

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

CONAIR CORPORATION,

Plaintiff,

v.

DE'LONGHI AMERICA, INC.,
SAECO USA, INC.

Defendants.

11-cv-1937

COMPLAINT

JURY DEMANDED

Plaintiff Conair Corporation (“Conair”) complains of defendants De’Longhi America, Inc. (“De’Longhi”) and Saeco USA Inc. (“Saeco”) as follows:

JURISDICTION AND VENUE

1. Jurisdiction exists under 28 U.S.C. § 1338(a) because this is an action for infringement of Conair’s patent.
2. Defendants have transacted business in this judicial district by selling, offering to sell or distributing cappuccino machine products that violate Conair’s patent, and regularly attending trade fairs in Chicago, Illinois.
3. Venue is proper under the general federal venue statute, 28 U.S.C. § 1391(d), and under the specific venue provision relating to patent-infringement cases, 28 U.S.C. § 1400(b).

PARTIES

4. Conair is a Delaware corporation headquartered in East Windsor, New Jersey, with sales and marketing offices in Stamford, Connecticut. Conair derives its success from innovation. Conair is the assignee and owns all right, title and interest in and has standing to sue for infringement of United States Patent No. 5,473,972 (the ‘972 Patent), which is entitled “Milk Container Attachment for Cappucino Maker.” One of the inventors of the ‘972 patent is Conair’s owner and chairman, Leandro P. Rizzuto. In helping invent the ‘972 patent, Mr. Rizzuto combined his passion for food and Italian culture, with his vision for innovation. The result is a unique consumer product design

for a cappuccino machine, that the Defendants are using without authorization as more fully set forth below.

5. De'Longhi is a Delaware corporation with U.S. offices at 250 Pehle Avenue, Suite 405, Saddle Brook, New Jersey. De'Longhi has previously and is presently making, using, selling, offering for sale, and/or importing into the U.S. cappuccino machines that infringe one or more claims of the '972 Patent. De'Longhi has infringed the '972 Patent either directly or through acts of contributory infringement or inducement in violation of 35 U.S.C. § 271.

6. Saeco is a Maryland corporation with its principal U.S. offices at 7905 Cochran Road, Suite 100, Glenwillow, Ohio. Saeco has previously and is presently making, using, selling, offering for sale, and/or importing into the U.S. cappuccino machines that infringe one or more claims of the '972 Patent. Saeco has infringed the '972 Patent either directly or through acts of contributory infringement or inducement in violation of 35 U.S.C. § 271.

BACKGROUND

7. Conair acquired Cuisinart in 1989. Cuisinart makes cappuccino machines and is a leader in kitchen appliances. Cuisinart makes and sells top quality and timely new products. The Cuisinart Division of Conair sells some of the most recognized and respected brands in small kitchen appliances and cookware.

8. De'Longhi sells kitchen appliances, including cappuccino machines. De'Longhi sells some of these cappuccino machines under the Nespresso brand name. On January 22, 2010 Conair wrote to De'Longhi to notify De'Longhi that certain of its cappuccino machines infringe the '972 patent. In this letter, Conair requested that De'Longhi immediately stop selling the infringing models and arrange to recall any units sold to customers and remaining in customers' inventories. De'Longhi received the letter, but did not stop selling or recall units as requested.

9. Saeco acquired Gaggia S.p.A. (“Gaggia”) in 1999. Saeco sells in the United States machines branded both “Saeco” and “Gaggia.” Saeco’s acquisition of the Gaggia brand gives it a large presence in the cappuccino machine market segments.

COUNT I

DE’LONGHI PATENT INFRINGEMENT

10. De’Longhi has infringed and continues to infringe the ‘972 Patent either directly or indirectly through acts of contributory infringement or inducement in violation of 35 U.S.C. § 271, by making, using, selling, importing and/or offering to sell infringing products, namely cappuccino machines having separable milk containers, such as the Perfecta and the Nespresso Lattissima. Additional infringing models may be identified through discovery.

11. De’Longhi’s infringement, contributory infringement and/or inducement to infringe has injured Conair and it, therefore, is entitled to recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

12. De’Longhi’s infringement, contributory infringement and/or inducement to infringe has been willful and deliberate because De’Longhi has notice of or knew of the ‘972 Patent and has nonetheless injured and will continue to injure Conair, unless and until this Court enters an injunction, which prohibits further infringement and specifically enjoins further manufacture, use, sale, importation and/or offer for sale of products or services that come within the scope of the ‘972 Patent.

SAECO PATENT INFRINGEMENT

13. Saeco has infringed and continues to infringe the ‘972 Patent either directly or indirectly through acts of contributory infringement or inducement in violation of 35 U.S.C. § 271 by making, using, selling, importing and/or offering to sell infringing products, namely cappuccino machines having separable milk containers, such as the

Saeco Xelsis and Gaggia Accademia. Additional infringing models may be identified through discovery.

14. Saeco's infringement, contributory infringement and/or inducement to infringe has injured Conair and it, therefore, is entitled to recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

15. Saeco's infringement, contributory infringement and/or inducement to infringe has injured and will continue to injure Conair, unless and until this Court enters an injunction, which prohibits further infringement and specifically enjoins further manufacture, use, sale, importation and/or offer for sale of products or services that come within the scope of the '972 Patent.

JURY DEMAND

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Conair requests a trial by jury on all issues presented that can properly be tried to a jury.

PRAYER FOR RELIEF

WHEREFORE, Conair asks this Court to enter judgment against De'Longhi and Saeco and against their subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with them, granting the following relief:

- A. An award of damages adequate to compensate Conair for the infringement that has occurred, together with prejudgment interest from the date infringement began;
- B. All other damages permitted by 35 U.S.C. § 284;
- C. A finding that this case is exceptional and an award to Conair of its attorneys' fees and costs as provided by 35 U.S.C. § 285;
- D. An injunction prohibiting further infringement, inducement and contributory infringement of the '972 Patent; and

E. Such other and further relief as this Court or a jury may deem proper and just.

Dated: March 21, 2011

Respectfully submitted,

/s/ Robert P. Greenspoon

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