

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN**

SCA HYGIENE PRODUCTS AKTIEBOLAG
("AB") AND SCA TISSUE NORTH
AMERICA, LLC,

Plaintiffs,

vs.

CASCADES, INC.,

Defendant.

Case No. 3:17-cv-282

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs SCA Hygiene Products Aktiebolag, also known as SCA Hygiene Products AB, and SCA Tissue North America, LLC (collectively, "SCA"), for their complaint against Cascades Inc. ("Cascades"), hereby allege as follows:

NATURE OF THE ACTION

1. This is an action for infringement of United States Patent 8,273,443 (the "'443 patent"), United States Patent 8,597,761 (the "'761 patent"), and United States Patent 9,320,372 (the "'372 patent"). This action arises under the patent laws of the United States, Title 35, United States Code.

PARTIES

2. Plaintiff SCA Hygiene Products AB ("SCA Hygiene") is a corporation organized and existing under the laws of Sweden and has its principal place of business at Mölndals bro 2, Mölndal, Sweden and its registered address at SE 405 03 Göteborg, Sweden.

3. Plaintiff SCA Tissue North America, LLC (“SCA Tissue”) is a limited liability company organized and existing under the laws of Delaware and has its principal place of business at Cira Centre, Suite 2600, 2929 Arch Street, Philadelphia, Pennsylvania 19104.

4. SCA is a leader in the paper-goods industry and provides paper-based commercial products for dining, kitchen, washroom, and cleaning applications in healthcare, hotel, office, and food service markets. More specifically, SCA is a leading company in Wisconsin, with its roots in the community extending back to its purchase of the Georgia-Pacific Away-From-Home tissue business in March of 2001. Today, SCA manufactures tissue, towel, and napkin products that are sold to distributors who service office buildings, food service companies, hospitality companies, educational facilities, healthcare institutions, janitorial/sanitary companies, and the automotive industry. One of the three largest producers of Away-From-Home tissue products in North America, SCA maintains its Service Excellence Center, a paper mill, a converting facility, a distribution center and multiple warehouses in Wisconsin. SCA develops, manufactures, markets, and distributes napkin products that directly compete with Cascades’s ServOne line of products. On information and belief, SCA’s napkin products also directly compete with Cascades’s Tandem line of products.

5. On information and belief, Defendant Cascades is a corporation organized and existing under the laws of the province of Quebec, Canada and has its principal place of business at 404 boul. Marie-Victorin, Kingsey Falls (Quebec) J0A1B0, Canada.

JURISDICTION AND VENUE

6. SCA incorporates the foregoing paragraphs of its Complaint by reference as though fully set forth herein.

7. This is an action for patent infringement under the patent laws of the United States, Title 35, United States Code.

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

9. This Court has personal jurisdiction over Cascades based on, *inter alia*, the business that Cascades conducts or causes to be conducted in the State of Wisconsin related to its ServOne and Tandem lines of products, which are embodiments described in the '443 patent, the '761 patent, and the '372 patent. On information and belief, napkins from the ServOne and Tandem lines of products were used or consumed within Wisconsin in the ordinary course of trade, or solicitation activities were carried on within Wisconsin by or on behalf of Cascades. For example, at least two cases of napkins from the ServOne line of products were ordered from and shipped into Wisconsin. *See, e.g.*, Exhibit 1 (showing receipts for four cases of napkins from the ServOne line of products shipped into Wisconsin).

10. Venue in this Court is proper under 28 U.S.C. §§ 1391(b) and 1400(b). Specifically, Cascades has committed acts of infringement in the Western District of Wisconsin and has a regular and established facility in Eau Claire, Wisconsin that manufactures tissue papers, including paper napkins.

THE '443 PATENT

11. SCA incorporates the foregoing paragraphs of its Complaint by reference as though fully set forth herein.

12. The U.S. Patent and Trademark Office duly issued the '443 patent, entitled "Stack of Interfolded Absorbent Sheet Products," on September 25, 2012. A true and correct copy of the '443 patent is attached as Exhibit 2. United States Patent Application No. 13/087,695, which

issued as the '443 patent, ultimately claims priority to United States Patent Application No. 10/660,694 (the "'694 Application").

