

with its principal place of business in Hollister, California. Defendant, through UltraCool, manufactures, markets, and distributes motorcycle oil coolers and sells products throughout the country, including into the State of Ohio and into this judicial district. Defendant Clink, among other things, is in the business of licensing the patent referenced herein. Upon information and belief, such licensing activities and specific attempts to license and/or enforce said patent, have occurred in this judicial district.

JURISDICTION AND VENUE

4. Plaintiff SUSA's claim arises under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, under the laws of the United States relating to patents (35 U.S.C. § 1 *et seq.*). This Court has subject-matter jurisdiction over Plaintiff's claims pursuant to 28 U.S.C. § 1331 (Federal Question), § 1338 (Patents), and §§ 2201 and 2202 (Declaratory Judgment).

5. This Court has personal jurisdiction over Defendant Clink because, on information and belief, Defendant Clink, through his patent "licensing program" and through UltraCool, transacts or has transacted business in this state and a substantial part of the events giving rise to Plaintiff's claims occurred within Ohio. Defendant Clink has ongoing business relationships and contacts with Ohio, including the above-referenced licensing activities and a prior oil-cooling system component supply relationship with Plaintiff itself. Defendant has also personally appeared in Ohio each year for the past two years at the V-Twin Expo in Cincinnati, Ohio, where he exhibited and advertised products allegedly covered by the '150 Patent.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)-(c) because Defendant Clink does business in, and is subject to personal jurisdiction in, this judicial district and because he distributes, markets, sells, and/or arranges purchase of products within this judicial district.

FACTS COMMON TO ALL COUNTS

7. Defendant Clink claims to be the owner of U.S. Patent No. 6,955,150 (the “‘150 Patent”). A true and accurate copy of the ‘150 Patent is attached hereto as Exhibit A.

8. Upon information and belief, from 2005 until late 2007, Defendant Clink, as president of UltraCool, arranged a business relationship with Plaintiff SUSA whereby UltraCool, at Defendant Clink’s direction, regularly purchased oil filter adapters from Plaintiff SUSA as required components in motorcycle oil cooling systems marketed and sold by Defendant Click and UltraCool.

9. Upon information and belief, Defendant Clink acquired the rights to the ‘150 Patent on October 14, 2009.

10. On or about July 7, 2014, Defendant Clink, through his counsel, Warren Small, Esq., sent Plaintiff SUSA a letter entitled “Notice of Patent Infringement,” accusing Plaintiff SUSA of infringing the ‘150 Patent. A true and accurate copy of the notice of infringement letter is attached hereto as Exhibit B.

11. Defendant Clink’s letter accuses Plaintiff SUSA’s products, “such as the JAGG FP2600 fan-assisted oil cooler assembly,” of infringing the ‘150 Patent.

12. Defendant Clink’s letter claims to place “SUSA, LLC . . . on notice that these products infringe the ‘150 Patent.”

13. Defendant Clink’s letter further states that “Mr. Clink and UltraCool are contacting the manufacturers and distributors of specific products that, based upon analyses by UltraCool engineering personnel, infringe upon the ‘150 Patent.”

14. Plaintiff SUSA responded to Defendant Clink's letter on September 12, 2014, denying Mr. Clink's assertion of infringement and challenging the validity of the '150 Patent. A copy Plaintiff's response is attached hereto as Exhibit C.

COUNT I
DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF THE '150 PATENT

15. Plaintiff SUSA incorporates by reference the allegations set forth in paragraphs 1-13 hereof as if fully restated here.

16. Plaintiff SUSA has not infringed and is not now infringing any claim of the '150 Patent, nor has it contributed to or induced infringement of any claim of the '150 Patent, either literally or under the doctrine of equivalents.

17. In his July 7, 2014 letter to Plaintiff SUSA, Defendant Clink has accused Plaintiff SUSA of infringing Defendant Clink's patent rights.

18. As a result of the foregoing facts, there is a real, substantial, definite, concrete, and continuing justiciable controversy between Plaintiff SUSA and Defendant Clink as to the alleged infringement of the '150 Patent.

19. Thus, under the totality of the circumstances, there is a substantial controversy between Plaintiff SUSA and Defendant Clink having sufficient immediacy and reality to establish declaratory judgment jurisdiction relating to Defendant Clink's allegations of infringement of the '150 Patent.

COUNT II
DECLARATORY JUDGMENT OF INVALIDITY OF THE '150 PATENT

20. Plaintiff SUSA incorporates by reference the allegations set forth in paragraphs 1-18 hereof as if fully restated here.

21. The claims of the '150 Patent are invalid under one or more of 35 U.S.C. §§ 102, 103, and 112. By means of example only, the prior art discloses the features claimed in the '150 Patent and the concepts that Defendant Clink claims are protected by the '150 Patent. The applicant for the '150 Patent did not make this prior art known by the Patent Examiner.

22. As a result of the foregoing facts, there is a real, substantial, definite, concrete, and continuing justiciable controversy between Plaintiff SUSA and Defendant Clink as to invalidity of the '150 Patent.

23. Thus, under the totality of the circumstances, there is a substantially controversy between Plaintiff SUSA and Defendant Clink having sufficient immediacy and reality to establish declaratory judgment jurisdiction relating to the invalidity of the '150 Patent.

CLAIM FOR RELIEF

WHEREFORE, Plaintiff SUSA respectfully requests that this Court enter judgment and relief in its favor as follows:

1) A Declaratory Judgment be entered that Plaintiff SUSA has not infringed and is not infringing, either directly, contributorily, or by inducement, any claim of the '150 Patent, either literally or under the doctrine of equivalents;

2) A Declaratory Judgment be entered that the claims of the '150 Patent are invalid under one or more of 35 U.S.C. §§ 102, 103, and 112;

3) An injunction be entered preventing Defendant Clink, UltraCool, or any officer, agent, servant, employee, attorney, representative, or distributor of UltraCool, or any person in active concert or participation with Defendant Clink or UltraCool from stating, implying, or otherwise communicating to others that Plaintiff SUSA, its affiliated businesses or

distributors, or its customers have infringed, contributed to the infringement of, or induced infringement of the '150 Patent.

4) An order that the costs of this action be adjudged against Defendant Clink, pursuant to 28 U.S.C. § 1920;

5) An order that this case be adjudged and decreed exceptional pursuant to 35 U.S.C. § 285, and that Plaintiff SUSA be awarded its reasonable attorneys' fees; and

6) An order awarding Plaintiff SUSA any further and additional relief as this Court deems just and proper.

Respectfully submitted,

Dated: September 15, 2014

/s/ T. Earl LeVere
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