

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

**ROCKWELL SOLUTIONS LIMITED**

Plaintiff,

v.

**GENERAL MILLS SALES, INC. AND  
BEMIS COMPANY, INC.**

Defendants.

**Case No. 2:14-cv-186-JRG-RSP**

**PATENT CASE**

**JURY TRIAL DEMANDED**

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**FIRST AMENDED COMPLAINT**

Rockwell Solutions Limited files this First Amended Complaint against Defendants General Mills Sales, Inc. and Bemis Company, Inc. for infringement of United States Patent No. 7,381,453.

**THE PARTIES**

1. Plaintiff Rockwell Solutions Limited (“Rockwell”) is a Scottish privately-held, family company with its principal place of business at Brunel Road, Dundee DD2 4TG, Scotland, United Kingdom. Rockwell is an operating entity that manufactures specialty packaging, including packaging for the food industry. Most relevant to the present action, Rockwell manufactures the EasySteam brand packaging, which allows food to be steam-cooked in a microwave.

2. Defendant General Mills Sales, Inc. (“GMS”) is a Delaware corporation with its principal place of business at 1 General Mills Blvd Minneapolis, MN 55426. GMS’s registered agent for service in Texas is National Registered Agents, Inc., 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136. On information and belief, GMS is a wholly-owned subsidiary

of General Mills, Inc., which through its subsidiary General Mills Marketing, Inc., owns the Green Giant® brand and its steams-in-the-bag products under various trademarks and brand names (*e.g.*, Valley Fresh Steamers®) (collectively “Steamers”). Defendant GMS does business in the Eastern District of Texas. Specifically, Defendant sells the infringing products at retailers and wholesalers throughout the District, including but not limited to sales in Walmart stores in Marshall, Texas; Sherman, Texas; Plano, Texas; Beaumont, Texas; Tyler, Texas; and Texarkana, Texas. Defendant’s products—including the infringing products—are sold and offered for sale at these retailers. For example, Wal-Mart’s website indicates that various versions of Green Giant Steamers were in stock in the Wal-Mart Supercenter in Marshall, Texas as of the date of preparation of this complaint.

3. Defendant Bemis Company, Inc. (“Bemis”) is a Missouri corporation with its principal place of business at One Neenah Center, 4<sup>th</sup> Floor, Neenah, Wisconsin 54957. Bemis’s registered agent for service in Texas is Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company, 211 E. 7<sup>th</sup> Street, Suite 620, Austin, Texas 78701. On information and belief, Bemis develops, manufactures, and sells within the United States, packaging products including, but not limited to, packaging for GMS products, including Steamers, which are sold in the Eastern District of Texas and elsewhere in the United States.

#### **NATURE OF THE ACTION**

4. This is a civil action for infringement of United States Patent No. 7,381,453 (the “Patent-in-Suit”), arising under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*

#### **JURISDICTION AND VENUE**

5. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents).

6. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b) and 1400(b) because Defendants committed acts of infringement in the United States, including use and offers for sale in and directed to this District. Additional acts of infringement have occurred within this District, in that Defendants and/or their affiliates and customers sell Defendants' products—including the infringing products—in this District and elsewhere in the State of Texas and are deemed to reside in this District for purposes of this action. Bemis, specifically knows—at least since it learned of plaintiff's Original Complaint, and on information and belief, prior to that date—that its packaging products enter the stream of commerce that flows into the Eastern District of Texas.

7. This Court has personal jurisdiction over Defendants and venue is proper in this district because Defendants have committed, and continue to commit, acts of infringement in and directed toward the State of Texas, including in this District and/or have engaged in continuous and systematic activities in the State of Texas, including in this District, as have their affiliates.

#### **THE PATENT-IN-SUIT**

8. The Patent-in-Suit, entitled "Packing File," was duly and legally issued by the United States Patent and Trademark Office on June 3, 2008. A copy of the Patent-in-Suit is attached hereto as Exhibit A.

9. Rockwell is the exclusive owner of all rights, title, and interest in the Patent-in-Suit, including the right to exclude others and to enforce, sue and recover damages for past and future infringement thereof.

#### **INFRINGEMENT OF THE PATENT-IN-SUIT**

10. Rockwell incorporates paragraphs 1 through 10 by reference as if fully stated herein.

11. The Patent-in-Suit is valid and enforceable.

12. Defendants have directly infringed, and continue to directly infringe, one or more claims of the Patent-in-Suit under 35 U.S.C. § 271(a), either literally and/or under the doctrine of equivalents, by making, using, selling, offering for sale, and/or importing products and/or products encompassed by those claims.

13. Third parties, including Defendants' affiliates, agents, and retailers (*e.g.*, Wal-Mart stores and Target stores) have infringed, and continue to infringe, one or more claims of the Patent-in-Suit under 35 U.S.C. § 271(a), either literally and/or under the doctrine of equivalents, by using, selling, and/or offering for sale in the United States, and/or importing into the United States, products supplied by Defendants.

14. Upon information and belief, based on the information presently available to Rockwell, absent discovery, and in the alternative to direct infringement, Rockwell contends that Defendants have—since receiving notice of the filing of this Complaint—had knowledge of the Patent-in-Suit and have induced infringement and continue to induce infringement, of one or more claims of the Patent-in-Suit under 35 U.S.C. § 271(b). Defendants have since receiving notice of the filing of this Complaint actively, knowingly, and intentionally induced, and continue to actively, knowingly, and intentionally induce, infringement of the Patent-in-Suit by making, using, importing, and selling or otherwise supplying products to third parties, including—at a minimum—its retailers (*e.g.*, Wal-Mart stores and Target stores), with the knowledge and intent that such third parties will use, sell, offer for sale, and/or import, products supplied by Defendants to infringe the Patent-in-Suit; and with the knowledge and intent to encourage and facilitate the infringement through the dissemination of the products and/or the

creation and dissemination of promotional and marketing materials, supporting materials, instructions, training, product manuals, and/or technical information related to such products.

15. GMS's Green Giant Valley Fresh Steamers<sup>®</sup> (including packaging manufactured and sold by Bemis) is an example of an infringing product.

16. Rockwell has been and continues to be damaged by Defendants' infringement of the Patent-in-Suit.

17. Defendants' actions complained of herein are causing irreparable harm and damages to Rockwell and will continue to do so unless and until Defendants are enjoined and restrained by the Court.

18. Defendants' conduct in infringing the Patent-in-Suit renders this case exceptional within the meaning of 35 U.S.C. § 285.

**JURY DEMAND**

19. Plaintiff Rockwell hereby demands a trial by jury on all issues so triable.

**PRAYER FOR RELIEF**

WHEREFORE, Rockwell prays for judgment as follows:

- A. That Defendants have infringed one or more claims of the patent-in-suit;
- B. That Defendants account for and pay all damages necessary to adequately compensate Rockwell for infringement of the patent-in-suit, such damages to be determined by a jury, and that such damages be awarded to Rockwell with pre-judgment and post-judgment interest;
- C. That Defendants and their officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in concert or actively participating with them, be permanently enjoined from directly or indirectly infringing the

patent-in-suit; or, in the alternative, judgment that Defendants account for and pay to Rockwell an ongoing post-judgment royalty reflecting Defendants' deliberate continuing infringement;

D. That this case be declared an exceptional case within the meaning of 35 U.S.C. § 285 and that Rockwell be awarded the attorney fees, costs, and expenses that it incurs prosecuting this action; and

E. That Rockwell be awarded such other and further relief as this Court deems just and proper.

DATED: April 14, 2014

Respectfully submitted,

/s/ David A. Bailey  
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**ATTORNEYS FOR PLAINTIFF**