

C. J. JAL

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JUL 19 2007

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

JAMES N. HATTEN, Clerk
By: *J. Purdy* Deputy Clerk

ANDRITZ INC., :
 :
 Plaintiff, :
 :
 vs. :
 :
 METSO PAPER USA, INC., :
 :
 Defendant. :

Civil Action File No.
1:07-CV-1674

WSD

COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiff Andritz Inc. ("Andritz"), by and through its undersigned counsel, brings this Complaint for Declaratory Judgment against Defendant Metso Paper USA, Inc. ("Metso") and respectfully shows the Court as follows:

NATURE OF ACTION

1.

This Complaint for Declaratory Judgment seeks a declaration that Andritz is not liable for alleged infringement of Metso's four United States patents identified below, on the grounds that Andritz has not engaged in any conduct constituting direct infringement, inducement to infringe, or contributory infringement of any valid or enforceable claims of the Metso patents.

THE PARTIES

2.

Plaintiff Andritz Inc. is a Delaware corporation with its principal place of business located in Fulton County, Georgia.

3.

On information and belief, Defendant Metso Paper USA, Inc. is a Delaware corporation with its principal place of business located at 2900 Courtyard Drive, Norcross, Georgia 30071. Metso is registered to do business in Georgia, and has a regular and established place of business at the address stated above. Service may be made upon Metso by serving its registered agent, Tony Auffant, at the business address stated above.

JURISDICTION AND VENUE

4.

This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1338(a), 2201, and 2202.

5.

This Court has personal jurisdiction over Metso because it transacts business in Georgia, maintains a registered agent in Georgia, maintains a regular and

established place of business in Georgia, and is otherwise subject to jurisdiction in this State.

6.

Venue in this district is proper pursuant to 28 U.S.C. §§ 1391(b) and (c), and 1400.

FACTUAL ALLEGATIONS

7.

Andritz is a technology-centered company with global operations. The company develops high-tech production systems and industrial process solutions for various standard and highly specialized products in various industries, including the pulp, paper and board industries.

8.

Andritz and Metso are competitors in the business of supplying technology and production systems for the pulp and paper industry, including providing specialized machines for tissue paper production.

9.

Andritz is under contract to supply a tissue paper machine to Procter & Gamble ("P&G"). On information and belief, Metso sent a letter to P&G alleging

that the tissue paper machine being supplied by Andritz infringes certain patents alleged to be owned by Metso.

10.

On June 27, 2007, Metso sent a letter to Andritz AG (a parent corporation to Andritz) alleging that Andritz has supplied to P&G a “15F Tissue machine” that infringes four patents identified therein alleged to be owned by Metso. Andritz AG referred the allegations to Andritz which conducts business in the US and is under contract to supply the tissue machine to P&G. Metso demanded a written response by July 20, 2007. A true and correct copy of this letter is attached hereto as Exhibit A.

11.

Based on Metso’s demand letter, Andritz has a reasonable apprehension that Metso will assert claims against Andritz for infringement of the Metso patents.

12.

Andritz believes it is not liable under any theory for infringement of the Metso patents and believes it is entitled to fulfill its contract with P&G to supply the equipment that is the subject of the allegations in Metso’s demand letter.

13.

Accordingly, an actual controversy has arisen and now exists between Andritz and Metso with respect to Metso's allegations of infringement of the Metso patents, and Andritz is entitled to have the Court declare its rights pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

FIRST CLAIM FOR RELIEF

(Declaration of Non-Infringement of U.S. Patent No. 6,033,303)

14.

Andritz realleges and incorporates by reference the allegations contained in paragraphs 1-13 of this Complaint.

15.

U.S. Patent No. 6,033,303 ("the '303 patent") is entitled "Tertiary Dust Control Process and System for Use in the Machine Room of a Papermaking Plant." The face of the '303 patent indicates that it issued on March 7, 2000, and that the inventors are Kevin S. Green and S. Edward Botterill.

16.

The '303 patent is assigned on its face to Valmet, Inc. Upon information and belief, Metso asserts that it is the owner of the '303 patent.

17.

A case or controversy exists with respect to the '303 patent because Metso, the purported owner of the patent, alleges that the tissue paper machine supplied by Andritz Inc. infringes this patent.

18.

