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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CROWN CORK & SEAL USA, INC.,

Plaintiff,

Civil Action No. 05cv438

v.

ANHEUSER-BUSCH, INC. and
METAL CONTAINER
CORPORATION,

Defendants.

FILED
FEB 1 2005
MICHAEL E. KUNZ, Clerk
By _____ Dep. Clerk

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Crown Cork & Seal Company USA, Inc. ("Crown USA") hereby complains and alleges against Defendants Anheuser-Busch, Inc. ("ABI") and Metal Container Corporation ("MCC") as follows:

THE PARTIES

1. Crown USA is a Delaware corporation having a principal place of business at One Crown Way, Philadelphia, Pennsylvania 19154. Crown USA is in the business of manufacturing and selling metal beverage can components, including can ends and can bodies.

2. ABI is a Missouri corporation having a principal place of business at One Busch Place, St. Louis, Missouri 63118. ABI produces and distributes a variety of beverage products, including products packaged in metal cans made by joining can bodies with can ends. On

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information and belief, ABI is a wholly owned subsidiary of the Anheuser-Busch Companies, Inc.

3. MCC is a Delaware corporation having a principal place of business at 3636 South Geyer Road, St. Louis, Missouri 63127. MCC is in the business of manufacturing and selling metal beverage can components, including can ends and can bodies. On information and belief, MCC is a wholly owned subsidiary of the Anheuser-Busch Companies, Inc.

JURISDICTION AND VENUE

4. This is a civil action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. The Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331, 1338(a), and 2201. Venue is proper in this District under 28 U.S.C. §§ 1391(b) & (c) and 1400(b).

5. ABI and MCC each have regular, continuous and systematic contacts with the Commonwealth of Pennsylvania, in that they each regularly conduct business and are engaged in substantial and not isolated activities within the Commonwealth, including within this judicial district.

6. ABI produces beverage products under brand names such as Budweiser, Bud Light, Michelob, and Busch. ABI packages such products in the United States in metal cans made by joining can bodies with can ends supplied by MCC and distributes such packaged beverage products within and throughout the Commonwealth of Pennsylvania and this District.

7. Upon information and belief, ABI maintains employees and/or sales representatives within Pennsylvania and within this District.

8. ABI maintains a registered agent for service of process within this District.

9. MCC sells beverage can components (can ends and can bodies) to ABI and others throughout the United States, and upon information and belief, has sold and is selling can ends and can bodies to a Pepsi can filling plant located in Philadelphia, Pennsylvania. Upon information and belief, MCC regularly provides technical services to Pepsi at these facilities.

THE PATENT

10. On February 1, 2005, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 6,848,875 (“the 875 patent”), entitled “Can End and Method for Fixing Same to a Can Body.” The 875 patent is directed to methods of forming a double seam between beverage can bodies and can ends.

11. At all times relevant, Crown USA has held all substantial rights under the 875 patent, including without limitation, the exclusive right under the 875 patent to practice the claimed inventions in the United States, to bring suit for infringement of the patent in its own name, to recover any and all damages for past, present, and future infringement of the patent, to enter into any settlement or compromise of any claim arising under the patent, and to sublicense others.

COUNT I (INFRINGEMENT OF U.S. PATENT NO. 6,848,875)

12. The allegations contained in paragraphs 1-11 above are incorporated herein by reference as if set forth in full.

13. MCC makes and sells beverage can ends in the United States known as the “Lid of the Future+” (“LOF+”).

14. MCC has made, sold and provided, and is now making, selling and providing, LOF+ can ends to ABI and others in the United States.

15. ABI has been and is directly infringing one or more claims of the 875 patent by using methods in the United States for forming double seams between can bodies and LOF+ can ends supplied by MCC.

16. MCC has actively induced ABI and others to directly infringe one or more claims of the 875 patent by, *inter alia*, supplying LOF+ can ends to ABI for use in carrying out the claimed methods of forming double seams, and on information and belief, by providing training, instruction, and other services to ABI and others in the United States in support of such use.

17. MCC has contributed to the direct infringement of the 875 patent claims by ABI and others, by selling, *inter alia*, LOF+ can ends for use in carrying out methods in the United States for forming double seams between can bodies and LOF+ can ends, knowing the same to be especially made and especially adapted for use in a method, the practice of which is in an infringement of the patent.

18. Crown USA has been damaged by ABI's and MCC's infringing activities.

19. On information and belief, ABI and MCC will continue their infringing activities unless enjoined by this Court.

COUNT II (DECLARATORY JUDGMENT OF INFRINGEMENT)

20. The allegations contained in paragraphs 1-19 above are incorporated herein by reference as if set forth in full.

21. MCC has sold, is selling, and on information and belief, is planning to continue to sell in the future, LOF+ can ends to ABI and others in the United States for use in carrying out methods of forming double seams between can bodies and such can ends that have infringed and/or will imminently infringe the 875 patent.

22. ABI has used, is using, and on information and belief, plans to continue to use in the United States in the future, methods for forming double seams between can bodies and LOF+ can ends supplied by MCC such that have infringed and/or will imminently infringe the 875 patent.

23. An actual controversy exists between Crown USA and ABI as to whether ABI's continued use of methods in the United States for forming double seams between can bodies and LOF+ can ends directly infringes one or more claims of the 875 patent.

24. An actual controversy exists between Crown USA and MCC as to whether MCC's continued supply of LOF+ can ends to ABI and others for use in carrying out methods in the United States for forming double seams between can bodies and LOF+ can ends indirectly infringes one or more claims of the 875 patent.

25. MCC's continued sale of LOF+ can ends to ABI and others in the United States will indirectly infringe the 875 patent.

REQUEST FOR RELIEF

WHEREFORE, Crown USA demands:

- a. Entry of a final judgment that ABI and MCC have infringed the 875 patent under 35 U.S.C. §§ 271 and 154(b);
- b. Entry of final judgment awarding damages adequate to compensate Crown for the infringement of the 875 patent by ABI and MCCs, together with prejudgment and post-judgment interest and costs as fixed by the Court as provided by 35 U.S.C. § 284;
- c. Entry of an order permanently enjoining ABI and MCC, and their affiliates, and officers, agents, employees, attorneys, and all other persons in active concert or participation

with them, from further infringement of the 875 patent during its term as provided by 35 U.S.C. § 283;

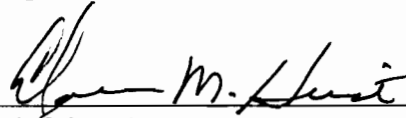
d. A declaration that this is an exceptional case and an award to plaintiffs of their reasonable attorneys' fees incurred in prosecuting this action as provided by 35 U.S.C. § 285;

e. A declaration that ABI's continued use of a method in the United States for forming double seams between can bodies and LOF+ can ends will directly infringe one or more claims of the 875 patent under 35 U.S.C. § 271;

f. A declaration that MCC's continued sale of LOF+ can ends to ABI and others in the United States will indirectly infringe the 875 patent under 35 U.S.C. § 271; and

g. Such other and further relief as the Court deems just and proper.

Respectfully submitted,



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Dated: February 1, 2005

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IT IS FURTHER ORDERED, that each Letter of Request contain an expression of readiness and willingness of this Court to do the same for the Appropriate Judicial Authority in the United Kingdom in a similar case when required.

Dated: New York, New York
December 21, 2004


UNITED STATES DISTRICT JUDGE

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