13. On January 12, 2004, SCA Tissue was assigned all right, title, and interest in the '694 Application. SCA Tissue filed several continuing applications, each of which included priority claims back to the '694 Application. United States Patent Application No. 13/087,695, which issued as the '443 patent, is one of these continuing applications. SCA Tissue remains the legal owner of the '443 patent.

THE '761 PATENT

14. SCA incorporates the foregoing paragraphs of its Complaint by reference as though fully set forth herein.

15. The U.S. Patent and Trademark Office duly issued the '761 patent, entitled "Stack of Interfolded Absorbent Sheet Products," on December 3, 2013. A true and correct copy of the '761 patent is attached as Exhibit 3.

16. On September 7, 2011, SCA Hygiene was assigned all right, title, and interest in United States Patent Application No. 12/915,939, which issued as the '761 patent, and remains the legal owner of the '761 patent.

17. SCA Tissue is the exclusive licensee of the '761 patent.

THE '372 PATENT

18. SCA incorporates the foregoing paragraphs of its Complaint by reference as though fully set forth herein.

19. The U.S. Patent and Trademark Office duly issued the '372 patent, entitled "Stack of Interfolded Absorbent Sheet Products," on April 26, 2016. United States Patent Application No. 14/056,586, which issued as the '372 patent, claims priority to United States Patent

Application No. 12/915,939, which issued as the '761 patent, as a continuation thereof. A true and correct copy of the '372 patent is attached as Exhibit 4.

20. On September 7, 2011, SCA Hygiene was assigned all right, title, and interest in United States Patent Application No. 12/915,939, which issued as the '761 patent. The assignment to SCA Hygiene included the assignment of all continuing applications to United States Patent Application No. 12/915,939, including United States Patent Application No. 14/056,586, which issued as the '372 patent. SCA Hygiene remains the legal owner of the '372 patent.

21. SCA Tissue is the exclusive licensee of the '372 patent.

COUNT 1: DIRECT INFRINGEMENT OF THE '443 PATENT

22. SCA incorporates the foregoing paragraphs of its Complaint by reference as through fully set forth herein.

23. Cascades has infringed, and continues to infringe, at least claims 1-14 of the '443 patent under 35 U.S.C. § 271(a), literally and/or under the doctrine of equivalents, by making, using, selling, offering to sell, and/or importing its ServOne line of products, which have product codes including 2411A1. On information and belief, the 2411A1 product includes stacks of six-panel, kraft napkins bundled into 376-napkin packages.

24. On information and belief, Cascades produces additional six-panel napkins with technical details that are similar in all material respects to the 2411A1 product. Exhibit 5, attached to the Complaint, compares the ServOne 2411A1 product to claims 1-14 of the '443 patent, but the comparison applies to each of the six-panel ServOne products having similar technical details.

25. Cascades's acts of infringement have caused damage to SCA, and SCA is entitled to recover from Cascades damages sustained as a result of Cascades's infringement of the '443 patent.

26. Cascades's acts of infringement have caused, and will continue to cause, irreparable harm to SCA. Cascades and SCA directly compete in the market for paper-based commercial products. Both companies offer related equipment, including, e.g., dispensers. *See* Exhibit 6 (advertising a dispenser compatible with the infringing ServOne products). Not only is SCA being forced to compete against products that infringe its own patented inventions, but SCA is losing out, and will continue to lose out, on its investment in related products such as dispensers and on sales of paper products that can be dispensed from the dispensers. SCA's losses are further difficult to quantify, rendering legal damages inadequate. Because Cascades's infringement has cost SCA market share and downstream sales and has forced SCA to compete against embodiments of its own patented invention, any hardship that an injunction would cause Cascades pales in comparison to the hardships SCA will continue to suffer as a result of Cascades's infringement. The public interest also favors an injunction to protect SCA's investment-based risk that resulted in patented innovation, namely the '443 patent, and to enforce the Patent Act's statutory right to exclude. Accordingly, the circumstances of Cascades's infringement warrant an injunction barring Cascades from further infringement of the '443 patent.

27. Cascades's infringement warrants a finding that this is an exceptional case, entitling SCA to recover its attorney fees and expenses.

