

JUDGE CONLON

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MAGISTRATE JUDGE MASON

GLORY LTD., a Japanese Corporation;
GLORY SHOJI CO., LTD., a Japanese
Corporation; and GLORY (U.S.A.), INC., a
California Corporation,

Plaintiffs,

vs.

CUMMINS-ALLISON CORP.,
an Indiana Corporation,

Defendant.

03C 8547

Civil Action No. _____

COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF

U.S. DISTRICT COURT
EASTERN DIVISION
03 NOV 25 PM 2:53
FILED-EDA

THE PARTIES

1. Plaintiff Glory Ltd. is a corporation existing and organized under the laws of Japan, with its principal place of business at 1-3-1, Shimoteno, Himeji, Hyogo, 670-8567, Japan.

2. Plaintiff Glory Shoji Co., Ltd. is a corporation existing and organized under the laws of Japan, with its principal place of business at 4-8-17, Nishitenma, Kita-ku, Osaka, 530-8671, Japan.

3. Plaintiff Glory (U.S.A.) Inc. is a corporation existing and organized under the laws of the State of California and has its principal place of business at 10 York Avenue, West Caldwell, New Jersey 07006, and a sales office at 2506 Wisconsin Avenue, Downers Grove, Illinois 60515.

4. Upon information and belief, Defendant Cummins-Allison Corp. ("Cummins") is a corporation organized under the laws of Indiana and has its

principal place of business at 891 Feehanville Drive, Mt. Prospect, Illinois, 60056.

5. Cummins purports to be the owner of U.S. patent No. 5,692,067 ("the '067 patent").

6. Cummins purports to be the owner of U.S. patent No. 5,815,592 ("the '592 patent").

7. Cummins purports to be the owner of U.S. patent No. 6,381,354 ("the '354 patent").

Related Actions

8. On October 1, 2002, Cummins filed a Complaint in this Court ("the Illinois Action"), accusing Plaintiffs of infringing U.S. patent No. 6,459,806 ("the '806 patent").

9. On June 19, 2003, Cummins was granted leave by the Court to amend and did amend its Complaint in the Illinois Action to add U.S. patent No. 5,295,196 ("the '196 patent"), asserting that Glory also infringes the '196 patent.

10. The Illinois Action, as amended, is currently pending as Civil Action No. 02 C 7008 before Hon. Ronald Guzman, U.S. District Court Judge.

11. On October 10, 2003, Cummins filed a motion to amend its complaint yet again in order to add three new patents: '592, '354, and '067, to the suit.

12. On October 16, 2003, Judge Guzman denied Cummins' motion to add the three new patents on the basis that adding the patents would disrupt the discovery schedule.

13. On or about October 20, 2003, Cummins filed a Complaint in the U.S. District Court for the Eastern District of Texas ("the Texas Action"), accusing Plaintiffs of infringing the '067, '592 and '354 patents.

14. Glory Ltd. and Glory Shoji Co., Ltd., Plaintiffs herein, have not yet been served in the Texas Action.

15. The '806, '196, '067, '592, and '354 patents are related by virtue of the '806, '067, '592, and '354 patents' issuing from applications that are continuations from the '196 patents.

JURISDICTION AND VENUE

16. This action arises under the Declaratory Judgment Act and the patent Laws of the United States, more particularly under Title 28 U.S.C. §§ 2201 and 2202 and Title 35 U.S.C. §§ 100 et. seq., respectively. This court has jurisdiction under Title 28 U.S.C. §§ 1338 and 2201.

17. Venue in this district is proper under 28 U.S.C. § 1391(b) and (c), and by virtue of Defendant having brought the Illinois Action.

18. An actual and justiciable controversy exists between Plaintiffs and Defendant as to the infringement, validity and enforceability of the '067, '592 and '354 patent, as evidenced, inter alia, by the Texas Action and the Complaint in this action.

COUNT I

(Declaratory Judgment of Invalidity)

19. The '067, 354 and '592 patents are invalid under one or more provisions of Title 35 of the United States Code, including, without limitation, Sections 101, 102, 103 and 112.

(a) The claims of the '067, 354 and '592 patents are vague and indefinite and do not particularly point out and distinctly claim the part, improvement, method, or combination which the patentees claim as their invention, as required by Title 35, U.S. Code, Section 112.

(b) The specifications of the '067, 354 and '592 patents do not contain a written description of the invention and of the manner and process of making and using it in such full, clear, concise and exact terms as to enable any person skilled in the art to which it pertains or with which it is most nearly connected to make and/or use the same, nor set forth the best mode contemplated by the inventors for carrying out the purported invention, as required by Title 35, U.S. Code, Section 112.

(c) The claims of the '067, 354 and '592 patents fail to fulfill the requirements of Title 35, U.S. Code, Section 102 and/or 103.

COUNT II

(Declaratory Judgment of Non-Infringement)

20. Neither Plaintiffs nor their customers infringe or have infringed any claim of the '067, 354 or '592 patents.

21. No device made, used, sold or offered for sale by Plaintiffs has been knowingly made or especially adapted for a use that would infringe the '067, 354 or '592 patents.

22. Plaintiffs have not done any act and are not proposing to do any act in violation of any rights validly belonging to Defendant under the '067, 354 and '592 patents, which patents are invalid and unenforceable and are not infringed by Plaintiffs.

