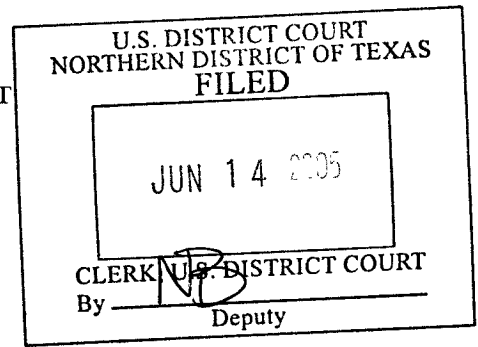


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ORIGINAL

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION



TEXAS ORIGINAL GRAPHICS, INC.,

Plaintiff,

v.

SAWGRASS TECHNOLOGIES, INC.

f/k/a SAWGRASS SYSTEMS, INC.,

Defendant.

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CIVIL ACTION No. 3-05CV1176-N

PLAINTIFF'S FIRST-AMENDED COMPLAINT

In its First-Amended Complaint, Plaintiff Texas Original Graphics, Inc. ("TOG") seeks a declaratory judgment against Defendant Sawgrass Technologies, Inc. f/k/a Sawgrass Systems, Inc. ("Sawgrass") that U.S. Patent Nos. 5,487,614; 5,488,907; 5,734,396; 5,601,023; 5,642,141; 5,640,180; and 5,830,263 (collectively, "the Sawgrass Patents"), each of which is assigned to Defendant Sawgrass, are at a minimum either invalid, unenforceable, or not infringed by Plaintiff. In addition, Plaintiff respectfully requests the Court to declare this case exceptional and award Plaintiff its reasonable and necessary attorney's fees under 35 U.S.C. § 285.

PARTIES

1. Plaintiff TOG is a Texas corporation and has its principal place of business at 111 West 2nd, Irving, Texas 75060.

2. Defendant Sawgrass is a South Carolina corporation and on information and belief, has a principal place of business at 2233 Highway 17 North, Mount Pleasant,

South Carolina 29464 and may be served with process through its registered agent, Nathan S. Hale.

JURISDICTION AND VENUE

3. This action arises under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, and the patent laws of the United States, Title 35, U.S.C. This Court therefore has subject-matter jurisdiction over this case pursuant to 28 U.S.C. §§ 1331 and 1338.

4. This Court has personal jurisdiction over Defendant Sawgrass because it has purposefully availed itself of the laws of the State of Texas by intentionally directing communications to Plaintiff located in Texas. These communications include threats of litigation and are the subject of Plaintiff's declaratory judgment claim. Moreover, Defendant Sawgrass has distributed its sublimation ink in Dallas County, Texas, and in the last year, has participated in a trade show in Dallas County featuring its inks.

5. Venue is proper in the Northern District of Texas, Dallas Division, pursuant to 28 U.S.C. § 1391 because the substantial part of the events or omissions giving rise to the claim occurred in this judicial district and were purposefully directed here by Defendant Sawgrass.

FACTUAL BACKGROUND

Plaintiff's business

6. Plaintiff is primarily in the business of selling sublimation ink and toners. Plaintiff also sells a variety of related products. Plaintiff has been in business in the Dallas Metroplex area since 1980. Sublimation ink is liquid ink that contains undissolved, small solid particles. The ink suspends the particles for the purpose of printing them on transfers

into a desired image. The image is then transferred, and thus the ink activated, to a desired material through applying heat and pressure to the transfer.

7. Plaintiff began selling commercially viable sublimation ink for piezo inkjet printers no later than 1989. Beginning in 1989, Plaintiff sold sublimation ink that contained emulsifying enforcing agents, dispersants, surfactants, and solid dye particles that were suspended in a water-based solution. This ink formulation was then passed through the orifice of an inkjet printer onto paper. This became a sublimation transfer that could be applied to a polymer base substrate through the use of a heat-transfer machine. Plaintiff sells sublimation ink today and plans to do so in the future.

Defendant Sawgrass's repeated threats of litigation

8. In August 2001, Defendant Sawgrass through its lawyers demanded that Plaintiff stop making and selling its sublimation ink. On September 30, 2004, Defendant Sawgrass again threatened Plaintiff in writing with litigation regarding the Sawgrass Patents. Exhibit 1 is a true and correct copy of the letter. In September 2004, an employee of Defendant Sawgrass offered Plaintiff a patent license and threatened Plaintiff with litigation over the patents if the license was not accepted. On information and belief, representatives of Defendant Sawgrass have informed at least two third parties that Defendant Sawgrass intends to sue Plaintiff in the future over the patents. Those third parties have informed Plaintiff of Defendant Sawgrass's litigation plans. Recently, Steve Carnevale, CEO of Defendant Sawgrass, threatened Plaintiff with filing a lawsuit imminently if Plaintiff would not agree to Defendant's proposed license/settlement

agreement. Defendant Sawgrass has repeatedly threatened suit in telephone calls initiated by Defendant and directed to Plaintiff in Dallas County, Texas.

