

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

KAZ USA, INC.

Plaintiff,

v.

HUNTER FAN COMPANY

Defendant.

Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Kaz USA, Inc., by and through its undersigned counsel, brings this complaint against Defendant Hunter Fan Company. Kaz USA, Inc. alleges as follows, upon knowledge with respect to itself and its own acts, and upon information and belief as to circumstances and facts of others:

PARTIES

1. Plaintiff Kaz USA, Inc. (“Kaz”) is a Massachusetts corporation with its principal place of business at 250 Turnpike Road, Southborough, Massachusetts, 01772.

2. Upon information and belief, Hunter Fan Company (“Hunter” or “Defendant”) is a Delaware corporation with its principal place of business at 7130 Goodlett Farms Parkway, Cordova, TN 38016.

JURISDICTION AND VENUE

3. This action for patent infringement arises under the patent laws of the United States, Title 35 of the United States Code. This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1338(a) and § 1331.

4. Upon information and belief, this court has personal jurisdiction over Hunter pursuant to Mass. Gen Laws. Ch. 223A, § 3(a) because this cause of action arises out of, *inter alia*, Hunter's transaction of business within the Commonwealth of Massachusetts which infringes Kaz's patent rights.

5. Upon information and belief, this court also has personal jurisdiction over Hunter pursuant to Mass. Gen Laws. Ch. 223A, § 3(b) because this cause of action arises out of, *inter alia*, Hunter's contracting to supply services or things which infringe Kaz's patent rights within the Commonwealth of Massachusetts.

6. Upon information and belief, this court also has personal jurisdiction over Hunter pursuant to Mass. Gen Laws. Ch. 223A, § 3(c) because this cause of action arises out of, *inter alia*, Hunter's causing tortious injury by committing acts of patent infringement within the Commonwealth of Massachusetts.

7. Upon information and belief, this court also has personal jurisdiction over Hunter pursuant to Mass. Gen Laws. Ch. 223A, § 3(d) because Hunter regularly does or solicits business, engages in persistent courses of conduct, and/or derives substantial revenue from goods used or consumed or services rendered in the Commonwealth of Massachusetts.

8. Upon information and belief, venue is proper under 28 U.S.C. §§ 1391(b), (c) and 28 U.S.C. § 1400(b) because Hunter is subject to personal jurisdiction in this judicial district.

BACKGROUND

9. Kaz is a state of the art, global leader in healthcare devices and home comfort appliances that operates in over 65 countries on six continents. Kaz has regional sales and marketing headquarters in the United States, Canada, Chile, Switzerland and Hong Kong.

10. For over 80 years, Kaz has been developing and marketing high-quality branded consumer products, such as humidifiers, vaporizers, thermometers, blood pressure monitors, air purifiers, fans, air circulators, portable heaters, heating pads and insect control products. Kaz's beginnings trace back to 1926 and its invention of the world's first electric vaporizer. Today, Kaz is the world's largest vaporizer/humidifier manufacturer and continues to be the most trusted name in the industry.

11. Kaz's internal research and development programs and a series of successful acquisitions have created a distinguished line-up of innovative products with many patented designs.

12. Kaz has acquired and now markets a number of different product lines, such as Honeywell® Home Environment products, which include market leading air purifiers and fans, humidifiers, dehumidifiers and heaters, as well as Braun® thermometers and blood pressure monitors, which include the patented Braun Thermoscan® infrared ear thermometer.

13. Kaz markets a range of products in the humidification market that include warm and cool mist products, vaporizers, steam inhalers, waterless scented humidifiers and filters to remove dust, pollen odors, and tobacco smoke from room air.

14. Kaz also sells ultraviolet ("UV") humidifiers under well-known brand names such as Vicks®, Honeywell®, and Enviracaire®. These UV humidifiers utilize an exclusive germicidal process to produce a virtually 100% germ free mist. Water is quickly sanitized by ultraviolet

light as it passes through the system, killing up to 99.9% of certain bacteria, molds, fungi and viruses. This provides the assurance that the moisture emitted from the humidifier will be virtually free of germs.

