

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

PLATINUM PRESS, INC.,

Plaintiff,

VS.

CCL LABEL/SIOUX FALLS, INC.,

Defendant.

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Civil Action No. _____

PLAINTIFF’S ORIGINAL COMPLAINT

Plaintiff, Platinum Press, Inc. (“Platinum”) files this original complaint against Defendant, CCL Label/Sioux Falls, Inc., f/k/a CCL Label, Inc. (“CCL”).

I. INTRODUCTION

1. By correspondence dated December 2, 2010, CCL accused Platinum of patent infringement in connection with its manufacture of certain expanded content labeling (“ECL”) for use in the pharmaceutical industry. CCL demanded that Platinum pay CCL a royalty in connection with Platinum’s manufacture of certain ECL or cease to manufacture the ECL.

2. Platinum disputes CCL’s accusation of patent infringement and therefore, there is a present and actual controversy between CCL and Platinum as to whether Platinum’s manufacturing process infringes one or more claims of United States Patent No. 6,027,598 (the ‘598 Patent).

3. In order to determine its rights in connection with its manufacture and sale of certain ECL, Platinum seeks a declaratory judgment pursuant to the provisions of 28 U.S.C. §§2201-2202 that its manufacturing process for certain ECL does not infringe the claims of the '598 Patent.

II. PARTIES

4. Platinum is a corporation that is organized and existing pursuant to the laws of the State of Texas with its principal place of business in Grand Prairie, Texas.

5. CCL is a corporation that is organized and existing pursuant to the laws of the State of South Dakota, with its principal place of business located at 1209 West Bailey Street, Sioux Falls, South Dakota 57104. CCL regularly transacts business within the State of Texas; however, it does not maintain an office in the State of Texas, nor does it maintain an agent in the State of Texas to receive service of legal process. Thus, pursuant to TEX. CIV. PRAC. & REM. CODE §17.044 CCL may be served with process by delivering a true and correct copy of this complaint, together with a summons, to Office of the Secretary of State, Statutory Documents Section – Citations Unit, 1019 Brazos Street, Austin, Texas 78701. Pursuant to TEX. CIV. PRAC. & REM. CODE §17.045, the Secretary of State, upon receipt of such process, shall deliver it to CCL via its registered agent, Corporation Service Company, 503 S. Pierre Street, Pierre, SD 57501.

III. JURISDICTION AND VENUE

6. This court has jurisdiction over the subject matter of this dispute pursuant to 28 U.S.C. §§1331, 1332, and 2201.

7. Defendant, CCL, is subject to the jurisdiction of this Court because it regularly transacts business in the State of Texas, solicits business from citizens of Texas, sells its products to citizens of Texas, delivers its products to citizens of Texas, and otherwise maintains continuous and systematic contacts with the State of Texas.

8. Venue is proper in this district and division pursuant to 28 U.S.C. §1391 because CCL is subject to personal jurisdiction in this division.

IV. FACTS

9. Platinum is a small, family-owned business in Grand Prairie, Texas.

10. Platinum manufactures, among other things, a variety of expanded content labels (ECL) for use primarily in the pharmaceutical industry.

11. Platinum enjoys an excellent reputation with its customers because it consistently delivers high-quality ECL that are well-designed and manufactured with care.

12. On or about February 22, 2000, the U.S.P.T.O. issued the '598 Patent ("Method For Producing An Expanded Content Label") to Robert J. Anderson who, in turn, assigned it to CCL.

13. On December 2, 2010, CCL, through its attorney, Charles E. Burpee, put Platinum on notice that CCL believes Platinum is infringing the '598 Patent and demanded that Platinum either obtain a license from CCL or cease its manufacture and sale of its ECL.

14. Platinum does not employ the methods taught by the '598 Patent to manufacture its ECL.

V. CAUSE OF ACTION

COUNT I **(DECLARATORY JUDGMENT – NON-INFRINGEMENT)**

15. Platinum incorporates by reference the allegations contained in paragraphs 1 through 3 and 9 through 14, above, as if fully set forth herein.

16. Platinum brings this claim for a declaratory judgment under Federal Rule of Civil Procedure 57 and 28 U.S.C. §§2201 and 2202.

17. For the reasons set forth above, an actual controversy exists between Platinum and CCL regarding whether Platinum's manufacturing method for its ECL infringes one or more claims of the '598 Patent.

18. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, Platinum requests a declaration from the Court that Platinum has not infringed any of the claims of the '598 Patent, either directly, contributorily, or by inducement.

COUNT II
(DECLARATORY JUDGMENT – INVALIDITY)

19. Platinum incorporates by reference the allegations contained in paragraphs 1 through 3 and 9 through 14, above, as if fully set forth herein.

20. Platinum brings this claim for a declaratory judgment under Federal Rule of Civil Procedure 57 and 28 U.S.C. §§2201, 2202.

21. CCL's patent is invalid because its teachings are obvious and/or are anticipated by relevant prior art.

22. For the reasons set forth above, an actual controversy exists between Platinum and CCL as to the validity of the '598 Patent.

23. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, Platinum requests a declaration from the Court that the '598 Patent is invalid.

VI. PRAYER

For the foregoing reasons, Plaintiff, Platinum, requests that Defendant, CCL, be cited to answer herein and that, upon hearing hereof, the Court award the following relief:

- a. enter judgment in favor of Platinum;
- b. declare CCL's patent is invalid;
- c. declare Platinum has not infringed CCL's patent; and

- d. award Platinum its costs, attorney's fees, and all other relief to which it may be entitled.

Respectfully Submitted,

By: *s/James E. Davis*

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