

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

BRADY WORLDWIDE, INC.,

Plaintiff,

v.

Case No. 2:11-cv-1073

BRIGHT WHITE PAPER CO., INC.,

Defendant.

COMPLAINT

Plaintiff Brady Worldwide, Inc. (“Brady”) by its attorneys, Quarles & Brady, LLP, alleges its Complaint against Defendant Bright White Paper Co., Inc. as follows:

NATURE OF THE ACTION

1. This action results from, among other things, Defendant’s infringement of two of Brady’s patents. The technology at issue relates to a printer technology and the manner in which printers communicate with supply cartridges used in the printers. Specifically, Brady’s patents relate to end caps that are placed at the end of rolls of printer paper and the manner in which the end caps interface with the printer.

THE PARTIES

2. Plaintiff Brady Worldwide, Inc. is a Wisconsin corporation with a place of business at 6555 West Good Hope Road, Milwaukee, WI 53223. Brady Worldwide is the owner by assignment of the patents-in-suit and is a leading supplier of printer products, including the Variquest™ Poster Maker, the product at issue.

3. Defendant Bright White Paper Co., Inc. is a Florida corporation with a place of business at 5258 SW Anhinga Avenue, Palm City, FL 34990.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338, with reference to the United States Patent Laws, Title 35 of the United States Code.

5. Defendant Bright White Paper offers for sale and sells the printer cartridges at issue to Wisconsin residents.

6. This Court has personal jurisdiction over Bright White Paper under 28 U.S.C. § 1400 and Wis. Stat. § 801.05.

7. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400.

FACTS RELEVANT TO ALL CLAIMS

8. Brady's VariquestTM Poster Maker printer uses a thermal printing process that eliminates the need for and cost of ink and toner cartridges.

9. The VariquestTM Poster Maker includes software that allows the user to choose from nearly 700 customizable poster and banner templates.

10. The VariquestTM Poster Maker's software interacts with a microchip located in the end caps of the paper rolls. If the printer cannot interact with the paper end caps, the printer will not function as intended.

11. The manner in which the VariquestTM Poster Maker interacts with the paper rolls is the subject of two U.S. Patents: U.S. Pat. No. 5,318,370 and 6,570,602.

12. Defendant Bright White Paper sells generic end caps and printer paper to be used in the VariquestTM Poster Maker.

13. Bright White Paper's end caps use the patented design to interact with the VariquestTM Poster Maker.

Count One

DIRECT INFRINGEMENT OF U.S. PATENT NO. 5,318,370

14. Brady realleges and incorporates by reference as if fully set forth herein the allegations contained in paragraphs 1 through 13.

15. On June 7, 1994, U.S. Patent No. 5,318,370 entitled "cartridge with data memory system and method regarding same" was duly and legally issued. A copy of the '370 Patent is attached as Exhibit A.

16. Brady is the owner by assignment of the entire right, title, and interest in the '370 Patent.

17. Defendant Bright White Paper has directly infringed at least one claim of the '370 Patent by making, using, selling, and offering for sale in the United States or importing into the United States printer end caps and paper rolls containing printer end caps that use Brady's patented technology to communicate with VariquestTM Poster Maker printers.

18. Bright White Paper's generic VariquestTM Poster Maker end caps infringe at least claim 5 of the '370 Patent.

19. Defendant Bright White Paper's infringement has been intentional, willful, and in reckless disregard of Brady's rights.

20. Defendant Bright White Paper has caused Brady substantial injury, including lost profits for which Brady is entitled to damages adequate to compensate it for the infringement.

21. Defendant Bright White Paper's infringement warrants the assessment of increased damages pursuant to 35 U.S.C. § 284 and an award of attorney fees pursuant to 35 U.S.C. § 285.

22. Defendants' infringement has also caused and continues to cause irreparable harm to Brady, entitling Brady to injunctive relief under 35 U.S.C. § 283.

Count Two
DIRECT INFRINGEMENT OF U.S. PATENT NO. 6,570,602

23. Brady realleges and incorporates by reference as if fully set forth herein the allegations contained in paragraphs 1 through 22.

24. On May 27, 2003, U.S. Patent No. 6,570,602 entitled "generating and storing supply specific printing parameters" was duly and legally issued. A copy of the '602 Patent is attached as Exhibit B.

25. Brady is the owner by assignment of the entire right, title, and interest in the '602 Patent.

26. Defendant Bright White Paper has directly infringed at least one claim of the '602 Patent by making, using, selling, and offering for sale in the United States or importing into the United States printer end caps and paper rolls containing printer end caps that use Brady's patented technology to communicate with VariquestTM Poster Maker printers.

27. Bright White Paper's generic VariquestTM Poster Maker end caps infringe at least claim 35 of the '602 Patent.

28. Defendant Bright White Paper's infringement has been intentional, willful, and in reckless disregard of Brady's rights.

29. Defendant Bright White Paper has caused Brady substantial injury, including lost profits for which Brady is entitled to damages adequate to compensate it for the infringement.

30. Defendant Bright White Paper's infringement warrants the assessment of increased damages pursuant to 35 U.S.C. § 284 and an award of attorney fees pursuant to 35 U.S.C. § 285.

31. Defendants' infringement has also caused and continues to cause irreparable harm to Brady, entitling Brady to injunctive relief under 35 U.S.C. § 283.

Count Three
UNFAIR COMPETITION

32. Brady realleges and incorporates by reference as if fully set forth herein the allegations contained in paragraphs 1 through 31.

33. By copying Brady's patented invention and information needed to make its "generic" end caps interact with Brady's VariquestTM Poster Maker, Bright White Paper is likely to cause the relevant consuming public to be misled into believing its products are comparable to Brady's or in some way sponsored by, affiliated with or approved by Brady.

34. Bright White Paper's unauthorized copying of Brady's products to attempt to recreate the communication between Brady's printer and its authorized paper cartridges had unjustly enriched Bright White Paper.

35. The unauthorized end caps produced by Bright White Paper do not allow Brady's printers to fully function, and therefore their use is likely to mislead consumers into believing it is Brady's printer that is not functioning, thereby damaging the goodwill associated with Brady's name and products.

36. Bright White Paper's conduct has caused, and unless restrained by the Court, will continue to cause irreparable injury to Brady.

37. Bright White Paper's conduct has damaged Brady in an amount to be determined at trial.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff Brady Worldwide, Inc. respectfully request judgment and relief against Bright White Paper Co., Inc. as follows:

- A. A judgment that Bright White Paper has infringed the '370 Patent;
- B. A judgment that Bright White Paper has infringed the '602 Patent;
- C. Awarding Brady damages adequate to compensate it for the infringement of its patents and permanent injunction against Bright White Paper from further infringement of the Brady's patents;
- D. Adjudicating that Bright White Paper's infringement was willful, and increasing Bright White Paper's liability for damages up to three times the amount found or assessed as compensatory damages;
- E. Declaring that this is an exceptional case under 35 U.S.C. § 285, and for an award of increased damages, attorneys fees, and costs;
- F. Awarding pre-judgment interest on any damage award; and
- G. Granting such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiff hereby requests a jury trial of all claims and issues triable before a jury.

Dated: November 21, 2011

/s/ Johanna M. Wilbert
David R. Cross – Wis. Bar #1002866
Johanna M. Wilbert - Wis. Bar #1060853

QUARLES & BRADY LLP
411 East Wisconsin Avenue, Suite 1040
Milwaukee, WI 53202-4497
Telephone: 414-277-5000
Facsimile: 414-271-3552
E-mail: david.cross@quarles.com
E-mail: johanna.wilbert@quarles.com

Attorneys for Plaintiff