

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

ECOLAB USA INC.,

Plaintiff,

v.

FMC CORPORATION,

Defendant.

Civil Action No. 12cv1767 MJD/SJS

JURY TRIAL DEMANDED

COMPLAINT

Comes now Plaintiff, Ecolab USA Inc. ("Ecolab"), and for its Complaint against Defendant, states and alleges as follows:

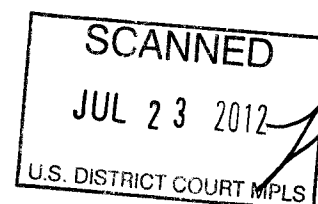
THE PARTIES

1. Plaintiff Ecolab is incorporated in the State of Delaware, having a principal place of business at Ecolab Center, 370 North Wabasha Street #100, St. Paul, Minnesota 55102.

2. Upon information and belief, Defendant, FMC Corporation ("FMC"), is incorporated in the State of Delaware, having a principal place of business at 1735 Market Street, Philadelphia, Pennsylvania 19103-7597.

3. Ecolab is the global leader in water, hygiene, and energy technologies and services that provide and protect clean water, safe food, abundant energy and healthy environments. Ecolab's products are used in a variety of industries, including in the meat and poultry processing industries.

4. FMC is engaged in the business of making and selling a wide variety of industrial chemical products, including cleaning and sanitizing products for use in similar applications.



JURISDICTION AND VENUE

5. This is an action for patent infringement arising under the patent laws of the United States of America, 35 U.S.C. § 1, et. seq., including 35 U.S.C. § 271.

6. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a) in that this is a civil action arising out of the patent laws of the United States of America.

7. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b)-(c) and 1400. This court has personal jurisdiction over FMC. FMC conducted and does conduct business within the State of Minnesota, and has a Minnesota registered office address with the Secretary of State of 100 S 5th Street #1075, Minneapolis, Minnesota 55402. FMC, as such, has purposely availed itself of the laws and jurisdiction of this District.

COUNT 1

Patent Infringement

8. Ecolab restates the allegations set forth in paragraphs 1-7 and incorporates them herein by reference.

9. On October 4, 2011, the United States Patent and Trademark Office issued U.S. Patent No. 8,030,351 entitled "A METHOD FOR TREATMENT OF ANIMAL CARCASSES" (the "'351 Patent"). Ecolab is the assignee of the '351 Patent and continues to hold all rights and interest in the '351 Patent. A true and correct copy of the '351 Patent is attached hereto as Exhibit A.

10. On information and belief, FMC has infringed and continues to infringe; has induced and continues to induce others to infringe; and/or has committed and continues to commit acts of contributory infringement of, one or more of the claims of the '351 Patent. FMC's infringing activities in the United States and this District include the manufacture, use,

sale, and/or offer for sale of antimicrobial compositions for use on animal carcasses, including, but not limited to, its Spectrum and Blitz products. Such products have no substantial non-infringing use. FMC's infringing activities violate 35 U.S.C. § 271.

11. On information and belief, FMC is aware that the '351 patent was duly and legally issued and that FMC's use, manufacture, sale and/or offer for sale of the above-identified antimicrobial compositions infringes the '351 patent and/or contributes to and/or induces the infringement of said patent by, for example, instructing its customers to use the compositions in an infringing manner.

12. On information and belief, FMC's infringement has been, and continues to be, willful and deliberate, and has caused substantial damage to Ecolab.

13. Ecolab has been damaged by FMC's infringement of said patent and will continue to be damaged in the future unless FMC is permanently enjoined from infringing said patent, and/or contributing to and/or inducing the infringement of said patent by others.

14. As a consequence of FMC's infringement, Ecolab is entitled to recover damages adequate to compensate it for the infringement complained of herein, but in no event less than a reasonable royalty

PRAYER FOR RELIEF

WHEREFORE, Ecolab prays for relief as follows:

- A. A judgment that United States Patent No. 8,030,351 is valid and enforceable;
- B. A judgment that FMC is infringing and/or has infringed, and has contributed to and induced infringement of, United States Patent No. 8,030,351, and that such infringement is willful and deliberate;

C. A permanent injunction providing that FMC, its officers, agents, servants, and employees and those persons in active concert or participation with any of them be enjoined from further infringing, contributing to the infringement, or inducing the infringement of United States Patent No. 8,030,351;

D. An award of compensatory damages to Ecolab, including but not limited to, lost profits, but in no event less than a reasonable royalty, and that such damages be trebled for the willful, deliberate, and intentional infringement by Ecolab as alleged herein in accordance with 35 U.S.C. § 284, and that Ecolab be awarded interest on the damages so computed;

E. An award of costs and attorneys' fees pursuant to 35 U.S.C. § 285, or as otherwise permitted by law; and

F. For such other and further relief as Ecolab may be entitled to as a matter of law that the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury of all issues so triable.

Dated: July 23, 2012

By: Rachel K. Zimmerman

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