

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

FEDERAL-MOGUL S.A., a Belgium corporation,

Plaintiff,

Case No.: 13-cv-14692

v.

Honorable Victoria A. Roberts

TRICO PRODUCTS CORPORATION, a New
York corporation,

Defendant.

SECOND AMENDED COMPLAINT AND JURY DEMAND

Plaintiff Federal-Mogul S.A., through its attorneys, Dickinson Wright PLLC, states as follows for its Second Amended Complaint against Defendant Trico Products Corporation for patent infringement:

NATURE OF THE CASE

1. This is a complaint for infringement of U.S. Patent No. 8,578,583 under 35 U.S.C. § 271.

THE PARTIES

A. The Plaintiff

2. Plaintiff Federal-Mogul S.A. (“Federal-Mogul”), is a Belgium corporation having a principal place of business in Aubange, Belgium.

3. Federal-Mogul is in the business of designing, manufacturing, and selling a variety of parts and components for vehicle wiper blades, including, but not limited to wiper blade assemblies.

4. Federal-Mogul is the owner by assignment of United States Patent No. 8,578,583 ("the '583 patent"), which issued on November 12, 2013, for an invention entitled "Windscreen Wiper Device." A copy of the '583 patent is attached as Exhibit A.

B. The Defendant

5. Defendant Trico Products Corporation ("Trico") is a New York corporation with its principal place of business at 3255 West Hamlin Road, Rochester Hills, MI 48309.

6. Trico has historically been engaged, directly or indirectly, in the manufacture and sale of wiper blade assemblies for vehicles, including, but not limited to, its Trico Force®, Trico Flex®, Trico NeoForm®, Trico ExactFit™ Beam, Trico Onyx®, Trico Ice®, Trico Tech®, and Trico XtraClear® wiper blade assemblies, as well as original equipment wiper blade assemblies for the Chrysler 200 and Ford F-Series, original equipment service wiper blade assemblies, including, but not limited to, its Mopar MO-22A, Motorcraft WW-2201, and Motorcraft WW-2242 wiper blade assemblies, and private label wiper blade assemblies, including, but not limited to, its Duralast SPC-H Flex, Duralast Flex,

AC Delco 8-9022, AC Delco 8-992213, Wurth Duratek, Midas Premier, and Service Central Premier wiper blade assemblies.

JURISDICTION AND VENUE

7. This action arises under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*

8. This Court has subject matter jurisdiction over Federal-Mogul's claims pursuant to 28 U.S.C. § 1331 and § 1338(a) because this is a civil action for patent infringement and arises under the patent laws of the United States.

9. Trico is subject to personal jurisdiction in this District by virtue of, *inter alia*, the fact that it conducts business activity within the State of Michigan and in this District, has substantial and continuous contacts within the State of Michigan and in this District, and has committed acts of patent infringement in the State of Michigan and in this District.

10. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b), (c) and § 1400(b).

COUNT I **PATENT INFRINGEMENT**

11. Federal-Mogul hereby incorporates paragraphs 1 through 10 as if fully set forth herein.

12. The '583 patent was duly and legally issued by the United States Patent and Trademark Office.

13. The '583 patent is valid and enforceable.

14. Federal-Mogul owns the '583 patent by assignment.

15. Trico has been and is currently infringing, actively inducing others to infringe, and/or contributing to the infringement of, claims 4 through 7 of the '583 patent in violation of 35 U.S.C. § 271, by making, using, selling, and/or offering for sale, or causing or inducing the same in connection with at least its Trico Force®, Trico Flex®, Trico NeoForm®, Trico ExactFit™ Beam, Trico Onyx®, Trico Ice®, Trico Tech®, and Trico XtraClear®, Chrysler 200, Ford F-Series, Mopar MO-22A, Motorcraft WW-2201, Motorcraft WW-2242, Duralast SPC-H Flex, Duralast Flex, AC Delco 8-9022, AC Delco 8-992213, Wurth Duratek, Midas Premier, and Service Central Premier wiper blade assemblies.

16. Upon information and belief, Trico will continue to infringe the '583 patent unless and until they are enjoined by this Court.

17. Trico has caused and will continue to cause Federal-Mogul irreparable injury and damage by infringing the '583 patent. Federal-Mogul will suffer further irreparable injury, for which there is no adequate remedy at law, unless and until Trico is enjoined from infringing this patent.

18. Federal-Mogul is entitled to injunctive relief under 35 U.S.C. § 283.

19. Federal-Mogul is entitled to damages under 35 U.S.C. § 284 by virtue of Trico's infringement of the '583 patent.

20. Federal-Mogul is also entitled to a trebling of the damages award resulting from Trico's willful infringement of the '583 patent.

21. This is an exceptional case warranting an award of attorney's fees to Federal-Mogul under 35 U.S.C. § 285.

RELIEF REQUESTED

WHEREFORE, Federal-Mogul requests that the Court enter a judgment in its favor and against Trico and provide it the following relief:

- A. Order, adjudge and decree that Trico has infringed the '583 Patent in violation of 35 U.S.C. § 271;
- B. Order, adjudge, and decree that Trico willfully and knowingly infringed the '583 Patent;
- C. Order, adjudge and decree that this case is exceptional under 35 U.S.C. § 285;
- D. Issue injunctive relief prohibiting Trico, its respective parents, subsidiaries, principal, officers, agents, affiliates, servants, attorneys, employees, and all others in privity with it from infringing the '583 patent;
- E. Award Federal-Mogul damages for patent infringement including prejudgment interest and costs against Trico under 35 U.S.C. § 284;
- F. Award Federal-Mogul increased damages under 35 U.S.C. § 284;

- G. Award Federal-Mogul its reasonable attorney's fees under 35 U.S.C. § 285; and
- H. Award such other and further relief as the Court may deem just and proper under the circumstances.

JURY DEMAND

Plaintiff Federal-Mogul S.A. demands a trial by jury as to all issues so triable.

Respectfully submitted,

/s/Michelle L. Alamo

DICKINSON WRIGHT PLLC

H. Jonathan Redway (Va. Bar No. 42189)

DICKINSON WRIGHT PLLC

1875 Eye St., N.W., Suite 1200

Washington, D.C. 20006

Tel: 202.659.6946

Fax: 202.659.1559

jredway@dickinsonwright.com

Michelle L. Alamo (P60684)

DICKINSON WRIGHT PLLC

500 Woodward Ave, Suite 4000

Detroit, Michigan 48226

Tel: 313.223.3500

Fax: 313.223.3598

malamo@dickinsonwright.com

Dated: March 12, 2014

CERTIFICATE OF SERVICE

I hereby certify that on March 12, 2014, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to counsel of record.

s/ Michelle L. Alamo
DICKINSON WRIGHT PLLC
500 Woodward Ave., Suite 4000
Detroit, MI 48226
(313) 223-3500
malamo@dickinsonwright.com

BLOOMFIELD 710240-6874 1369535v2