

FILED
U.S. DISTRICT COURT
DISTRICT OF COLORADO

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

2006 APR 28 AM 9:10

GREGORY C. LANGHAM
CLERK

Civil Action No. 06 - CV - 00816

BY _____ DEP. CLK

E.I. DU PONT DE NEMOURS AND COMPANY,

Plaintiff,

v.

MACDERMID, INC. and MACDERMID PRINTING SOLUTIONS, L.L.C.,

Defendants.

COMPLAINT

(Jury Trial Demanded)

Plaintiff, E.I. du Pont de Nemours and Company ("DuPont"), for its Complaint against Defendant MacDermid, Inc. and Defendant MacDermid Printing Solutions, L.L.C. (collectively "the MacDermid Defendants"), alleges and states as follows:

PARTIES

1. Plaintiff DuPont is a corporation organized under the laws of the State of Delaware, having a regular and established place of business at 1007 Market Street, Wilmington, Delaware 19898.

2. Upon information and belief, Defendant MacDermid, Inc. is a corporation organized under the laws of the State of Connecticut, having a regular and established place of business and its corporate headquarters at 1401 Blake Street, Denver, Colorado 80202.

3. Upon information and belief, Defendant MacDermid Printing Solutions, L.L.C. is a limited liability corporation organized under the laws of the State of Delaware and is wholly owned by, and is under the corporate management and control of, MacDermid, Inc. MacDermid Printing Solutions is one of two “business groups” or “business segments” of MacDermid, Inc. The MacDermid Defendants share and have overlapping employees, officers, and/or directors.

4. Upon information and belief, the MacDermid Defendants, acting in concert, have regularly, continuously and systematically transacted business in Colorado by promoting, advertising, distributing, offering for sale, selling, causing to be used and otherwise supplying flexographic printing elements to customers within this Judicial District and elsewhere in the United States.

JURISDICTION AND VENUE

5. This action arises under the United States Patent Laws, 35 U.S.C. §§ 271 and 281-285. This Court has jurisdiction of the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a). Venue is proper in this Judicial District under 28 U.S.C. §1391(b) and (c) and § 1400(b). Venue and jurisdiction are proper in Colorado since the MacDermid Defendants, acting in concert, have committed acts of infringement and/or have otherwise transacted business within this Judicial District.

COUNT I

6. On January 9, 2001, United States Patent No. 6,171,758 B1 (“the ‘758 patent”), a copy of which is annexed hereto as Exhibit A, was duly and legally issued in the names of Sudershan K. Bhateja, John A. Martens and Kurt F. Feil for an invention entitled “Dimensionally Stable Flexographic Printing Plates.”

7. Plaintiff DuPont is the lawful owner of all right, title and interest in the '758 patent with the right to bring actions for infringement.

8. Upon information and belief, the MacDermid Defendants have manufactured, used, offered for sale and sold flexographic printing elements (including products marketed under the names Magma and MLT) that directly infringe one or more claims of the '758 patent without authority or license from Plaintiff DuPont. Accordingly, pursuant to 35 U.S.C. § 271(a), the MacDermid Defendants have directly infringed and continue to directly infringe one or more claims of the '758 patent.

9. Upon information and belief, the MacDermid Defendants have knowingly and actively encouraged, aided and abetted others to directly infringe one or more claims of the '758 patent through the manufacture, use, sale, offers to sell, advertisement and/or promotion of flexographic printing elements (including products marketed under the names Magma and MLT) and processing equipment to thermally treat, process or develop flexographic printing elements (including equipment marketed under the name LAVA), without authority or license from Plaintiff DuPont. Accordingly, pursuant to 35 U.S.C. § 271(b), the MacDermid Defendants have actively induced and continue to actively induce infringement of one or more claims of the '758 patent.

10. Plaintiff DuPont has been damaged and continues to suffer damages resulting from the MacDermid Defendants' direct and/or induced infringement of the '758 patent pursuant to 35 U.S.C. § 284. Plaintiff DuPont will suffer additional and irreparable harm unless this Court enjoins the MacDermid Defendants pursuant to 35 U.S.C. § 283.

11. Plaintiff DuPont has no adequate remedy at law.

12. Upon information and belief, the acts of infringement of the '758 patent by the MacDermid Defendants have been carried out deliberately and willfully, and with knowledge of the '758 patent, entitling Plaintiff DuPont to an assessment of treble damages pursuant to 35 U.S.C. § 284. This is an exceptional case entitling Plaintiff DuPont to its attorneys' fees pursuant to 35 U.S.C. § 285.

COUNT II

13. Plaintiff DuPont realleges and incorporates by reference the allegations contained in Paragraphs 1-12.

14. On August 10, 2004, United States Patent No. 6,773,859 B2 ("the '859 patent"), a copy of which is annexed hereto as Exhibit B, was duly and legally issued in the names of Roxy Ni Fan, Mark A. Hackler, Anandkumar R. Kannurpatti, Adrian Lungu and Bradley K. Taylor for an invention entitled "Process For Making A Flexographic Printing Plate And A Photosensitive Element For Use In The Process."

