

CV 03 2706

Kenneth P. Savin
54 Main St., P.O. Box 398
Northport, New York 11768
Telephone: (631) 261-4555

Attorney for Plaintiff

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U.S. DISTRICT COURT E.D.N.Y.

★ MAY 29 2003 ★

(S.I.)

LONG ISLAND OFFICE

WEXLER, J.

ORENSTEIN, M.

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

PRIMA TECHNOLOGIES, INC., a
Delaware corporation

Plaintiff,

v.

EURO-EXPO 3000, INC., a
Florida corporation

Defendants.

Case No. _____

COMPLAINT

(JURY DEMAND REQUESTED)

Plaintiff PRIMA TECHNOLOGIES, INC.. (hereinafter "Prima Technologies"), through its counsel, seeks a declaratory judgment against EURO-EXPO 3000, INC.. (hereinafter "Euro-Expo") and alleges as follows:

PARTIES

1. Plaintiff Prima Technologies is a corporation duly organized and existing under the laws of the state of Delaware and having a principal place of business at 110 Lake Avenue South Suite 42, Nesconset New York.

2. Upon information and belief, Defendant Euro-Expo is a corporation duly organized and existing under the laws of the state of Florida and having a principal place of business at 3201 NE 14th Street, Ste. 201, Pompano Beach, Florida.

JURISDICTION AND VENUE

3. This is a civil action for declaratory judgment that U.S. Design Patent No. 471,672, issued March 11, 2003, and entitled "Nail File Device" (hereinafter "the '672 Patent") is not infringed. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1338(a), 2201, and 2202.

4. This Court has personal jurisdiction over Defendant pursuant to the New York Long Arm Statute, New York CPLR § 302(a)(1). Upon information and belief, Defendant transacts business in New York and solicits business in this judicial District.

5. Venue is proper in this District under 28 U.S.C. §§ 1391 (b) and(c), and 1400(b).

GENERAL ALLEGATIONS

6. The '672 Patent lists Ing Jan Turina as the inventor. A copy of the '672 Patent is attached hereto as **Exhibit A**. The '672 Patent is a design patent that claims the ornamental design for a nail file device as shown and described in fourteen (14) figures therein.

9. Prima Technologies distributes a nail file under the trademark NAIL TEK CRYSTAL FILE™. A copy of the product advertising for the Prima Technologies product is attached hereto as **Exhibit B**.

10. On May 5, 2003, Maria Kontos of Euro-Expo sent a letter to Prima Technologies, stating that “selling any glass nail files in the USA without [Euro-Expo’s] permission is illegal, because [they] hold US Patent No: D 471,672 (sic) with other patents pending, which covers all glass nail files sold in the USA.” A copy of the letter from Maria Kontos is attached hereto as **Exhibit C**.

11. An actual controversy exists between Prima Technologies and Euro-Expo as to the infringement of the ‘672 Patent.

12. The products distributed by Prima Technologies do not infringe the ‘672 Patent.

13. Prima Technologies does not induce others to infringe nor does it contribute to the infringement of the ‘672 Patent.

14. Prima Technologies seeks a declaration that the ‘672 patent is not infringed by Prima Technologies.

WHEREFORE, Plaintiff prays for the following relief:

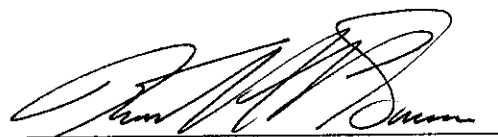
- (a) A declaration that the ‘672 Patent is not infringed and an award of Plaintiff’s attorneys fees pursuant to 35 U.S.C. § 285;
- (b) An injunction against Defendants enjoining them from asserting or threatening to assert infringement under the ‘672 Patent against Plaintiff, its customers, suppliers, licensees, or others acting for or with Plaintiff, for any use, sale or offer for sale of the Basic Products;

- (c) An award to Plaintiff of its costs, expenses, and such further relief the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial on all claims for relief

DATED this 27th day of May, 2003.



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SEE COURT FILES FOR
EXHIBIT(S)