

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

ENCHANTED IP LLC,

Plaintiff,

v.

BACCUS GLOBAL LLC,

Defendant.

Civil Action No.:

TRIAL BY JURY DEMANDED

COMPLAINT FOR INFRINGEMENT OF PATENT

Now comes, Plaintiff Enchanted IP LLC (“Plaintiff” or “Enchanted”), by and through undersigned counsel, and respectfully alleges, states, and prays as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement under the Patent Laws of the United States, Title 35 United States Code (“U.S.C.”) to prevent and enjoin Defendant Baccus Global LLC (hereinafter “Defendant”), from infringing and profiting, in an illegal and unauthorized manner, and without authorization and/or consent from Plaintiff from U.S. Patent No. 6,194,871 (“the ‘871 Patent” or the “Patent-in-Suit”), which is attached hereto as Exhibit A and incorporated herein by reference, and pursuant to 35 U.S.C. §271, and to recover damages, attorney’s fees, and costs.

THE PARTIES

2. Plaintiff is a Texas limited liability company with its principal place of business at 66205 Coit Rd., Ste 300-1030, Plano, Texas 75024-5474.

3. Upon information and belief, Defendant is a corporation organized under the laws of Florida, having a principal place of business at 1 North Federal Highway, Suite 200, Boca Raton, FL 33432. Upon information and belief, Defendant may be served with process c/o: Jhan T. Lennon, Esq., 1 North Federal Highway, Suite 200, Boca Raton, FL 33432.

4. Plaintiff is further informed and believes, and on that basis alleges, that Defendant operates the website www.catautopower.com, which is in the business of providing batteries, battery accessories, and related products. Defendant derives a portion of its revenue from sales and distribution via electronic transactions conducted on and using at least, but not limited to, its Internet website located at www.catautopower.com, and its incorporated and/or related systems or products (collectively the “Baccus Website”). Plaintiff is informed and believes, and on that basis alleges, that, at all times relevant hereto, Defendant has done and continues to do business in this judicial district, including, but not limited to, providing products/services to customers located in this judicial district by way of the Baccus Website.

JURISDICTION AND VENUE

5. This is an action for patent infringement in violation of the Patent Act of the United States, 35 U.S.C. §§1 *et seq.*

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

7. This Court has personal jurisdiction over Defendant by virtue of its systematic and continuous contacts with this jurisdiction and its residence in this District, as well as because of the injury to Plaintiff, and the cause of action Plaintiff has arisen in this District, as alleged herein.

8. Defendant is subject to this Court's specific and general personal jurisdiction pursuant to its substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Delaware and in this judicial District; and (iii) being incorporated in this District.

9. Venue is proper in this judicial district pursuant to 28 U.S.C. §1400(b) because Defendant resides in this District under the Supreme Court's opinion in *TC Heartland v. Kraft Foods Group Brands LLC*, 137 S. Ct. 1514 (2017) through its incorporation, and regular and established place of business in this District.

FACTUAL ALLEGATIONS

10. On January 22, 2008, the United States Patent and Trademark Office ("USPTO") duly and legally issued the '871 Patent, entitled "CHARGE AND DISCHARGE CONTROL CIRCUIT AND APPARATUS FOR SECONDARY BATTERY" after a full and fair examination. The '871 Patent is attached hereto as Exhibit A and incorporated herein as if fully rewritten.

11. Plaintiff is presently the owner of the '871 Patent, having received all right, title and interest in and to the '871 Patent from the previous assignee of record. Plaintiff possesses all rights of recovery under the '871 Patent, including the exclusive rights to recover for past infringement and present damages, as well as seek an injunction or reasonable royalties against future infringement.

12. To the extent required, Plaintiff has complied with all marking requirements under 35 U.S.C. § 287.

13. The invention claimed in the ‘871 Patent comprises a charge and discharge control circuit for an external secondary battery.

14. Claim 1 of the ‘871 Patent states:

“1. A charge and discharge control circuit for an external secondary battery, the charge and discharge control circuit making an external charge control switch nonconductive based on that an overcharge state of the external secondary battery is detected and interrupting a charge operation of the external secondary battery, the charge and discharge control circuit comprising:

a charge control element for making the charge control switch conductive when a first voltage not less than a predetermined voltage is applied to a detection terminal for detecting whether a charger is connected thereto or not, thereby making the charge operation of the secondary battery possible, and for making the charge control switch nonconductive when a second voltage not more than the predetermined voltage is applied to the detection terminal, thereby making the charge operation of the secondary battery impossible.” *See* Exhibit A.

15. Defendant commercializes, inter alia, a device having all the elements and components recited in at least one claim of the ‘871 Patent. More particularly, More particularly, Defendant commercializes, inter alia, a device as recited in Claim 1 of the ‘871 Patent. Specifically, Defendant makes, uses, sells, offers for sale, or imports a device that encompasses that which is covered by Claim 1 of the ‘871 Patent.

DEFENDANT’S PRODUCTS

16. Defendant offers solutions, such as the “Caterpillar 40 Amp Rolling Battery Charger” (the “Accused Product”), that enables a charge and discharge control circuit for an external secondary battery. For example, the Accused Product is or includes a charge and discharge control circuit for an external secondary battery. A non-limiting and exemplary claim

chart comparing the Accused Product to Claim 1 of the '871 Patent is attached hereto as Exhibit B and is incorporated herein as if fully rewritten.