COUNT III

(Declaratory Judgment of Unenforceability)

23. The '067 and '592 patents are unenforceable due to inequitable conduct.

24. The '067 and '592 patents are unenforceable due to Defendant's inequitable conduct during prosecution of the applications that lead to issuance of those patents.

25. During the prosecution of U.S. patent No. 6,028,951 ("the '951 patent"), which patent is a successor to the '196 patent, which patent is an ancestor of the '067 and '592 patents, Cummins filed an "Information Disclosure Statement", which included a declaration by Per Torling, dated March 18, 1999, which referred to outside field testing of Cummins' currency discriminators ("CRC") prior to May 19, 1991.

26. The information disclosed to the PTO by the Per Torling declaration were known to Cummins at the time of the filing of the applications which led to the '196, '067 and '592 patents. Such information includes:

(a) Prior to May 19, 1991, Cummins had performed testing of machines whose "operation resembled the currency discriminating devices disclosed in U.S. patent No. 5,295,196."

(b) Prior to May 19, 1991, Cummins had conducted "three phases" of "outside field testing" with such machines.

(c) Prior to May 19, 1991, Cummins had conducted one or more beta-testings of its machines, indicating that the machines had been reduced to practice at least as of the date of the beta-testings

27. Cummins failed to disclose to the USPTO that:

(a) The invention of the '196 patent had been reduced to practice before field testing commenced.

(b) The field tests of the Torling Declaration were performed at the facilities of potential customers for the CRC and existing customers of other Cummins equipment.

(c) According to the Torling declaration, the "machines [used in the field tests] and their operation **resembled** the currency

discriminating devices disclosed in U.S. Pat. No. 5,295,196.” (emphasis added). However, the ‘196 patent was, in fact, **based on** the machines that were the subject of the Torling declaration.

(d) Torling was a recipient of a memo dated January 31, 1991, in which Mr. D. Mennie recognized that Cummins needed to file patent applications on the CRC before testing began at customer sites.

(e) During September 1990 to January 1991 and prior to the field testing at potential customers, Cummins built two machines and extensively tested those machines at Cummins and at the Glenview State Bank.

(f) Cummins’ customers and potential customers testing such equipment and their employees did not sign confidentiality agreements with respect to information regarding such machines.

(g) The test sites of the potential customers were not subject to control by Cummins and the machines were left with the potential customers.

(h) Cummins’ customers used the machines in the normal manner that such machines were intended to be used for a period as long as seven weeks or more.

(i) Cummins’ customers tested “beta test” machines before the May 19, 1991 bar date.

(j) Sales of Glory GFR 100 currency denominators had occurred in the United States since 1994 and other multiple output pocket denominators had also been sold and offered for sale in the United States years before the claims of the ‘196, ‘592 and ‘067 patents were presented to the USPTO.

28. This and other information known to Plaintiff was material to the prosecution of the ‘196 patent, and the ‘067 and ‘592 patents, as it would have

directly refuted arguments made in prosecution of those patents and would have been material to the patentability of claims that issued therefrom.

29. Upon information and belief, the failure to bring this material prior art to the attention of the Examiner was done with intent to deceive the USPTO.

30. The '354 patent is unenforceable due to Plaintiff's inequitable conduct during prosecution of the application that led to issuance of the '354 patent.

31. Throughout the prosecution of the '354 patent, Cummins failed to disclose to the USPTO material information known to the Applicant.

32. During the prosecution of the '354 patent, Cummins filed an "Information Disclosure Statement", which included a declaration by Per Torling, dated March 18, 1999, which referred to outside field testing of Cummins' currency discriminators ("CRC") prior to May 19, 1991.

33. The information disclosed to the PTO by the Per Torling declaration includes:

(a) Prior to May 19, 1991, Cummins had performed testing of machines whose "operation resembled the currency discriminating devices disclosed in U.S. patent No. 5,295,196."

(b) Prior to May 19, 1991, Cummins had conducted "three phases" of "outside field testing" with such machines.

(c) Prior to May 19, 1991, Cummins had conducted one or more beta-testings of its machines, indicating that the machines had been reduced to practice at least as of the date of the beta-testings.

34. Moreover, Cummins failed to disclose to the USPTO that:

(a) The invention of the '196 patent had been reduced to practice before field testing commenced.

(b) The field tests of the Torling Declaration were performed at the facilities of potential customers for the CRC and existing customers of other Cummins equipment.

(c) According to the Torling declaration, the “machines [used in the field tests] and their operation **resembled** the currency discriminating devices disclosed in the ‘196 patent.” (emphasis added). However, the ‘196 patent was, in fact, **based on** the machines that were the subject of the Torling declaration.

(d) Torling was a recipient of a memo dated January 31, 1991, in which Mr. D. Mennie recognized that Cummins needed to file patent applications on the CRC before testing began at customer sites.

(e) During September 1990 to January 1991 and prior to the field testing at potential customers, Cummins built two machines and extensively tested those machines at Cummins and at the Glenview State Bank.

(f) Cummins’ customers and potential customers testing such equipment and their employees did not sign confidentiality agreements with respect to information regarding such machines.

(g) The test sites of the potential customers were not subject to control by Cummins and the machines were left with the potential customers.

