

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

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U.S. DISTRICT COURT
MINNEAPOLIS, MINNESOTA

ECOLAB INC.,

Plaintiff,

v.

SIMONIZ USA, INC.,

Defendant.

Civil No. # 1555

05.217JMR/FLN

JURY TRIAL DEMANDED

COMPLAINT

For its complaint against Defendant Simoniz USA, Inc. ("Simoniz"), Plaintiff Ecolab Inc. ("Ecolab") states and alleges as follows:

THE PARTIES

1. Ecolab is a corporation organized and existing under the laws of the state of Delaware and having a principal place of business at 370 N. Wabasha St., St. Paul, MN 55102.
2. On information and belief, Simoniz is a corporation organized and existing under the laws of State of Connecticut and having a principal place of business in Bolton, Connecticut. On information and belief, Defendant Simoniz's principal business is the manufacture and sale of car wash products including equipment, chemistry, and tire dressing pads.

SUBJECT MATTER JURISDICTION

3. This is a civil action arising under the patent laws of the United States, 35 U.S.C. § 1 et seq. and under the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq. The Court has

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subject matter jurisdiction under 28 U.S.C. §§ 1331, 1332, 1338, 2201 and 2202. The amount in controversy as to each count exceeds \$75,000.00.

COUNT I

(Declaratory Relief)

4. Plaintiff realleges and incorporates by reference paragraphs 1-3 above.

5. Simoniz claims to be the owner of is the owner of U.S. Patent No. 6,461,429 ("the '429 patent") entitled "Vehicle Tire Dressing Applicator" and U.S. Patent No. 6,461,685 ("the '685 patent") entitled "Method for Using Vehicle Tire Dressing Applicator." Copies of the '429 and '685 patents are attached as Exhibits A and B.

6. The '429 and '685 patents are directed toward apparatuses and methods for applying fluid to the tires of a vehicle.

7. Ecolab manufactures and sells pads and fluid for use on tire dressing machines that are used at car washing facilities to clean the tires of cars.

8. There is an actual controversy between the parties with regard to infringement of the '429 and '685 patents. Simoniz has created in Ecolab a reasonable apprehension that Ecolab will be sued for infringement of the '429 and '685 patents based on its sale of pads and fluid for tire dressing machines.

9. Ecolab has not made, used, sold or offered to sell products that infringe the '429 or '685 patents.

10. Ecolab has not infringed, contributed to the infringement of, or induced infringement of the '429 or '685 patents.

PRAYER FOR RELIEF

WHEREFORE, Ecolab prays for the following relief:

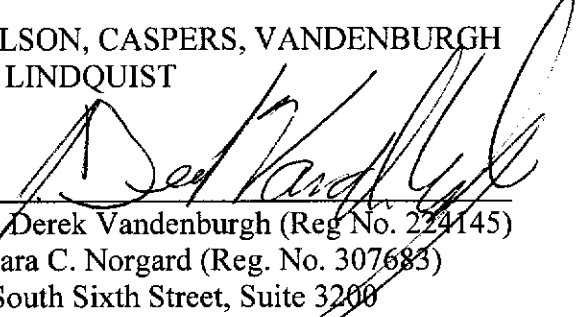
- A. A judgment declaring that Ecolab has not infringed the '429 and '685 patents.
- B. An order enjoining Simoniz and those in active concert or participation with Simoniz from initiating litigation against Ecolab for infringement of the '429 and '685 patents, and from stating or implying to Ecolab's customers or prospective customers that Ecolab's products and/or use of Ecolab's products infringe the '429 and '685 patents.
- C. An order awarding Ecolab its costs and attorneys fees pursuant to 35 U.S.C. § 285.
- D. Such further relief as the Court deems just and equitable.

DEMAND FOR JURY TRIAL

Ecolab hereby demands a trial by jury on all issues so triable.

Date: Jan. 31, 2005

CARLSON, CASPERS, VANDENBURGH
& LINDQUIST

By: 
J. Derek Vandenburg (Reg. No. 224145)
Tara C. Norgard (Reg. No. 307683)
225 South Sixth Street, Suite 3200
Minneapolis, MN 55402
Telephone: (612) 436-9600
Facsimile: (612) 436-9604
Attorneys for Plaintiff

ECOLAB INC.