

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

REGAL BELOIT AMERICA, INC.,
Plaintiff,

v.

EAST WEST MANUFACTURING, LLC,
Defendant.

Case No. _____

DEMAND FOR JURY TRIAL

COMPLAINT FOR PATENT INFRINGEMENT

COMES NOW Regal Beloit America, Inc. (“Regal Beloit”), Plaintiff hereinabove, and pursuant to Rule 8 of the Federal Rule of Civil Procedure files its Complaint against East West Manufacturing, LLC (“East West”) and shows the Court as follows:

1. This is an action for infringement of Regal Beloit’s United States Patent No. 8,079,834 under 35 U.S.C. § 271, based on Defendant East West’s unauthorized importation, offer for sale, and/or sale of infringing blowers in the United States.

PARTIES

2. Plaintiff Regal Beloit America, Inc., is a Wisconsin corporation with

a principal place of business at 200 State Street, Beloit, Wisconsin 53511.

3. On information and belief, Defendant East West Manufacturing, LLC, is a Georgia limited liability company with a principal place of business at 4170 Ashford Dunwoody Road, Suite 375, Atlanta, Georgia 30319.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a) over Regal Beloit's claims because the claims arise under title 35 of the U.S. Code.

5. This Court has personal jurisdiction over Defendant East West because it is a registered Georgia limited liability company and its principal place of business is in the state of Georgia.

6. Venue is proper within this District for this action because, on information and belief, Defendant East West is a registered Georgia limited liability company and its principal place of business is located at 4170 Ashford Dunwoody Road, Suite 375, Atlanta, Georgia 30319, which is within this District and within the Atlanta Division.

BACKGROUND **U.S. PATENT NO. 8,079,834**

7. This action is for patent infringement.

8. U.S. Patent Application No. 10/830,695, was filed on April 23, 2004, claiming priority to applications dating back to April 4, 2002.

9. On December 20, 2011, the U.S. Patent and Trademark Office granted the Application No. 10/830,695, issuing U.S. Patent No. 8,079,834 (“the ‘834 Patent”) in compliance with Title 35 of the United States Code.

10. The ‘834 Patent is entitled “Exhaust Dilution Blower Housing with Remote Air Intake.” A true and correct copy of the ‘834 Patent is attached as Exhibit A.

11. The inventors for the ‘834 patent are William Stuart Gatley, Jr., and Michael Lynn Kennedy.

12. Plaintiff Regal Beloit owns all rights, title, and interest in the ‘834 Patent.

13. The ‘834 Patent discloses an improved blower for use with a furnace or water heater. This blower improves the operation of the furnace or water heater by using what is referred to as “dilution air” to (among other benefits) cool the exhaust gases from the furnace/water heater before they are expelled from the blower.

14. The claimed invention is described in the claims of the ‘834 Patent. Claim 1 reads:

1. A blower housing comprising:

one side of the blower housing that is positioned in a single plane, the single plane of the one side of the blower housing facilitating mounting the one side of the blower housing on a flat surface having a flue opening of a heater with which the blower housing is used;

a fan compartment inside the blower housing and positioned directly above the one side of the blower housing for stable support of the fan compartment when the one side of the blower housing is attached to the flat surface of the heater, the fan compartment having an enclosed interior volume;

a fan inside the fan compartment interior volume;

a motor on the blower housing, the motor being operatively connected to the fan for rotating the fan inside the fan compartment;

a dilution compartment inside the blower housing and positioned on the one side of the blower housing, the dilution compartment having an interior volume that communicates with the fan compartment interior volume, the dilution compartment having a side wall that extends around the dilution compartment interior volume and forms a part of the one side of the blower housing, the side wall having a single dilution air intake opening through the side wall communicating the interior volume of the dilution compartment with an exterior environment of the blower housing, the side wall being dimensioned to extend around and be spaced outwardly from the flue opening of the heater when the one side of the blower housing is mounted on the flat surface of the heater whereby the dilution compartment interior volume is dimensioned sufficiently large to enable mixing of exhaust gas received in the dilution compartment interior volume from the flue opening with ambient air received in the dilution compartment interior volume through the dilution air intake opening, the side wall and the one side of the blower housing providing a continuous engagement with the flat surface of the heater around the flue opening when the one side of the blower housing is mounted on the flat surface of the heater whereby ambient air can

enter into the dilution compartment interior volume only through the one dilution air intake opening in the side wall; and

a circuitry compartment inside the blower housing and positioned on the one side of the blower housing, the circuitry compartment having at least one wall that extends around an interior volume of the circuitry compartment and forms a part of the one side of the blower housing that is positioned in the single plane.

15. An exemplary embodiment of this claim is shown in Figures 4 and 14 of the '834 patent, included below. As shown in these figures, the blower housing has a side that is configured to rest against the flat side of a water heater. This arrangement allows exhaust gases to flow into the housing. These fumes are mixed with dilution air that come from an external source through opening 68, and mix with the exhaust gases in the dilution compartment 86. The pull of a motorized fan pulls gasses into the fan compartment and out the exit conduit 36, thereby venting the gases away from both the water heater and the blower. *See generally* '834 Patent at 5:40-8:14.