(h) Cummins’ customers used the machines in the normal manner that such machines were intended to be used for a period as long as seven weeks or more.

(i) Cummins’ customers tested “beta test” machines before the May 19, 1991 bar date.

(j) Sales of Glory GFR-100 currency denominators had occurred in the United States since 1994 and other multiple

output pocket denominators had also been sold and offered for sale in the United States years before the claims of the '354 patent was presented to the USPTO.

35. This and other information known to Plaintiff was material to the prosecution of the '196 and the '354 patents, as it would have directly refuted arguments made in prosecution of the patent and would have been material to the patentability of claims that issued therefrom.

36. Upon information and belief, the failure to bring this material prior art to the attention of the Examiner was done with intent to deceive the USPTO.

WHEREFORE, Plaintiff prays for adjudication as follows:

1.

a) Entry of judgment that Defendant Cummins is without right or authority to threaten or to maintain suit against Plaintiffs, or any of them, or their customers for alleged infringement of U.S. patent Nos. 5,692,067, 5,815,592 and 6,381,354;

b) that said patents are invalid, unenforceable and void in law; and

c) that said patents are not infringed by Plaintiffs, or any of them, or by any of their customers.

2. Entry of preliminary and permanent injunctions enjoining Defendant, its officers, agents, servants, employees, and attorneys and those persons in active concert or participation with them who receive actual notice thereof from initiating infringement litigation and from threatening Plaintiffs, or each of them, or any of their customers, dealers, agents, servants, or employees, or any prospective or present sellers, dealers, or users of Plaintiffs' devices or apparatus, with respect to the '067, '354, and '592 patents because of the manufacture, use, sale or offering for sale of apparatus made by Plaintiff, said injunction to be made permanent following trial.

3. That Defendants be enjoined from prosecuting the Texas Action and that said action be dismissed with prejudice;

4. That this case is declared exceptional under 35 U.S. § 285, and that Glory be awarded the reasonable attorney fees and costs incurred in connection with this action;

5. That this Court grant the Plaintiffs such other further relief as the Court deems appropriate.

JURY DEMAND

Plaintiffs hereby demand trial by jury on all issues triable to a jury.

Dated: 25 Nov 03


DONOHUE BROWN MATHEWSON
& SMYTH

J. Kent Mathewson (6183297)
Laurie A. Rompala (6272958)
140 S. Dearborn Street
Suite 700
Chicago, Illinois 60411

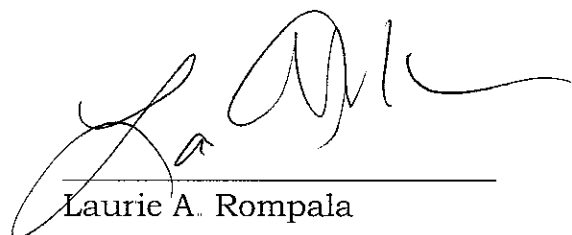
Attorneys for GLORY (U.S.A.) INC.

Certificate of Service

Laurie A. Rompala, an attorney, hereby certifies that he caused the foregoing COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF to be served by facsimile and by first class mail, this 21st day of November 2003, on the following counsel of record:

Paul R. Kitch, Esq.
Edward F. McCormack, Esq.
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Fax: (312) 558-5700



Laurie A. Rompala

AT 1

JUDGE CONLON

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
MAGISTRATE JUDGE

03C 8547

Civil Cover Sheet

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the Northern District of Illinois

Plaintiff(s): GLORY, LTD., a Japanese Corporation; GLORY SHOJI CO., LTD., a Japanese Corporation; and GLORY (U.S.A.), INC., a California Corporation,
Defendant(s): CUMMINS-ALLISON CORP., an Indiana Corporation

County of Residence: _____ County of Residence: _____
Plaintiff's Atty: Donohue Brown Mathewson & Smyth
140 S. Dearborn Street, Suite 700
Chicago, Illinois 60603
312/422-0900
Defendant's Atty: Jenkens & Gilchrist
225 W. Washington Street, Suite 2600
Chicago, Illinois 60606
312/425-3900

II. Basis of Jurisdiction: 3. Federal Question (U.S. not a party)

III. Citizenship of Principal Parties (Diversity Cases Only)

Plaintiff:- N/A
Defendant:- N/A

IV. Origin : 1. Original Proceeding


V. Nature of Suit: 830 Patent

VI. Cause of Action: 28 U.S.C. Sections 2201 and 2202; 35 U.S.C. Section 100 et. seq.; 28 U.S.C. Section 1391(b) and (c); 28 U.S.C. Sections 1338 and 2201.
This is a declaratory judgment action relating to the enforceability of certain patents.

