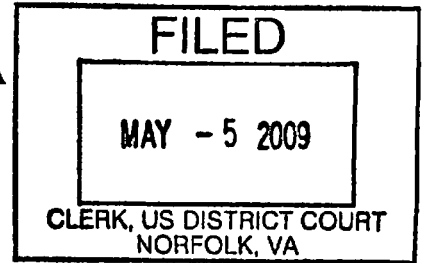


IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
NORFOLK DIVISION



KBA – GIORI, NORTH AMERICA, INC., and )  
KBA – GIORI S.A. )

Plaintiffs, )

v. )

MUHLBAUER, INC. and TEMA GMBH, )

Defendants. )

*Alexandria case*

Civil Action No. 1:09cv 486-LO-IDD

JURY TRIAL DEMANDED

**COMPLAINT AND DEMAND FOR JURY TRIAL**

Plaintiffs, KBA – GIORI, North America, Inc. and KBA – GIORI S.A., (collectively “KBA”) for and as their complaint in this patent infringement action, allege and aver against Muhlbauer, Inc. (“Muhlbauer”) and TEMA GmbH (“TEMA”) (collectively “Defendants”), and hereby makes a jury demand, as follows:

**NATURE OF THE ACTION**

1. This claim for patent infringement arises under the laws of the United States of America, 35 U.S.C. §§ 100-297.

2. This patent is directed to methods used in vision inspection systems to ensure the accuracy and quality of printed materials.

**PARTIES**

3. Plaintiff KBA – GIORI, North America, Inc. is a Delaware corporation with its principal place of business at 1725 I Street, N.W., Suite 300, Washington, D.C. 20006.

4. Plaintiff KBA-GIORI S.A. is a Swiss corporation with its principal place of business at 4, Rue De La Paix, CH-1003 Lausanne, Switzerland.

5. KBA manufactures and sells commercial printing presses and related equipment in the United States and in other countries.

6. On information and belief, Muhlbauer is a Delaware corporation, with a principal place of business at 725 Middle Ground Boulevard, Newport News, Virginia 23606. On information and belief, Muhlbauer is ultimately a wholly-owned subsidiary of Mühlbauer Holding AG & Co. KGaA of Roding, Germany (“Mühlbauer Holding”) and is an agent for TEMA for sales and servicing of print inspection equipment and software in the United States.

7. On information and belief, TEMA is a German company, with a principal place of business at Wilhelmstrasse 41-43, 58332 Schwelm, Germany. On information and belief, TEMA is ultimately a wholly-owned subsidiary of Mühlbauer Holding and conducts business in the United States directly, as well as through its agent Muhlbauer in Virginia.

**JURISDICTION AND VENUE**

8. This Court has subject matter jurisdiction over this action pursuant to 35 U.S.C. § 271 and 28 U.S.C. §§ 1331 and 1338(a).

9. This Court has personal jurisdiction over Muhlbauer for at least the reason that it has a principal place of business in the State of Virginia and because, on information and belief, it transacts substantial business within the State of Virginia, including acts of infringement as alleged herein.

10. This Court has personal jurisdiction over TEMA because, among other reasons, on information and belief, it transacts substantial business within the State of Virginia and throughout the U.S., including through its agent Muhlbauer, represents on its publicly-available website and in marketing materials that it has a U.S. location, services products in the U.S., and has committed acts of infringement as alleged herein.

11. Venue is proper in this jurisdiction, pursuant to 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b), for at least the reason that Muhlbauer resides and has a principal place of business in this district and is subject to personal jurisdiction in this district and for at least the reason that TEMA is subject to personal jurisdiction in this district.

#### **STATEMENT OF RELATED CASE**

12. Plaintiff KBA-GIORI, North America, Inc., Defendant Muhlbauer Inc. and Defendant TEMA are presently involved in a pending patent infringement case in this district, captioned *KBA-GIORI, North America, Inc. v. Muhlbauer Inc. and TEMA GMBH*, C.A. No. 2:08-cv-0034-HCM-FBS, in which KBA has accused Defendants of infringing U.S. Patent No. 5,384,589. The accused infringing products that are the subject matter of that case overlap those accused of infringement in the present case.

