

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

ROTHSCHILD CONNECTED)
DEVICES INNOVATIONS LLC,)
)
Plaintiff,)
)
v.)
)
THE COCA-COLA COMPANY,)
)
Defendant.)
_____)

CIVIL ACTION NO.
1:16-CV-01241-TWT

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Rothschild Connected Devices Innovations, LLC (“Rothschild”), hereby sues The Coca-Cola Company (“TCCC”) for patent infringement, and alleges as follows:

THE PARTIES

1. Rothschild is a Texas limited liability company with its principal office located at 1400 Preston Road, Suite 400, Plano, Texas 75093.
2. TCCC is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Atlanta, Georgia.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the patent laws

of the United States, more specifically, under Title 35 of the United States Code, Section 271 *et seq.*

4. This Court has federal question jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a) because Rothschild seeks relief under the Patent Act, 35 U.S.C. § 271 *et seq.*, including remedies for infringement of a United States Patent owned by Rothschild.

5. TCCC is subject to personal jurisdiction in this state because it has transacted and continues to transact business in this state, has contracted to supply services or products in this state and/or has caused tortious injury in this state.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400(b) because a substantial part of the events giving rise to these claims occurred in this district, because Rothschild has suffered injury in this district, and because TCCC resides in this district under the patent venue statute by having committed acts of alleged patent infringement in this district.

ROTHSCHILD'S U.S. PATENT No. 8,417,377

7. Rothschild is the owner of United States Patent No. 8,417,377 (“the ‘377 patent”), entitled “System and Method for Creating a Personalized Consumer Product.” Mr. Leigh Rothschild is the sole inventor of the ‘377 patent. The ‘377 patent was duly and lawfully issued on April 9, 2013 by the United States Patent and

Trademark Office and is now, and has been at all times since its date of issue, valid and enforceable. A true and correct copy of the '377 patent is attached hereto as Exhibit A.

8. The invention of the '377 patent relates to systems and methods for creating a personalized beverage whereby an individual can customize a beverage using personal beverage preferences communicated to a beverage dispenser with mixing capabilities.

9. The '377 patent describes a preferred embodiment where

[T]he user goes to a beverage dispenser, e.g., a soda dispenser. . . . The user identifies himself to the beverage dispenser . . . via a communications device such as a mobile device. . . . The user enters this identity information into the dispenser and . . . the dispenser communicates the user's identity information to a server on the global computer network (e.g., the Internet). The server then identifies the user of the dispenser and directs the dispenser to mix the beverage for the user exactly the way the user has predetermined that they like to drink the beverage. In the example of soda, the user can and will determine the amount of carbonation, the amount of sweetness for the beverage, and if any extra flavors, such a lemon or lime, will be added to the beverage. The user is then dispensed the beverage for consumption.

See '377 patent, col. 6, ll. 5-24.

10. Claim 11 of the '377 patent recites a beverage dispenser comprising:

at least one compartment containing an element of a beverage;

at least one valve coupling the at least one compartment to a dispensing section configured to dispense the beverage;

a mixing chamber for mixing the beverage;

a user interface module configured to receive an identity of a user and an identifier of the beverage;

a communication module configured to transmit the identity of the user and the identifier of the beverage to a server over a network, receive user generated beverage product preferences based on the identity of the user and the identifier of the beverage from the server and communicat[e] the user generated beverage product preferences to controller; and

the controller coupled to the communication module and configured to actuate the at least one valve to control an amount of the element to be dispensed and to actuate the mixing chamber based on the user gene[r]ated beverage product preferences.

TCCC'S INFRINGEMENT OF THE '377 PATENT

11. The TCCC Freestyle system infringes claims 11-12, 17, and 21-23 of the '377 patent.

12. TCCC makes, uses, offers to sell, and sells a beverage dispenser marketed under the "Freestyle" brand name. Unlike prior beverage dispensers, the Freestyle beverage dispenser is equipped with micro-ingredient cartridges, each containing a flavor, sweetener or other ingredient of a beverage.

13. Instead of having individual spouts for each beverage product, the Freestyle dispenser has only one exit port for all beverages it is capable of dispensing. Each micro-ingredient cartridge is connected, through a valve and a corresponding tube, to a dispensing nozzle assembly equipped with a mixing

chamber capable of mixing the various flavors stored within each micro-cartridge with regular or carbonated water, and high fructose corn syrup into a final product—the user-selected beverage.

