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IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF NEW YORK

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GROUP ONE LTD., )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 HALLMARK CARDS, INC., )  
 WALGREEN CO., )  
 DIAMOND'S HALLMARK )  
 RIA'S HALLMARK SHOP )  
 )  
 Defendants. )

CV 04 0987

Case No.

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.

★ MAR 08 2004 ★

BROOKLYN OFFICE

BLOCK, J.

POLLAK, M.

COMPLAINT

Plaintiff, for its Complaint against the defendant, alleges as follows:

PARTIES

1. Plaintiff Group One Ltd. (Group One) is a limited company registered in the Isle of Man, with administrative offices in St. Helier, Jersey, Great Britain.
2. Defendant Hallmark Cards Incorporated (Hallmark) is a Missouri Corporation, with its principal place of business located in Kansas City, Jackson County, Missouri.
3. Defendant Hallmark transacts business in this judicial district and specifically has distributed and sold infringing products, as defined herein, to co-defendants within this judicial district.
4. On information and belief and for all purposes relevant to the claims herein, Defendant Walgreen Co. is a citizen and resident of the state of New York.

5. On information and belief and for all purposes relevant to the claims herein, Defendant Diamond's Hallmark is a citizen and resident of the state of New York.

6. On information and belief and for all purposes relevant to the claims herein, Defendant Ria's Hallmark Shop is a citizen and resident of the state of New York.

### **JURISDICTION AND VENUE**

7. This is an action for patent infringement, pursuant to 35 U.S.C. § 271, *et seq.*, and for tortious interference with business expectancy, tortious interference with contractual relationship, deceptive practices, and unfair business practices.

8. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a) on the claims for patent infringement and has supplemental jurisdiction under 28 U.S.C. §§ 1338(b) and 1367 on the common law claims. In addition, this Court has personal jurisdiction over defendants because each of the defendants has transacted business within this district.

9. Venue is proper under 28 U.S.C. § 1391(c) because each defendant is subject to personal jurisdiction in this district and has made, used, offered to sell or sold infringing products, which are acts of infringement in this district and from which this action arises. Further, defendant Hallmark has committed acts of tortious interference with business expectancy and unfair business practices.

### **COUNT I**

For Count I of its Complaint against Hallmark, plaintiff Group One alleges as follows:

10. Each and every allegation contained in paragraphs 1 through 9 above is adopted and incorporated by reference as if fully set forth herein.

11. On or about June 29, 1999, United States Letters Patent No. 5,916,081 ("the '081 Patent") was duly and legally issued to Fredric Goldstein for an invention involving a device curling polypropylene ribbon. All rights in the '081 Patent have been assigned to Group One. A true copy of the '081 Patent is attached hereto as Exhibit A.

12. Upon information and belief, after June 29, 1999, the defendant used at least one device for curling polypropylene ribbon at various locations that infringe one or more claims of the '081 Patent. The infringing devices were made and used by the defendant before June 29, 1999. Such acts by the defendant have occurred without the consent or authorization of Group One.

13. On information and belief Hallmark is operating what it has designated as Machines No. 1 through 6 and Modified Machine No. 7, each of which is producing infringing products which it then distributes to various retail outlets including those operated by co-defendants.

14. Group One has given the defendant actual notice of its infringement.

15. Upon information and belief, the defendant's infringement of the '081 Patent has been knowing and willful.

16. Group One has suffered actual and consequential damages by the defendant's acts and conduct.

17. Upon information and belief, the defendant's acts will continue, unless the defendant is restrained.

18. Group One is without adequate remedy at law and will be irreparably injured in the future if this Court does not enter an Order enjoining the defendant from committing the acts of infringement described herein.

**COUNT II**

For Count II of its Complaint against Hallmark, plaintiff Group One alleges as follows:

19. Each and every allegation contained in paragraphs 1 through 18 above is adopted and incorporated by reference as if fully set forth herein.

