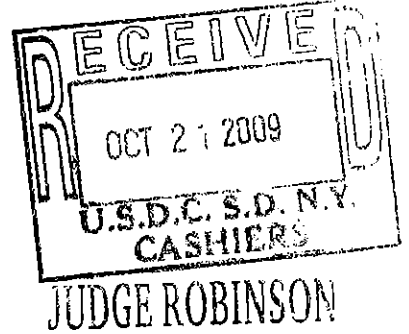


BAKER & McKENZIE LLP  
Attorneys for Plaintiffs  
Charles B. Cummings (CC 0438)  
1114 Avenue of the Americas  
New York, New York 10036  
(212) 751-5700

David I. Roche (DR 5953) (Motion for Admission Pro Hac Vice forthcoming)  
Daniel J. O'Connor (DO 7275) (Motion for Admission Pro Hac Vice forthcoming)  
130 East Randolph  
Chicago, Illinois 60601  
(312) 861-8000



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

\_\_\_\_\_  
SCHOELLER ARCA SYSTEMS, INC., )  
 )  
 ) Plaintiff, )  
 ) )  
 ) - against - )  
 ) )  
 ) NEIL SCHULTZ, )  
 ) )  
 ) Defendant. )  
\_\_\_\_\_

Case No.: **09 CIV 8908**

**COMPLAINT FOR  
DECLARATORY JUDGMENT**

Plaintiff, Schoeller Arca Systems, Inc., by its attorneys Baker & McKenzie LLP,  
complaining of the Defendant, Neil Schultz., states as follows:

**I. JURISDICTION AND VENUE**

1. This court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 1338,  
and 28 U.S.C. §§ 2201 and 2202.

2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b), (c) and (d),  
because the Defendant, Neil Schultz resides in this district.

## **II. THE PARTIES**

3. Plaintiff, Schoeller Arca Systems, Inc. ("SAS"), is a Delaware corporation, with its headquarters at 5202 Old Orchard Road, Skokie IL 60077. SAS sells plastic packaging systems, including plastic pallets.

4. Defendant, Neil Schultz ("Schultz") is an individual residing at 30 Cortlandt Manor Road, Katonah, NY 10536-3204. Schultz is one of two named inventors on, and claims to be the owner of, U.S. Patent 6,758,148 (the '148 patent – Exhibit A) and U.S. Patent 6,745,703 (the '703 patent – Exhibit B).

## **III. FACTS**

5. SAS has designed, sells and offers for sale plastic pallets that are used throughout the United States.

6. In January of 2008, SAS (and its affiliates) entered into a \$1.4 billion contract to supply plastic pallets of the type that have been accused of infringement. See Exhibit C.

7. From early 2008 until mid-2009, the use and popularity of SAS' plastic pallets has grown substantially. The features and specifications of the SAS pallets accused of infringement are set forth in Exhibit D.

8. In July of 2009, SAS' plastic pallets were featured on an environmental television show called "Our Planet" in which the benefits of SAS' plastic pallets were explained. See Exhibit E.

9. In the first quarter of 2009, Schultz attempted to extract royalty payments from a customer of SAS based on the '148 and '703 patents.

10. On September 15, 2009, Schultz filed a complaint in the Central District of California, which was assigned Case number CV 09-6692 (the "California Case") and subsequently filed an Amended Complaint in the California Case on October 1, 2009.

11. In the California Case, Schultz alleges that four companies who use SAS's pallets infringe the '148 and '703 patents. The defendants in the California Case include the Quaker Oats Company, California Giant Cooling, LLC, Salyer American Fresh Foods, Inc., and iGPS Company LLC.

12. In October of 2009, Schultz's lawyers wrote a letter to a customer of SAS offering to negotiate a license under the '148 and '703 patent, and threatening to seek an injunction and compensatory damages, enhanced damages and attorneys' fees if terms for a license could not be reached. See Exhibit F.

13. Based on the foregoing, a case and controversy exists between SAS and Schultz

#### **IV. REQUEST FOR DECLARATORY RELIEF**

WHEREFORE, Plaintiffs respectfully requests that this Court enter judgment as follows:

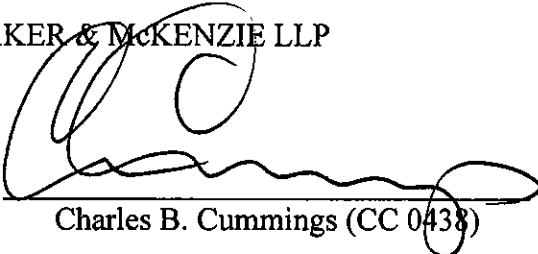
- a) No products sold and offered for sale by SAS infringe any valid claim of U.S. Patent 6,758,148;
- b) No products sold and offered for sale by SAS infringe any valid claim of U.S. Patent 6,745,703;
- c) U.S. Patent 6,758,148 is invalid pursuant at least 35 U.S.C. §§ 102, 103 and/or 112; and
- d) U.S. Patent 6,745,703 is invalid pursuant at least 35 U.S.C. §§ 102, 103 and/or 112; and
- e) That this case is exceptional under 35 U.S.C. § 285, and awarding fees to the Plaintiff.

Plaintiffs request that all issues triable by jury be so tried in this case.

Dated: October 21, 2009

BAKER & MCKENZIE LLP

By

  
Charles B. Cummings (CC 0438)

David I. Roche (DR 5953)  
Daniel J. O'Connor (DO 7275)  
BAKER & MCKENZIE LLP  
130 East Randolph Drive  
Chicago, Illinois 60601  
Phone: (312) 861-8608  
FAX: (312) 698-2363

1114 Avenue of the Americas  
New York, New York 10036  
Phone: (212) 751-5700

Exhibit A – U.S. Patent 6,758,148

Exhibit B – U.S. Patent 6,745,703

Exhibit C – Press Release (SAS's \$1.4 billion contract to supply plastic pallets to iGPS)

Exhibit D – Features and Specifications

Exhibit E – Press Release (SAS plastic pallet featured on TV)

Exhibit F – October 12, 2009 letter to iGPS