court to bring claims for patent infringement against Cooler
2 Master and others and is therefore subject to personal jurisdiction in this judicial district.”.)

3 13. Asetek has also recently produced an expert witness to Cooler Master’s counsel located in
4 this District for deposition, and has noticed a deposition of Cooler Master’s expert located in this District,
5 with both depositions relating to Asetek’s attempted enforcement of the injunction in this District.

6 14. For the foregoing reasons, this Court has personal jurisdiction over and proper venue for
7 Asetek because it has purposefully availed itself of the benefits of California law and has more than
8 sufficient minimum contacts with California, including those within this District, such that this declaratory
9 judgment action meets the requirements of California’s long-arm statute and the U.S. Constitution’s due
10 process clause.

11 15. Asetek has also consented to venue in this District because Asetek has admitted that this
12 District is a proper venue for litigating at least the ’362 and ’764 patents. (*See id.*, ECF No. 16, ¶ 7 (“Asetek
13 admits the allegations of paragraph 7” in ECF No. 15, ¶ 7, which states: “To the extent venue is proper in
14 this judicial district for the resolution of Asetek’s claims, venue is proper with respect to Cooler Master’s
15 Counterclaims pursuant to 28 U.S.C. §§ 1391 and 1400(b).”.)

16 16. Asetek has also recently initiated lawsuits to litigate the patents-in-suit in this District. (*See*,
17 *e.g.*, N.D. Cal. Case No. 3:19-cv-00410-EMC (currently pending), ECF No. 1, ¶ 1, ECF 212, ¶ 1.) Asetek
18 has also in the past asserted patents among the patents-in-suit against at least Corsair Gaming, Inc. (N.D.
19 Cal. Case No. 3:20-cv-06541-EMC (currently pending)), Asia Vital Components Co., Ltd. (N.D. Cal. Case
20 No. 4:16-cv-07160-JST (closed April 17, 2019), and Newegg Inc. (N.D. Cal. Case No. 3:13-cv-00457
21 (closed October 23, 2017)). Thus, this District is convenient for Asetek to litigate the patents-in-suit.

22 17. For these reasons and the reasons set forth below, a justiciable controversy exists between
23 the parties, which is of sufficient immediacy and reality to warrant declaratory relief in this District.

24 THE PATENTS-IN-SUIT

25 18. On information and belief, the patents-in-suit consist of two patent families, each claiming
26 priority to either the ’362 patent or the ’764 patent. Specifically, the ’354 and ’601 patents claim priority
27 to the ’362 patent (collectively, the “’362 patent family”), and the ’681, ’355, and ’196 patents claim
28 priority to the ’764 patent (collectively, the “’764 patent family”).

THE PARTIES' DISPUTE CONCERNING THE PATENTS-IN-SUIT

1
2 19. Trial in an earlier case between Asetek and CMI ended in late 2014 with a finding of
3 infringement with respect to certain then-existing CMI products. (*See Asetek Danmark A/S v. CMI USA,*
4 *Inc.*, Case No. 3:13-cv-00457-JST (N.D. Cal.), ECF No. 219 (Final Jury Verdict Form), at 2.) An
5 injunction was entered against Cooler Master, which CMI appealed to the Federal Circuit.

6 20. With assistance by new counsel, Cooler Master proceeded to redesign its cooling products
7 so they would not infringe Asetek's patents and would thereby fall outside the scope of the injunction.

8 21. During 2016, the parties met and conferred regarding a redesign by Cooler Master. Counsel
9 for Cooler Master explained its non-infringement position with respect to the redesign, and detailed why
10 the redesigned products were different from the products at issue in the 2014 trial, and why the redesigned
11 products did not infringe. In July 2016, Cooler Master's counsel provided Asetek's counsel with a redesign
12 prototype prior to its implementation into production for Asetek's evaluation in view of the injunction.

13 22. The Federal Circuit subsequently vacated the injunction against CMC and remanded the
14 case. The parties then settled under a consent judgment approved by the Court in 2017, which stated that
15 "[n]o liability of CMC has been established against or admitted by CMC, but to resolve the case and to
16 conserve resources, CMC agrees to be bound by" the prior injunction. (*See id.*, ECF No. 399.)

17 23. The parties had not communicated since the entry of the consent judgment until after
18 September 2020 when Asetek sent the above-mentioned letter to HP, claiming that a Cooler Master
19 provided liquid cooling device included in HP products infringed the '362, '764, and other patents-in-suit
20 and was subject to the injunction. HP forwarded the letter to Cooler Master, which forwarded the letter to
21 Cooler Master's counsel on October 12, 2020. The next day, Cooler Master's counsel initiated and
22 conducted a meet-and-confer with Asetek's counsel, reaffirming the same position that Cooler Master's
23 counsel had presented more than four years back. Asetek's counsel disagreed with Cooler Master's counsel
24 with respect to the non-infringement position and maintained that the Cooler Master provided liquid
25 cooling device included in the HP products infringed.

26 24. On May 10, 2021, Asetek filed a motion for contempt sanctions based on the consent
27 judgment, in which Asetek alleged that Cooler Master was infringing the '764 patent. (*See generally*
28 *Asetek Danmark A/S v. CMI USA, Inc.*, Case No. 3:13-cv-00457-JST, ECF No. 400.) In particular, the

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