20. On or about May 8, 2001, United States Letters Patent No. 6,228,015 B1 ("the '015 Patent") was duly and legally issued to Fredric Goldstein for an invention involving a method for curling polypropylene ribbon. All rights in the '015 Patent have been assigned to Group One. A true copy of the '015 Patent is attached hereto as Exhibit B.

21. Upon information and belief, after May 8, 2001, the defendant used at least one device for curling polypropylene ribbon at various locations that infringe one or more claims of the '015 Patent. The infringing devices were made and used by the defendant before May 8, 2001. Such acts by the defendant have occurred without the consent or authorization of Group One.

22. On information and belief Hallmark is operating what it has designated as Machines No. 1 through 6 and Modified Machines No. 7 each of which is producing infringing products which it then distributes to various retail outlets including those operated by co-defendants.

23. Group One has given the defendant actual notice of its infringement.

24. Upon information and belief, the defendant's infringement of the '015 Patent has been knowing and willful.

25. Group One has suffered actual and consequential damages by the defendant's acts and conduct.

26. Upon information and belief, the defendant's acts will continue, unless the defendant is restrained.

27. Group One is without adequate remedy at law and will be irreparably injured in the future if this Court does not enter an Order enjoining the defendant from committing the acts of infringement described herein.

### COUNT III

For Count III of its Complaint against Hallmark, plaintiff Group One alleges as follows:

28. Each and every allegation contained in paragraphs 1 through 27 above is adopted and incorporated by reference as if fully set forth herein.

29. On or about July 17, 2001, United States Letters Patent No. 6,261,216 B1 ("the '216 Patent") was duly and legally issued to Fredric Goldstein for an invention involving a device for curling polypropylene ribbon. All rights in the '216 Patent have been assigned to Group One. A true copy of the '216 Patent is attached hereto as Exhibit A.

30. Upon information and belief, after July 17, 2001, the defendant used at least one device for curling polypropylene ribbon at various locations that infringe one or more claims of the '216 Patent. The infringing devices were made and used by the defendant before July 17, 2001. Such acts by the defendant have occurred without the consent or authorization of Group One.

31. On information and belief Hallmark is operating what it has designated as Machines No. 1 through 6 and Modified Machines No. 7 each of which is producing infringing products which it then distributes to various retail outlets including those operated by co-defendants.

32. Group One has given the defendant actual notice of its infringement.

33. Upon information and belief, the defendant's infringement of the '216 Patent has been knowing and willful.

34. Group One has suffered actual and consequential damages by the defendant's acts and conduct.

35. Upon information and belief, the defendant's acts will continue, unless the defendant is restrained.

36. Group One is without adequate remedy at law and will be irreparably injured in the future if this Court does not enter an Order enjoining the defendant from committing the acts of infringement described herein.

#### COUNT IV

For Count IV of its Complaint against Hallmark, plaintiff Group One alleges as follows:

37. Each and every allegation contained in paragraphs 1-36 above is adopted and incorporated by reference as if fully set forth herein.

38. Group One had an existing contractual relationship with Camborloc Engineering for Camborloc to develop a commercially viable ribbon curling machine which would later be covered by the Patents described above in Counts I, II and III.

39. Upon information and belief, defendant Hallmark is the largest customer of Camborloc Engineering.

40. Without justification or excuse, and with knowledge of plaintiff's existing contractual relationship with Camborloc Engineering, defendant Hallmark intentionally and tortiously, interfered with said contractual relationship, causing Camborloc Engineering to cease any concerted or reasonable effort to develop and build a commercially viable machine to curl polypropylene ribbon.

41. The intentional and tortious interference was committed through the use of improper means, including undue influence and intimidation by defendant on Camborloc Engineering.

42. As a direct and proximate result of the aforesaid acts of defendant Hallmark, plaintiff has suffered actual and consequential damages, including lost profits.