VII. Requested in Complaint

Class Action: No
Dollar Demand: declaratory judgment and injunctive relief
Jury Demand: Yes

VIII. This case IS NOT a refiling of a previously dismissed case.

Signature: 

U.S. DISTRICT COURT
CHICAGO
03 NOV 25 PM 2:53
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Date: 25 Nov 03

If any of this information is incorrect, please go back to the Civil Cover Sheet Input form using the *Back* button.
Once correct, print this form, sign and date it and submit it with your new civil action **Note: You may need to refresh your browser display to make the form print properly.** Revised

United States District Court for the Northern District of Illinois

Case Number: 03C 8547

Assigned/Issued By: D. Porwiel

FEE INFORMATION

Amount Due: \$150.00 \$30.00 \$5.00
 IFP No Fee Other _____

(For use by Fiscal Department Only)

Amount Paid: 150.00

Receipt #: 10627912

Date Payment Rec'd: 11-25-03

Fiscal Clerk: D. Porwiel

ISSUANCES

Type Of Issuance: Summons Alias Summons
 Third Party Summons Lis Pendens
 Non Wage Garnishment Summons
 Wage-Deduction Garnishment Summons
 Citation to Discover Assets
 Writ _____
(Type of Writ)

Original and 1 copies on 11-25-03 as to Def
(Date)

FILE COPY

AO 121 (6/90)

| | |
|--|--|
| TO: | |
| COMMISSIONER OF PATENTS AND TRADEMARKS WASHINGTON, D.C. 20231 | REPORT ON THE FILING OF DETERMINATION OF AN ACTION OR APPEAL REGARDING A COPYRIGHT |

In compliance with the Act of July 19, 1952 (66 Stat. 814; 35 U.S.C. 290) you are hereby advised that a court action has been filed on the following patent(s) in the U.S. District Court:

| | | |
|---------------------------------|------------------------|---|
| DOCKET NO. 03 Cv 8547 | DATE FILED 11/25/03 | UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION |
| PLAINTIFF Gloria Ltd., et al | | DEFENDANT Cummins-Allison Corp |
| PATENT NO. | DATE OF PATENT | PATENTEE |
| 5,692,067 | November 25, 1997 | Cummins-Allison Corp |
| 5,815,592 | September 29, 1998 | Cummins-Allison Corp |
| 6,381,354 | April 30, 2003 | Cummins-Allison Corp |
| | | |
| | | |

In the above-entitled case, the following patent(s) have been included:

| | | | |
|---------------|---|--------|--|
| DATE INCLUDED | INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading | | |
| PATENT NO. | DATE OF PATENT | PATENT | |
| | | | |
| | | | |

In the above-entitled case, the following decision has been rendered or judgment issued:

| | | |
|-----------------------------|-----------------------------------|---------------------------|
| DECISION/JUDGMENT | | |
| CLERK Michael W. Dobbins | (BY) DEPUTY CLERK R. M. McGhee | DATE December 12, 2003 |

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS JUDGE CONLON

MAGISTRATE JUDGE MASON

In the Matter of

GLORY, LTD., a Japanese Corporation; GLORY SHOJI CO., LTD., a Japanese Corporation; and GLORY (U.S.A.), INC., a California Corporation, -- Plaintiffs

v.
CUMMINS-ALLISON CORP., an Indiana Corporation -- Defendant.

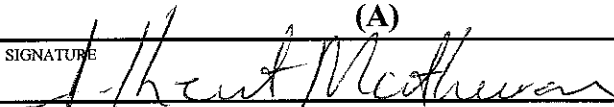
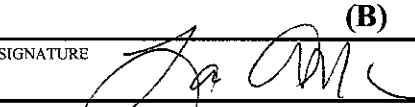
Case Number:

03C 88547

APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR:

Plaintiffs, Glory, Ltd., Glory Shoji Co., Ltd.

FILED-ET 4
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 U.S. DISTRICT COURT

| | | | |
|--|-------------------------|--|-------------------------|
| (A) | | (B) | |
| SIGNATURE  | | SIGNATURE  | |
| NAME Kent Mathewson | | NAME Laurie A. Rompala | |
| FIRM Donohue Brown Mathewson & Smyth | | FIRM Donohue Brown Mathewson & Smyth | |
| STREET ADDRESS 140 S. Dearborn St., #700 | | STREET ADDRESS 140 S. Dearborn St., #700 | |
| CITY/STATE/ZIP Chicago, IL 60603 | | CITY/STATE/ZIP Chicago, IL 60603 | |
| TELEPHONE NUMBER 312-422-0900 | FAX NUMBER 312-422-0909 | TELEPHONE NUMBER 312-422-0900 | FAX NUMBER 312-422-0909 |
| E-MAIL ADDRESS kent.mathewson@dbmslaw.com | | E-MAIL ADDRESS laurie.rompala@dbmslaw.com | |
| IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 6183297 | | IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 6272958 | |
| MEMBER OF TRIAL BAR? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> | | MEMBER OF TRIAL BAR? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> | |
| TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> | | TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> | |
| DESIGNATED AS LOCAL COUNSEL? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> | | DESIGNATED AS LOCAL COUNSEL? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> | |
| (C) | | (D) | |
| SIGNATURE | | SIGNATURE | |
| NAME | | NAME | |
| FIRM | | FIRM | |
| STREET ADDRESS | | STREET ADDRESS | |
| CITY/STATE/ZIP | | CITY/STATE/ZIP | |
| TELEPHONE NUMBER | FAX NUMBER | TELEPHONE NUMBER | FAX NUMBER |
| E-MAIL ADDRESS | | E-MAIL ADDRESS | |
| IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) | | IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) | |
| MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input type="checkbox"/> | | MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input type="checkbox"/> | |
| TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input type="checkbox"/> | | TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input type="checkbox"/> | |

020524

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

GLORY LTD., a Japanese Corporation; GLORY
SHOJI CO., LTD., a Japanese Corporation; and
GLORY (U.S.A.), INC., a California Corporation,

Plaintiffs,

v.

