

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

ADVANSa B.V.,

Plaintiff,

vs.

SEARS ROEBUCK & CO.,
Defendant.

Case No. 2:13-CV-503

JURY TRIAL DEMANDED

COMPLAINT

This is an action for patent infringement by Advansa B.V. (“Advansa”) against Sears Roebuck & Co. (“Sears”), arising under the patent laws of the United States, 35 U.S.C. §§ 271 *et seq.* By and through its undersigned counsel, Advansa alleges as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff Advansa is a corporation existing under the laws of the Netherlands with its principal place of business at Gilzeweg 51, 4861PM, Chaam, Netherlands. Advansa is a leading developer and manufacturer of fiber technology and protects its intellectual property rights through patents, copyrights, trademarks, and contracts with its suppliers.

2. Defendant Sears is a corporation organized under the laws of the state of New York, with a principal place of business in Hoffman Estates, Illinois. Sears’ registered agent in the state of Texas is CT Corporation System; 350 N. St. Paul St., Ste. 2900, Dallas, TX 75201-4234.

3. Sears has manufactured for it, sells and offers for sale, *inter alia*, bedding and home goods products including pillows, duvets, mattresses, and furniture. Sears has had made, used, sold, and offered for sale bedding and textile products incorporating technology owned by

Advansa, and continues to have made, use, sell, and offer for sale such products in the United States of America, and in the state of Texas, including within this Judicial District.

4. This Court has jurisdiction over the subject matter of this action by virtue of the fact that this is a civil action arising under the United States patent laws, 35 U.S.C. §§ 271, *et. seq.*, jurisdiction being expressly conferred in accordance with 28 U.S.C. §§ 1331 and 1338(a).

5. Sears has transacted and does transact business within the state of Texas, and has committed acts of patent infringement in Texas. Sears is subject to this Court's specific and general personal jurisdiction pursuant to at least its substantial business in this forum, including regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Texas.

6. Venue is proper in this Court under 28 U.S.C. § 1391(b).

COUNT I

(DIRECT INFRINGEMENT OF U.S. PATENT NO. 7,682,693)

7. Advansa restates and realleges paragraphs 1-6 as if fully set forth herein.

8. On March 23, 2010, United States Patent No. 7,682,693 ("the '693 Patent"), entitled "Filling Material," was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the '693 patent is attached as Exhibit A to this Complaint.

9. Advansa owns the right, title, and interest in and to the inventions covered by the '693 Patent, and Advansa is entitled to receive all damages and the benefits of all other remedies for any infringement thereof.

10. Sears has had made, used, sold, and/or offered to sell, and continues to have made, use, sell, and/or offer to sell products that infringe at least one claim of the '693 Patent,

including, without limitation, at least “Memory Fiber” pillows bearing Sears model number 300TC and the collection name “Grand Resort Collection.”

11. The using, selling, offering to sell, and/or causing others to make, use, sell, and/or offer to sell infringing products, including the product described in paragraph 10, by Sears has been without authority or license from Advansa and in violation of Advansa’s rights and is direct infringement under 35 U.S.C. § 271(a), either literally or under the doctrine of equivalents.

12. Sears has caused and will continue to cause Advansa substantial damage and irreparable injury by infringing the ‘693 Patent.

13. Advansa will suffer further irreparable injury, for which it has no adequate remedy at law, unless and until Sears is enjoined from infringing the ‘693 Patent.

14. Advansa is entitled to recover from Sears damages in an amount sufficient to compensate it for Sears’ direct infringement of the ‘693 Patent, together with pre-judgment and post-judgment interest thereon.

DEMAND FOR JURY TRIAL

15. Advansa hereby demands a jury trial on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Advansa respectfully requests that this Court enter judgment in its favor and grant the following relief:

- A. A judgment that Sears has directly infringed the asserted claims of ‘693 Patent;
- B. A preliminary and permanent injunction preventing Sears and its officers, directors, agents, servants, employees, attorneys, licensees, successors, and assigns, and those in active concert or participation with any of them, from directly infringing, contributorily infringing, and/or inducing the infringement of the asserted claims of the ‘693 Patent;
- C. A judgment and order requiring Sears to pay Advansa compensatory damages under 35 U.S.C. § 284, including supplemental damages for any continuing post-verdict infringement up until entry of the final judgment, with an accounting, as needed;

D. A judgment and order requiring Sears to pay Advansa the costs of this action (including all disbursements);

E. A judgment and order requiring Sears to pay Advansa pre-judgment and post-judgment interest on the damages awarded; and

F. Such further relief as the Court may deem just and proper.

Respectfully submitted,

Dated: June 18, 2013

/s/ Collin M. Maloney

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