

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

KOSHERPETS, LLC	)	
	)	
Plaintiff,	)	
	)	Case No.
v.	)	
	)	Judge:
EVANGER'S DOG & CAT FOOD COMPANY, INC.	)	
	)	JURY TRIAL DEMANDED
Defendant.	)	
	)	

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff, KOSHERPETS, LLC, for its Complaint against EVANGER'S DOG & CAT FOOD COMPANY, INC., alleges as follows:

**THE PARTIES**

1. Plaintiff, KosherPets, LLC ("KosherPets"), is a corporation located in Fort Lauderdale, Florida.

2. Defendant, Evanger's Dog & Cat Food Company, Inc. ("Evanger") is a corporation located in Wheeling, Illinois.

**JURISIDCTION AND VENUE**

3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §1331 (federal question), §1332 (a) (diversity of citizenship), and §1338(a) (question related to patents).

4. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391 and §1400.

## **FACTS GIVING RISE TO PATENT INFRINGEMENT**

5. KosherPets is the owner of United States Patent No. (“KosherPets’ Patent”) that covers kosher pet food having, *inter alia*, at least 2.44% omega-6 fatty acids and 0.49% omega-3 fatty acids.

6. Marc Michels and Martine Lacombe, the founders of KosherPets, discovered that kosher pet food provided a healthy diet for their dog, and thereafter, upon demand, began making it for other dogs.

7. Evanger, under a private label agreement with KosherPets, began manufacturing KosherPets’ patented kosher pet food under the “KosherPets” brand name.

8. In order for Evanger to manufacture KosherPets’ patented pet food, Lacombe and Michels gave Evanger all of their patented recipes.

9. Thereafter, Evanger’s KosherPets’ pet food was recalled due to inaccurate nutritional labeling as Evanger did not follow KosherPets’ recipes.

10. Evanger refused to remedy the problem, thereby terminating its relationship with KosherPets.

11. After termination of its relationship with KosherPets, without authorization from KosherPets, Evanger began selling KosherPets’ patented pet food under Evanger’s brand name.

12. Evanger, in this District, sells kosher pet food called its “Kosher Products” that infringes KosherPets’ Patent under 35 U.S.C. § 271(a).

13. Evanger sells more than 40 different kosher pet foods covered by KosherPets' Patent, including different beef, lamb, chicken, turkey, beef, duck, pheasant, and salmon meals.

14. Evanger's infringement of KosherPets' Patent has been willful, as it has been aware of its infringement of KosherPets' Patent, but nonetheless has continued to infringe KosherPets' Patent.

WHEREFORE, KosherPets prays that a judgment be entered in its favor and against Evanger as follows:

- (a) Evanger infringes U.S. Patent 6,277,435 under 35 U.S.C. §271;
  - (b) Evanger's infringement has been willful;
  - (c) KosherPets be awarded damages pursuant to 35 U.S.C. §284;
  - (d) KosherPets be awarded prejudgment interest;
  - (e) KosherPets be awarded increased damages pursuant to 35 U.S.C. §284;
  - (f) KosherPets be awarded its attorney fees pursuant to 35 U.S.C. §285;
- and
- (g) any further and just relief the Court deems equitable and appropriate.

### **JURY DEMAND**

Kosherpets, LLC demands a trial by jury on all issues so triable.

Dated: August 3, 2012

Respectfully submitted,

ATTORNEYS FOR KOSHERPETS, LLC

/s/ Lee F. Grossman

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