CUMMINS-ALLISON CORP., an Indiana
Corporation,

Defendants.

FILED-ED

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U.S. DISTRICT COURT

Civil Action No. 03-CV-8547

Judge Suzanne B. Conlon
Hon. Mag. Michael Mason

DOCKETED
DEC 13 2003

NOTICE OF FILING

TO:

Edward L. Foote, Esq
Winston & Strawn
35 W. Wacker Drive
Chicago, IL 60601-9703

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Jenkins & Gilchrist
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Suite 2600
Chicago, IL 60606-3418

Mr. Dariush Adli
Hogan & Hartson
Biltmore Tower
500 South Grand Avenue
Suite 1900
Los Angeles, CA 90071

PLEASE TAKE NOTICE that on December 11, 2003 we filed with the Clerk of the United States District Court Northern District of Illinois, **STATEMENT AS TO AFFILIATES OF GLORY SHOJI CO., LTD.**, a copy of which is attached hereto

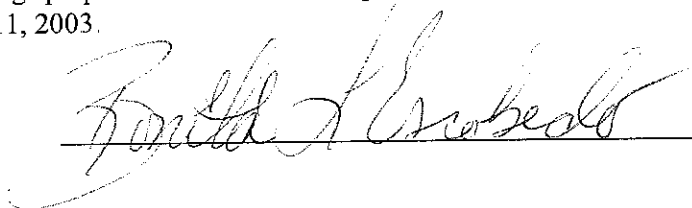
I.D. #32878

DONOHUE BROWN MATHEWSON & SMYTH
140 South Dearborn Street, Suite 700, Chicago, Illinois 60603

(312) 422-0900

PROOF OF SERVICE

I, Bonita I. Escobedo, a non-attorney, on oath hereby certifies under penalties of perjury as provided by law pursuant to Ill. Rev. Stat., ch. 110, par. 1-109 [735 ILCS 5/1-109], that the above notice and any attached pleading(s) were () personally delivered or (✓) placed in the U.S. Mail at 140 South Dearborn Street, Chicago, Illinois, with first class postage prepaid and directed to the parties at the addresses set forth above at or before 5:00 p.m. on December 11, 2003.


_____ 2

02-0524

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

FILED-EDC

03 DEC 11 AM 10:37

U.S. DISTRICT COURT

GLORY LTD , a Japanese Corporation; GLORY)
SHOJI CO., LTD , a Japanese Corporation;)
and GLORY (U.S.A.), INC., a California)
Corporation,)

Civil Action No. 03-CV-8547

Plaintiffs,)

STATEMENT AS TO AFFILIATES

vs.)

Judge Suzanne Conlon
Hon. Mag. Michael Mason

CUMMINS-ALLISON CORP.,)
an Indiana Corporation,)

Defendant.)

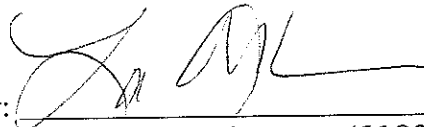
FILED
DEC 12 2003

STATEMENT AS TO AFFILIATES

Pursuant to Local Rule 3.2, notice is hereby given that Plaintiff Glory Shoji Co., Ltd., a Japanese Corporation, is 100 percent owned by Plaintiff Glory Ltd., also a Japanese Corporation.

Dated: December 11, 2003

GLORY SHOJI CO., LTD.

By: 

J. Kent Mathewson (6183297)
Laurie A. Rompala (6272958)
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MATHEWSON & SMYTH
140 S. Dearborn Street
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(312) 422-0900

HOGAN & HARTSON, L.L.P.
William E. Thomson, Jr.
Biltmore Tower
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Suite 1900
Los Angeles CA 90071
(213) 337-6840
(pro hac vice pending)

Attorneys for the PLAINTIFFS




Certificate of Service

Laurie A. Rompala, an attorney, hereby certifies that he caused the foregoing **STATEMENT AS TO AFFILIATES** to be served by facsimile and by first class mail, this 11 day of December 2003, on the following counsel of record:

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Edward F. McCormack, Esq.
Keith C. Hannigan, Esq.
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Fax: (312) 558-5700



Laurie A. Rompala

20524

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED-EDC
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CLERK
U.S. DISTRICT COURT

GLORY LTD., a Japanese Corporation; GLORY
SHOJI CO., LTD., a Japanese Corporation; and
GLORY (U.S.A.), INC., a California Corporation,

Plaintiffs,

v.

CUMMINS-ALLISON CORP., an Indiana
Corporation,,

Defendants.

Civil Action No. 03-CV-8547

Judge Suzanne B. Conlon
Hon. Mag. Michael Mason

DOCKETED
DEC 12 2003

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TO:

Edward L. Foote, Esq.
Winston & Strawn
35 W. Wacker Drive
Chicago, IL 60601-9703

Keith C. Hannigan, Esq.
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Los Angeles, CA 90071

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I.D. #32878

DONOHUE BROWN MATHEWSON & SMYTH
140 South Dearborn Street, Suite 700, Chicago, Illinois 60603

(312) 422-0900

PROOF OF SERVICE

I, Bonita L Escobedo, a non-attorney, on oath hereby certifies under penalties of perjury as provided by law pursuant to Ill. Rev. Stat., ch. 110, par. 1-109 [735 ILCS 5/1-109], that the above notice and any attached pleading(s) were () personally delivered or (✓) placed in the U.S. Mail at 140 South Dearborn Street, Chicago, Illinois, with first class postage prepaid and directed to the parties at the addresses set forth above at or before 5:00 p.m. on December 11, 2003.