43. Upon information and belief, defendant's acts in intentionally interfering with plaintiff's existing contractual relationship with Camborloc Engineering were willful and wanton and done with such malice so as to merit the imposition of punitive damages.

#### COUNT V

For Count V of its Complaint against Hallmark, plaintiff Group One alleges as follows:

44. Each and every allegation contained in paragraphs 1-43 above is adopted and incorporated by reference as if fully set forth herein.

45. Defendant engaged in the use of wrongful means to secure a competitive advantage over plaintiff, and through doing so intentionally and wrongfully interfered with Group One's valid business expectancy with Camborloc Engineering.

46. As a direct and proximate result of the aforesaid acts of defendant, plaintiff has suffered actual and consequential damages, including lost profits.

47. Upon information and belief, defendant's acts in intentionally interfering with plaintiff's valid business expectancy with Camborloc Engineering were willful and wanton and done with such malice so as to merit the imposition of punitive damages.

#### COUNT VI

For Count VI of its Complaint against Hallmark, plaintiff Group One alleges as follows:

48. Each and every allegation contained in paragraphs 1-47 above is adopted and incorporated by reference as if fully set forth herein.

49. The acts of defendant regarding plaintiff's contractual relationship with Camborloc Engineering were deceptive in a material respect.

50. As a direct and proximate result of the aforesaid acts of defendant Hallmark, plaintiff has suffered actual damages.

#### COUNT VII

For Count VII of its Complaint against Hallmark, plaintiff Group One alleges as follows:

51. Each and every allegation contained in paragraphs 1-50 above is adopted and incorporated by reference as if fully set forth herein.



52. Defendant, through its acts regarding plaintiff's contractual relationship with Camborloc Engineering, intentionally and in bad faith misappropriated the labors, skill and expenditures of plaintiff.

53. As a direct and proximate result of the aforesaid acts of defendant, plaintiff has suffered actual and consequential damages, including lost profits.

#### COUNT VIII

For Count VIII of its Complaint against Hallmark, plaintiff Group One alleges as follows:

54. Hallmarks acts were willful and wanton and in conscious disregard of the rights of Group One. That Group One is entitled to punitive damages as a result of the conduct of Hallmark in an amount sufficient to punish its egregious conduct and to ensure that neither it nor others engage in similar willful and wanton conduct in the future.

#### COUNT IX

For Count IX of its Complaint against Walgreen Co., plaintiff Group One alleges as follows:

55. Each and every allegation contained in paragraphs 1 through 54 above is adopted and incorporated by reference as if fully set forth herein.

56. Upon information and belief, after June 29, 1999, defendant Walgreen Co. purchased for resale curling polypropylene ribbon at various locations, and in doing so, induced Hallmark's infringement of the '081 Patent. Such acts by the defendant have occurred without the consent or authorization of Group One.

57. Group One has suffered actual and consequential damages by the defendant's acts and conduct.

58. Upon information and belief, the defendant's acts will continue, unless the defendant is restrained.

59. Group One is without adequate remedy at law and will be irreparably injured in the future if this Court does not enter an Order enjoining the defendant from committing the acts of infringement described herein.

### COUNT X

For Count X of its Complaint against Walgreen Co., plaintiff Group One alleges as follows:

60. Each and every allegation contained in paragraphs 1 through 59 above is adopted and incorporated by reference as if fully set forth herein.

61. Upon information and belief, after May 8, 2001, defendant Walgreen Co. sold curling polypropylene ribbon at various locations that infringe one or more claims of the '015 Patent. Such acts by the defendant have occurred without the consent or authorization of Group One.

62. Group One has suffered actual and consequential damages by the defendant's acts and conduct.

63. Upon information and belief, the defendant's acts will continue, unless the defendant is restrained.

64. Group One is without adequate remedy at law and will be irreparably injured in the future if this Court does not enter an Order enjoining the defendant from committing the acts of infringement described herein.