14. The Freestyle dispenser allows users to select their desired beverage, out of hundreds of possible combinations.

15. TCCC touts the Freestyle dispenser's communication capability. Each dispenser is equipped with cellular data cards or hard-line network connection, allowing communication between the dispenser and TCCC's network, including TCCC's servers.

16. The Freestyle dispensers are monitored by TCCC, and TCCC's servers are in communication with each dispenser.

17. Freestyle dispensers also include one or more controllers. These controllers are capable of actuating at least one valve and to control an amount of the micro-ingredient to enter a mixing chamber.

18. TCCC also makes and markets the TCCC Freestyle mobile application.

As TCCC's own website describes it:

Standing in front of a TCCC Freestyle machine, it's tough to remember that awesome drink combination you created last week. Now, there's an app for that.

The new "Create Your Own Mix" feature on the Freestyle app lets fans save custom combination using Freestyle's over 100 drink options.

With smartphone in hand, users can scan the app at a participating machine, which will in turn pour their very own creations.

See <http://www.TCCCcompany.com/TCCC-ubottled/TCCC-freestyle-app-your-custom-mix-on-demand/> (last accessed October 23, 2015).

19. TCCC's mobile app servers are in constant communication with the Freestyle dispensers, and are capable of transmitting and receiving user identifiers, as well as identifiers of a beverage. A user interface module enables communication between a user and the dispenser.

20. TCCC has not obtained permission from Rothschild to use any of the inventions disclosed in the '377 patent.

21. On at least one prior occasion, Rothschild approached TCCC regarding the taking of a license to the '377 patent, but TCCC has thus far failed to do so.

COUNT I
(Infringement of the '377 Patent)

22. Rothschild incorporates and realleges paragraphs 1 through 21 of this Complaint as though fully set forth herein.

23. TCCC has directly and/or indirectly infringed, literally or under the doctrine of equivalents, claims 11-12, 17, and/or 21-23 of the '377 patent and continues to infringe those claims by using, selling and/or offering to sell in the United States and/or importing into the United States Freestyle beverage dispenser

and its related mobile application. TCCC's infringement activities violate 35 U.S.C. § 271.

24. TCCC has continued its infringement of the '377 patent despite being on notice of the patent, and therefore Rothschild is informed and believes, and on that basis alleges, that TCCC's infringement of the '377 patent has been and continues to be willful.

25. Rothschild has sustained damages as a direct and proximate result of TCCC's infringement of the '377 patent.

WHEREFORE, Rothschild prays:

a. that the Court find TCCC liable for infringement of the '377 patent, either literally or under the doctrine of equivalents;

b. That TCCC, and all of its agents, servants, employees, successors and assigns, and all persons acting in concert or in active participation with TCCC, be preliminarily and permanently enjoined and restrained from making, using, importing, selling and/or offering to sell any products or services in the United States that infringe the '377 patent;

c. That the Court award Rothschild damages due to TCCC's infringement of the '377 patent, and that the Court enter judgment three (3) times such amount pursuant to 35 U.S.C. § 284.

d. That the Court find this case exceptional within the meaning of 35 U.S.C. § 285 and award Rothschild its reasonable attorneys' fees and expenses incurred in this action.

e. That the Court award Rothschild its taxable costs and disbursements.

f. That the Court award Rothschild both pre-judgment and post-judgment interest.

g. For such other and further relief as this Court deems just and proper.

JURY DEMAND

ROTHSCHILD demands trial by jury on all issues so triable.

Dated: August 9, 2018

Respectfully submitted,

/s/ John C. Carey _____

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**Admitted pro hac vice*

CERTIFICATE OF SERVICE

I hereby certify that on August 9, 2018, I have served the foregoing by causing a true and correct copy thereof to be served by U.S. Mail and electronic mail to Defendant The Coca-Cola Company's counsel of record listed below.

/s/ John C. Carey
John C. Carey

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CERTIFICATE OF COMPLIANCE WITH LR 5.1

I hereby certify that the foregoing document is written in 14 point Times New Roman font in accordance with Local Rule 5.1.

/s/ John C. Carey _____

John C. Carey

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(admitted pro hac vice)

CAREY RODRIGUEZ

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