Bonita L Escobedo
[Signature]

C2-0524

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

FILED-ED4

03 DEC 1 9:10:33

GLORY LTD., a Japanese Corporation; GLORY)
SHOJI CO., LTD., a Japanese Corporation;)
and GLORY (U.S.A.), INC., a California)
Corporation,)

Plaintiffs,)

vs)

CUMMINS-ALLISON CORP ,)
an Indiana Corporation,)

Defendant.)

Civil Action No. 03-CV-8547

STATEMENT AS TO AFFILIATES

Judge Suzanne Conlon
Hon. Mag. Michael Mason

CLERK
U.S. DISTRICT COURT

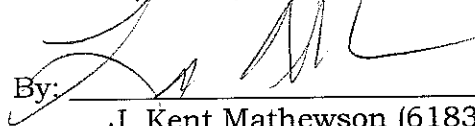
DOCKETED
DEC 1 3 2003

STATEMENT AS TO AFFILIATES

Pursuant to Local Rule 3.2, notice is hereby given that Plaintiff Glory (U.S.A.), Inc., a California Corporation, is 60 percent owned by Plaintiff Glory, Ltd., a Japanese Corporation, and 40 percent owned by Plaintiff Glory Shoji Co., Ltd., also a Japanese Corporation.

Dated: December 11, 2003

GLORY (U.S.A.), INC.

By: 

J. Kent Mathewson (6183297)
Laurie A. Rompala (6272958)
DONOHUW BROWN
MATHEWSON & SMYTH
140 S. Dearborn Street
Suite 700
Chicago, Illinois 60603
(312) 422-0900

HOGAN & HARTSON, L.L.P.
William E. Thomson, Jr.
Biltmore Tower
500 South Grand Avenue
Suite 1900
Los Angeles CA 90071 -
(213) 337-6840
(pro hac vice pending)

Attorneys for the PLANTIFFS

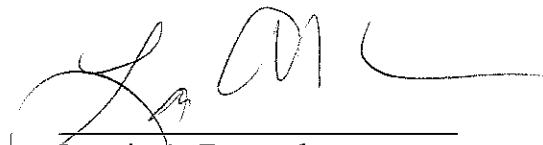


Certificate of Service

Laurie A. Rompala, an attorney, hereby certifies that he caused the foregoing **STATEMENT AS TO AFFILIATES** to be served by facsimile and by first class mail, this 11 day of December 2003, on the following counsel of record:

Paul R. Kitch, Esq.
Edward F. McCormack, Esq.
Keith C. Hannigan, Esq.
JENKENS & GILCHRIST
225 West Washington St., Suite 2600
Chicago, IL 60606
Tel: (312) 425-3900
Fax: (312) 425-3909

Edward L. Foote, Esq.
John E. Mooney
WINSTON & STRAWN LLP
35 W. Wacker Drive
Chicago, IL 60601-9703
Tel: (312) 558-5601
Fax: (312) 558-5700



Laurie A. Rompala

020524

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED-ED

03 DEC 11 AM 10:35

GLORY LTD., a Japanese Corporation; GLORY
SHOJI CO., LTD., a Japanese Corporation; and
GLORY (U.S.A.), INC., a California Corporation,

Plaintiffs,

v.

CUMMINS-ALLISON CORP., an Indiana
Corporation,,

Defendants.

CLERK
U.S. DISTRICT COURT

Civil Action No. 03-CV-8547

Judge Suzanne B. Conlon
Hon. Mag. Michael Mason

DOCKETED
DEC 12 2003

NOTICE OF FILING

TO:

Edward L. Foote, Esq.
Winston & Strawn
35 W. Wacker Drive
Chicago, IL 60601-9703

Keith C. Hannigan, Esq.
Jenkins & Gilchrist
225 West Washington Street
Suite 2600
Chicago, IL 60606-3418

Mr. Dariush Adli
Hogan & Hartson
Biltmore Tower
500 South Grand Avenue
Suite 1900
Los Angeles, CA 90071

PLEASE TAKE NOTICE that on December 11, 2003 we filed with the Clerk of the United States District Court Northern District of Illinois, **STATEMENT AS TO AFFILIATES OF GLORY LTD.**, a copy of which is attached hereto.