COUNT XI

For Count XI of its Complaint against Walgreen Co., plaintiff Group One alleges as follows:

65. Each and every allegation contained in paragraphs 1 through 64 above is adopted and incorporated by reference as if fully set forth herein.

66. Upon information and belief, after July 17, 2001, defendant Walgreen Co. purchased for resale curling polypropylene ribbon at various locations and, in doing so, induced Hallmark's infringement of the '216 Patent. Such acts by the defendant have occurred without the consent or authorization of Group One.

67. Group One has suffered actual and consequential damages by the defendant's acts and conduct.

68. Upon information and belief, the defendant's acts will continue, unless the defendant is restrained.

69. Group One is without adequate remedy at law and will be irreparably injured in the future if this Court does not enter an Order enjoining the defendant from committing the acts of infringement described herein.

COUNT XII

For Count XII of its Complaint against Diamond's Hallmark, plaintiff Group One alleges as follows:

70. Each and every allegation contained in paragraphs 1 through 69 above is adopted and incorporated by reference as if fully set forth herein.

71. Upon information and belief, after June 29, 1999, defendant Diamond's Hallmark purchased for resale curling polypropylene ribbon at various locations and, in

doing so, induced Hallmark's infringement of the '081 Patent. Such acts by the defendant have occurred without the consent or authorization of Group One.

72. Group One has suffered actual and consequential damages by the defendant's acts and conduct.

73. Upon information and belief, the defendant's acts will continue, unless the defendant is restrained.

74. Group One is without adequate remedy at law and will be irreparably injured in the future if this Court does not enter an Order enjoining the defendant from committing the acts of infringement described herein.

### **COUNT XIII**

For Count XIII of its Complaint against Diamond's Hallmark, plaintiff Group One alleges as follows:

75. Each and every allegation contained in paragraphs 1 through 74 above is adopted and incorporated by reference as if fully set forth herein.

76. Upon information and belief, after May 8, 2001, defendant Diamond's Hallmark sold curling polypropylene ribbon at various locations that infringe one or more claims of the '015 Patent. Such acts by the defendant have occurred without the consent or authorization of Group One.

77. Group One has suffered actual and consequential damages by the defendant's acts and conduct.

78. Upon information and belief, the defendant's acts will continue, unless the defendant is restrained.

79. Group One is without adequate remedy at law and will be irreparably injured in the future if this Court does not enter an Order enjoining the defendant from committing the acts of infringement described herein.

**COUNT XIV**

For Count XIV of its Complaint against Diamond's Hallmark, plaintiff Group One alleges as follows:

80. Each and every allegation contained in paragraphs 1 through 79 above is adopted and incorporated by reference as if fully set forth herein.

81. Upon information and belief, after July 17, 2001, defendant Diamond's Hallmark purchased for resale curling polypropylene ribbon and, in doing so, induced Hallmark's infringement of the '216 Patent. Such acts by the defendant have occurred without the consent or authorization of Group One.

82. Group One has suffered actual and consequential damages by the defendant's acts and conduct.

83. Upon information and belief, the defendant's acts will continue, unless the defendant is restrained.

84. Group One is without adequate remedy at law and will be irreparably injured in the future if this Court does not enter an Order enjoining the defendant from committing the acts of infringement described herein.

**COUNT XV**

For Count XV of its Complaint against Ria's Hallmark Shop, plaintiff Group One alleges as follows:

85. Each and every allegation contained in paragraphs 1 through 84 above is adopted and incorporated by reference as if fully set forth herein.

86. Upon information and belief, after June 29, 1999, defendant Ria's Hallmark purchased for resale curling polypropylene ribbon at various locations and, in doing so, induced Hallmark's infringement of the '081 Patent. Such acts by the defendant have occurred without the consent or authorization of Group One.

87. Group One has suffered actual and consequential damages by the defendant's acts and conduct.

88. Upon information and belief, the defendant's acts will continue, unless the defendant is restrained.

89. Group One is without adequate remedy at law and will be irreparably injured in the future if this Court does not enter an Order enjoining the defendant from committing the acts of infringement described herein.