17. As recited in Claim 1, upon information and belief, the Accused Product is an external battery-based power supply which comprises charge and discharge control circuit (e.g., charge discharge control circuit present in CBC40EW) for an external secondary battery (e.g., 12V external battery). The charge and discharge control circuit make an external charge control switch nonconductive (e.g., switches to float charge mode) based on an overcharge state of the external secondary battery that is detected (e.g., full charge condition of external battery) and interrupts a charge operation (e.g., switches to float charge mode) of the external secondary battery (e.g., 12V external battery). *See* Exhibit B.

18. As recited in Claim 1, upon information and belief, the Accused Product comprises a charge control element (e.g., charge discharge control circuit present in CBC40EW) for making the charge control switch conductive (e.g., start charging) when a first voltage not less than a predetermined voltage (e.g., CBC40EW detects connection with battery and automatically starts charging one minute after the proper connections) is applied to a detection terminal for detecting whether a charger is connected thereto or not, thereby making the charge operation of the secondary battery (e.g., 12V external battery) possible. *See* Exhibit B.

19. As recited in Claim 1, upon information and belief, the Accused Product detects if the battery is connected to the charge or not. On the detection of improper connection, accused product gives fault information and no power will be transmitted from the charger. In the case where no error is detected, it will continue charging process. *See* Exhibit B.

20. As recited in Claim 1, upon information and belief, the Accused Product comprises a charge control element (e.g., charge discharge circuit present in CBC40EW) for making the charge control switch nonconductive (e.g., once battery is completely charged, the unit automatically goes into float charge mode) when a second voltage not more than the predetermined voltage (e.g., Full charged detection voltage) is applied to the detection terminal, thereby making the charge operation of the secondary battery (e.g., a 12V external battery) impossible. *See* Exhibit B.

21. As recited in Claim 1, upon information and belief, when the Accused Product completes charging an external battery, it goes into float charge mode. In float charge mode it will stop charging battery and will only charge it back to maintain full charge condition as long as the battery is connected. *See* Exhibit B.

22. The elements described in the preceding paragraphs are covered by at least Claim 1 of the '871 Patent. Thus, Defendant's use of the Accused Product is enabled by the '871 Patent.

INFRINGEMENT OF THE '871 PATENT

23. Plaintiff realleges and incorporates by reference all of the allegations set forth in the preceding Paragraphs.

24. In violation of 35 U.S.C. § 271, Defendant is now, and has been directly infringing the '871 Patent.

25. Defendant has had knowledge of infringement of the '871 Patent at least as of the service of the present Complaint.

26. Defendant has directly infringed and continues to directly infringe at least one claim of the '871 Patent by using, at least through internal testing or otherwise, the Accused Product without authority in the United States, and will continue to do so unless enjoined by this Court. As a direct and proximate result of Defendant's direct infringement of the '871 Patent, Plaintiff has been and continues to be damaged.

27. By engaging in the conduct described herein, Defendant has injured Plaintiff and is thus liable for infringement of the '871 Patent, pursuant to 35 U.S.C. § 271.

28. Defendant has committed these acts of infringement without license or authorization.

29. As a result of Defendant's infringement of the '871 Patent, Plaintiff has suffered monetary damages and is entitled to a monetary judgment in an amount adequate to compensate for Defendant's past infringement, together with interests and costs.

30. Plaintiff will continue to suffer damages in the future unless Defendant's infringing activities are enjoined by this Court. As such, Plaintiff is entitled to compensation for any continuing and/or future infringement up until the date that Defendant is finally and permanently enjoined from further infringement.

31. Plaintiff reserves the right to modify its infringement theories as discovery progresses in this case; it shall not be estopped for infringement contention or claim construction purposes by the claim charts that it provides with this Complaint. The claim chart depicted in Exhibit B is intended to satisfy the notice requirements of Rule 8(a)(2) of the Federal Rule of Civil Procedure and does not represent Plaintiff's preliminary or final infringement contentions or preliminary or final claim construction positions.

DEMAND FOR JURY TRIAL

32. Plaintiff demands a trial by jury of any and all causes of action.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief:

- a. That Defendant be adjudged to have directly infringed the '871 Patent either literally or under the doctrine of equivalents;
- b. An accounting of all infringing sales and damages including, but not limited to, those sales and damages not presented at trial;
- c. That Defendant, its officers, directors, agents, servants, employees, attorneys, affiliates, divisions, branches, parents, and those persons in active concert or participation with any of them, be permanently restrained and enjoined from directly infringing the '871 Patent;
- d. An award of damages pursuant to 35 U.S.C. §284 sufficient to compensate Plaintiff for the Defendant's past infringement and any continuing or future infringement up until the date that Defendant is finally and permanently enjoined from further infringement, including compensatory damages;
- e. An assessment of pre-judgment and post-judgment interest and costs against Defendant, together with an award of such interest and costs, in accordance with 35 U.S.C. §284;
- f. That Defendant be directed to pay enhanced damages, including Plaintiff's attorneys' fees incurred in connection with this lawsuit pursuant to 35 U.S.C. §285; and
- g. That Plaintiff be granted such other and further relief as this Court may deem just and proper.

Dated: January 29, 2020

Respectfully submitted,

SAND, SEBOLT & WERNOW CO., LPA

/s/ Howard L. Wernow

Howard L. Wernow, B.C.S.

Florida Bar No.: 107560

Andrew S. Curfman

Aegis Tower – Suite 1100

4940 Munson Street NW

Canton, Ohio 44718

Phone: 330-244-1174

howard.wernow@sswip.com

Andrew.curfman@sswip.com

ATTORNEYS FOR PLAINTIFF