

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Bernina International AG	:	
Seestrasse 161	:	Civil Action No. _____
Steckborn, Switzerland CH-8266	:	
	:	
Plaintiff,	:	JURY DEMAND
	:	
v.	:	
	:	
Tacony Corporation	:	
Corporate Centre	:	
1760 Gilsinn Lane	:	
Fenton, MO 63026-0730	:	
	:	
Defendant.	:	

COMPLAINT

This complaint alleges a cause of action for patent infringement under federal and state statutory law and the common law.

PARTIES

1. Plaintiff, Bernina International AG (“Bernina”) is a Swiss company, organized and existing under the laws of Switzerland, with a business address of Seestrasse 161 Steckborn, Switzerland CH-8266.

2. Upon information and belief, Defendant, Tacony Corporation (“Tacony”) is a corporation, organized and existing under the laws of the State of Missouri, with a business address of 1760 Gilsinn Lane, Fenton, MO 63026.

3. Upon information and belief, Baby Lock is a division of Tacony and it offers the infringement subject to this Complaint under the TruStitch name. Tacony and Baby Lock are herein after referred to as Defendant.

JURISDICTION AND VENUE

4. This action arises under the Patent Act, 35 U.S.C. § 271, *et seq.*

5. Subject matter jurisdiction is conferred on this Court through federal questions pursuant to 28 U.S.C. § 1331 and 1338.

6. Subject matter jurisdiction is also conferred on this Court on the basis of diversity of citizenship pursuant to 28 U.S.C. § 1332. Upon information and belief, there is diversity of citizenship between Bernina and Defendant, and the amount in controversy is greater than \$75,000.

7. Venue is proper in this District pursuant to Title 28, United States Code, including, but not limited to sections, 1391(b), 1391(c) and 1400(b).

8. Upon information and belief, Defendant conducts business throughout the United States and has conducted business within this District in the Commonwealth of Pennsylvania and is subject to the jurisdiction of this Court under Pennsylvania's long-arm statute.

BACKGROUND

9. Plaintiff is the owner of the full right and title to U.S. Patent 6,883,446 ("the '446 patent"), entitled QUILTING METHOD AND APPARATUS. A copy of the '446 patent is attached as Exhibit A.

COUNT I – PATENT INFRINGEMENT

10. Upon information and belief, Defendant is willfully infringing, contributing to, or inducing the infringement of the '446 patent by making, selling, offering for sale and/or using, and/or is contributing to others making, selling, offering for sale and/or using, and/or is inducing others into making, selling, offering for sale and/or using the TruStitch Stitch Regulator which falls within the scope of the '446 patent claims, and will continue to do so unless enjoined by this Court. True and correct copies of Baby Lock TruStitch Stitch Regulator advertisements are attached as Exhibits B and C.

11. As a result of Defendant's willful, wanton and deliberate acts, Bernina has suffered and will continue to suffer irrevocable damages in its trade and business.

12. As a result of Defendant's willful, wanton and deliberate acts, Bernina has suffered monetary damages by reason of Defendant's infringement of the '446 patent, the amount of which is presently unknown.

13. Bernina has sustained irreparable harm to its business, and unless Defendant is enjoined and restrained by this court, Defendant will continue in the activities alleged herein and as a result thereof, Bernina will continue to sustain irreparable harm to its business.

14. Bernina has no adequate remedy at law.

WHEREFORE, Plaintiff prays for the following relief:

A. An Order enjoining Defendant, its officers, agents, servants, employees, divisions, and all persons in active concert or participation with, through, or under them, from infringing, either directly or indirectly, or assisting, aiding or abetting others from infringing, either directly or indirectly, the '446 patent pursuant to the provisions of 35 U.S.C. Section 283;

B. An Order requiring Defendant to take all necessary and appropriate steps to recall for destruction all infringements of the '446 patent;

C. An Order requiring Defendant to send a written notice, acceptable to Plaintiff and the Court, notifying each entity from whom it has received an order for any infringing product that the order is cancelled;

D. An Order requiring Defendant to provide Plaintiff with a list of all entities that have received or have ordered any infringing products;

E. An award of damages against Defendant that is no less than that which is sufficient to compensate Plaintiff for its damage pursuant to the provisions of 35 U.S.C. Sections 284 and 289;

F. An Order trebling the amount the damages pursuant to the provisions of 35 U.S.C. Sections 284, 285 and 289;

G. An award of Plaintiff's attorneys' fees pursuant to 35 U.S.C. Section 285; and,

H. Such other relief as this Court deems just and equitable.

JURY TRIAL DEMAND

Plaintiff hereby demands trial by jury of all issues properly tried to a jury.

Respectfully submitted,

Date:

April 4, 2013

By

Anthony S. Volpe

Anthony S. Volpe, Esquire, PA#24,733
Randolph J. Huis, Esquire, PA #64,457
Michael F. Snyder, Esquire, PA#76,386
VOLPE AND KOENIG, P.C.
United Plaza
30 S. 17th Street
Philadelphia, PA 19103
Telephone: (215) 568-6400
Facsimile: (215) 568-6499

Attorneys for Plaintiff