9. Defendant Sawgrass has engaged in frequent litigation relating to the Sawgrass Patents and other related patents. Exhibit 2 is a true and correct copy of a print out from a PACER search. This search is directed to patent lawsuits where Defendant Sawgrass is a party. As this summary demonstrates, Defendant Sawgrass has an established history of vigorously enforcing its patent rights in court. Therefore, it is reasonable and foreseeable for Plaintiff to anticipate being sued by Defendant Sawgrass over the patents at issue. Given Defendant Sawgrass's statements and repeated threats, that is the only conclusion that can be drawn.

Need for a declaratory judgment

10. Due to Defendant Sawgrass's repeated threats of litigation and demonstrated willingness to litigate its patent rights, a declaratory judgment is needed to determine the rights of the parties. The use of Plaintiff's inks in a heat-transfer printing process to print color images on an object by any of Plaintiff's customers, or any party, does not directly infringe any valid claim of the Sawgrass Patents. Additionally, Plaintiff does not contribute to or induce the infringement by any other party of any claim of the Sawgrass Patents.

11. Moreover, the threatened claims of certain of the Sawgrass Patents are invalid for failure to comply with one or more of the requirements of Title 35, United States Code, including, but not limited to, 35 U.S.C. §§ 102, 103, and 112.

12. In addition, certain of the Sawgrass Patents are unenforceable due to inequitable conduct resulting from misleading statements or omissions to the United States Patent & Trademark Office (“the Patent Office”) made by the inventors, Sawgrass, and/or their agents during prosecution of the applications that led to the Sawgrass Patents. For example, prior art sublimation ink and processes for using the ink were known by at least one person associated with the prosecution of U.S. Patent No. 5,488,907. But the ink and processes were not disclosed to the Patent Office during prosecution of the patent. Persons associated with the prosecution of this patent also made false statements of fact while attempting to overcome rejections to the patent claims by the Patent Office. These omissions and misleading representations constitute inequitable conduct.

COUNT I
DECLARATORY JUDGMENT UNDER 28 U.S.C. §§ 2201 & 2202

13. Plaintiff repeats and realleges paragraphs 1 through 12 as if fully set forth at length herein.

14. As established by Sawgrass’s repeated threats of litigation, including its September 30, 2004 letter and the recent statements of its CEO, Steve Carnevale, an actual justiciable case and controversy exists between the parties. As of the filing of this Complaint, Plaintiff has sold and plans to continue selling sublimation ink, which Defendant Sawgrass has accused to directly infringe the Sawgrass Patents or result in induced or contributory infringement of the patents. Thus, the controversy is real and substantial. Defendant Sawgrass’s repeated threats of litigation, pseudo-license threat of

litigation (take a license or else be sued), and statements to third parties of its intent to sue Plaintiff, have created an objectively reasonable apprehension that Defendant Sawgrass will imminently initiate suit against Plaintiff relating to the patents.

15. In accordance with 28 U.S.C. §§ 2201 and 2202 and the Patent Act, Plaintiff seeks a declaratory judgment that at a minimum that either Plaintiff does not infringe any claim of the Sawgrass Patents, that the claims of the Sawgrass Patents are invalid under one or more provisions of 35 U.S.C. §§ 102, 103, and 112, or that the Sawgrass Patents are unenforceable due to inequitable conduct. Plaintiff further requests the Court to declare this case exceptional and award Plaintiff its reasonable and necessary attorney's fees and court costs in accordance with 35 U.S.C. § 285.

JURY DEMAND

In accordance with Federal Rule of Civil Procedure 38, Plaintiff hereby requests a jury trial on its claim.

REQUESTS FOR RELIEF

Accordingly, Plaintiff respectfully requests the Court to:

- A. Enter a declaratory judgment that the Sawgrass Patents are at a minimum either not infringed by Plaintiff, invalid under one or more provisions of 35 U.S.C §§ 102, 103, or 122, or unenforceable due to inequitable conduct;
- B. Declare this case to be exceptional and award Plaintiff its reasonable and necessary attorney's fees and court costs in prosecuting this action; and
- C. Award Plaintiff such further relief, legal and equitable, to which it is justly entitled.