#### **PATENT AT ISSUE**

13. United States Patent No. 6,665,424 (“the ‘424 patent’”) was duly and lawfully issued by the United States Patent & Trademark Office on December 16, 2003, and is entitled “Automatic Inspection of Print Quality Using an Elastic Model.” KBA – GIORI S.A. is the owner of, and KBA – GIORI, North America, Inc. is the exclusive licensee of, the ‘424 patent, and collectively, KBA holds all substantial rights thereunder, including the right to sue in its own name.

**MUHLBAUER AND TEMA'S ROLES WITHIN THE MÜHLBAUER GROUP**

14. "Mühlbauer Group" is the name used to identify the collection of companies, owned in whole or in part by Mühlbauer Holding. On information and belief, Muhlbauer is part of a worldwide network of sales and service locations for the Mühlbauer Group, and Mühlbauer Group inspection components are used in areas such as security printing and the minting industry. Muhlbauer has identified the following operating facilities and entities as among those comprising the Mühlbauer Group: Mühlbauer AG of Roding, Germany, ASEM GmbH of Dresden, Germany, ASEM GmbH/Mühlbauer AG of Oberhaching, Germany, Mühlbauer AG of Stollberg, Germany, TEMA GmbH of Schwelm, Germany and takeID GmbH of Oberhaching, Germany. On information and belief, all of the foregoing operating facilities and entities, and also Muhlbauer, are tightly integrated within and controlled by Mühlbauer Holding.

15. The Mühlbauer Group relies upon Muhlbauer to import, market, service, and support systems developed and manufactured by other members of the Mühlbauer Group, including TEMA. Muhlbauer's marketing and servicing responsibilities cover the Americas, including North, Central, and South America, as well as the Caribbean.

16. TEMA is a branch of the Mühlbauer Group that has developed, manufactured, and sold – directly or indirectly – print inspection equipment and software systems. The Mühlbauer Group acquired TEMA in or about 2002 specifically to obtain its knowledge and expertise in print inspection equipment and software.

17. At least prior to the filing of this lawsuit, TEMA publicly described and solicited sales of its print inspection equipment and software systems on the Internet, and on information and belief, continues to sell and/or offer to sell those systems in the United States.

**GENERAL DESCRIPTION OF PRINT INSPECTION EQUIPMENT AND  
SOFTWARE SOLD BY MUHLBAUER AND/OR TEMA**

18. Muhlbauer and TEMA have separately or jointly worked to import, market, sell, and support print inspection equipment and software in the Americas for a number of potential applications, including but not limited to the inspection for banknotes, securities, ID-documents (e.g., passports), smart cards, cylinders and packaging.

19. Muhlbauer and/or TEMA have marketed print inspection equipment and software products in the United States, including without limitation products designated by Defendants as "PI-Web," "PI-Cylinder," "PI 36,000," "PI 36,010," and "PI-36,020."

20. On information and belief, Muhlbauer and/or TEMA offer print inspection equipment and software systems as standard, modular, or fully-customizable products both in terms of the physical systems and the associated software. KBA thus does not presently know all of the naming conventions Defendants or their customers may have used to describe these print inspection equipment systems or associated software, including because the names of such print inspection equipment systems and associated software programs may have changed over time.

**BACKGROUND ABOUT MUHLBAUER AND TEMA'S SALES ACTIVITIES**

21. On information and belief, Muhlbauer and/or TEMA have viewed sales to the United States Department of the Treasury, Bureau of Engraving and Printing ("BEP") as an important area for potential future sales growth. Contracts with the BEP often are not only valuable in terms of immediate income, but also serve as valuable marketing tools with new or existing customers. To secure a substantial government contract, however, particularly for sensitive operations such as inspecting security documents, including bank notes, a company

must be able to demonstrate a history of success in developing, building, installing, servicing, supporting, and maintaining such systems.

