

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

WORLD KITCHEN (GHC), LLC, )  
 a Delaware limited liability company, )  
 HELEN OF TROY LIMITED )  
 a Barbados international business company, )  
 and )  
 OXO INTERNATIONAL LTD. )  
 a Texas limited partnership, )  
 Plaintiffs, )  
 v. )  
 ZYLISS HAUSHALTWAREN AG, )  
 a Swiss Corporation, )  
 and )  
 ZYLISS USA CORPORATION, f/n/a )  
 Diethelm Holding (California) Limited, )  
 a California Corporation, )  
 Defendants. )

Case No. 04-C-2999

Judge Kocoras

Magistrate Judge Levin

**JURY DEMANDED**

**DOCKETED**  
JUL 23 2004

**FILED**  
JUL 22 2004  
MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURT

**NOTICE OF FILING**

TO: William H. Frankel  
Michael P. Chu  
Stephanie J. Felicetty  
BRINKS HOFER GILSON & LIONE  
NBC Tower, Suite 3600  
455 N. Cityfront Plaza Drive  
Chicago, IL 60611

PLEASE TAKE NOTICE that on Thursday, July 22, 2004, we caused to be filed *Amendment to Motion for Preliminary Injunction and the Memorandum of Law in Support of the Motion for Preliminary Injunction* and *First Amended Complaint for Injunctive and Other Relief*, with the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, copies of which is attached hereto and served upon you.

Dated: July 22, 2004

Respectfully submitted,

WORLD KITCHEN (GHC), LLC,  
HELEN OF TROY LIMITED, and  
OXO INTERNATIONAL LTD.

By: 

One of Their Attorneys

Attorneys for Plaintiffs:

Alan L. Unikel

Joseph R. Lanser

SEYFARTH SHAW LLP

55 East Monroe Street, Suite 4200

Chicago, Illinois 60603

Telephone: (312) 346-8000

Facsimile: (312) 269-8869

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**FIRST AMENDED COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF**

WORLD KITCHEN (GHC), LLC (“World Kitchen”), HELEN OF TROY LIMITED (“Helen of Troy”), and OXO INTERNATIONAL LTD. (“OXO”) (collectively “Plaintiffs”), through their attorneys and for their Complaint for Injunctive and Other Relief against ZYLISS HAUSHALTWAREN AG (“Zyliss”) and ZYLISS USA CORPORATION, f/n/a Diethelm Holding (California) Limited (“Zyliss USA”) (collectively “Defendants”), state as follows:

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NATURE OF ACTION

This is an action for patent infringement under the patent laws of the United States, 35 U.S.C. § 101, *et. seq.*, for Defendants' selling, having sold, offering to sell, making, having made and/or importing into the United States products that infringe U.S. Patent No. 6,018,883.

THE PARTIES

1. Plaintiff World Kitchen is a limited liability company organized and existing under the laws of the State of Delaware, and has a principal place of business at 11911 Freedom Dr., Ste. 600, Reston, Virginia.

2. Plaintiff Helen of Troy is an international business company organized and existing under the laws of Barbados, and has a principal place of business at Whitepark House, White Park Road, P.O. Box 836E, Bridgetown, Barbados.<sup>1</sup>

3. Plaintiff OXO is a limited partnership organized and existing under the laws of the State of Texas, and has a principal place of business at 1 Helen of Troy Plaza, El Paso, Texas 79912.<sup>2</sup>

4. Upon information and belief, Defendant Zyliss is a corporation organized and existing under the laws of Switzerland and has a principal place of business at Industriezone Nord, Schachenweg 24, 3250 Lyss.

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<sup>1</sup> Appearance and Notice of Affiliates for Helen of Troy Limited are attached hereto as Exhibit A.

<sup>2</sup> Appearance and Notice of Affiliates for OXO International Ltd. are attached hereto as Exhibit B.

5. Upon information and belief, Defendant Zyliss USA is a corporation organized and existing under the laws of the State of California, having a principal place of business at 19751 Descartes, Foothill Ranch, California, and is a subsidiary of Defendant Zyliss.