COUNT 2: DIRECT INFRINGEMENT OF THE '761 PATENT

28. SCA incorporates the foregoing paragraphs of its Complaint by reference as through fully set forth herein.

29. Cascades has infringed, and continues to infringe, at least claims 1-6, 8, 10, 12, 13, 15-17, and 21-25 of the '761 patent under 35 U.S.C. § 271(a), literally and/or under the doctrine of equivalents, by making, using, selling, offering to sell, and/or importing its ServOne line of products, which have product codes including 2411A1. On information and belief, the 2411A1 product includes stacks of six-panel, kraft napkins bundled into 376-napkin packages.

30. On information and belief, Cascades produces additional six-panel napkins with technical details that are similar in all material respects to the 2411A1 product. Exhibit 7, attached to the Complaint, compares the ServOne 2411A1 product to claims 1-6, 8, 10, 12, 13, 15-17, and 21-25 of the '761 patent, but the comparison applies to each of the six-panel ServOne products having similar technical details.

31. Cascades has further infringed, and continues to infringe, at least claims 1-3, 6, 8, 10, 12-13, 15-17, and 21-23 of the '761 patent under 35 U.S.C. § 271(a), literally and/or under the doctrine of equivalents, by making, using, selling, offering to sell, and/or importing its ServOne line of products, which have product codes including 2406C1, 2407C1, 2410C1, 2410D1, and 2411C1. On information and belief, the 2406C1 product is a stack of white napkins bundled into 188-napkin packages, the 2407C1 product is a stack of kraft napkins bundled into 188-napkin packages, the 2410C1 and 2410D1 products are stacks of white napkins bundled into 376-napkin packages, and the 2411C1 product includes stacks of kraft napkins bundled into 376-napkin packages.

32. Cascades has also infringed, and continues to infringe, at least claims 1-3, 6, 8, 10, 12-13, 15-17, and 21-23 of the '761 patent under 35 U.S.C. § 271(a), literally and/or under the doctrine of equivalents, by making, using, selling, offering to sell, and/or importing its Tandem line of products, which have product codes including T400, T401, T410, and T411. On

information and belief, the T400 product is a stack of white napkins bundled into 188-napkin packages, the T401 product is a stack of kraft napkins bundled into 188-napkin packages, the T410 product includes stacks of white napkins bundled into 376-napkin packages, and the T411 product includes stacks of kraft napkins bundled into 376-napkin packages.

33. On information and belief, the technical details of the ServOne 2406C1, 2407C1, 2410C1, 2410D1, and 2411C1 products are similar in all material respects. Exhibit 8, attached to the Complaint, compares the ServOne 2406C1 product to claims 1-3, 6, 8, 10, 12-13, 15-17, and 21-23 of the '761 patent, but the comparison applies to each of the ServOne 2406C1, 2407C1, 2410C1, 2410D1, and 2411C1 products. On information and belief, the Tandem T400 product is intended to replace the ServOne 2406C1 product, the Tandem T401 product is intended to replace the ServOne 2407C1 product, the Tandem T410 product is intended to replace the ServOne 2410C1 and 2410D1 products, and the Tandem T411 product is intended to replace the ServOne 2411C1 product, so each of the Tandem napkin products infringe claims 1-3, 6, 8, 10, 12-13, 15-17, and 21-23 of the '761 patent for the same reasons as the ServOne napkin products. See Exhibit 9, attached to the Complaint, which includes website advertisements for the Tandem napkin products.

34. Cascades's acts of infringement have caused damage to SCA, and SCA is entitled to recover from Cascades damages sustained as a result of Cascades's infringement of the '761 patent.