22. On January 30, 2007, Muhlbauer Inc. was awarded a government contract for sale of its NASC currency inspection system to the BEP. Muhlbauer Inc. purchased the currency inspection systems to be provided to the BEP from TEMA.

23. On April 30, 2007, Muhlbauer Inc. was awarded a government contract for sale of its PI-Sheet and PI-Stand Alone currency inspection systems to the BEP. The BEP's internal designation for such systems was "CIS." Muhlbauer purchased the currency inspection systems to be provided to the BEP from TEMA.

24. To complete the foregoing sales of print inspection equipment and software to the BEP, Muhlbauer and/or TEMA claimed to have numerous references among companies either based in the U.S. or that have substantial sales activities in the U.S.

25. On information and belief, the infringing systems sold to the BEP, and the associated technical specifications and documentation, source code, and software supplied therewith, were based upon prior infringing systems. In addition, on information and belief, Muhlbauer and/or TEMA have used the infringing systems sold to the BEP as models for other infringing systems.

26. On information and belief, prior sales of print inspection equipment and software by Muhlbauer and/or TEMA have proven exceptionally valuable at least in part because those sales helped Muhlbauer and/or TEMA secure the aforementioned contracts with the BEP.

**COUNT ONE – U.S. PATENT NO. 6,665,424**

**Patent Infringement, Inducement to Infringe and/or Contributory Infringement**

27. KBA repeats each and every allegation set forth in paragraphs 1-25, as if set forth herein.

28. By making, using, selling, offering to sell and/or importing systems for the inspection of printed materials and associated methods, including without limitation systems identified by Defendants as “PI-Web,” “PI-Cylinder,” “PI 36,000,” “PI-36010” and “PI 36,020,” Defendants have infringed, induced others to infringe, and/or contributed to the infringement of the ‘424 patent pursuant to 35 U.S.C. § 271.

29. On information and belief, Defendants have infringed the ‘424 patent through their activities solely associated with providing print inspection equipment and software to the BEP, including by way of example the sales of “CIS” systems to the BEP, and their activities not solely associated with providing print inspection equipment and software to the BEP.

30. Excluded from this claim of patent infringement is any prayer for relief solely associated with providing print inspection equipment and software to the BEP. Defendants’ infringing activities with respect to the BEP, however, are relevant to KBA’s claims in this action, as the associated technical specifications and documentation, software, and other information relating to the BEP sales and/or offers for sale are reasonably calculated to lead to discoverable evidence about Defendants’ prior and subsequent infringing activities as well as the damages that flow from Defendants’ infringing activities.

31. Defendants’ continued infringement of the ‘424 patent, as to their activities not solely associated with providing print inspection equipment and software to the BEP, and the infringement by those acting in concert with Defendants, have damaged KBA and will cause

irreparable injury to KBA unless said infringing activities are enjoined, preliminarily and/or permanently.

**PRAYER FOR RELIEF**

WHEREFORE, KBA respectfully requests the following relief:

- a. a judgment that Defendants have infringed the '424 patent as to their activities not solely associated with providing print inspection equipment and software to the BEP;
- b. that KBA be awarded its damages, with interest, pursuant to 35 U.S.C. § 284, and any other applicable statute, as to Defendants' activities not solely associated with providing print inspection equipment and software to the BEP;
- c. that KBA be awarded enhanced damages, its costs and reasonable attorneys' fees, pursuant to 35 U.S.C. §§ 284 and 285, and any other applicable statute;
- d. that Defendants, and those acting in concert with Defendants, be preliminarily and/or permanently enjoined from infringing the '424 patent, as to their activities not solely associated with providing print inspection equipment and software to the BEP, pursuant to 35 U.S.C. § 271, and any other applicable statute; and
- e. that KBA be awarded such other and further relief as the Court may deem just and proper.



**JURY DEMAND**

KBA hereby respectfully requests trial by jury of all issues so triable.

Respectfully submitted,

Dated: May 5, 2009

By: 

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