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CLERK OF DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

EVEREADY BATTERY COMPANY, INC.,
25225 Detroit Road
Westlake, OH 44145

Plaintiff,

v.

RAYOVAC CORPORATION
601 Rayovac Drive
P.O. Box 44960
Madison, WI 53744-4960

Defendant.

CASE NO:

1:01CV 876

JUDGE

JUDGE ALDRICH

MAG. JUDGE STREEPY

COMPLAINT

DEMAND FOR JURY TRIAL

Plaintiff Eveready Battery Company, Inc., brings this action for patent infringement against Defendant Rayovac Corporation, and alleges as follows:

1. This is an Action for patent infringement. This action arises under the patent laws of the United States, Title 35, United States Code.
2. This Court has jurisdiction over this cause of action under 28 U.S.C. § 1338(a).
3. Venue before this Court is proper under 28 U.S.C. §§ 1391(b) and (c) and § 1400(b).

4. Plaintiff Eveready Battery Company, Inc. (hereinafter "Eveready"), is a corporation organized and existing under the laws of the state of Delaware, having a place of business at 25225 Detroit Road, Westlake, Ohio 44145.

5. Defendant Rayovac Corporation (hereinafter "Rayovac"), on information and belief, is a corporation organized and existing under the laws of the state of Wisconsin, having its principal place of business at 601 Rayovac Drive, Madison, Wisconsin 53744-4960.

6. This Court has personal jurisdiction over Defendant Rayovac pursuant to the provisions of the Ohio Long Arm Statute, O.R.C. § 2307.382, and the laws of the United States.

7. United States Letters Patent 5,464,709 ("the Patent") was duly and legally issued November 7, 1995, for an invention entitled ALKALINE CELLS THAT ARE SUBSTANTIALLY FREE OF MERCURY. Plaintiff Eveready has been the owner of the Patent since its issuance.

8. Defendant Rayovac has been infringing and continues to infringe the Patent by making, using, selling, and/or offering for sale the invention claimed in the Patent in the United States including in this judicial district, and has contributed and continues to contribute to the infringement of the Patent, and/or has induced and continues to induce others to infringe the Patent, in violation of the United States patent laws. Such infringement has been willful and deliberate. It has persisted despite requests for Plaintiff Eveready that it be stopped.

9. Infringement of the Patent by Defendant Rayovac will continue unless and until enjoined by this Court.

10. Plaintiff Eveready has in the past and continues to suffer damages and irreparable injury as a result of Defendant's actions.

11. Plaintiff has marked its products with the requisite statutory notice pursuant to 35 U.S.C. § 287 and Defendant Rayovac has had actual notice of its infringement of the Patent.

WHEREFORE, Plaintiff prays:

- A. That an injunction be issued enjoining further infringement of the Patent by Defendant Rayovac;
- B. That Plaintiff Eveready be awarded damages for the infringement of the Patent by Defendant Rayovac, and that such damages be trebled in accordance with the statute because such infringement has been willful and deliberate;
- C. That an assessment and allowance of costs, interest and reasonable attorney's fees be made against Defendant Rayovac, and that the resultant sum be awarded to Plaintiff Eveready; and
- D. That Plaintiff Eveready have such other and further relief as this Court may deem just.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury as to all issues so triable.

Dated: April 11, 2001

Respectfully submitted,

By: 

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