

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

GLOBAL STRATEGIES, INC.

Plaintiff,

v.

INTERBULK USA, LLC d/b/a
INTERBULK EXPRESS

Defendant.

CIVIL ACTION NO.

COMPLAINT

Plaintiff Global Strategies, Inc., brings this suit against Defendant Interbulk USA, LLC to compel it to cease manufacturing and selling a reusable construction refuse bag that infringes on Global Strategies Inc.'s patented technology and trademarks.

PARTIES

1. Plaintiff Global Strategies, Inc. ("Global Strategies") is a Massachusetts corporation with a principal place of business in Boston, Suffolk County, Massachusetts.

2. Defendant Interbulk USA, LLC d/b/a Interbulk Express ("Interbulk") is a Delaware limited liability company with a principal place of business in Newton, Middlesex County, Massachusetts.

JURISDICTION AND VENUE

3. This action arises under the Acts of Congress relating to patents, including Title 35 United States Code § 271 and §§ 281-285.

4. This Court has subject matter jurisdiction under the provisions of Title 28 United States Code §§ 1331 and 1338(a).

5. Interbulk has a principal place of business in the Commonwealth of Massachusetts.
6. This Court has personal jurisdiction over Interbulk.
7. Venue is proper within this district under the provisions of Title 28 United States Code §§ 1391(b)-(c) and 1400(b).

FACTUAL BACKGROUND

8. Global Strategies invented a heavy duty construction bag made out of 100% poly-woven plastic fiber, and is the holder of U.S. Patent No. 7,510,327 (the “’327 Patent”). The ‘327 Patent was filed in the United States on March 14, 2005 and legally issued on March 31, 2009. A copy of the ‘327 Patent is attached as Exhibit A.

9. Global Strategies markets its patented heavy duty construction bag under the brand name Demo Bags®, for which it has a registered trademark. Exhibit B.

10. Global Strategies has been manufacturing and selling Demo Bags® since late 2004, and currently sells Demo Bags® in major chain stores across the U.S., including Home Depot and Lowes, as well as select foreign markets.

11. Global Strategies has used distinctive brand phrases and symbols for Demo Bags® since 2004. See Exhibit C.

12. Interbulk is currently selling a product known as the “Ox Demolition Clean Up Bag” or “Ox Demo Bag” (hereinafter, the “OX Bag”). Exhibit D.

13. Like Demo Bags®, the OX Bags are advertised as durable, tear resistant, reusable bags intended to carry construction/demolition waste and other similar material. Id.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 7,510,327

14. Global Strategies restates and incorporates by reference the allegations set forth in the preceding paragraphs.

15. In violation of 35 U.S.C. § 271(a), (b) and (c), Interbulk has been and still is infringing, contributing to, and/or actively inducing infringement of the ‘327 Patent by manufacturing, using, offering to sell, and/or selling within the United States durable, tear-resistant, reusable construction bags, such as those depicted in Exhibit D, that are covered by one or more of the claims of the ‘327 Patent.

16. Interbulk has had, at minimum, constructive notice of the ‘327 Patent pursuant to 35 U.S.C. § 287(a).

17. Furthermore, on information and belief, Interbulk has had actual knowledge of the ‘327 Patent since on or about August 30, 2017, by virtue of a demand letter send by Global Strategies’ counsel.

18. Interbulk’s infringement of the ‘327 Patent held by Global Strategies has been willful, deliberate and intentional.

19. Global Strategies has been and continues to be damaged and irreparably harmed by Interbulk’s infringement of the ‘327 Patent.

20. Interbulk is liable for willfully infringing the ‘327 Patent, thereby making this case exceptional and justifying the imposition of treble damages against Interbulk and an award of attorney’s fees under 35 U.S.C. §§ 284-285.

COUNT II – TRADEMARK INFRINGEMENT IN VIOLATION OF 15 U.S.C. §1114(1)

21. Global Strategies restates and incorporates by reference the allegations set forth in the preceding paragraphs.

22. Pursuant to 15 U.S.C. § 1057(b), Global Strategies' certificates of registration for the Demo Bags[®] family of marks are prima facie evidence of the validity of said registrations, Global Strategies' ownership of the Demo Bags[®] family of marks identified in the registrations, and Global Strategies' exclusive right to use the Demo Bags[®] family of marks in commerce in connection with the goods identified in the registrations.

23. Global Strategies trademark registrations constitute constructive notice to Interbulk of Global Strategies' ownership of the Demo Bags[®] family of marks in connection with the goods identified in the registrations.

