

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

DEB Worldwide Healthcare, Inc.,)	
DEB IP, LTD., and)	Civil Case No. 08-C-52-C
DEB SBS, INC.,)	
)	
Plaintiffs,)	<u>FIRST AMENDED COMPLAINT</u>
)	
vs.)	(JURY TRIAL DEMANDED)
)	
BETCO, Corp.,)	
)	
Defendant.)	
_____)	

Plaintiffs DEB Worldwide Healthcare, Inc. ("DEB Worldwide Healthcare"), DEB IP, Ltd. ("DEB IP"), and DEB SBS, Inc. ("DEB SBS"), (collectively "DEB"), complains against Defendant, BETCO, Corp. ("BETCO"), as follows:

NATURE OF THE ACTION

1. This is an action arising under the patent laws of the United States, 35 United States Code, for infringement of U.S. Patent No. 7,199,090 B2 ("the '090 patent," or "Asserted Patent," a copy of which is attached hereto as Exhibit A). The Asserted Patent is entitled "High Alcohol Content Gel-Like and Foaming Compositions Comprising an Alcohol and Fluorosurfactant."

2. This First Amended Complaint states a cause of action for patent infringement. DEB seeks permanent injunctive relief; past damages for its lost profits caused by Defendant's infringement and unlawful use and practice of the invention disclosed and claimed in and by the '090 patent (including any price erosion, etc.) and as appropriate, at a minimum, a reasonable royalty for all of Defendant's sales of its infringing products; all other damages sustained by

DEB as a result of the infringement; the trebling of all damages awarded to DEB as a result of Defendant's willful infringement; and all costs and fees, including reasonable attorneys' fees, incurred by DEB in this action.

PARTIES

3. Plaintiff DEB Worldwide Healthcare is a company organized and existing under the laws of Canada, having its principal place of business at 76 Adams Boulevard, Brantford, Ontario, N3S 7V2.

4. Plaintiff DEB IP is a company organized and existing under the laws of England and is an affiliate of DEB SBS, having its principal place of business at 108 Spencer Road, Belper, Derbyshire, England, DE56 1JX.

5. Plaintiff DEB SBS is a Delaware corporation having its principal place of business at 100 Highway 27 South, Stanley, North Carolina 28164. DEB SBS manufactures, markets, and sells, among other merchandise, soap, soap dispensers, and other sanitary and cleaning products and equipment.

6. Upon information and belief, Defendant BETCO is an Ohio corporation with its corporate headquarters at 1001 Brown Avenue, Toledo, Ohio 43607.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction over this dispute pursuant to 28 U.S.C. §§ 1331 and 1338(a).

8. Venue is proper pursuant to 28 U.S.C. §§ 1391 and 1400(b).

9. Upon information and belief, BETCO manufactures and sells alcohol foaming hand sanitizers, including selling or offering to sell within the last six years (including the

accused product) within this judicial district and by conducting other business within this judicial district or elsewhere in the United States that impacts this jurisdiction.

FACTUAL ALLEGATIONS

10. The Asserted Patent issued on April 3, 2007, and was duly and legally issued to Bruce Michael Koivisto and Maria Teresa Fernandez de Castro. In 2005, Mr. Koivisto and Ms. Fernandez de Castro assigned all right, title and interest in the Asserted Patent to Ethena Healthcare, Inc., ("Ethena") including the right to sue for past damages.

11. In 2006, Ethena assigned all right, title and interest in the Asserted Patent to DEB Worldwide Healthcare. Therefore, DEB has sufficient proprietary interests and rights in the '090 patent to exclude all others from making, using, selling or offering to sell, embodiments of the invention claimed in the Asserted Patent, and to assert a claim for its damages.

12. BETCO has manufactured, continues to manufacture, has sold, and continues to sell, an alcohol based foaming hand sanitizer product identified as the BETCO Winning Hands® Alcohol Foaming soap. Upon information and belief, the item number for this product is 75553-00.

13. Upon information and belief, BETCO's Winning Hands® Alcohol Foaming soap contains: (1) ethyl alcohol in an amount greater than 40 percent v/v of the total composition; (2) an effective fluorinated surface active agent, or fluorosurfactant, in an amount of at least 0.001 weight percent of the total composition; and (3) water present in an amount to balance the total composition to 100 weight percent.

COUNT ONE – INFRINGEMENT OF U.S. PATENT NO. 7,199,090 B2

14. DEB repeats and realleges paragraphs 1-13 above as though fully set forth herein.

15. Upon information and belief, BETCO has manufactured, continues to manufacture, has sold, and continues to sell, at least, the Winning Hands® Alcohol Foaming soap product that contains, embodies, and employs the invention described and claimed in the Asserted Patent, in violation of DEB's rights thereunder.

16. In the six-year period preceding the filing of this action, BETCO has infringed the Asserted Patent in violation of 35 U.S.C. § 271 with resultant damage to DEB, in an amount to be proven at trial. Upon information and belief, a reasonable opportunity for discovery will show that BETCO's Winning Hands Alcohol Foaming soap product infringes, either literally or under the doctrine of equivalents, claims 1-5, 10, 17, 29, 33, 38, 42, 131, 132 of United States Patent No. 7,199,090 B2.

17. DEB gave written notice to BETCO of the Asserted Patent after issuance and BETCO's infringement thereof. Thus, Defendant, with actual knowledge of the Asserted Patent and without lawful justification, willfully and deliberately infringed the Asserted Patent.

PRAYER FOR RELIEF

WHEREFORE, DEB prays for:

A. Judgment on the Complaint that Defendant has infringed U.S. Patent No. 7,199,090;

B. A permanent injunction to be issued enjoining and restraining Defendant, and its officers, directors, agents, servants, employees, attorneys, licensees, successors, assigns, and those in active concert and participation with them, and each of them, from making, using, selling, offering for sale, or importing any products which fall within the scope of any or all claims of the Asserted Patent, and from inducing or contributing to the infringement of any such claims by others;

C. An award of damages against Defendant adequate to compensate DEB for infringement of the Asserted Patent, together with interest and costs as fixed by the Court, such damages to be trebled because of the willful and deliberate character of infringement;

D. Judgment that this case is "exceptional" pursuant to 35 U.S.C. § 285, and that DEB is entitled to an award of its reasonable attorneys' fees in the prosecution of this action; and

E. Such other and further relief as the Court may deem just and proper.

JURY DEMAND

DEB hereby demands a trial by jury on all issues so triable.

Dated: April 21, 2008

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DEB IP Ltd. and DEB SBS, Inc.

CERTIFICATE OF SERVICE

I certify that on April 21, 2008, the undersigned caused a true and correct copy of Plaintiffs' First Amended Complaint to be served via e-mail and U.S. Mail on the following:

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