35. Cascades's acts of infringement have caused, and will continue to cause, irreparable harm to SCA. Cascades and SCA directly compete in the market for paper-based commercial products. Both companies offer related equipment, including, e.g., dispensers. See Exhibit 6 (advertising a dispenser compatible with the infringing ServOne products) and Exhibit

9 (advertising for the Tandem napkin products and a dispensing system). Not only is SCA being forced to compete against products that infringe its own patented inventions, but SCA is losing out, and will continue to lose out, on its investment in related products such as dispensers, sales of paper products that can be dispensed from the dispensers and related soaps and lotions. SCA's losses are further difficult to quantify, rendering legal damages inadequate. Because Cascades's infringement has cost SCA market share and downstream sales and has forced SCA to compete against embodiments of its own patented invention, any hardship that an injunction would cause Cascades pales in comparison to the hardships SCA will continue to suffer as a result of Cascades's infringement. The public interest also favors an injunction to protect SCA's investment-based risk that resulted in patented innovation, namely the '761 patent, and to enforce the Patent Act's statutory right to exclude. Accordingly, the circumstances of Cascades's infringement warrant an injunction barring Cascades from further infringement of the '761 patent.

36. Cascades's infringement warrants a finding that this is an exceptional case, entitling SCA to recover its attorney fees and expenses.

COUNT 3: DIRECT INFRINGEMENT OF THE '372 PATENT

37. SCA incorporates the foregoing paragraphs of its Complaint by reference as through fully set forth herein.

38. Cascades has infringed, and continues to infringe, at least claims 1-6, 8, 10, 12-13, and 15-17 of the '372 patent under 35 U.S.C. § 271(a), literally and/or under the doctrine of equivalents, by making, using, selling, offering to sell, and/or importing its ServOne line of products, which have product codes including 2411A1. On information and belief, the 2411A1 product includes stacks of six-panel, kraft napkins bundled into 376-napkin packages.

39. On information and belief, Cascades produces additional six-panel napkins with technical details that are similar in all material respects to the 2411A1 product. Exhibit 10, attached to the Complaint, compares the ServOne 2411A1 product to claims 1-6, 8, 10, 12-13, and 15-17 of the '372 patent, but the comparison applies to each of the six-panel ServOne products having similar technical details.

40. Cascades has further infringed, and continues to infringe, at least claims 1-3, 6, 8, 10, 12-13, and 15-17 of the '372 patent under 35 U.S.C. § 271(a), literally and/or under the doctrine of equivalents, by making, using, selling, offering to sell, and/or importing its ServOne line of products, which have product codes including 2406C1, 2407C1, 2410C1, 2410D1, and 2411C1. On information and belief, the 2406C1 product is a stack of white napkins bundled into 188-napkin packages, the 2407C1 product is a stack of kraft napkins bundled into 188-napkin packages, the 2410C1 and 2410D1 products are stacks of white napkins bundled into 376-napkin packages, and the 2411C1 product includes stacks of kraft napkins bundled into 376-napkin packages.

41. Cascades has further infringed, and continues to infringe, at least claims 1-3, 6, 8, 10, 12-13, and 15-17 of the '372 patent under 35 U.S.C. § 271(a), literally and/or under the doctrine of equivalents, by making, using, selling, offering to sell, and/or importing its Tandem line of products, which have product codes including T400, T401, T410, and T411. On information and belief, the T400 product is a stack of white napkins bundled into 188-napkin packages, the T401 product is a stack of kraft napkins bundled into 188-napkin packages, the T410 product includes stacks of white napkins bundled into 376-napkin packages, and the T411 product includes stacks of kraft napkins bundled into 376-napkin packages.

42. On information and belief, the technical details of the ServOne 2406C1, 2407C1, 2410C1, 2410D1, and 2411C1 products are similar in all material respects. Exhibit 11, attached to the Complaint, compares the ServOne 2406C1 product to claims 1-3, 6, 8, 10, 12-13, and 15-17 of the '372 patent, but the comparison applies to each of the ServOne 2406C1, 2407C1, 2410C1, 2410D1, and 2411C1 products. On information and belief, the Tandem T400 product is intended to replace the ServOne 2406C1 product, the Tandem T401 product is intended to replace the ServOne 2407C1 product, the Tandem T410 product is intended to replace the ServOne 2410C1 and 2410D1 products, and the Tandem T411 product is intended to replace the ServOne 2411C1 product, so each of the Tandem napkin products infringe claims 1-3, 6, 8, 10, 12-13, and 15-17 of the '372 patent for the same reasons as the ServOne napkin products. See Exhibit 9, attached to the Complaint, which includes website advertisements for the Tandem napkin products.

