

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

KAZ USA, INC.

Plaintiff,

v.

FKA DISTRIBUTING CO., d/b/a HOMEDICS,
INC. and
SI PRODUCTS, LLC.

Defendants.

Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Kaz USA, Inc, by and through its counsel Nystrom, Beckman & Paris LLP, brings this complaint against Defendants FKA Distributing Co. doing business as Homedics, Inc. and SI Products, LLC. Kaz USA, Inc. alleges as follows, upon knowledge with respect to itself and its own acts, and upon information and belief as to circumstances and facts of others:

PARTIES

1. Plaintiff Kaz USA, Inc. (“Kaz”) is a Massachusetts corporation with its principal place of business at 250 Turnpike Road, Southborough, Massachusetts, 01772.

2. Upon information and belief, FKA Distributing Co. doing business under the assumed name “Homedics, Inc.” is a Michigan corporation with its principal place of business at 3000 Pontiac Trail, Commerce Township, Michigan, 48390.

3. Upon information and belief, SI Products, LLC is a limited liability company organized under the laws of Michigan with its principal place of business at 3000 Pontiac Trail, Commerce Township, Michigan, 48390.

4. The foregoing entities, FKA Distributing Co. and SI Products, LLC, shall be collectively referred to as “Homedics” or “Defendants.”

JURISDICTION AND VENUE

5. This action for patent infringement arises under the patent laws of the United States, Title 35 of the United States Code. This Court has original jurisdiction over the subject matter of all causes of action herein pursuant to 28 U.S.C. §1338(a) and §1331.

6. Upon information and belief, this court has personal jurisdiction over all the Defendants because the Defendants conduct business within the Commonwealth of Massachusetts.

7. Upon information and belief, venue is proper under 28 U.S.C. §§1391(b), (c) and 28 U.S.C. §1400(b) because each and every one of the Defendants is subject to personal jurisdiction in this judicial district.

BACKGROUND

8. Kaz is a state of the art, global leader in healthcare devices and home comfort appliances that operates in over 65 countries on six continents. Kaz has regional sales and marketing headquarters in the United States, Canada, Chile, Switzerland and Hong Kong.

9. For over 80 years, Kaz has been developing and marketing high-quality branded consumer products, such as humidifiers, vaporizers, thermometers, blood pressure monitors, air purifiers, fans, air circulators, portable heaters, heating pads and insect control products. Kaz’s beginnings trace back to 1926 and its invention of the world’s first electric vaporizer. Today,

Kaz is the world's largest vaporizer/humidifier manufacturer and continues to be the most trusted name in the industry.

10. Kaz's internal research and development programs and a series of successful acquisitions have created a distinguished line-up of innovative products with many patented designs.

11. Kaz has acquired and now markets a number of different product lines, such as Honeywell® Home Environment products, which include market leading air purifiers and fans, humidifiers, dehumidifiers and heaters, as well as Braun® thermometers and blood pressure monitors, which include the patented Braun Thermoscan® infrared ear thermometer.

12. Kaz markets a range of products in the humidification market that include warm and cool mist products, vaporizers, steam inhalers, waterless scented humidifiers and filters to remove dust, pollen odors, and tobacco smoke from room air.

13. Kaz also sells ultraviolet ("UV") humidifiers under well-known brand names such as Vicks®, Honeywell®, and Enviracaire®. These UV humidifiers utilize an exclusive germicidal process to produce a virtually 100% germ free mist. Water is quickly sanitized by ultraviolet light as it passes through the system, killing up to 99.9% of certain bacteria, molds, fungi and viruses. This provides the assurance that the moisture emitted from the humidifier will be virtually free of germs.

14. Kaz has marketed several UV humidifiers which correspond to its U.S. Patent No. 5,859,952, including:

- the Vicks® V3900 Germ Free Cool Mist Humidifier;
- the Vicks® V790-N Germ Free Warm Mist Humidifier;
- the Honeywell® HCM-350-TGT Germ Free Cool Mist Humidifier;

- the Vicks® V3900JUV Germ Free Cool Mist Humidifier;
- the Vicks® V3850JUV Germ Free Cool Mist Tower Humidifier;
- the Honeywell® HCM-300T QuietCare Advanced UV Tower;
- the Honeywell® HCM-350 Germ Free Cool Mist Humidifier;
- the Honeywell® HCM-315T QuietCare Advanced UV Tower with Electronic Controls;
- the Vicks® V790JUV Germ Free Warm Mist Humidifier;
- the Brookstone® BWM-211D 99.999% Germ Free Warm Mist Humidifier;
- the Enviracaire® EWM-220 99.999% Germ Free Warm Mist Humidifier;
- the Honeywell® HCM-350B-CST Germ Free Cool Mist Humidifier;
- the Enviracaire® EWM-211D 99.999% Germ Free Warm Mist Humidifier with Electronic Controls;
- the Enviracaire® EWM-350 99.999% Germ Free Warm Mist Humidifier with Electronic Controls; and
- the Honeywell® HCM-305T-CST Germ Free Cool Mist Tower Humidifier with Manual Controls.

15. Kaz, an international company, sells UV humidifiers and its other products throughout the United States and worldwide.

COUNT 1 – INFRINGEMENT OF U.S. PATENT NO. 5,859,952

16. Kaz incorporates the allegations of the preceding paragraphs 1-15 as though fully set forth herein.

17. Kaz is the assignee of United States Patent No. 5,859,952 and has standing to sue for infringement of said patent, entitled “Humidifier with UV Anti-Contamination Provision,” which was duly and legally issued by the United States Patent and Trademark Office on

January 12, 1999. A true copy of U.S. Patent No. 5,859,952 is attached hereto as Exhibit A. A true copy of the assignment record for U.S. Patent No. 5,859,952 is attached hereto as Exhibit B.

18. Upon information and belief, Defendants have been and still are directly infringing U.S. Patent No. 5,859,952 within the meaning of 35 U.S.C. §271, by making, using, offering to sell and selling infringing humidifiers in the United States, including humidifiers which are marketed under the brand “The Sharper Image” with model number EV-HD20. The described acts of infringement by Defendants have occurred and are occurring in this District and elsewhere.

19. Defendants will continue to infringe unlawfully unless enjoined by this Court.

20. Kaz has been and will continue to be damaged by the infringing acts of the Defendants unless the Defendants are restrained from their infringing acts by this Court.

PRAYER FOR RELIEF

Wherefore, Kaz demands judgment against Defendants, their affiliates, officers, agents, servants, employees and all persons in active concert or participation with Defendants, as follows:

A. Entry of permanent injunctive relief prohibiting Defendants from further acts of infringement of U.S. Patent No. 5,859,952;

B. An award to Kaz of such damages as it shall prove at trial against Defendants, adequate to compensate Kaz for Defendants’ infringement of U.S. Patent No. 5,859,952, but in no event less than a reasonable royalty pursuant to 35 U.S.C. §284, together with prejudgment interest;

C. A declaration that Defendants have infringed and are infringing U.S. Patent. No. 5,859,952.

- D. A declaration that U.S. Patent. No. 5,859,952 is valid.
- E. A declaration that Defendants' infringement is willful, and an award of enhanced damages pursuant to 35 U.S.C. §284.
- F. A declaration that this is an exceptional case and an award of attorneys' fees pursuant to 35 U.S.C. §285;
- G. An award to Kaz of the costs incurred by Kaz in this action; and
- H. Such other and further relief as this Court shall deem proper and just.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial for all issues so triable.

Dated: May 12, 2011

Respectfully submitted,

NYSTROM BECKMAN & PARIS LLP

By: /s/ Dana A. Zakarian

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