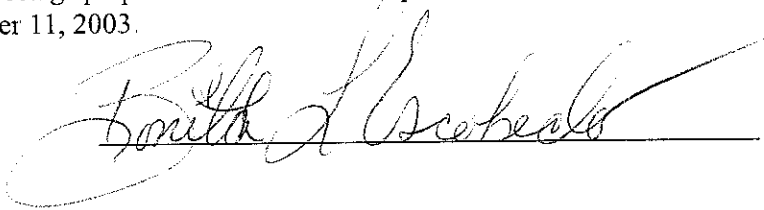
I.D. #32878

DONOHUE BROWN MATHEWSON & SMYTH
140 South Dearborn Street, Suite 700, Chicago, Illinois 60603

(312) 422-0900

PROOF OF SERVICE

I, Bonita L Escobedo, a non-attorney, on oath hereby certifies under penalties of perjury as provided by law pursuant to Ill. Rev. Stat., ch. 110, par. 1-109 [735 ILCS 5/1-109], that the above notice and any attached pleading(s) were () personally delivered or (✓) placed in the U S Mail at 140 South Dearborn Street, Chicago, Illinois, with first class postage prepaid and directed to the parties at the addresses set forth above at or before 5:00 p.m. on December 11, 2003.



02-0524

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

FILED ED4
03 DEC 11 AM 10:36

CLERK
U.S. DISTRICT COURT

GLORY LTD., a Japanese Corporation; GLORY)
SHOJI CO., LTD., a Japanese Corporation;)
and GLORY (U.S.A.), INC., a California)
Corporation,)

Civil Action No. 03-CV-8547

Plaintiffs,)

STATEMENT AS TO AFFILIATES

vs.)

Judge Suzanne Conlon
Hon Mag. Michael Mason

CUMMINS-ALLISON CORP.,)
an Indiana Corporation,)

Defendant.)

DOCKETED
DEC 12 2003

STATEMENT AS TO AFFILIATES

Pursuant to Local Rule 3.2, notice is hereby given that Plaintiff Glory Ltd., a Japanese Corporation, has no parent corporations and no publicly held company owns 10 percent or more of Glory Ltd.'s stock.

Dated: December 11, 2003

GLORY LTD.

By:

J. Kent Mathewson (6183297)
Laurie A. Rompala (6272958)
DONOHUW BROWN
MATHEWSON & SMYTH
140 S. Dearborn Street
Suite 700
Chicago, Illinois 60603
(312) 422-0900

HOGAN & HARTSON, L.L.P.
William E. Thomson, Jr.
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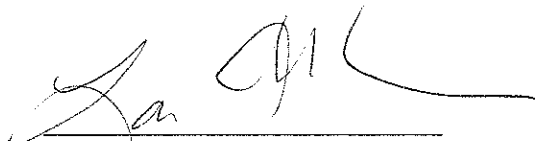
Attorneys for the PLAINTIFFS

Certificate of Service

Laurie A. Rompala, an attorney, hereby certifies that he caused the foregoing **STATEMENT AS TO AFFILIATES** to be served by facsimile and by first class mail, this 11 day of December 2003, on the following counsel of record:

Paul R. Kitch, Esq.
Edward F. McCormack, Esq.
Keith C. Hannigan, Esq.
JENKENS & GILCHRIST
225 West Washington St., Suite 2600
Chicago, IL 60606
Tel: (312) 425-3900
Fax: (312) 425-3909

Edward L. Foote, Esq.
John E. Mooney
WINSTON & STRAWN LLP
35 W Wacker Drive
Chicago, IL 60601-9703
Tel: (312) 558-5601
Fax: (312) 558-5700



Laurie A. Rompala

020524

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED-504
03 DEC 11 AM 10:34
CLERK
U.S. DISTRICT COURT

GLORY LTD., a Japanese Corporation; GLORY
SHOJI CO., LTD., a Japanese Corporation; and
GLORY (U.S.A), INC., a California Corporation,

Plaintiffs,

v.

CUMMINS-ALLISON CORP., an Indiana
Corporation,,

Defendants.

Civil Action No. 03-CV-8547

Judge Suzanne B. Conlon
Hon. Mag. Michael Mason

DOCKETED
DEC 12 2003

NOTICE OF FILING

TO:

Edward L. Foote, Esq
Winston & Strawn
35 W. Wacker Drive
Chicago, IL 60601-9703

Keith C. Hannigan, Esq.
Jenkins & Gilchrist
225 West Washington Street
Suite 2600
Chicago, IL 60606-3418

Mr. Dariush Adli
Hogan & Hartson
Biltmore Tower
500 South Grand Avenue
Suite 1900
Los Angeles, CA 90071

PLEASE TAKE NOTICE that on December 11, 2003 we filed with the Clerk of the United States District Court Northern District of Illinois, **NOTICE OF CLAIMS INVOLVING PATENTS**, a copy of which is attached hereto.

I.D. #32878

DONOHUE BROWN MATHEWSON & SMYTH
140 South Dearborn Street, Suite 700, Chicago, Illinois 60603

(312) 422-0900

PROOF OF SERVICE

I, Bonita L Escobedo, a non-attorney, on oath hereby certifies under penalties of perjury as provided by law pursuant to Ill. Rev. Stat., ch. 110, par. 1-109 [735 ILCS 5/1-109], that the above notice and any attached pleading(s) were () personally delivered or (✓) placed in the U.S. Mail at 140 South Dearborn Street, Chicago, Illinois, with first class postage prepaid and directed to the parties at the addresses set forth above at or before 5:00 p.m. on December 11, 2003.

Bonita L Escobedo

02-0524

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

FILED-ED4
03 DEC 11 AM 10:34
CLERK
U.S. DISTRICT COURT

GLORY LTD., a Japanese Corporation;
GLORY SHOJI CO., LTD., a Japanese
Corporation; and GLORY (U.S.A.), INC., a
California Corporation,

Civil Action No. 03-CV-8547

Plaintiffs,

**NOTICE OF CLAIMS INVOLVING
PATENTS**

vs.

