

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
Civil Action No.**

**DEB IP LTD., a company organized and
existing under the laws of England, and**

**DEB USA, INC., a Delaware
Corporation,**

Plaintiffs,

v.

**CWGC LA INC., a California
Corporation,**

Defendant.

COMPLAINT

Plaintiffs, DEB IP Ltd. (hereinafter “DEB IP”) and DEB USA, Inc. (hereinafter “DEB USA”) (collectively “DEB”), for their complaint against Defendant CWGC LA Inc. (hereinafter “Defendant”), allege as follows:

THE PARTIES

1. Plaintiff DEB USA is a Delaware corporation having its principal place of business at 2815 Coliseum Centre Dr., Suite 600, Charlotte, North Carolina, 28217. DEB USA manufactures, markets, and sells among other things, soap, soap dispensers, and other skin care products and equipment.

2. Plaintiff DEB IP Ltd. is a company organized and existing under the laws of England and is an affiliate of DEB USA, having its principal place of business at Denby Hall Way Denby, Derbyshire, England, DE5 8JZ.

3. Defendant is, upon information and belief, a California corporation having its principal place of business at 187 West Orangethorpe Avenue, Suite D, Placentia, California 92870.

JURISDICTION AND VENUE

4. This action is for patent infringement under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*

5. This Court has subject matter jurisdiction over this dispute pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over Defendant because, upon information and belief, Defendant has directed efforts to sell products accused of infringement and sold products accused of infringement throughout the United States, including this judicial District. Upon information and belief, Defendant is conducting business in this District and has, itself and through its agents, committed acts giving rise to this action within this District. A reasonable opportunity for discovery will further show that Defendant has committed acts of infringement within this District.

7. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400(b) at least because, upon information and belief, Defendant has committed acts giving rise to this action in this District, including directing efforts to sell products accused of infringement and selling products accused of infringement in this District. A reasonable opportunity for discovery will further show that Defendant has committed acts of infringement within this District and resides within this District as construed under applicable law.

BACKGROUND

8. On July 4, 2000, the United States Patent and Trademark Office issued U.S. Patent No. 6,082,586 (the “586 Patent”), which is entitled “Liquid Dispenser for Dispensing Foam.” A true and correct copy of the 586 Patent is attached hereto as **Exhibit A**.

9. DEB IP is the assignee and owner of the 586 Patent. By virtue of its ownership of the 586 Patent, DEB IP has standing to assert all causes of action arising under the 586 Patent and the right to any remedy for infringement of the 586 Patent.

10. DEB USA has standing to assert a claim for infringement of the 586 Patent based on a grant of exclusivity under the 586 Patent by DEB IP. DEB USA has the right to any remedy of the 586 Patent.

11. The 586 Patent discloses and claims inventions relating to foam soap dispensing devices.

12. DEB USA makes and sells foam soap dispensing products incorporating the inventions of the 586 Patent.

13. Defendant makes, imports, sells, and/or offers for sale foam soap cartridges for use in wall mounted dispensers, including the “SierraSoft” foam soap cartridge product.

14. By a letter sent on March 29, 2016, DEB notified Defendant that DEB believed that Defendant’s SierraSoft foam soap cartridge product uses technology covered by the 586 and asked Defendant if it would be interested in taking a license under the 586 patents. **See Exhibit B**.

15. The March 29, 2016, 2016 letter to Defendant constituted actual notice to Defendant by DBS of infringement of the 586 patent pursuant to 35 U.S.C. § 287.

COUNT I- INFRINGEMENT OF U.S. PATENT NO. 6,082,586

16. DEB repeats and re-alleges the preceding paragraphs as though they were expressly stated herein.

17. Defendant has made, imported, used, sold, and/or offered for sale products, including but not limited to the SierraSoft foaming soap cartridge (“Sierra Soft cartridge”), which contain, embody, and employ the invention described and claimed in the 586 patent, in violation of DEB’s rights thereunder.

18. Defendant infringes at least claim 1 of the 586 patent.

19. The SierraSoft cartridge has a collapsible container having an interior and a throat, as those terms are used by claim 1 of the 586 patent.

20. As recited by claim 1 of the 586 patent, the SierraSoft cartridge includes a pump attached to the collapsible container that includes two enclosure members that oppose each other. A first of the two opposing enclosure members is sealed in the throat of the container. The second of the two opposing enclosure members has a flexible seal that is angled outwardly toward, and engaging, the first enclosure member. The second enclosure member is mounted within the first enclosure member and is telescopingly movable with respect to the first enclosure member.

21. As also recited by claim 1 of the 586 patent, the two opposing members of the pump of the SierraSoft cartridge define an air chamber between them. The flexible seal provides a friction fit and an air seal between the two opposing enclosure members

to facilitate pressurizing the air chamber as the second enclosure member is urged toward the first enclosure member. The air chamber is in communication with a mixing chamber as that term is used by claim 1 of the 586 patent.

22. The pump of the SierraSoft product includes a fluid flow passageway having a fluid inlet in flow communication with the interior of the collapsible container. The fluid inlet includes a fluid inlet valve for admitting liquid in the flow passageway from the interior of the container.

23. The pump of the SierraSoft cartridge includes a fluid outlet valve in the flow passageway for controlling the flow of liquid from the flow passageway into the mixing chamber. The SierraSoft cartridge pump includes an outlet passageway in communication with the mixing chamber and a porous member located downstream from the fluid outlet valve and the mixing chamber. The porous member foams air and liquid that mixes in the mixing chamber and that passes through the porous member.

24. Movement of the second enclosure member of the pump of the SierraSoft cartridge towards the first enclosure member reduces the volume of the air chamber and the volume of the flow passageway and pressurizes air in the air chamber and liquid in the flow passageway, which forces commingled air and liquid through the porous member to form a foam that is expelled through the outlet passageway.

25. On information and belief, Defendant's acts of infringement have been made with full knowledge of the 586 patent. Defendant continues to infringe upon the 586 patent despite this knowledge. Such acts constitute willful and deliberate infringement, entitling DEB to enhanced damages and attorney's fees.

26. Defendant's infringement of the 586 patent has caused and will continue to cause DEB both monetary damage and irreparable harm. DEB has been irreparably damaged by Defendant's infringement to an extent not yet determined, and DEB will continue to be irreparably damaged by such acts in the future unless Defendant is enjoined by this Court from committing further acts of infringement.

27. DEB is entitled to recover damages adequate to compensate for Defendant's infringement, which in no event can be less than a reasonable royalty.

PRAYER FOR RELIEF

WHEREFORE, DEB respectfully requests the following relief:

A. That the Court enter judgment in favor of DEB that Defendant has infringed and is infringing the 586 Patent;

B. That the Court enter a judgment finding that Defendant's infringement has been, and is, willful;

C. That the Court enter a judgment and order under 35 U.S.C. § 284 requiring Defendant to pay DEB its damages, including pre-judgment and post-judgment interest, for Defendant's infringement of the 586 Patent and that such damages be trebled;

D. That the Court find this case exceptional under 35 U.S.C. § 285, and award DEB its costs and fees in this action, including reasonable attorneys' fees;

E. That the Court enter an order permanently enjoining Defendant and its officers, agents, subsidiaries, successors, and employees from further infringement of the 586 Patent; and

F. That the Court grant DEB such other and further relief as it deems just and proper.

DEMAND FOR JURY TRIAL

DEB requests a trial by jury of any issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure.

This 1st day of July, 2016.

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Pro hac vice application pending