

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

COSMOLAB, INC., a Tennessee corporation,)	
)	
Plaintiff,)	Case No. 10-cv-5158
)	
vs.)	
)	Demand for Jury Trial
J.A. COSMETICS CORP., d/b/a/ ELF)	
COSMETICS, EYES LIPS FACE, a New)	
Jersey corporation,)	
)	
Defendant.)	

COMPLAINT

As and for its Complaint, Plaintiff Cosmolab, Inc. alleges as follows:

PARTIES

1. Cosmolab, Inc. (“Cosmolab”) is a Tennessee corporation with its principal place of business located at 1100 Garrett Road, Lewisburg, TN 37091.

2. Upon information and belief, J.A. Cosmetics Corp. (“J.A. Cosmetics”) is a New Jersey corporation with its principal place of business located at 1350 Broadway, Suite 1715, New York, NY 10018.

JURISDICTION

3. This case arises under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*

4. This Court has subject matter jurisdiction over the allegations of patent infringement in this complaint pursuant to 28 U.S.C. §§ 1331 and 1338.

5. J.A. Cosmetics delivers its products into the stream of commerce with the expectation that those products will be purchased by consumers throughout the United States,

including in this District. The accused product is sold in this district at Target retail locations. J.A. Cosmetics is thus subject to personal jurisdiction in this District.

VENUE

6. J.A. Cosmetics sells cosmetic products to Target Corporation for resale throughout the United States, including in the state of Illinois and in this District. Accordingly, venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(a) and (b).

BACKGROUND

7. United States Patent No. 7,435,027 (the “’027 Patent”) entitled “Multi-Reservoir Container with Applicator Tip and Method of Making the Same” issued on October 14, 2008 to the assignee Cosmolab, Inc. A copy of the ’027 Patent is attached hereto as Exhibit A.

8. On May 27, 2010, counsel for Cosmolab sent a letter to Joseph Shamah, the CEO of J.A. Cosmetics placing Mr. Shamah on notice of the ’027 Patent and advising Mr. Shamah that the “2 in 1 Conditioning Gloss” lip gloss product sold by J.A. Cosmetics under the brand name e.l.f infringes at least claims 1-14, 16-20, and 22 of the ’027 Patent.

9. Upon information and belief, as of the date of filing of this Complaint J.A. Cosmetics had not ceased sales of the infringing products. Upon information and belief, as of the date of filing of this Complaint, J.A. Cosmetics had no reasonable basis to believe that the accused product does not infringe the ’027 Patent or that the ’027 Patent is invalid.

COUNT I – PATENT INFRINGEMENT

10. The allegations of paragraphs 1 through 9 are incorporated by reference as though fully set forth herein.

11. J.A. Cosmetics directly infringes the ’027 Patent through at least the manufacture, offer to sell, and sale of the e.l.f. branded “2 in 1 Conditioning Gloss” lip gloss product.

12. Since being provided with notice of infringement of the '027 Patent, all sales of the e.l.f. product by J.A. Cosmetics have constituted willful infringement of the '027 Patent.

14. Upon information and belief, J.A. Cosmetics will continue to willfully infringe the '027 Patent unless enjoined by this court.

15. As a result of the infringement of the '027 patent, Cosmolab has suffered and will continue to suffer both monetary damages and irreparable injury for which Cosmolab has no adequate remedy at law.

REQUEST FOR RELIEF

WHEREFORE, Cosmolab prays for judgment against J.A. Cosmetics as follows:

- (a) For entry of judgment that J.A. Cosmetics has infringed U.S. Patent No. 7,435,027;
 - (b) That J.A. Cosmetics and the agents, officers, employees, representatives, successors, assigns, and all other persons acting for, with, by, through, or under authority from J.A. Cosmetics be permanently enjoined from infringing U.S. Patent No. 7,435,027, either directly or indirectly;
 - (c) For an award of damages to compensate Cosmolab for the infringement by J.A. Cosmetics of U.S. Patent No. 7,435,027 pursuant to 35 U.S.C. § 284, but no less than a reasonable royalty;
 - (d) For an award of enhanced damages pursuant to 35 U.S.C. § 284;
 - (e) For an award of pre-judgment interest and post-judgment interest and costs to Cosmolab in accordance with 35 U.S.C. §284;
 - (f) For an award of Cosmolab's reasonable attorney fees pursuant to 35 U.S.C. §285;
- and
- (g) Such other further relief as the Court deems just and equitable.

JURY DEMAND

Cosmolab demands trial by jury of all issues properly so triable.

Dated: August 16, 2010

By: /s/ Julianne M. Hartzell

Julianne M. Hartzell (No. IL 6275093)

MARSHALL, GERSTEIN & BORUN LLP

233 S. Wacker Drive, Suite 6300

Chicago, IL 60606

(312) 474-6300

Facsimile (312) 474-0448

jhartzell@marshallip.com

Attorney for Plaintiff Cosmolab, Inc.