CUMMINS-ALLISON CORP.,
an Indiana Corporation,

Judge Suzanne Conlon
Hon. Mag. Michael Mason

Defendant.

DOCKETED
DEC 12 2003

NOTICE OF CLAIMS INVOLVING PATENTS

Pursuant to Local Rule 3.4, notice is hereby given that Plaintiffs have filed a complaint for declaratory and injunctive relief.

The Plaintiffs are GLORY LTD., a Japanese Corporation 1-3-1, Shimoteno 1-chome, Himeji, Hyogo 670-8567, Japan; GLORY SHOJI CO., LTD., a Japanese Corporation, 8 17, Nishitenma, 4-chome, Kita-ku, Osaka, 530-8671, Japan; and GLORY (U.S.A.), INC., a California Corporation, Corporate Headquarters, 10-A York Avenue, West Caldwell, New Jersey 07006.

The Defendant is CUMMINS-ALLISON CORP., an Indiana Corporation, with an address of 891 Feehanville Drive, Mt. Prospect, Illinois 60056.

The designated numbers and date of the patents upon which this action has been brought are United States Patent Nos. 5,692,067, November 25, 1997 ("the '067 patent"), 5,815,592, September 29, 1998, ("the '592 patent") and 6,381,354, April 30, 2002, ("the '354 patent").

5

Each patent identified above is assigned to Cummins-Allison Corporation.

The named inventors of the '067 patent are Donald E. Raterman, Bradford T. Graves, Lars R. Stromme and Aaron M. Bauch.

The named inventors of the '592 patent are Douglas U. Mennie, Bradford T. Graves, Lars R. Stromme and Heinz W. Schreiter.

The named inventors of the '354 patent are Douglas U. Mennie, Bradford T. Graves and Richard A. Mazur.

Dated: December 11, 2003

By: 

J. Kent Mathewson (6183297)
Laurie A. Rompala (6272958)
DONOHUW BROWN
MATHEWSON & SMYTH
140 S. Dearborn Street
Suite 700
Chicago, Illinois 60603
(312) 422-0900

HOGAN & HARTSON, L.L.P.
William E. Thomson, Jr.
Biltmore Tower
500 South Grand Avenue
Suite 1900
Los Angeles CA 90071
(213) 337-6840
(pro hac vice pending)


Attorneys for Plaintiffs GLORY LTD.,
GLORY SHOJI CO., LTD., and
GLORY (U.S.A.), INC.

Certificate of Service

Laurie A. Rompala, an attorney, hereby certifies that he caused the foregoing **NOTICE OF CLAIMS INVOLVING PATENTS** to be served by facsimile and by first class mail, this 11 day of December 2003, on the following counsel of record:

Paul R. Kitch, Esq.
Edward F. McCormack, Esq.
Keith C. Hannigan, Esq.
JENKENS & GILCHRIST
225 West Washington St., Suite 2600
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Tel.: (312) 425-3900
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Edward L. Foote, Esq.
John E. Mooney
WINSTON & STRAWN LLP
35 W. Wacker Drive
Chicago, IL 60601-9703
Tel.: (312) 558-5601
Fax: (312) 558-5700



Laurie A. Rompala

**United States District Court Northern District of Illinois
APPLICATION FOR LEAVE TO APPEAR PRO HAC VICE**

| | | |
|---------------------|---|--|
| Case Title: | GLORY LTD., GLORY SHOJI CO., LTD.; and GLORY (U.S.A.), INC. | Plaintiff(s) |
| | VS. | |
| | CUMMINS-ALLISON CORP., an Indiana Corporation, | Defendant(s) |
| Case Number: | 03C-8547 | Judge: Conlin (Magistrate Judge Mason) |

I, William E. Thomson, Jr. hereby apply to the Court under Local Rule 83.14 for

 permission to appear and participate in the above-entitled action on behalf of

GLORY LTD., GLORY SHOJI CO., LTD.; and GLORY (U.S.A.), INC. By whom I have been retained.

I am a member in good standing and eligible to practice before the following courts:

| Title of Court | Date Admitted |
|---|---------------|
| District Court for the Central District of California | 1970 |
| U.S. Court of Appeals for the Ninth Circuit | 1970 |
| U.S. Court of Appeals for the Federal Circuit | 1982 |
| U.S. Supreme Court | 1981 |

I have currently, or within the year preceding the date of this application, made pro hac vice applications to this Court in the following actions:

| Case Number | Case Title | Date of Application (Granted or Denied)* |
|-------------|--|--|
| 01 CV-07631 | Oakwood Labs LLC v. Tap Pharmaceutical Products et al. | October 2003 – Granted |
| | | |

*If denied, please explain:
 (Attach additional form if necessary)

Pursuant to Local Rule 83 15(a), applicants who do not have an office within the Northern District of Illinois must designate, at the time of filing their initial notice or pleading, a member of the bar of this Court having an office within this District upon who service of papers may be made

Has the applicant designated local counsel? Yes No

If you have not designated local counsel, Local Rule 83 15(b) provides that the designation must be made within thirty (30) days.