15. Plaintiff DuPont is the lawful owner of all right, title and interest in the '859 patent with the right to bring actions for infringement.

16. Upon information and belief, the MacDermid Defendants have manufactured, used, offered for sale and sold flexographic printing elements (including products marketed under the names Magma and MLT) to be used, treated, processed or developed in a manner that directly infringes one or more claims of the '859 patent without authority or license from Plaintiff DuPont.

17. Upon information and belief, the MacDermid Defendants have knowingly and actively encouraged, aided and abetted others to directly infringe one or more claims of the '859 patent through the manufacture, use, sale, offers to sell, advertisement and/or promotion of

flexographic printing elements (including products marketed under the names Magma and MLT) and processing equipment to thermally treat, process or develop flexographic printing plates (including equipment marketed under the name LAVA), without authority or license from Plaintiff DuPont. Accordingly, pursuant to 35 U.S.C. § 271(b), the MacDermid Defendants have actively induced and continue to actively induce infringement of one or more claims of the '859 patent.

18. Plaintiff DuPont has been damaged and continues to suffer damages resulting from the MacDermid Defendants actively inducing infringement of the '859 patent pursuant to 35 U.S.C. § 284. Plaintiff DuPont will suffer additional and irreparable harm unless this Court enjoins the MacDermid Defendants pursuant to 35 U.S.C. § 283.

19. Plaintiff DuPont has no adequate remedy at law.

20. On information and belief, the acts of infringement of the '859 patent by the MacDermid Defendants have been carried out deliberately and willfully, and with knowledge of the '859 patent, entitling Plaintiff DuPont to an assessment of treble damages pursuant to 35 U.S.C. § 284. This is an exceptional case entitling Plaintiff DuPont to its attorneys' fees pursuant to 35 U.S.C. § 285.

RELIEF

WHEREFORE, Plaintiff DuPont demands judgment against MacDermid, Inc. and MacDermid Printing Solutions, L.L.C. and respectfully prays that this Court enter orders that:

(a) Declare that MacDermid, Inc.'s and MacDermid Printing Solutions' manufacture, use, offers to sell and/or sale of flexographic printing elements (including products marketed under the names Magma and MLT) as complained of in Count I constitutes direct infringement of United States Patent No. 6,171,758 B1;

(b) Declare that MacDermid, Inc.'s and MacDermid Printing Solutions' manufacture, use, offers to sell and/or sale of flexographic printing elements (including products marketed under the names Magma and MLT) as complained of in Count I constitutes active inducement of infringement of United States Patent No. 6,171,758 B1;

(c) Preliminarily and permanently enjoin MacDermid, Inc. and MacDermid Printing Solutions and their officers, agents, employees and all others acting in concert or participation with them from further acts of infringement of United States Patent No. 6,171,758 B1;

(d) Declare that MacDermid, Inc.'s and MacDermid Printing Solutions' manufacture, use, offers to sell and/or sale of flexographic printing elements (including products marketed under the names Magma and MLT) as complained of in Count II constitutes active inducement of infringement of United States Patent No. 6,773,859 B2;

(e) Preliminarily and permanently enjoin MacDermid, Inc. and MacDermid Printing Solutions and their officers, agents, employees and all others acting in concert or participation with them from further acts of infringement of United States Patent No. 6,773,859 B2;

(f) Provide for an accounting of profits or damages to be assessed by or under the Court's direction, and award Plaintiff DuPont the damages it has incurred by reason of the acts of infringement of United States Patent No. 6,171,758 B1 and United States Patent No. 6,773,859 B2 by MacDermid, Inc. and MacDermid Printing Solutions together with pre- and post-judgment interest as allowed by law;

(g) Award Plaintiff DuPont three (3) times the damages it has incurred by reason of the willful and deliberate nature of the acts of infringement by MacDermid, Inc. and MacDermid Printing Solutions pursuant to 35 U.S.C. § 284;

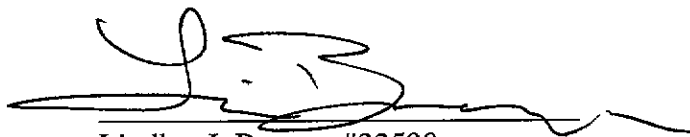
(h) Award Plaintiff DuPont its costs and expenses of this action as allowed by law, together with its reasonable attorneys' fees for bringing and prosecuting this action pursuant to 35 U.S.C. § 285; and

(i) Award Plaintiff DuPont such other and further relief that the Court may deem just and proper.

Jury Demand

Plaintiff DuPont hereby requests a jury trial on all the issues that are properly triable to a jury in this action.

DATED this 28th day of April, 2006.



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