

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

NEW WORLD INTERNATIONAL, INC.,	§	CIVIL ACTION NO.
and NATIONAL AUTO PARTS, INC.,	§	
	§	
Plaintiffs,	§	
v.	§	
	§	
FORD GLOBAL TECHNOLOGIES, LLC,	§	
	§	A JURY IS DEMANDED
Defendant.	§	

COMPLAINT FOR DECLARATORY JUDGMENT

New World International, Inc. and National Auto Parts, Inc., for their Complaint for Declaratory Judgment against Ford Global Technologies, LLC, state and allege as follows:

I. PARTIES

1. Plaintiff New World International, Inc. (hereinafter New World) is a corporation organized and existing under the laws of the State of Texas, with a principal place of business at 1720 E. State Highway 356, Irving, Texas, which is located in this judicial district.

2. Plaintiff National Auto Parts, Inc. (hereinafter National Auto Parts) is a corporation organized and existing under the laws of the State of Texas, with a principal place of business at 1720 E. State Highway 356, Irving, Texas, which is located in this judicial district.

3. On information and belief, Ford Global Technologies, LLC (hereinafter FGTL), is a corporation organized and existing under the laws of the State of Delaware with a principal office and principal place of business at 30600 Telegraph Road, Suite 2345, Bingham Farms, Michigan 48025. On information and belief, FGTL is a wholly owned subsidiary of Ford Motor Company and manages intellectual property and technology commercialization matters for Ford Motor Company. On information and belief, FGTL has not designated an agent for service of

process in Texas and therefore may be served with process by serving the Texas Secretary of State via certified mail, return receipt requested, at the following address: Service of Process, Secretary of State, P.O. Box 12079, Austin, Texas 78711-2079.

II. JURISDICTION AND VENUE

4. This Complaint arises under the Patent Laws of the United States, 35 U.S.C. § 100 et seq. and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, based upon an actual controversy between the parties to declare that certain design patents owned by FGTL are not infringed by New World and National Auto Parts, and are invalid and unenforceable.

5. This Court has original jurisdiction over the subject matter of these claims pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over FGTL due to FGTL's continuous and systematic business contacts with the state of Texas, including conducting of substantial and regular business in Texas through marketing and sales of automobiles and automotive body repair parts in Texas including but not limited to automotive body repair parts that are the subject of FGTL's asserted design patents. Further, FGTL has threatened to sue and has sued New World, and has threatened to sue, directly and/or indirectly, National Auto Parts, for alleged design patent infringement for selling automotive body repair parts allegedly covered by design patents owned by FGTL.

7. Venue is proper in this District under 28 U.S.C. §§ 1391 (b), (c), (d) and 1400 (b).

III. BACKGROUND

8. FGTL is the assignee of U.S. Design Patent D489,299 (Exterior of Vehicle Hood) ("the '299 Patent) (Ex. 1) and U.S. Design Patent D501,685 (Vehicle Head Lamp) ("the '685 Patent) (Ex. 2).

9. FGTL sued New World for allegedly infringing and willfully infringing the '299 Patent and the '685 Patent in cause *Ford Global Technologies, LLC v. New World International, Inc., Auto Lighthouse Plus, LLC, and United Commerce Centers, Inc.*, Case Number 2:15cv10394 filed January 29, 2015 in the United States District Court for the Eastern District of Michigan. (hereinafter *FGTL v. New World*) On March 13, 2015, FGTL filed a First Amended Complaint in *FGTL v. New World* that dropped the '299 Patent and the '685 Patent.

10. On March 16, 2015, FGTL filed in *Automotive Body Parts Association v. Ford Global Technologies, LLC*, Cause No. 4:13cv705, pending in the United States District Court for the Eastern District of Texas Sherman Division a Sur-Reply To ABPA's Second Motions For Reconsideration of Order of Transfer (Dkt. #62) and Order Denying As Moot Plaintiff's Motion To Supplement Evidence (Dkt. #63). In paragraph 1 of the Sur-Reply, FGTL stated:

As an initial matter, Ford Global filed an Amended Complaint on February 13, 2015. Case No. 2:15-cv-10394, DN15. The amended complaint removed the only two patents in common with the ABPA suit, eliminating the small potential overlap between the two suits. The amendment streamlines that infringement case in favor of seven other patents, including the two patents already favorably adjudicated at the International Trade Commission.

IV. COUNT I. REQUEST FOR DECLARATORY JUDGMENT

11. New World and National Auto Parts repeat and reallege each of the allegations in the preceding paragraphs as if fully set forth herein.

12. FGTL has accused New World of infringing and willfully infringing the '299 Patent and the '685 Patent. FGTL has accused National Auto Parts, directly and/or indirectly, of infringing and willfully infringing the '299 Patent and the '685 Patent. New World and National Auto Parts assert that they are not infringing the '299 Patent and the '685 Patent because, *inter alia*, the '299 Patent and the '685 Patent are invalid and unenforceable.

13. There is an actual, substantial, immediate, and continuing controversy between New World and National Auto Parts and FGTL regarding FGTL's assertion of the '299 Patent and the '685 Patent. A declaration of rights is both necessary and appropriate to establish that New World and National Auto Parts are not committing patent infringement and willful patent infringement by offering for sale and selling automotive body repair parts allegedly covered by the '299 Patent and the '685 Patent. This action seeks a declaration that the '299 Patent and the '685 Patent are invalid and unenforceable under 35 USC §§ 102, 103, and/or the doctrines of patent exhaustion and/or functionality and are not infringed by New World and National Auto Parts.

14. New World and National Auto Parts are being injured by FGTL's threats of patent infringement and assertion of its '299 Patent and the '685 Patent.

15. The requested relief can redress the injury being suffered by New World and National Auto Parts. A declaratory judgment of patent invalidity, patent unenforceability, and patent non-infringement regarding the '299 Patent and the '685 Patent and an injunction preventing FGTL from enforcing such design patents will permit New World and National Auto Parts to purchase, offer for sale, and sell automotive body repair parts for Ford Motor Company automobiles without the threat or potential consequences of design patent infringement litigation.

V. PRAYER FOR JUDGMENT AND RELIEF

WHEREFORE, New World and National Auto Parts respectfully request the Court enter judgment as follows:

- A. Declaring that the '299 Patent and the '685 Patent directed toward automotive body repair parts are invalid, unenforceable, and are not infringed by New World and National Auto Parts;
- B. Permanently enjoining FGTL from enforcing or attempting to enforce the '299 Patent and

the '685 Patent directed toward automotive body repair parts against New World and National Auto Parts;

- C. An award of costs of suit to New World and National Auto Parts; and
- D. Such other and further relief as the Court deems proper and just.

VI. DEMAND FOR JURY TRIAL

Plaintiffs New World and National Auto Parts, pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, demands a trial by jury on all issues triable by right by a jury.

Respectfully submitted,

/s/ Robert G. Oake, Jr.
Robert G. Oake, Jr.
Texas State Bar No. 15154300
Oake Law Office
825 Market Street, Suite 250
Allen, Texas 75013
(214) 207-9066
rgo@oake.com

Attorney for Plaintiffs New World and National Auto Parts