

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

Carlson Marketing Worldwide, Inc., a)	
Delaware corporation,)	
)	Civil Action No.: 0:10-cv-01042-JMR-
Plaintiff,)	FLN
)	
vs.)	
)	Amended Complaint for Patent
IC Group LP, a Canadian corporation, and)	Infringement
Kimberly-Clark Corp., a Delaware)	
corporation,)	Jury Trial Demanded
)	
Defendants.)	

Plaintiff CARLSON MARKETING WORLDWIDE, INC. (“CARLSON”) for its complaint against Defendants IC GROUP LP and KIMBERLY-CLARK CORPORATION and (collectively “DEFENDANTS”), state and allege as follows:

NATURE OF THE ACTION

1. This is an action for willful patent infringement arising under the patent laws of the United States, including 35 U.S.C. §§ 271 and 281-285, amongst others.
2. Plaintiff CARLSON MARKETING WORLDWIDE, INC. is the owner, by assignment, of all right, title and interest in United States Patent No. 6,039,244 (the “’244 Patent”) entitled “Method of Building Up a Data Bank Containing Customer Data and/or for the Organization of a Rebate or Coupon System.” A true and correct copy of the ’244 Patent is attached as Exhibit A.

3. As set forth below, Defendants IC GROUP LP and KIMBERLY-CLARK CORPORATION have willfully infringed and continue to willfully infringe the '244 Patent.

PARTIES

4. Plaintiff CARLSON MARKETING WORLDWIDE, INC. is a corporation organized and existing under the laws of the State of Delaware with its principal place of business located at 1406 Xenium Lane North, Suite 150, Minneapolis, Minnesota 55441.

5. Plaintiff CARLSON MARKETING WORLDWIDE, INC. is one of the largest marketing firms in the United States and provides marketing services that revolve around building relationships with employees, partners, and consumers as part of their efforts to increase sales.

6. Defendant KIMBERLY-CLARK CORPORATION (“KIMBERLY-CLARK”) is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 401 North Lake Street, Neenah, Wisconsin 54956.

7. Defendant KIMBERLY-CLARK manufactures, markets and sells products for personal, business and industrial use throughout the United States, including in Minnesota and within this judicial district. Upon further information and belief, Defendant KIMBERLY-CLARK manufactures, markets and sells diaper products under the name HUGGIES®.

8. Defendant IC GROUP LP (“IC GROUP”) is a Canadian corporation.

9. IC GROUP is a promotional entity focused on online promotion and performance-based marketing programs throughout the United States, including in Minnesota and within this judicial district.

10. Defendant IC GROUP is working with KIMBERLY-CLARK on its promotion and performance-based HUGGIES® Enjoy the Ride Rewards Program (“Rewards Program”).

JURISDICTION AND VENUE

11. This Court has subject matter jurisdiction over this matter pursuant to 35 U.S.C. §§ 271 and 281-285, as well as 28 U.S.C. §§ 1331 and 1338(a), amongst others.

12. The Court has personal jurisdiction over each Defendant, and venue is proper pursuant to 28 U.S.C. §§ 1391 and 1400(b). Each Defendant has substantial contacts with this forum as a result of pervasive business activities conducted within the State of Minnesota and within this judicial district, including, but not limited to the execution of the promotional rewards program entitled HUGGIES® Enjoy the Ride Rewards Program. Further, each Defendant has committed and continues to commit acts of patent infringement, directly and/or through agents, intermediaries and/or third-parties, by the ownership and operation of the HUGGIES® Enjoy the Ride Rewards Program in Minnesota and within this judicial district. Finally, under the Minnesota Long Arm Statute, Minn. Stat. § 543.19, KIMBERLY-CLARK and IC GROUP transact business in Minnesota and this judicial district and have committed acts, or have caused to be committed, acts of patent infringement within and/or outside Minnesota that have caused injury in Minnesota.

FACTUAL BACKGROUND

13. KIMBERLY-CLARK CORP. and IC GROUP LP own, operate, and maintain—or control and direct the operation and maintenance of—the HUGGIES® Enjoy the Ride Rewards Program and its accompanying website, <http://www.enjoytheriderewards.com>.

