

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND (NORTHERN)

| | | |
|------------------------------|---|-------------------|
| KONA ICE, INC. |) | |
| 5945 CENTENNIAL CIRCLE |) | Civil Action No.: |
| FLORENCE, KENTUCKY 41042 |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | |
| |) | |
| T-N-T ICE, LLC |) | |
| 106 COLONY PLACE |) | |
| BEL AIR, MARYLAND 21014-5409 |) | |
| |) | |
| Defendant. |) | |
| |) | |

COMPLAINT FOR PATENT INFRINGEMENT AND DEMAND FOR JURY TRIAL

Plaintiff Kona Ice, Inc. (“Kona Ice”) complains against the Defendant T-N-T Ice, LLC (“T-N-T Ice”) as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement and arises under the Patent Laws of the United States, Title 35, United States Code.

THE PARTIES

2. Kona Ice is a Kentucky corporation having its principal place of business at 5945 Centennial Circle, Florence, Kentucky 41042. Kona Ice offers frozen treats, including flavored shaved ice, through service vehicles, and it offers its products throughout the country through franchises.

3. Upon information and belief, Defendant T-N-T Ice, LLC, 106 Colony Place, Bel Air, Maryland 21014-5409, is a Maryland limited liability corporation actively, continuously, and

systematically engaging in business in the State of Maryland. T-N-T Ice has substantial and continuous contacts with this judicial district through its business activities.

JURISDICTION AND VENUE

4. Federal question jurisdiction is conferred pursuant to 28 U.S.C. §§ 1331 and 1338(a).
5. Venue in this Court is based upon 28 U.S.C. §§ 1391(b)-(c), and 1400(b).

BACKGROUND FACTS

6. Kona Ice has, over the past several years, established a reputation as a supplier of frozen treats, including flavored shaved ice, in the United States. Kona Ice is represented through its franchisees in approximately 40 states.

7. The technology used by Kona Ice in its service vehicles, through which it offers frozen treats, including flavored shaved ice, is disclosed and claimed in United States Patent No. 9,321,387, entitled “Liquid Toppings Dispensing System” (“the ‘387 patent”), which was duly and legally issued on April 26, 2016. A copy of the ‘387 patent is attached hereto as Exhibit 1.

8. Kona Ice is the owner by assignment of the ‘387 patent.

9. On information and belief, T-N-T uses, operates, and owns, service vehicles through which it and others offer frozen treats, including flavored shaved ice. By way of example only, on information and belief, T-N-T uses, operates, and owns the service vehicle depicted in the images attached hereto as Exhibit 2 (“T-N-T Ice Service Vehicle”).

COUNT I - INFRINGEMENT OF U.S. PATENT NO. 9,321,387

10. The allegations of paragraphs 1-9 are incorporated herein by reference as though fully set forth herein.

11. T-N-T Ice has infringed and continues to infringe the '387 patent by its sales, operation, and use of the T-N-T Ice Service Vehicle, through which it and others offer frozen treats, including flavored shaved ice. T-N-T has infringed at least claims 1, 6, 7, 8, 9, 10, and 11 of the '387 patent.

12. On information and belief, the acts of infringement complained of herein are being carried out willfully and with full knowledge by T-N-T Ice of the '387 patent.

13. As a result of these actions by T-N-T Ice, Kona Ice has suffered and continues to suffer substantial injury, including irreparable injury, and will result in damages to Kona Ice, including loss of sales and profits, which Kona Ice would have made but for the acts of infringement by T-N-T Ice, unless T-N-T Ice is enjoined by this Court.

WHEREFORE, Kona Ice prays for relief against T-N-T Ice as follows:

A. That a judgment be entered that T-N-T Ice has infringed, induced the infringement of, or contributed to the infringement of, United States Patent No. 9,321,387;

B. That T-N-T Ice, its agents, sales representatives, servants and employees, associates, attorneys, parents, successors and assigns, and any and all persons or entities acting at, through, under or in active concert or participation with any or all of them, be enjoined and restrained preliminarily during the pendency of this action and thereafter permanently, from infringing United States Patent No. 9,321,387;

C. That a judgment be entered that T-N-T Ice be required to pay over to Kona Ice all damages sustained by Kona Ice due to such acts of infringement and that such damages be trebled pursuant to 35 U.S.C. § 284 for the willful acts of infringement complained of herein;