Andritz requests at least a declaration that it and its tissue paper machine do not infringe any valid and enforceable claim of the '303 patent.

SECOND CLAIM FOR RELIEF

(Declaration of Non-Infringement of U.S. Patent No. 6,176,898)

19.

Andritz realleges and incorporates by reference the allegations contained in paragraphs 1-18 of this Complaint.

20.

U.S. Patent No. 6,176,898 (“the ‘898 patent’”) is entitled “Method and System for Collecting and Handling Dust in a Papermachine Environment.” The face of the '898 patent indicates that it issued on January 23, 2001, and that the inventors are Kevin Courtney, Jerry Klymenko, Peter Kevin Wicklund, and Philip Ponka.

21.

The '898 patent is assigned on its face to Valmet, Inc. Upon information and belief, Metso asserts that it is the owner of the '898 patent.

22.

A case or controversy exists with respect to the '898 patent because Metso, the purported owner of the patent, alleges that the tissue paper machine supplied by Andritz Inc. infringes this patent.

23.

Andritz requests at least a declaration that it and its tissue paper machine do not infringe any valid and enforceable claim of the '898 patent.

THIRD CLAIM FOR RELIEF

(Declaration of Non-Infringement of U.S. Patent No. 6,325,896)

24.

Andritz realleges and incorporates by reference the allegations contained in paragraphs 1-23 of this Complaint.

25.

U.S. Patent No. 6,325,896 (“the ‘896 patent’”) is entitled “Apparatus for Transferring a Fast Running Fibrous Web from a First Location to a Second Location.” The face of the '896 patent indicates that it issued on December 4,

2001, and that the inventors are Lars-Magnus Hultcrantz, Å. Tomas Eklund, and Robert D. Olsson.

26.

The ' 896 patent is assigned on its face to Valmet-Karlstad AB. Upon information and belief, Metso asserts that it is the owner of the '896 patent.

27.

A case or controversy exists with respect to the '896 patent because Metso, the purported owner of the patent, alleges that the tissue paper machine supplied by Andritz infringes this patent.

28.

Andritz requests at least a declaration that it and its tissue paper machine do not infringe any valid and enforceable claim of the '896 patent.

FOURTH CLAIM FOR RELIEF

(Declaration of Non-Infringement of U.S. Patent No. 6,047,916)

29.

Andritz realleges and incorporates by reference the allegations contained in paragraphs 1-28 of this Complaint.

30.

U.S. Patent No. 6,047,916 (“the ‘916 patent”) is entitled “Reel-Up and Multi-Functional Handling Device Therefor.” The face of the ‘916 patent indicates that it issued on April 11, 2000, and that the inventor is Lars-Erik Önnertlov.

31.

The ‘916 patent is assigned on its face to Valmet-Karlstad AB and the assignment records in the U.S. Patent and Trademark Office indicate that the patent is assigned to Metso Paper, Inc. of Jarvenpaa, Finland. Upon information and belief, Metso asserts that it is the owner of the ‘916 patent.

32.

A case or controversy exists with respect to the ‘916 patent because Metso, the purported owner of the patent, alleges that the tissue paper machine supplied by Andritz infringes this patent.

33.

Andritz requests at least a declaration that it and its tissue paper machine do not infringe any valid and enforceable claim of the ‘916 patent.

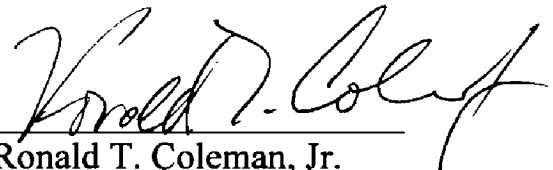
PRAYER FOR RELIEF

WHEREFORE, Andritz seeks the following relief:

1. a declaration that Andritz has not infringed, induced infringement of, or contributed to infringement of any valid or enforceable claim of the '303, '898, '896 or '916 patents;
2. a declaration pursuant to 35 U.S.C. § 285 that this is an exceptional case and an award of Andritz's attorneys' fees and expenses of litigation incurred in pursuing this matter;
3. that all costs of this action be taxed upon Metso; and
4. for such other and further relief as this Court deems just and proper.

Respectfully submitted,

PARKER HUDSON RAINER & DOBBS

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