

Del. Jury Finds ScentAir Didn't Infringe Liquid Air Freshener IP

By **Adam Lidgett**

Law360 (January 29, 2024, 8:46 PM EST) -- A Delaware federal jury has found that ScentAir Technologies LLC didn't infringe two patents covering removable cartridges for liquid diffusion air fresheners, but said they were still valid.

According to a Friday verdict form, the jury said Prolitec Inc. failed to show that ScentAir directly infringed the patents, induced their infringement or contributed to any alleged infringement, among other things.

However, the jury found that ScentAir wasn't able to show that the challenged claims of the patents were invalid, according to the verdict form.

The case is not the first time the two have faced each other in court; in 2022, the Patent Trial and Appeal Board invalidated various claims in Prolitec's liquid air freshener patents, saying they were obvious in light of various pieces of prior art.

For example, the panel stated that some claims in one of the patents at issue, which covers a removable liquid diffusion cartridge and cartridge insert, were obvious over various earlier patents and a patent application.

While Prolitec argued there that ScentAir failed to prove that a skilled artisan would've combined lessons from a patent application called Rosener and a patent called Dautrebande, the panel disagreed.

The companies are still hashing it out over other patents in Delaware federal court, including one for networked scent devices.

"While Prolitec is disappointed the jury did not find infringement, Prolitec is very pleased that the jury rejected ScentAir's counterclaim to invalidate Prolitec's patents that Prolitec will continue to enforce against unauthorized use," Marc C. Levy, an attorney for Prolitec, said in a statement to Law360 on Monday.

Joshua B. Pond, an attorney for ScentAir, said in a statement that "the jury got this one right."

"ScentAir's own history of innovation impressed, and Prolitec's patent claims fell flat," he said. "We look forward to our next Delaware trial, asserting ScentAir's networked scenting patent claims against Prolitec's best-selling product."

The patents-in-suit are U.S. Patent Nos. 9,162,004; and 9,745,976.

Prolitec is represented by Brian R. Lemon and Alexandra M. Joyce of McCarter & English LLP, and Marc C. Levy, Syed M. Abedi, Jessica S. Gritton and Emily M. Ross of Seed IP Law Group LLP.

ScentAir is represented by Brian A. Biggs, Jeff Castellano and Stephanie E. O'Byrne of DLA Piper, and Joshua B. Pond, Vincent J. Galluzzo, Ryan Fitzgerald and Molly A. Jones of Crowell & Moring LLP.

The case is Prolitec Inc. v. ScentAir Technologies LLC, case number 1:20-cv-00984, in the U.S. District Court for the District of Delaware.

--Editing by Adam LoBelia.

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