

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

NATIONAL BEVERAGE SCREEN)	
PRINTERS, INC.)	
)	
Plaintiff,)	
)	Civil Action No. _____
v.)	
)	(Trial by Jury Demanded)
DALB, INC.)	
)	
Defendant.)	
_____)	

COMPLAINT

Plaintiff National Beverage Screen Printers, Inc. (“NBS”) alleges as follows for its complaint against defendant DALB, Inc. (“DALB”).

PARTIES

1. Plaintiff NBS is a Florida corporation having its principal place of business 12000 Main Street, Williston, South Carolina, 29853.
2. Defendant DALB, on information and belief, is a West Virginia corporation having its principal place of business 73 Industrial Boulevard, Kearneysville, West Virginia, 25430.

FACTUAL BACKGROUND

3. DALB purports to be the owner of United States Patents Number 7,377,065 (“’065 patent”) and 8,104,206 (“’206 patent”). A true and correct copy of the ’065 patent is attached as Exhibit A and a true and correct copy of the ’206 patent is attached as Exhibit B.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over all counts of this action pursuant to 28 U.S.C. §§1331 and 1338. These counts for declaratory judgment arise under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.* and the Declaratory Judgment Act, 28 U.S.C. §§2201 and 2202.

5. On information and belief, DALB has registered to do business in the State of South Carolina and does business in the State of South Carolina. This Court has personal jurisdiction over DALB pursuant to S.C. Code Ann. §36-2-802.

6. Venue in this District is proper under 28 U.S.C. §§1391(b)(2), 1400(b) and 1391(c)(2).

COUNT FOR DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF
DALB'S '065 PATENT

7. NBS incorporates the allegations contained in paragraphs 1 through 6 of this complaint as though fully set forth by this paragraph.

8. On July 8, 2015, DALB, by a letter from its counsel to Janet Roberson, president of NBS, asserted that NBS products may infringe one or both of the '065 and '206 patents. That letter is attached as Exhibit C.

9. After an exchange of correspondence in which DALB specifically accused identified NBS products of infringement, NBS responded by a letter from its counsel on November 5, 2015, that stated specific reasons that neither NBS nor its customers infringed DALB's '065 patent or DALB's '206 patent. That letter is attached as Exhibit D.

10. More than a year later on December 2, 2016, DALB, by its counsel, renewed its accusation that NBS infringed DALB's '065 patent and DALB's '206 patent, and demanded that NBS cease making and selling products that DALB accuses of infringement and confirm that NBS had done so within seven days. That letter is attached as Exhibit E.

11. DALB's threats to NBS regarding allegations of patent infringement have given NBS a reasonable apprehension that DALB will file suit against NBS. Accordingly, the aforesaid actions, accusations, and demands by DALB have given rise to an actual and justiciable controversy within the jurisdiction of this Court concerning the non-infringement of the '065 Patent pursuant to 28 U.S.C. §§ 2201 and 2202.

COUNT FOR DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF
DALB'S '206 PATENT

12. NBS incorporates the allegations contained in paragraphs 1 through 10 of this complaint as though fully set forth by this paragraph.

13. DALB's threats to NBS regarding allegations of patent infringement have given NBS a reasonable apprehension that DALB will file suit against NBS. Accordingly, the aforesaid actions, accusations, and demands by DALB have given rise to an actual and justiciable controversy within the jurisdiction of this Court concerning the non-infringement of the '206 Patent pursuant to 28 U.S.C. §§ 2201 and 2202.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff National Beverage Screen Printers, Inc. prays for relief as follows:

A. That judgment be entered that Plaintiff National Beverage Screen Printers, Inc. is not liable for infringement of DALB's U.S. Patent No. 7,377,065;

B. That judgment be entered that Plaintiff National Beverage Screen Printers, Inc. is not liable for infringement of DALB's U.S. Patent No. 8,104,206;

C. that Plaintiff National Beverage Screen Printers, Inc. be awarded its attorneys' fees, costs and expenses in this action; and

D. that the Court grant Plaintiff National Beverage Screen Printers, Inc. such other and further relief as it deems proper.

DEMAND FOR JURY TRIAL

Plaintiff National Beverage Screen Printers, Inc. requests pursuant to under Rule 38 of the Federal Rules of Civil Procedure a trial by jury of any issues so triable by right.

Respectfully submitted,

s/William Y. Klett, III

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December 9, 2016
Columbia, South Carolina