#### JURISDICTION AND VENUE

6. This Court has jurisdiction over this matter pursuant 28 U.S.C. §§ 1331 and 1338(a) in that this matter arises under an Act of Congress relating to patents.

7. This Court has personal jurisdiction over Defendants pursuant to 735 ILCS 5/2-209(a) in that the Defendants committed the acts complained of herein in Illinois, transact business within Illinois, by, among other things, offering to sell and/or selling products that infringe U.S. Patent No. 6,018,883 at trade shows and over the Internet within the State of Illinois, and/or because a substantial part of the events giving rise to Plaintiffs' claims occurred within Illinois.

8. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b)(2) and 1400(b), in that the Defendants engaged in one or more acts of infringement within this district, including, *inter alia*, selling and/or offering to sell goods that infringe U.S. Patent No. 6,018,883 at the Chicago International Housewares Show and over the Internet to citizens located within this district, which acts are the subject matter of this action, and venue is further proper in this district as to Defendant Zyliss pursuant to 28 U.S.C. § 1391(d) in that it is an alien corporation.

#### FACTS

9. Prior to June 1, 2004, World Kitchen was the owner, by assignment, of all rights, title and interest in and to U.S. Patent No. 6,018,883, titled BRAKE FOR DEVICE FOR DRYING FOODS, which was issued by the United States Patent and Trademark Office on February 1, 2000 (the "883 Patent")(See Exhibit C).

10. Prior to June 1, 2004, World Kitchen sold, within this jurisdiction and elsewhere, one or more products incorporating the patented invention through its OXO business unit.

11. Effective June 1, 2004, World Kitchen sold and transferred the assets of the OXO business unit to Helen of Troy, including, but not limited to, the good will associated with the OXO trademarks and brand name.

12. Effective June 1, 2004, World Kitchen assigned all rights, title, and interest in and to the '883 patent to Helen of Troy. (A copy of the assignment of the '883 Patent is attached hereto as Exhibit D).

13. Since June 1, 2004, OXO has been the exclusive licensee of the '883 Patent and has the rights to seek any legal and equitable remedies, and to bring any action, suit or other proceeding relating to any past, present or future infringement, or threatened infringement, of the '883 Patent. (A copy of an Exclusive License Agreement between Helen of Troy and OXO is attached hereto as Exhibit E).

14. Since June 1, 2004, OXO has been selling, within this jurisdiction and elsewhere, one or more products incorporating the patented invention.

15. Without permission or license from World Kitchen, Helen of Troy or OXO, Defendants have made, are making, have sold, are selling, are having sold, have offered for sale, are offering to sell, have imported, and/or are importing into the United States, within this judicial district and elsewhere, products, including, *inter alia*, a salad spinner having a braking device ("Salad Spinner"), such as the salad spinner depicted in Exhibit F, that infringe OXO's and Helen of Troy's, and that infringed World Kitchen's, exclusive rights in and to the '883 Patent, in violation of 35 U.S.C. § 271.

16. Defendants also have sold, are selling, have offered for sale, and/or are offering to sell products, such as the Salad Spinner, that infringe OXO's and Helen of Troy's, and that infringed World Kitchen's, exclusive rights in and to the '883 Patent, in violation of 35 U.S.C. § 271, on one or more Internet sites that are publicly accessible to citizens of the State of Illinois and which actively solicits sales of such products within the State of Illinois (Exhibit G) by, *inter alia*, instructing citizens of this state how and/or where to purchase such products. Such Internet sites are active in that they solicit, require and accept citizens of the State of Illinois to interact with such Internet sites.

17. Defendants have further sold and/or have offered for sale the Salad Spinner at a booth at the International Housewares Show, located in Chicago, Illinois, between March 19 and March 23, 2004.

