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U.S.D.C. - Newnan

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
NEWNAN DIVISION

MAY 18 2009
By: James N. Matten
Deputy Clerk

HELLA, INC., USA and Canada)

Plaintiff,)

CIVIL ACTION FILE

NO. _____

v.)

BAJA DESIGNS, INC.,)

Defendant.)

3 09-CV-50 JTC
JURY TRIAL DEMANDED

**COMPLAINT FOR DECLARATORY JUDGMENT
OF NON-INFRINGEMENT AND FOR MONEY DAMAGES**

For its complaint herein, Plaintiff alleges as follows:

THE PARTIES

1. Plaintiff Hella, Inc., USA and Canada (hereinafter "Hella"), is a company organized and existing under the laws of the State of Delaware with its principal place of business located at 201 Kelly Drive, Peachtree City, Georgia, 30269.

2. Upon information and belief, Defendant Baja Designs Inc. (hereinafter "Baja"), is a corporation incorporated under the laws of the State of California and maintains its principal place of business at 185 Bosstick Boulevard, San Marcos, California, 92069.

JURISDICTION AND VENUE

3. This action arises under the patent laws and the Lanham Act of the United States of America and jurisdiction is predicated upon 28 U.S.C. §§ 1331 and 1338(a). Jurisdiction is also proper under 28 U.S.C. § 1332 as the amount in controversy exceeds \$75,000.00 and the matter in controversy is between citizens of different states.

4. Jurisdiction is proper in this District because Baja is doing business in this Judicial District.

5. Venue is proper in this court under 28 U.S.C. § 1391(b) and 1400, because Baja has committed acts of infringement under the Lanham Act and completed acts of forming the basis of this lawsuit in this district.

COUNT I

6. Baja states that it is the owner by assignment of U.S. Patent No. D564,683 S (“the ’683 Patent”), a copy of which is attached hereto as Exhibit A, which is entitled “Auxiliary Headlamp for Motor Vehicles.”

7. Both Hella and Baja manufacture and market in this district and throughout the United States auxiliary lights for motor vehicles, including after-market lamps for motor vehicles, particularly off-road motor vehicles.

8. On February 20, 2009, Baja, through its counsel, wrote Hella accusing Hella of infringing the ’683 Patent by selling its product, the Rallye 4000Xi lamp, and demanding that Hella “immediately cease and desist marketing and selling”

the Rallye 4000Xi lamp, a copy of which letter is attached hereto as Exhibit B. Baja's cease and desist letter creates a valid and justiciable controversy that continues to exist between Baja and Hella. Hella desires a judicial declaration regarding the validity, enforceability and non-infringement by Hella of the '683 Patent and the parties' respective rights and obligations concerning such patent, and such a determination is necessary and appropriate at this time.

COUNT II

9. Hella repeats and realleges each of the allegations set forth in paragraph 1 through 8 of this Complaint as if fully set forth in this paragraph.

10. Since at least 1995, Hella has been selling and continues to sell its after-market lamps, particularly those lamps marketed and sold to the owners and operators of off-road vehicles, with a distinctive red trim ring on the lamp.

11. Hella's red trim ring has acquired secondary meaning within the relevant market.

12. In 2006 Baja began selling a product called its "Fuego" light, with a red trim ring.

13. On information and belief, Baja offers red trim rings on other after-market, off-road lamps it sells.

14. Baja's sales of after-market lamps with red trim rings for motor vehicles infringes Hella's trade dress rights in the red trim ring under §§ 32 and 43(a) of the Lanham Act, 15 U.S.C. §§ 1114 and 1125(a).

15. Baja's infringement of Hella's trade dress has been and remains willful.

JURY DEMAND

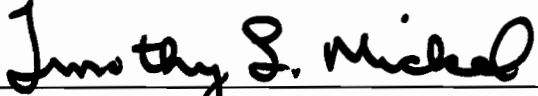
16. Hella demands a jury to try all issues triable by a jury in Counts I and II of its Complaint.

PRAYER FOR RELIEF

17. Hella respectfully requests that the court enter judgment:
- (a) Declaring that Hella's Rallye 4000Xi lamp does not infringe the '683 Patent;
 - (b) Declaring that the claim of the '683 Patent is invalid;
 - (c) Finding that the Baja Fuego lamp infringes Hella's trade dress;
 - (d) Awarding Hella monetary damages for infringement of its trade dress in an amount to be proven at trial in excess of \$75,000.00;
 - (e) Enjoining Baja from further sales of any after-market lamp for a motor vehicle with a red trim ring;
 - (f) Awarding Hella punitive damages for Baja's willful infringement of Hella's trade dress; and
 - (g) Granting such other and further relief as the court deems just and proper.

Respectfully submitted,

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