Dated: June 14, 2005.

Respectfully submitted by:



Darin M. Klemchuk
State Bar No. 24002418

Patrick W. Powers
State Bar No. 24013351

Mark L. Taylor
State Bar No. 00792244

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COUNSEL FOR PLAINTIFF TEXAS ORIGINAL
GRAPHICS, INC.

1.

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PATTERSON & HELMS, LLC**

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Ben Scott Whaley (1909-1987)
Samuel J. Corbin (1907-1975)

September 30, 2004

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Bill Wellborn
Texas Original Graphics
111 W. 2nd St.
Irving, TX 75060-2909

Re: Sawgrass Technologies, Inc.
Our File No. 321.001

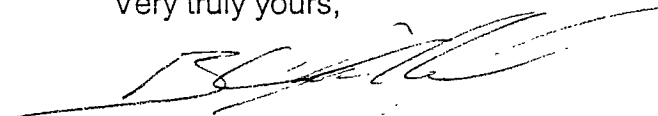
Dear Mr. Wellborn:

We are Counsel to Sawgrass Technologies, Inc. In August of 2001, we wrote to you to advise you that Sawgrass is owner of United States Patents which are related to methods of printing sublimation inks, including U.S. Patent Nos.: 5,487,614; 5,488,907; 5,734,396; 5,601,023; 5,642,141; 5,640,180; and 5,830,263. Our Client also owns foreign patents related to this technology. Our Client has other U.S. and foreign patents pending related to methods of printing sublimation inks.

It is our information that you and your Company are continuing to marketing an ink comprising sublimation dye for use with digital ink jet printers, and that you are teaching others to use the ink to practice the process which is the subject of one or more of our Client's patents.

It is imperative that you immediately cease and desist from your infringing activity. Please confirm within ten days of the date of this letter that you will cease and desist from further sales of sublimation ink for use in ink jet printers.

Very truly yours,



B. Craig Killough

BCK/se

2.

Civil Name Search Results

21 Total Case matches for selection SAWGRASS NOS 830 for ALL COURTS

Tue Jun 14 10:57:22 CDT 2005

Name	Court	Case No.	Filed	NOS	Closed
SAWGRASS SYSTEMS INC	casdc	3:2001cv00089	01/16/2001	830	07/09/2003
SAWGRASS SYSTEMS INC	scdce	2:1997cv00321	02/07/1997	830	06/06/1997
SAWGRASS SYSTEMS INC	casdc	3:2000cv00386	02/24/2000	830	01/19/2001
SAWGRASS SYSTEMS INC	scdce	2:1999cv00912	04/01/1999	830	10/28/2002
SAWGRASS SYSTEMS INC	scdce	2:1999cv00912	04/01/1999	830	10/28/2002
SAWGRASS SYSTEMS INC	scdce	2:1999cv00912	04/01/1999	830	10/28/2002
SAWGRASS SYSTEMS INC	scdce	2:1997cv01600	05/30/1997	830	02/19/1998
SAWGRASS SYSTEMS INC	casdc	3:1998cv01609	09/04/1998	830	01/17/2001
SAWGRASS SYSTEMS INC	scdce	3:2003cv01628	05/12/2003	830	10/18/2004
SAWGRASS SYSTEMS INC	scdce	3:2003cv01628	05/12/2003	830	10/18/2004
SAWGRASS SYSTEMS INC	scdce	2:1999cv02683	08/11/1999	830	12/13/1999
SAWGRASS SYSTEMS INC	scdce	2:1998cv03574	12/08/1998	830	10/28/2002
SAWGRASS SYSTEMS INC	scdce	2:1998cv03574	12/08/1998	830	10/28/2002
SAWGRASS SYSTEMS, INC	txndce	3:2005cv01176	06/09/2005	830	
SAWGRASS SYSTEMS, INC.	nyndce	5:1999cv00883	06/07/1999	830	08/30/1999
SAWGRASS SYSTEMS, INCORPORATED	miedce	2:1998cv75173	12/07/1998	830	03/18/1999
SAWGRASS TECHNOLOGIES INC	scdce	4:2005cv00926	03/25/2005	830	
SAWGRASS TECHNOLOGIES INC	scdce	4:2005cv01469	05/20/2005	830	
SAWGRASS TECHNOLOGIES INC	scdce	4:2005cv01469	05/20/2005	830	
SAWGRASS TECHNOLOGIES INC	scdce	4:2004cv23212	12/09/2004	830	03/08/2005
SAWGRASS TRADING COMPANY INC	cacdce	8:2003cv00817	05/21/2003	830	11/14/2003