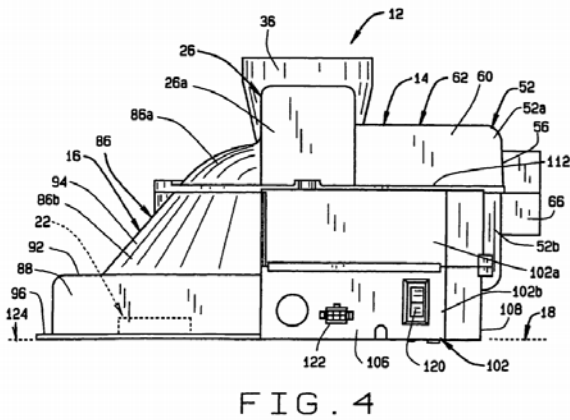


FIG. 4

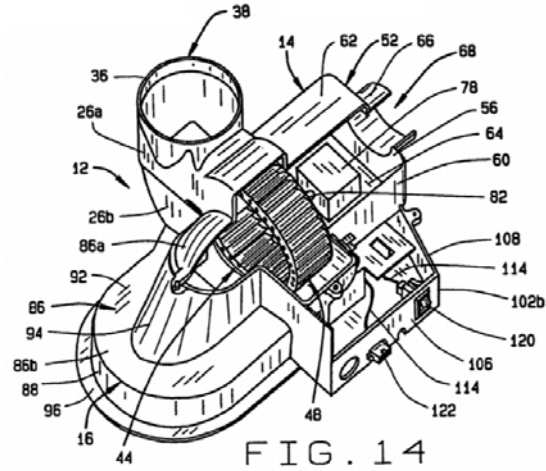


FIG. 14

16. Regal Beloit markets and sells several models of water heater blowers that embody the '834 Patent throughout the United States and abroad. These models correspond to two broad categories, Jakel-Style Regal Blowers and Aquavent® Regal Blowers.

17. Images of a representative Jakel-Style Regal Blower and a representative Aquavent® Regal Blower are included below.



JAKEL-STYLE BLOWER



AQUAVENT® BLOWER

18. At all relevant times, Regal Beloit has complied with the marking and/or notice provisions of 35 U.S.C. § 287 with respect to the '834 patent.

EAST WEST'S INFRINGING BLOWER

19. On information and belief, East West imports a blower used in connection with a water heater and/or furnace, marketed by East West as a Power Direct Vent Blower ("East West Blower"), a picture of which is included below, to the U.S from abroad.



20. On information and belief, East West offers the East West Blower for sale from its principal place of business in Georgia, including to A.O. Smith or its affiliates.

21. On information and belief, East West has sold the East West Blower in the United States, including to A.O. Smith or its affiliates.

22. As shown in the claim chart attached as Exhibit B, the East West

Blower satisfies every element of at least claims 1, 2, 7, 8, 9, 10, and 15 of the '834 patent.

23. At least as early as June 27, 2019, East West has been aware of the '834 patent. On that date, counsel for Regal Beloit sent a letter to Scott Ellyson, CEO of East West, identifying the East West Blower as infringing the '834 patent. A copy of that letter is attached as Exhibit C.

24. East West received the June 27, 2019 letter.

25. Despite being made aware that the East West Blower infringed Regal Beloit's '834 patent, East West has continued to import, offer for sale, and sell the East West Blower in the United States.

26. The Jakel-Style Regal Blowers and AquaVent® Regal Blowers are important products to Regal Beloit. East West's infringing activities have made a significant impact on Regal Beloit's business. For example, Regal Beloit's sales of the Regal Blowers to A.O. Smith Water Products and its affiliates have dwindled as those blowers were replaced by the infringing ones imported and/or sold by the East West. Given Regal Beloit's historical relationship with A.O. Smith, it is reasonable to believe that but for the East West's acts of infringement, those sales would have been made to A.O. Smith by Regal Beloit.

COUNT I - DIRECT INFRINGEMENT OF THE '834 PATENT

27. Regal Beloit fully incorporates the allegations in the preceding paragraphs as if fully set forth herein.

28. The East West Blower embodies all the elements of at least claims 1, 2, 7, 8, 9, 10, and 15 of the '834 patent.

29. East West, by selling, offering for sale, and/or importing in the U.S. the East West Blower, has directly infringed and continues to infringe one or more claims of the '834 patent, including at least claims 1, 2, 7, 8, 9, 10, and 15, in violation of one or more provisions of 35 U.S.C. § 271.

30. East West's infringing activities has caused and is causing financial damage to Regal Beloit, including lost sales and revenue. East West is therefore liable to Regal Beloit in an amount that adequately compensates it for East West's infringement, which, by law cannot be less than a reasonable royalty but can also be in the amount of Regal Beloit's lost profits, together with interest and costs, as determined by this Court pursuant to 35 U.S.C. § 284.

31. On information and belief, East West's infringing activities have irreparably damaged Regal Beloit, including, *inter alia*, causing lost sales, damage to brand loyalty, and price erosion.

32. On information and believe, East West's infringing activities will

continue unless enjoined by this Court under 35 U.S.C. § 283.

DEMAND FOR JURY TRIAL

Regal Beloit hereby demands a trial by jury of all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Regal Beloit requests judgment against East West including as follows:

- a) A judgment for Regal Beloit for all causes of action asserted within this Complaint;
- b) An injunction pursuant to 35 U.S.C. § 283, permitting Regal Beloit to seize and destroy all infringing products and enjoining East West and anyone acting in concert with it from making, using, selling, offering for sale, and/or importing the East West Blower or any other blower that infringes the '834 patent;
- c) A judgment awarding Regal Beloit monetary damages for East West's infringement of the '834 patent, including lost profits and no less than a reasonable royalty, together with prejudgment interest, costs, and attorneys' fees;
- d) A judgment that the '834 patent is valid and enforceable; and
- e) Such other relief as the Court deems just and proper.

This 17th day of July, 2020.

Respectfully,

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* To be admitted *pro hac vice*