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Newegg, Inc. and Newegg North America, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ASETEK DANMARK A/S,

Plaintiff,

v.

NEWEGG INC. and NEWEGG NORTH
AMERICA INC.,

Defendants.

CASE NO. 3:16-CV-7068-JST

**STIPULATION AND ~~PROPOSED~~
ORDER FOR ENTRY OF JUDGMENT
AND PERMANENT INJUNCTION**

1 Plaintiff Asetek Danmark A/S (“Asetek”) and Defendants Newegg Inc. and Newegg North
2 America, Inc. (collectively, “Newegg”), through their respective counsel of record, hereby advise the
3 Court that they have agreed to certain terms (“Settlement Agreement”) that will resolve this matter
4 entirely. Newegg has agreed, among other terms, to a consent judgment and injunction as provided
5 herein. Accordingly, the Parties stipulate, with the Court’s permission, that:

- 6 1. Newegg consents to an entry of Judgment in favor of Asetek and against Newegg in
7 this action and the Injunction provided herein;
- 8 2. As used herein, “**Infringing Products**” shall mean the following Cooler Master
9 products: Seidon 120M, Seidon 120XL, Seidon 240M, Seidon 120V, Seidon 120V
10 Plus, Nepton 140XL, Nepton 240L, Glacer 240L, and other Cooler Master products
11 identified by Asetek that the Court has found or CMI USA has acknowledged are not
12 more than colorably different from the products under the Permanent Injunction
13 Order.
- 14 3. As used herein, “**Person Bound by this Injunction**” shall mean the following entities
15 or persons who receive actual notice of this injunction: Newegg, its subsidiaries and
16 affiliated companies, as well as their successors, assigns, officers, directors, agents,
17 servants, employees, representatives and attorneys, and those persons in active
18 concert or participation with them who receive notice of this Order.
- 19 4. Each Person Bound by this Injunction is hereby immediately restrained and enjoined,
20 pursuant to 35 U.S.C. § 283 and Fed. R. Civ. P. 65, from offering for sale or selling in
21 the United States (including listing or otherwise offering the Infringing Products on
22 newegg.com or other websites or on-line stores controlled by any Person Bound by
23 this Injunction), or importing into the United States, causing to be offered for sale, or
24 sold in the United States, or imported into the United States, the Infringing Products,
25 or knowingly allowing others to list or otherwise offer the Infringing Products on
26 newegg.com or other website or on-line stores controlled by any Person Bound by
27 this Injunction to customers located in the United States.

- 1 5. To the extent any Person Bound by this Injunction continues to list the Infringing
2 Products for sale on any website or on-line store intended for customers located
3 outside the United States, that Person shall include (1) the written notice in paragraph
4 6 below on every webpage or on-line store page listing for any of the Infringing
5 Products, regardless of where they are sold; and (2) a link to a copy of the Court's
6 Permanent Injunction Order (as noted in paragraph 5 below).
- 7 6. The written notice to be prominently displayed on every webpage or on-line store
8 page listing for any of the Infringing Products and along with every bill of sale in
9 which the Infringing Products are shipped or sold shall state the following, and
10 include a link to the text of the Court's Permanent Injunction Order:

11 **This product may not be sold, offered for sale, or used in the United**
12 **States. Nor can this product be imported into the United States.**

13 **This product is affected by a Permanent Injunction entered by the United**
14 **States District Court for the Northern District of California in Civil**
15 **Action No. 3:13-CV-00457-JST (click [link](#) for text of injunction). This**
16 **product or its use infringes U.S. Patent Nos. 8,240,362 and 8,245,764,**
17 **which are assigned to Asetek Danmark A/S.**

- 18 7. This injunction order shall remain in effect until both of U.S. Patent Nos. 8,240,362
19 and 8,245,764 have expired. Should either patent be finally adjudged invalid in
20 another proceeding, either party may petition the Court to request a modification of
21 the injunction.
- 22 8. Newegg must install software-based safeguards and monitor its Marketplace as
23 provided in the parties' separate Settlement Agreement.

24 **ATTESTATION**

25 By his signature below, counsel for Plaintiff Asetek Danmark A/S hereby attests that counsel
26 for Defendants concur in the filing of this document.

1 Dated: October 19, 2017

Respectfully submitted,

2 FINNEGAN, HENDERSON, FARABOW,
3 GARRETT & DUNNER, LLP

4 By: /s/ Robert F. McCauley
5 Robert F. McCauley (SBN 162056)
6 Attorneys for Plaintiff
7 ASETEK DANMARK A/S

8 LITIGATION LAW GROUP

9 By: /s/ Gordon M. Fauth, Jr.
10 Gordon M. Fauth, Jr.
11 Attorneys for Defendants
12 NEWEGG INC. and
13 NEWEGG NORTH AMERICA INC.

14 **[PROPOSED] ORDER**

15 Pursuant to the foregoing stipulation of the parties, IT IS SO ORDERED. JUDGMENT and
16 the Injunction are hereby entered in favor of Plaintiff Asetek Danmark A/S and against Defendants
17 Newegg Inc. and Newegg North America, Inc. as provided in the parties' stipulation above. The
18 Clerk may close the file.

19 Date: October