14. The HUGGIES® Enjoy the Ride Rewards Program is an Internet based rewards program that allows participants to accumulate reward points in various ways. One way of earning points includes purchasing certain participating HUGGIES® wipes, Pull-Ups and diaper products and entering the unique concealed code found on such products on the program's website. The Rewards Program is a promotional and performance-based program to increase customer loyalty and sales of participating products, amongst other reasons.

15. Many participants of the Rewards Program reside in this judicial district.

16. Since at least April 2009, KIMBERLY-CLARK CORP. and IC GROUP LP have owned and operated the infringing Rewards Program throughout the United States, including within this District, without license from CARLSON.

**COUNT I - PATENT INFRINGEMENT
OF UNITED STATES PATENT NO. 6,039,244**

17. CARLSON hereby restates and realleges the allegations set forth above in Paragraphs 1 through 16 and incorporates them by reference.

18. KIMBERLY-CLARK and IC GROUP own, operate, and maintain—or control and direct the operation and maintenance of—the HUGGIES® Enjoy the Ride

Rewards Program. The Rewards Program employs a method of employing unique concealed codes for participating products for the loyalty rewards program.

19. KIMBERLY-CLARK and IC GROUP have infringed and continue to infringe the '244 Patent by utilizing and/or practicing the methods claimed in the '244 Patent, for example, by the operation of the HUGGIES® Enjoy the Ride Rewards Program and its practice of employing unique concealed codes.

20. KIMBERLY-CLARK and IC GROUP are liable for infringement under 35 U.S.C. § 271, including direct and/or indirect infringement of the '244 Patent, both literally and under the doctrine of equivalents.

21. KIMBERLY-CLARK and IC GROUP do not have a license or permission to use the claimed subject matter in the '244 Patent for the operation of the HUGGIES® Enjoy the Ride Rewards Program or a similar program.

22. The infringement by KIMBERLY-CLARK and IC GROUP of the '244 Patent has injured CARLSON, and will cause CARLSON further irreparable injury and damage in the future unless and until KIMBERLY-CLARK and IC GROUP are enjoined from infringing said patent. KIMBERLY-CLARK and IC GROUP are, thus, liable to CARLSON in an amount that adequately compensates it for its infringement, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this court under 35 U.S.C. § 284.

23. KIMBERLY-CLARK CORP. and IC GROUP LP had actual knowledge of the '244 Patent, and have willfully, deliberately and intentionally infringed the claims of said patent.

PRAYER FOR RELIEF

WHEREFORE, CARLSON respectfully requests that the Court find in its favor and enter judgment against Defendants as follows:

- a. That the Court enter judgment in CARLSON's favor and against the Defendants on Count I of the Complaint;
- b. That Defendants be found to have infringed the '244 Patent in violation of 35 U.S.C. § 271;
- c. That Defendants be found to have willfully infringed the '244 Patent;
- d. That Defendants pay CARLSON all damages which are available pursuant to 35 U.S.C. § 284, including but not limited to treble damages for any willful infringement by Defendants;
- e. That an injunction, temporary and/or permanent, issue enjoining Defendants and their respective agents, servants, officers, directors, employees, parent companies, subsidiaries, affiliates, joint venturers, and all persons acting in concert with them, directly or indirectly, from infringing, inducing others to infringe, or contributing to the infringement of the '244 Patent;
- f. If a permanent injunction is not granted, a judicial determination of the conditions for future infringement such as a royalty-bearing compulsory license or such other relief as the Court deems appropriate;
- g. That each of the Defendants be ordered to make an accounting of their respective sales, profits, royalties, and damages owed to CARLSON,

including a post-judgment equitable accounting of damages for the period of infringement of the '244 Patent following the period of damages established by CARLSON at trial;

- h. A finding that this case is exceptional pursuant to 35 U.S.C. § 285;
- i. That Defendants pay attorneys' fees pursuant to 35 U.S.C. § 285;
- j. That Defendants pay pre-judgment and post-judgment interest;
- k. That CARLSON be awarded its costs, fees, and expenses in this action; and
- l. That CARLSON be awarded any such other and further relief as this Court deems just, equitable, and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, CARLSON respectfully requests a trial by jury of any and all issues on which a trial by jury is available under applicable law.

**ROBINS, KAPLAN, MILLER & CIRESI
L.L.P.**

Date: April 1, 2010

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ATTORNEYS FOR PLAINTIFF
CARLSON MARKETING
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Attachment

Exhibit A – U.S. Patent No. 6,039,244

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