15. Kaz has marketed several UV humidifiers which correspond to its U.S. Patent No. 5,859,952, including:

- the Vicks[®] V3900 Germ Free Cool Mist Humidifier;
- the Vicks[®] V790-N Germ Free Warm Mist Humidifier;
- the Honeywell[®] HCM-350-TGT Germ Free Cool Mist Humidifier;
- the Vicks[®] V3900JUV Germ Free Cool Mist Humidifier;
- the Vicks[®] V3850JUV Germ Free Cool Mist Tower Humidifier;
- the Honeywell[®] HCM-300T QuietCare Advanced UV Tower;
- the Honeywell[®] HCM-350 Germ Free Cool Mist Humidifier;
- the Honeywell[®] HCM-315T QuietCare Advanced UV Tower with Electronic Controls;
- the Vicks[®] V790JUV Germ Free Warm Mist Humidifier;
- the Brookstone[®] BWM-211D 99.999% Germ Free Warm Mist Humidifier;
- the Enviracaire[®] EWM-220 99.999% Germ Free Warm Mist Humidifier;
- the Honeywell[®] HCM-350B-CST Germ Free Cool Mist Humidifier;
- the Enviracaire[®] EWM-211D 99.999% Germ Free Warm Mist Humidifier with Electronic Controls;
- the Enviracaire[®] EWM-350 99.999% Germ Free Warm Mist Humidifier with Electronic Controls; and
- the Honeywell[®] HCM-305T-CST Germ Free Cool Mist Tower Humidifier with Manual Controls.

16. Kaz, an international company, sells UV humidifiers and its other products throughout the United States and worldwide.

COUNT 1 – INFRINGEMENT OF U.S. PATENT NO. 5,859,952

17. Kaz incorporates the allegations of the preceding paragraphs 1-16 as though fully set forth herein.

18. Kaz is the assignee of United States Patent No. 5,859,952 and has standing to sue for infringement of said patent, entitled “Humidifier with UV Anti-Contamination Provision,” which was duly and legally issued by the United States Patent and Trademark Office on January 12, 1999. A true copy of U.S. Patent No. 5,859,952 is attached hereto as Exhibit A. A true copy of the assignment record for U.S. Patent No. 5,859,952 is attached hereto as Exhibit B.

19. Upon information and belief, Hunter has been and still is directly and/or indirectly infringing U.S. Patent No. 5,859,952 within the meaning of 35 U.S.C. § 271, by making, using, offering to sell and selling infringing humidifiers in the United States. These infringing humidifiers include, at least: (i) the Hunter “Cool Mist” humidifiers designated Model Nos. 36516 and 36517; and (ii) the Hunter “Ultrasonic” humidifier designated Model No. 31207. The described acts of infringement by Hunter have occurred and are occurring in this District and elsewhere.

20. Upon information and belief, Hunter will continue to unlawfully infringe Kaz’s patent rights unless enjoined by this Court.

21. Kaz has been and will continue to be damaged by the infringing acts of Hunter unless Hunter is restrained from its infringing acts by this Court.

PRAYER FOR RELIEF

Wherefore, Kaz demands judgment against Hunter, its affiliates, officers, agents, servants, employees and all persons in active concert or participation with Hunter, as follows:

A. Entry of permanent injunctive relief prohibiting Hunter from further acts of infringement of U.S. Patent No. 5,859,952;

B. An award to Kaz of such damages as it shall prove at trial against Hunter, adequate to compensate Kaz for Hunter's infringement of U.S. Patent No. 5,859,952, but in no event less than a reasonable royalty pursuant to 35 U.S.C. § 284, together with prejudgment interest;

C. A declaration that Hunter has infringed and is infringing U.S. Patent. No. 5,859,952;

D. A declaration that U.S. Patent. No. 5,859,952 is valid;

E. A declaration that Hunter's infringement is willful, and an award of enhanced damages pursuant to 35 U.S.C. § 284;

F. A declaration that this is an exceptional case and an award of attorneys' fees pursuant to 35 U.S.C. § 285;

G. An award to Kaz of the costs incurred by Kaz in this action; and

H. Such other and further relief as this Court shall deem proper and just.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial for all issues so triable.

Dated: March 8, 2012

Respectfully submitted,

NYSTROM BECKMAN & PARIS LLP

By: /s/ Dana A. Zakarian

Dana A. Zakarian (BBO# 641058)
NYSTROM, BECKMAN & PARIS LLP
One Marina Park Drive, 15th Floor
Boston, Massachusetts 02210
Tel: (617) 778-9100
Fax: (617) 778-9110
Email: dzakarian@nbparis.com

Of Counsel:

Pierre R. Yanney
STROOCK & STROOCK & LAVAN LLP
180 Maiden Lane
New York, New York 10038
Tel: (212) 806-5858
Fax: (212) 806-7858
Email: pyanney@stroock.com

Attorneys for Plaintiff Kaz USA, Inc.