#### **COUNT XVI**

For Count XVI of its Complaint against Ria's Hallmark, plaintiff Group One alleges as follows:

90. Each and every allegation contained in paragraphs 1 through 89 above is adopted and incorporated by reference as if fully set forth herein.

91. Upon information and belief, after May 8, 2001, defendant Ria's Hallmark sold curling polypropylene ribbon at various locations that infringe one or more claims of the '015 Patent. Such acts by the defendant have occurred without the consent or authorization of Group One.

92. Group One has suffered actual and consequential damages by the defendant's acts and conduct.

93. Upon information and belief, the defendant's acts will continue, unless the defendant is restrained.

94. Group One is without adequate remedy at law and will be irreparably injured in the future if this Court does not enter an Order enjoining the defendant from committing the acts of infringement described herein.

#### COUNT XVII

For Count XVII of its Complaint against Ria's Hallmark, plaintiff Group One alleges as follows:

95. Each and every allegation contained in paragraphs 1 through 94 above is adopted and incorporated by reference as if fully set forth herein.

96. Upon information and belief, after July 17, 2001, defendant Ria's Hallmark purchased for resale curling polypropylene ribbon at various locations and, in doing so, induced Hallmark's infringement of the '216 Patent. Such acts by the defendant have occurred without the consent or authorization of Group One.

97. Group One has suffered actual and consequential damages by the defendant's acts and conduct.

98. Upon information and belief, the defendant's acts will continue, unless the defendant is restrained.

99. Group One is without adequate remedy at law and will be irreparably injured in the future if this Court does not enter an Order enjoining the defendant from committing the acts of infringement described herein.

WHEREFORE, Group One prays for judgment for punitive damages in an amount sufficient to punish Hallmark for its willful and wanton conduct and to deter it and others from engaging in similar conduct in the future.

**COUNT XVIII - CLASS ACTION CLAIMS**

For Count XVIII of its Complaint, plaintiff Group One alleges as follows:

100. Plaintiff Group One adopts and incorporates herein as if fully set forth each and every allegation, matter and averment made and contained in Paragraphs 1-99 of Plaintiff Group One's Complaint.

101. Defendants Walgreen Co., Diamond's Hallmark and Ria's Hallmark Shop are appropriate representatives of a class of defendants consisting of some 27,000 retail outlets throughout the United States who sell Hallmark brand products, including but not limited to infringing curled ribbon product manufactured by Hallmark in violation of the patents first referred to in Counts I, II, and III.

102. Pursuant to provisions of Rule 23(a) of the Federal Rules of Civil Procedure, a class action is appropriate because (a) the defendant class is so numerous that joinder of all members is impractical; (b) there are questions of law or fact common to the defendant class; (c) the claims or defenses of the representative parties are typical of the claims or defenses of the defendant class; and (d) the representative parties will fairly and adequately protect the interest of the defendant class.

103. Group One's claims as to the members of the class arises under the laws of the United States, most specifically those governing patents issued by the United States Patent and Trademark Office. The law applicable to each of the claims of plaintiffs against the class representatives and each member of the class are the same.



104. Each member of the class has infringed the '081, '015 and '216 patents of Group One and has violated the patent laws of the United States by selling at retail infringing products manufactured and distributed by Hallmark and by inducing Hallmark's infringement. The law governing the legal issues and duties between the parties is uniform and uniformly applicable.

105. With respect to damages the volume of infringing products sold by members of the class, plaintiff Group One maintains that it will be able through discovery to demonstrate the sales of infringing products by Hallmark to the retail establishments, thus proving the actual volume of infringing products sold to and then resold by that entity as a class member in violation of the patent rights of Group One.

106. Pursuant to the provisions of Rule 23(b) in addition to satisfying the requirements of Rule 23(a), as shown above, this class action is maintainable because in addition to the provisions of paragraph (a) the questions of law and fact common to the members of the class predominate over question affecting only individual members.

