

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

THREE RIVERS PACKAGING, INC.,)	
)	
Plaintiff)	
)	CIVIL ACTION No. _____
v.)	
)	JURY TRIAL DEMANDED
JENNMAR CORPORATION,)	
)	
Defendant.)	
)	

COMPLAINT FOR DECLARATORY JUDGMENT
OF PATENT INVALIDITY AND NON-INFRINGEMENT

Three Rivers Packaging, Inc. (“Three Rivers”) now files this Complaint for Declaratory Judgment of Invalidity and Non-Infringement of U.S. Patent No. 7,284,933 assigned to the Jenmar Corporation (“Jenmar”).

PARTIES

1. Three Rivers is a Pennsylvania Corporation with its principal place of business located at 301 Smith Drive, Suite 5, Cranberry Township, Pennsylvania.
2. Jenmar Corporation (“Jenmar”) is a Pennsylvania Corporation with its principal place of business located at 2258 Kappa Drive, Pittsburgh, Pennsylvania.

JURISDICTION AND VENUE

3. Three Rivers brings this action under 28 U.S.C. §§ 2201 & 2002, *et seq.*, and the Patent Laws of the United States, Title 35 of the United States Code. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338. An actual controversy between the parties exists.

4. Venue is appropriate pursuant to 28 U.S.C. § 1391(a).

GENERAL ALLEGATIONS

5. Three Rivers sells new and reconditioned plastic and steel containers ranging in size from 5 gallon to 330 gallon containers.

6. Since May 2001, Three Rivers has manufactured and sold a draw rock shield product to customers in the mining industry, including Jennmar.

7. Three Rivers possesses a draw rock shield product called Mine+Safe.

8. Upon information, Jennmar is the owner, by assignment, of United States Patent No. 7,284,933 entitled “Square Embossed Roof and Rib Plate” (the “’933 Patent”). *See* Exhibit 1.

9. On September 28, 2007, Jennmar sent a letter to Three Rivers claiming that Jennmar’s patent application directed to an embossed roof and rib plate would soon issue as a patent. *See* Exhibit 2.

10. Jennmar further claimed that Three Rivers’ Mine+Safe would directly infringe the Jennmar patent. *Id.*

11. The United States Patent and Trademark Office issued the ‘933 Patent on October 23, 2007. *See* Exhibit 1.

12. Three Rivers investigated Jennmar’s claims and concluded that the Mine+Safe product did not infringe on the ‘933 Patent. Three Rivers informed Jennmar of its conclusion.

13. On November 7, 2007, Jennmar repeated its position of alleged infringement and threatened “legal confrontation.” *See* Exhibit 3.

14. Mine+Safe does not infringe the '933 Patent in any way.

15. Further, and upon information and belief, Three Rivers avers that the '933 Patent is invalid.

COUNT I - DECLARATION OF NON-INFRINGEMENT

16. Three Rivers incorporates the allegations of the Paragraphs 1 through 15 as if fully set forth here.

17. The manufacture, use, offer for sale and/or sale in the United States of the Mine+Safe product, does not infringe upon any claim of the '933 Patent.

18. An actual controversy exists as to whether the claims of the '933 Patent have been infringed by Three Rivers. In order to provide complete relief, it is necessary for the Court to determine the controversy under 28 U.S.C. §§ 2201 & 2202, *et seq.*, and declare the rights and legal relationships of the parties.

COUNT II - INVALIDITY

19. Three Rivers incorporates the allegations of the Paragraphs 1 through 15 as if fully set forth here.

20. All or some of the claims of the '933 Patent are invalid for failure to meet the conditions of patentability under 35 U.S.C. §§ 101, 102, 103, and/or 112, *et seq.*

21. An actual controversy exists between the parties as to whether the claims of the '933 Patent are invalid. In order to provide complete relief, it is necessary for the Court to determine the controversy under 28 U.S.C. §§ 2201 & 2202, *et seq.*, and declare the rights and legal relationships of the parties.

WHEREFORE, Three Rivers requests that the Court enter declaratory judgment in its favor and against Jennmar, declaring and ordering that:

- a. United States Patent No. 7,284,933 is invalid;
- b. The Mine+Safe product does not infringe a valid, enforceable claim of United States Patent No. 7,284,933;
- c. Jennmar be ordered to pay the costs and reasonable attorneys' fees incurred by Three Rivers under 35 U.S.C. § 285; and
- d. Three Rivers be granted such other and further relief as this Court deem warranted under the circumstances.

DATED: December 11, 2007

Respectfully Submitted,

/s/ John C. Hansberry

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