24. Interbulk's marketing efforts, including but not limited to its website, violate Global Strategies' Registered Trademark. The OX Bag bears the term "Demolition Clean Up Bag," and its website sells/markets the product as "OX Demolition Bag" and "OX Demo Bags." Exhibit D.

25. Like Demo Bags[®], OX Bags are advertised as durable, tear-resistant, reusable bags intended to carry construction/demolition waste and other similar material. Id. The Interbulk website also contains images of Global's design and packaging without authority. Id.

26. Interbulk's use of the term "Demo Bag" is likely to cause consumers and potential consumers to be confused, mistaken, and deceived as to the source, origin or sponsorship, or approval of Global Strategies' and Interbulk's goods.

27. The above-described actions constitute trademark infringement in violation of Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1).

28. Interbulk's use of the term "Demo Bag" has caused and is causing irreparable injury to Global Strategies, for which Global Strategies has no adequate remedy at law, and will continue to cause such injury until Interbulk is enjoined by this Court.

29. Interbulk's infringement of the Demo Bags® family of marks has been willful, wanton, reckless and in total disregard of Global Strategies' rights.

30. By the above-described actions, Global Strategies has incurred and will continue to incur damages.

**COUNT III – UNFAIR COMPETITION AND FALSE DESIGNATION OF ORIGIN
UNDER 15 U.S.C. §1125(a)**

31. Global Strategies restates and incorporates by reference the allegations set forth in the preceding paragraphs.

32. Interbulk's unauthorized use of the Demo Bags® family of marks, as described above, constitutes unfair competition and false designation of origin in violation of Section 43(a) of the Lanham Act, 25 U.S.C. § 1125(a).

33. Interbulk's use of the Demo Bags® family of marks has caused and is causing irreparable injury to Global Strategies, for which Global Strategies has no adequate remedy at law, and will continue to do so unless Interbulk is enjoined by this Court.

34. Interbulk's conduct as described hereinabove has been willful, wanton, reckless, and in total disregard of Global Strategies' rights.

35. By the above-described actions, Global Strategies has incurred and will continue to incur damages.

COUNT IV – TRADEMARK INFRINGEMENT UNDER MASSACHUSETTS LAW

36. Global Strategies restates and incorporates by reference the allegations set forth in the preceding paragraphs.

37. Interbulk is engaged in trade and commerce in the Commonwealth of Massachusetts.

38. Interbulk's conduct as described above regarding the Demo Bags® mark constitutes trademark infringement in violation of Massachusetts common law.

39. Interbulk's use of the Demo Bags® mark has caused and is causing irreparable injury to Global Strategies for which Global Strategies has no adequate remedy at law, and will continue to do so unless Interbulk is enjoined by this Court.

40. Interbulk's infringing use of the Demo Bags® mark has been willful, wanton, reckless, and in total disregard of Global Strategies' rights.

41. By the above-described actions, Global Strategies has incurred and will continue to incur damages.

PRAYER FOR RELIEF

Global Strategies respectfully asks this Court to enter judgment in its favor and against Interbulk on all counts, and award Global Strategies the following relief:

A. A preliminary and permanent injunction under 35 U.S.C. § 283 enjoining Interbulk from infringing on the '327 Patent.

B. A preliminary and permanent injunction enjoining Interbulk from: (i) using any of the Demo Bags® family of marks and any confusingly similar mark alone or in combination with other words or graphic symbols or logotypes, in connection with the manufacture, marketing or sale of confusingly similar products; (ii) using in any manner any trade name, words, abbreviations, or any combination thereof that would imitate, resemble, or suggest Global Strategies' Demo Bags® family of marks; (iii) otherwise infringing the Global Strategies' Demo Bags® family of marks; and (iv) unfairly competing with Global Strategies or injuring Global Strategies and its goodwill and business reputation in any manner;

C. An award of damages under 35 U.S.C. § 284 adequate to compensate Global Strategies for Interbulk's infringement of the '327 Patent and an accounting to determine the proper amount of such damages;

D. Treble damages as a result of Interbulk's willful, wanton and deliberate acts of patent infringement;

E. An award of costs and reasonable attorney's fees that Global Strategies expended in this action;

F. An order directing the recall of any and all existing Interbulk construction bags that infringe the '327 Patent; and,

G. Such further relief as the Court deems just and proper.

JURY DEMAND

Global Strategies demands a trial by jury on all issues so triable.

Respectfully submitted,

GLOBAL STRATEGIES, INC.

By its Attorneys,

/s/ David A. Conti

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November 3, 2017