18. Defendants have notice of their infringement as prescribed by 35 U.S.C. § 287(a).

19. Upon information and belief, Defendants infringement is willful.

20. Defendants' infringement of the '883 Patent has caused irreparable injury to World Kitchen, Helen of Troy and OXO, and unless and until Defendants' continuing infringement of the '883 Patent is enjoined by this Court, Helen of Troy and OXO will continue to suffer irreparable injury because of Defendants' infringement. Helen of Troy and OXO have no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that this Court enter an Order and Judgment, in their favor and against Defendants:

- (a) preliminarily and permanently enjoining each Defendant, and their respective parents, subsidiarics, affiliates, officers, directors, agents, employees, successors, attorneys and all persons in active concert or participation with them, from making, causing to be made, selling, offering to sell, causing to be sold, and/or importing or causing to be imported into the United States any goods that infringe the '883 patent;
- (b) ordering Defendants, jointly and severally, to pay World Kitchen, Helen of Troy and OXO the damages that they have respectively incurred as a result of the acts complained of herein, including an award to World Kitchen, Helen of Troy and OXO of their respective lost profits as a result of the acts complained of herein, or, in the alternative, an award to World Kitchen, Helen of Troy and OXO, respectively, of a reasonable royalty as a result of the acts complained of herein, and that any such damages award be trebled pursuant to 35 U.S.C. § 284
- (c) ordering Defendants, jointly and severally, to pay World Kitchen, Helen of Troy and OXO their respective interest, costs and expenses of this action, and their respective reasonable attorneys' fees, as a result of the acts complained of herein; and
- (d) awarding World Kitchen, Helen of Troy and OXO any other relief that this Court deems just and fit.

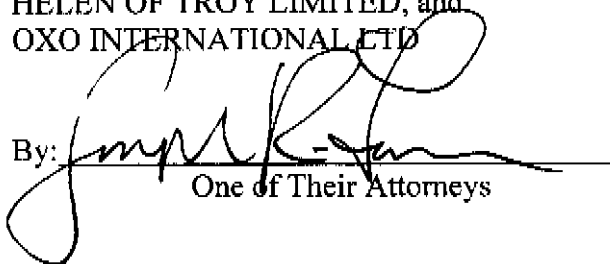


DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38(b), Plaintiffs demand a trial by jury.

DATED: July 22, 2004

Respectfully submitted,  
WORLD KITCHEN (GHC), LLC,  
HELEN OF TROY LIMITED, and  
OXO INTERNATIONAL LTD

By:   
One of Their Attorneys

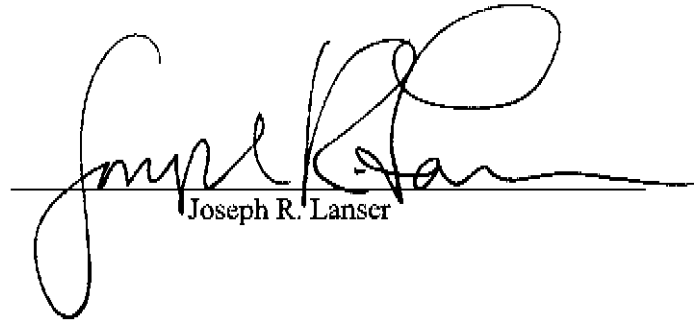
Attorneys for Plaintiffs:

Alan L. Unikel  
Joseph R. Lanser  
SEYFARTH SHAW LLP  
55 East Monroe Street, Suite 4200  
Chicago, Illinois 60603  
Telephone: (312) 346-8000  
Facsimile: (312) 269-8869

**CERTIFICATE OF SERVICE**

I, Joseph R. Lanser, an attorney, hereby certify that I caused a copy of *First Amended Complaint for Injunctive and Other Relief*, to be served on the following parties by hand delivery, on July 22, 2004:

William H. Frankel  
Michael P. Chu  
Stephanie J. Felicetty  
BRINKS HOFER GILSON & LIONE  
NBC Tower, Suite 3600  
455 N. Cityfront Plaza Drive  
Chicago, IL 60611  
(312) 321-4200 (telephone)  
(312) 321-4299 (fax)



Joseph R. Lanser

*See Case  
File For  
Exhibits*