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BY _____

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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

LUV N' CARE, LTD.

Plaintiff,

v.

BAMED AG,

Defendant.

Civil Action No.: 4:06cv486

JURY TRIAL

COMPLAINT

Plaintiff Luv n' care, Ltd. ("Luv n' care") by and through their counsel, hereby complains against Defendant Bamed AG ("Bamed") as follows:

BACKGROUND AND FACTS

1. The following are Luv n' care's claims for a declaratory judgment of patent invalidity and non-infringement pursuant to 28 U.S.C. §2201 and §2202.
2. These claims arise under the United States Patent Laws, 35 U.S.C. §1 et seq. The Court has jurisdiction over the subject matter of these counterclaims under 28 U.S.C. §1331 and §1338.
3. Venue is proper in this judicial district for the present counterclaims under 28 U.S.C. §1391 and §1400.
4. Plaintiff Luv n' care, Ltd. ("Luv n' care") is a corporation which is organized and existing under the laws of Louisiana, with a principal place of business at 3030 Aurora Avenue, Monroe, Louisiana 71201.
5. Defendant Bamed AG ("Bamed") is a corporation organized and existing under the laws of Switzerland, with a place of business at Wilenstrasse 17, 8832 Wollerau, Switzerland.
6. By letter dated November 7, 2006 and forwarded to Luv n' care, Bamed has alleged that it is the owner of U.S. Patent No. 6,514,275 B2 ("the '275 patent") and U.S. Patent No. D441,083 S ("the '083 patent") (collectively, "the Bamed patents"), and has alleged that pacifiers offered for sale by Luv n' care infringe the Bamed patents.
7. Due to Bamed's letter, an actual controversy exists with Bamed with respect to the Bamed patents and Luv n' care's activities, giving rise to the present action. Accordingly, the present action has been filed by Luv n' care due to the invalidity and noninfringement of the Bamed patents, as set forth below.

FIRST CAUSE OF ACTION
PATENT INVALIDITY AND UNENFORCEABILITY

8. The asserted claims of the Bamed patents are invalid and unenforceable as they do not comply with the conditions and requirements for patentability set forth in the patent statutes and regulations, 35 U.S.C. §§1-376 and 37 C.F.R. §1.1 et seq.
9. The claims of the Bamed patents are invalid pursuant to 35 U.S.C. §102 and §103.
10. The claims of the Bamed patents are further invalid pursuant to 35 U.S.C. §112.
11. Upon information and belief, the claims of the Bamed patents are further unenforceable due to Bamed's inequitable conduct before the U.S. Patent Office.

SECOND CAUSE OF ACTION
NONINFRINGEMENT

12. Luv n' care has not engaged in any acts of infringement, nor directly infringed, actively induced, or contributed to infringement, of any valid claim of the Bamed patents under 35 U.S.C. §271.
13. Bamed is not entitled to any injunctive relief under the standards applicable thereto, nor to any equitable relief, or to any other form of relief.

THIRD CAUSE OF ACTION
FAILURE TO COMPLY WITH 35 U.S.C. §287

14. Upon information and belief, Bamed has failed to comply with the marking requirements of 35 U.S.C. §287, and is therefore precluded from requesting or recovering damages for any alleged actions that occurred prior to any alleged date of actual notice to Luv n' care of Bamed's claims of alleged infringement of the Bamed patents.
15. Luv n' care reserves the right to assert any further claims, causes of action, positions and defenses that it becomes aware of during discovery or at trial, as applicable.

REQUEST FOR JURY TRIAL

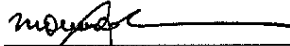
Pursuant to Rule 38, Federal Rules of Civil Procedure, Luv n' care hereby requests a jury trial in this action as to all issues of fact triable by jury.

WHEREFORE, Plaintiff Luv n' care, Ltd. hereby prays for judgment as follows:

- A. That the Bamed patents be declared invalid, void, and unenforceable, and that Luv n' care be granted a declaratory judgment of the same;
- B. That Luv n' care has not directly infringed, actively induced, or contributed to infringement of any valid claim of the Bamed patents, and has not otherwise committed any acts that constitute infringement under 35 U.S.C. §271, and that it be granted a declaratory judgment of the same;
- C. That Bamed and its counsel, officers, agents, directors, and employees, and all persons in active concert or participation with any of them, be enjoined from directly or indirectly asserting or threatening to assert the Bamed patents against Luv n' care, or any of its agents, officers, directors, employees, suppliers, or customers;
- D. That this case be deemed exceptional pursuant to 35 U.S.C. §285, that Luv n' care be awarded its reasonable attorneys' fees, costs and expenses, and that such award to Luv n' care be trebled; and,
- E. That the Court grant Luv n' care such other and further relief and damages as it may deem just and proper.

Dated: November 30, 2006

Respectfully submitted,



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