

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

VOITH PAPER)
GMBH & CO. KG,)
a Company organized and)
existing under the laws of Germany,)
)
Plaintiff,)
)
v.)
)
JOHNSONFOILS, INC.,)
a Delaware Corporation,)
)
Defendant.)

C.A. No. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff VOITH PAPER GMBH & CO. KG (hereinafter referred to as "Plaintiff") by and through its attorneys, hereby demands a jury trial and alleges, upon information and belief, for its Complaint against Defendant JOHNSONFOILS, INC. (hereinafter referred to as "JOHNSONFOILS" or "Defendant"), as follows:

1. Defendant is infringing U.S. Pat. Nos. 5,718,805 and 5,972,168 (collectively hereinafter "the Patents-in-Suit"), which are owned by Plaintiff.

THE PARTIES

2. Plaintiff is a corporation, organized and existing under the laws of Germany, with its principal place of business at Sankt Poeltener Strasse 43, Heidenheim, Germany 89522.

3. Upon information and belief, Defendant JOHNSONFOILS is a corporation organized and existing under the laws of Delaware, and Defendant's registered agent is The Corporation Trust

Company, located at 1209 Orange Street, Wilmington, Delaware 19801.

4. Upon information and belief, Defendant's principal place of business is located at 4399 Corporate Road, Charleston, South Carolina 29405.

JURISDICTION AND VENUE

5. This action arises under the Patent Laws of the United States of America, 35 U.S.C. §§ 101, *et seq.*

6. Subject matter jurisdiction of this Court is proper under 28 U.S.C. §§1331 and 1338.

7. This Court can properly exercise personal jurisdiction over Defendant JOHNSONFOILS, by virtue of the fact that it is incorporated in the State of Delaware, thereby availing itself of the laws of the State of Delaware and deriving the protections and benefits thereof.

8. Venue for the present action properly lies in this District pursuant to 28 U.S.C. §§ 1391(c) and (d).

THE PATENTS-IN-SUIT

9. U.S. Patent No. 5,718,805 (hereinafter "the '805 patent"), entitled "Twin wire former," was duly and legally issued on February 17, 1998, and is generally directed to a twin-wire former for the production of a paper web from a fiber suspension. A true and correct copy of the '805 patent is attached hereto as Exhibit 1.

10. Plaintiff is the assignee of the '805 patent by virtue of an assignment recorded in the Patent Office on April 13, 2007 at REEL 019147, FRAME 0971-74, and as the assignee, Plaintiff enjoys all of the rights and benefits conferred upon the patent owner, including the exclusive right to sue, to license and to collect past and future damages from infringers of the '805 patent.

11. U.S. Patent No. 5,972,168 (hereinafter "the '168 patent"), entitled "Twin wire former," was duly and legally issued on October 26, 1999, and is generally directed to a twin-wire former for

the production of a paper web from a fiber suspension, and methods of use. A true and correct copy of the '168 patent is attached hereto as Exhibit 2.

12. Plaintiff is the assignee of the '168 patent by virtue of an assignment recorded in the Patent Office on April 13, 2007 at REEL 019147, FRAME 0971-74, and as the assignee, Plaintiff enjoys all of the rights and benefits conferred upon the patent owner, including the exclusive right to sue, to license and to collect past and future damages from infringers of the '168 patent.

13. All maintenance fees for the Patents-in-Suit have been properly paid to the United States Patent & Trademark Office.

BACKGROUND

14. The paper making process involves the use of paper formers for the production of a fiber web, in particular a paper web, from a fiber suspension.

15. One such paper former is the Calhoun 5 Paper Former, which was, upon information and belief, originally installed by Beloit Corporation in Calhoun, Tennessee.

16. Upon information and belief, the original Calhoun 5 Paper Former contained certain stationary elements, which promoted the drainage of water during the paper making process.

17. The Patents-in-Suit are directed to paper formers, and their methods of use, that utilize a resilient counterblade technology to promote water drainage.

18. Upon information and belief, Defendant JOHNSONFOILS has entered the business of modifying existing paper forming machines by utilizing a resilient counterblade technology to promote water drainage.

19. Upon information and belief, Defendant JOHNSONFOILS modified the Calhoun 5 Paper Former, for instance by removing the stationary drainage elements and replacing them with infringing resilient counterblade technology.

20. In so doing, Defendant JOHNSONFOILS has materially altered and reconfigured the existing Calhoun 5 Paper Former, rather than merely replaced used or worn parts, and has therefore made a “new” machine.

COUNT 1 - PATENT INFRINGEMENT

21. Plaintiff incorporates by reference the allegations of paragraphs 1 through 20 above as if fully set forth herein.

22. Defendant JOHNSONFOILS has made, used, offered to sell, and/or sold in the United States, and/or imported into the United States, and/or reconstructed, reconfigured, or altered, paper formers, such as the Calhoun 5 paper former and others to be discovered during the course of this lawsuit, that incorporate the technology claimed in the Patents-in-Suit without Plaintiff’s authorization.

23. Defendant JOHNSONFOILS has induced and/or engaged in contributory infringement by marketing, selling, distributing, maintaining, repairing, reconstructing and/or servicing, within the United States, paper formers, such as the Calhoun 5 paper former and others to be discovered during the course of this lawsuit, that incorporate the technology claimed in the Patents-in-Suit without Plaintiff’s authorization.

24. The aforementioned acts by Defendant, including making, using, selling, offering for sale, importing, marketing, distributing, maintaining, repairing, reconstructing, alerting and/or servicing paper formers, such as the Calhoun 5 paper former and others to be discovered during the

course of this lawsuit, that incorporate the technology claimed in the Patents-in-Suit without Plaintiff's authorization, infringed at least one claim of each of the Patents-in-Suit pursuant to at least Title 35 U.S.C. § 271(a), (b), and (c).

25. Defendant does not have a license to make, use, sell, offer for sale or import paper formers which incorporate the technology covered by at least one claim of each of the Patents-in-Suit.

26. Defendant's infringement of the Patents-in-Suit has been willful.

PRAYER FOR RELIEF

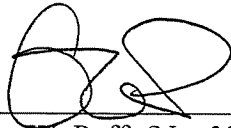
WHEREFORE, Plaintiff seeks a judgment against Defendant as follows:

- a. Declaring that Defendant has infringed the Patents-in-Suit;
- b. Declaring that Defendant has induced infringement and engaged in contributory infringement of the Patents-in-Suit;
- c. Awarding Plaintiff damages for Defendant's infringement of the Patents-in-Suit;
- d. Declaring that Defendant's infringement of the Patents-in-Suit has been willful;
- e. Awarding Plaintiff treble damages and attorneys fees for Defendant's willful infringement of the Patents-in-Suit;
- f. Declaring that the case is exceptional pursuant to 35 U.S.C. § 285;
- g. Enjoining Defendant from infringing, either directly or indirectly, the Patents-in-Suit;
and
- h. Awarding Plaintiff such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a jury trial as to all issues so triable.

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