

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

-----X)	
MILLIPORE CORPORATION,)	
Plaintiffs,)	Civil Action No.
)	
v.)	COMPLAINT
)	<u>AND DEMAND FOR JURY TRIAL</u>
W. L. GORE & ASSOCIATES, INC.,)	
Defendants.)	
-----X)	

The plaintiff, Millipore Corporation (“Millipore”), for its complaint against the defendant, W. L. Gore & Associates, Inc. (“Gore”), states that:

NATURE OF THE ACTION

1. In this action the plaintiff, Millipore, seeks to recover damages and to obtain preliminary and permanent injunctions for infringement of its patent rights pursuant to Title 35 of the United States Code.

JURISDICTION AND VENUE

2. This court has jurisdiction of the subject matter of this action under 28 U.S.C. §§1331 and 1338, and the United States Patent Laws, Title 35 of the United States Code.

3. Venue is proper in this Court pursuant to 28 U.S.C. §§1391(b) and 1400.

THE PARTIES

4. The plaintiff Millipore is a Massachusetts corporation with a place of business at 290 Concord Road, Billerica, Massachusetts 01821.

5. Upon information and belief, the defendant, Gore, is a Delaware corporation with a place of business at 555 Paper Mill Road, Newark, Delaware 19711.

FACTUAL BACKGROUND

THE '477 PATENT

6. On November 13, 2007, United States Patent No. 7,293,477 (“the ’477 Patent”) entitled “Disposable, Pre-Sterilized Fluid Receptacle Sampling Device” issued. A copy of the ’477 Patent is filed herewith and made a part hereof as Exhibit A.

7. The plaintiff Millipore owns the entire right, title, and interest in the ’477 Patent and such ownership rights are confirmed by assignment duly recorded in the United States Patent and Trademark Office.

8. The ’477 Patent discloses and claims fluid sampling devices and kits comprising fluid sampling devices.

9. Upon information and belief, the defendant Gore, acting on its own or through affiliates or agents, makes, uses, sells, offers for sale, or is importing fluid sampling devices or kits comprising fluid sampling devices, including but not limited to the GORE™ STA-PURE™ samplers and Fluid Sampling System, and specifically the products sold as ASD-1 sampling system and ASD-5 sampling system, that infringe the ’477 Patent.

COUNT I

10. The plaintiff Millipore repeats and realleges paragraphs 1 through 9 of this complaint, as though fully set forth.

11. Upon information and belief, the defendant Gore has infringed and is infringing one or more claims of the ’477 Patent by making, using, selling, offering for sale, or importing fluid sampling devices that infringe the ’477 Patent.

12. Upon information and belief, the defendant Gore has infringed and is infringing one or more claims of the ’477 Patent directly, contributorily, or by actively inducing acts of infringement by others.

13. Upon information and belief, the defendant Gore's infringement of the '477 Patent has been and continues to be willful and deliberate, and Gore will continue its infringing activities unless enjoined by the Court.

14. Millipore has been and continues to suffer damages as a result of the defendant Gore's infringement.

15. By reason of the above acts, Millipore has suffered and will continue to suffer irreparable harm. The plaintiff Millipore is entitled to injunctive relief enjoining and restraining the defendant Gore and its respective officers, directors, agents, servants, employees, and all their entities and individuals acting in concert with them or on their behalf, from further infringement of the '477 Patent.

WHEREFORE, the plaintiff Millipore demands judgment against the defendant Gore as follows:

- A. For judgment to be entered that the defendant Gore has infringed the '477 Patent;
- B. For injunctive relief, both preliminary and permanent, enjoining and restraining the defendant Gore, its officers, directors, agents, servants, employees, and all their entities and individuals acting in concert with them or on their behalf from further infringement of the '477 Patent;
- C. For injunctive relief, both preliminary and permanent, enjoining and restraining the defendant Gore, its officers, directors, agents, servants, employees, and all their entities and individuals acting in concert with them or on their behalf from making, using, selling, offering for sale, or importing the GORE™ STA-PURE™ samplers and Fluid Sampling System, and specifically the products sold as ASD-1 sampling system and ASD-5 sampling system;

D. For an award of compensatory damages resulting from Gore's infringement of the '477 Patent;

E. For an award of pre-judgment interest on any damages awarded;

F. For judgment to be entered that the defendant Gore's infringement of the '477 Patent is willful, and increasing the plaintiff Millipore's damages up to three times the amount found or assessed;

G. For a declaration that this is an exceptional case under 35 U.S.C. § 285, and for an award of increased damages, attorneys' fees, and costs; and

H. For such other and further relief as the Court deems just and proper.

THE PLAINTIFF DEMANDS A TRIAL BY JURY

The plaintiff, Millipore, hereby demands a trial by jury in this action on all claims and issues triable before a jury.

MILLIPORE CORPORATION
By their attorneys,

/s/ Susan G. L. Glovsky

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