43. Cascades's acts of infringement have caused damage to SCA, and SCA is entitled to recover from Cascades damages sustained as a result of Cascades's infringement of the '372 patent.

44. Cascades's acts of infringement have caused, and will continue to cause, irreparable harm to SCA. Cascades and SCA directly compete in the market for paper-based commercial products. Both companies offer related equipment, including, e.g., dispensers. See Exhibit 6 (advertising a dispenser compatible with the infringing ServOne products) and Exhibit 9 (advertising for the Tandem napkin products and a dispensing system). Not only is SCA being forced to compete against products that infringe its own patented inventions, but SCA is losing out, and will continue to lose out, on its investment in related products such as dispensers and on sales of paper products that can be dispensed from the dispensers. SCA's losses are further

difficult to quantify, rendering legal damages inadequate. Because Cascades's infringement has cost SCA market share and downstream sales and has forced SCA to compete against embodiments of its own patented invention, any hardship that an injunction would cause Cascades pales in comparison to the hardships SCA will continue to suffer as a result of Cascades's infringement. The public interest also favors an injunction to protect SCA's investment-based risk that resulted in patented innovation, namely the '372 patent, and to enforce the Patent Act's statutory right to exclude. Accordingly, the circumstances of Cascades's infringement warrant an injunction barring Cascades from further infringement of the '372 patent.

45. Cascades's infringement warrants a finding that this is an exceptional case, entitling SCA to recover its attorney fees and expenses.

PRAYER FOR RELIEF

WHEREFORE, SCA respectfully requests that the Court enter judgment in its favor, granting the following relief:

A. Entry of a judgment that Cascades has infringed the '443 patent, the '761 patent, and the '372 patent under 35 U.S.C. § 271(a);

B. Entry of a permanent injunction enjoining Cascades and its officers, directors, employees, agents, consultants, contractors, suppliers, distributors, and all others acting in privity with Cascades from further infringement of the '443 patent, the '761 patent, and the '372 patent;

C. Entry of a judgment that Cascades's infringement of the '443 patent, the '761 patent, and the '372 patent has been and continues to be egregious and willful;

D. Entry of an award to SCA of damages adequate to compensate it for the infringement of the '443 patent, the '761 patent, and the '372 patent by Cascades, in an amount

to be proven at trial, together with pre-judgment and post-judgment interest and costs, as fixed by the Court;

E. Trebling the damages due to Cascades's egregious and willful infringement under 35 U.S.C. § 284;

F. Entry of a finding that, with respect to Cascades, this case has been exceptional and awarding to SCA its reasonable costs and attorney fees under 35 U.S.C. § 285;

G. Entry of an order for Cascades to account to SCA for, and disgorge to SCA, all profits it has derived as a result of the unlawful acts complained of above;

H. Entry of judgment against Cascades on all counts of this Complaint;

I. Entry of an award to SCA of its costs in this action; and

J. A grant to SCA of further relief that the Court sees as just.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, SCA demands trial by jury in this action of all issues so triable.

Respectfully submitted this 13th day of April, 2017.

/s/ Anthony A. Tomaselli

Anthony A. Tomaselli

aat@quarles.com

Anita Marie Boor

anita.boor@quarles.com

QUARLES & BRADY, LLP

33 East Main Street, Suite 900

Madison, Wisconsin 53703

Telephone: (608) 251-5000

Facsimile: (608) 251-9166

Of Counsel:

Kevin W. Kirsch

kkirsch@bakerlaw.com

David A. Mancino

dmancino@bakerlaw.com

Kevin P. Flynn

kflynn@bakerlaw.com

BAKER & HOSTETLER LLP

312 Walnut Street, Suite 3200

Cincinnati, Ohio 45202-4074

Telephone: (513) 929-3400

Facsimile: (513) 929-0303

Jared A. Brandyberry

jbrandyberry@bakerlaw.com

BAKER & HOSTETLER LLP

1801 California Street, Suite 4400

Denver, Colorado 80202-2662

Telephone: (303) 764-4072

Facsimile: (303) 861-7805

Attorneys for Plaintiff

SCA Tissue North America, LLC