107. Further, proceeding as a class action is superior to other available means for the fair and efficient adjudication of the controversy. Analysis of the facts provided in Rule 23(b)(3) with respect to superiority demonstrate that in considering those factors and that analysis, the conclusion is inescapable that a class action is superior to other available methods for the fair and efficient adjudication of the controversy between Group One and the defending class members.

108. Group One has suffered actual and consequential damages as a result of the acts of members of the class, each of whom has sold infringing products without its consent and in violation of its patents rights.

109. Group One is without any adequate remedy of law and will be irreparably injured in the future if this Court does not enter an Order enjoining each of the defendant class members from committing the acts of infringement described herein.

WHEREFORE, plaintiff Group One prays this Court order this matter to proceed under Rule 23 of the Federal Rules of Civil Procedure as a class action with the designated retail defendants serving as representatives of the defendant class, and further Group One prays for entry of judgment (a) that the named defendants and each member of the defendant class have infringed U.S. Patent No. 5, 916,081; (b) that the defendants, their officers, agents, servants, employees, attorneys, confederates and all persons acting for, with, by, through or under them, be enjoined or restrained, at first during the pendency of this action and thereafter perpetually, from directly, indirectly or contributorily infringing or inducing infringement of U.S. Patent No. 5, 916, 081; (c) that the defendants be enjoined from the distribution and sale of all products made by the infringing devices; (d) that Group One be awarded damages for each of the defendants' infringement of U.S. Patent No. 5, 916, 081, as provided in 35 U.S.C. § 284; (e) that the damage award as to Hallmark be trebled, as provided in 35 U.S.C. § 284; (f) that Group One be awarded reasonable attorneys' fees, pursuant to 35 U.S.C. § 285; (g) that Group One be awarded such other and further relief as the Court may deem just and proper; (h) that the defendants have infringed U.S. Patent No. 6,228, 015; (i) that the defendants, their officers, agents, servants, employees, attorneys, confederates and all persons acting for, with, by, through or under them, be enjoined or restrained, at first during the pendency of this action and thereafter perpetually, from directly, indirectly or contributorily infringing or inducing infringement of U.S. Patent No. 6, 228, 015; (j) that


the defendants be enjoined from the distribution and/or sale of all products made by the infringing method; (k) that Group One be awarded damages for each of the defendants' infringement of U.S. Patent No. 6, 228, 015 as provided in 35 U.S.C. § 284; (l) that the damage award as to Hallmarked be trebled, as provided in 35 U.S.C. § 284; (m) that Group One be awarded reasonable attorneys' fees, pursuant to 35 U.S.C. § 285; (n) that Group One be awarded such other and further relief as the Court may deem just and proper; (o) that the defendants have infringed U.S. Patent No. 6, 261, 216; (p) that the defendants, their officers, agents, servants, employees, attorneys, confederates and all persons acting for, with, by through or under them, be enjoined or restrained, at first during the pendency of this action and thereafter perpetually, from directly, indirectly or contributorily infringing or inducing infringement of U.S. Patent No. 6, 261, 216; (q) that the defendant be enjoined from the sale and distribution of all products made by the infringing devices; (r) that Group One be awarded damages for the defendants' infringement of U.S. Patent No. 6, 201, 216 as provided in 35 U.S.C. § 284; (s) that the damage award as to Hallmark be trebled, as provided in 35 U.S.C. § 284; (t) that Group One be awarded reasonable attorneys' fees, pursuant to 35 U.S.C. § 285; (u) that Group One be awarded such other and further relief as the Court may deem just and proper.

#### **DEMAND FOR TRIAL BY JURY**

Pursuant to Fed. R. Civ. P. 38, plaintiff demands a trial by jury as to all triable issues set forth in Group One's complaint.

Respectfully submitted,

BAKER BOTTS LLP

By   
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