

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS, WESTERN DIVISION

Wahl Clipper Corporation,)	
)	
Plaintiff,)	
)	
v.)	No.
)	
BaByliss S.A., an Alien French)	Trial by Jury Demanded
Company a/k/a BaByliss SARL,)	
)	
Defendants.)	

COMPLAINT

Wahl Clipper Corporation (“Wahl”), for its Complaint against Defendant BaByliss S.A. Company A/K/A Babylliss SARL(“BaByliss”), states:

Background

1. Wahl Clipper Corporation is a Delaware Corporation with its principal place of business in Sterling, Illinois. It designs, manufactures and sells hair cutting devices such as hair clippers.

2. Wahl is the owner of issued U.S. Design Patent D715,491 (“the ‘491 Patent”) for a base with projections. A true and correct copy of the ‘491 Patent is attached as Ex.A.

3. Wahl is the owner of issued U.S. Utility Patent 9,038,276 (“the ‘276 Patent”) for a hairclipper with rotary motor vibration and noise damper. A true and correct copy is attached as Ex. B.

4. Wahl is the owner of Registered U.S. Trademark 85828700 for the term “Wedge” used in class 8 for hairclipper blades (“the Trademark”). A true and correct copy is attached as Ex.C.

5. BaByliss S.A. Company A/K/A BaByliss SARL is an alien French company, existing and operating under French law. BaByliss also manufactures and sells hair clippers in competition with Wahl in the United States. The Court has jurisdiction over BaByliss because it advertises and sells accused clippers in the United States and in this district.

6. Venue is proper in this Court because BaByliss is an alien company that may be sued in any district court pursuant to 28 USC 1391(b)(1) and (c)(3), and because it does business here and advertises and sells the accused hair clippers here.

Count I (Design Patent Infringement)

Paragraphs 1-6 apply to each Count of the Complaint.

7. BaByliss sells hair clippers in the United States and in this district named LO-PROFX CLIPPERS (the “accused device” or “LO-PRO clipper”).

8. The LO-PRO clipper infringes the ‘491 Patent.

9. BaByliss has been placed on actual notice of and/or notice by marking of the ‘491 Patent, but has refused to stop making and selling the accused device, despite such notice.

10. BaByliss’ infringement of the ‘491 Patent is willful.

11. Wahl has been damaged by BaByliss’ sale of the LO-PRO clipper.

12. If BaByliss is not permanently enjoined from sale of the LO-PRO clipper it will cause Wahl irreparable harm that cannot be fully determined or compensated by money damages.

WHEREFORE, Wahl prays for:

- A. Judgment against BaByliss for its damages under 35 USC 284 and/or BaByliss’ profits pursuant to 35 USC 289, whichever is greater;
- B. For up to treble damages and attorney’s fees pursuant to 35 USC 285;
- C. For pre-judgment interest;

- D. For a permanent injunction against further sales of the LO-PRO clipper, for the remaining term of the '491 Patent;
- E. For such other and further relief as the Court deems just in the circumstances; and
- F. Its costs of suit.

Wahl demands trial by jury.

Count II (Utility Patent Infringement)

Paragraphs 1-6 apply to each Count of the Complaint.

13. BaByliss sells hair clippers in the United States and in this district named LO-PROFX clippers (the "accused device" or "LO-PRO clipper").

14. The LO-PRO clipper infringes one or more claims of the '276 Patent, including at least claim 1.

15. BaByliss has been placed on actual notice of and/or notice by marking of the '276 Patent, but has refused to stop making and selling the accused device, despite such notice.

16. BaByliss' infringement of the '276 Patent is willful.

17. Wahl has been damaged by BaByliss' sale of the LO-PRO clipper.

18. If BaByliss is not permanently enjoined from sale of the LO-PRO clipper it will cause Wahl irreparable harm that cannot be fully determined or compensated by money damages.

WHEREFORE, Wahl prays for:

- A. Judgment against BaByliss for the amount of its damages pursuant to 35 USC 284;
- B. For up to treble damages and attorney's fees pursuant to 35 USC 285;
- C. For pre-judgment interest;
- D. For a permanent injunction against further sales of the LO-PRO clipper, for the remaining term of the '276 Patent;
- E. For such other and further relief as the Court deems just in the circumstances; and

F. Its costs of suit.

Wahl demands trial by jury.

Count III (Trademark Infringement)

Paragraphs 1-6 apply to each Count of the Complaint.

19. BaByliss sells the FX 825 and 603G clippers in the United States and in this district and uses the term “Wedge” in a trademark sense, for example as a product identifier, for the FX 825 and 603G clippers.

20. BaByliss use of the term “Wedge” with the FX 825 and 603G clippers infringes the Trademark, and/or creates a reasonable likelihood of confusion, and therefore violates 43 USC 1125(a).

21. BaByliss was put on notice of the Trademark, but has refused to stop using the term “Wedge” with the FX 825 and 603G clippers, despite such notice.

22. BaByliss’ infringement of the Trademark is willful and the case is exceptional.

23. Wahl has been damaged by BaByliss’ infringement of the Trademark.

24. If BaByliss is not permanently enjoined from sale of the FX 825 and 603G clippers it will cause Wahl irreparable harm that cannot be fully determined or compensated by money damages.

WHEREFORE, Wahl prays for:

- A. Judgment against BaByliss for the amount of its damages pursuant to 43 USC 1117;
- B. For trebling of damages and attorney’s fees for an exceptional case;
- C. For prejudgment interest;
- D. For a permanent injunction against further sales of the FX 825 and 603G clippers, for as long as the Trademark is in good standing;

- E. For such other and further relief as the Court deems just in the circumstances; and
- F. Its costs of suit.

Wahl demands trial by jury.

Respectfully Submitted,

/s/ Daniel P. Albers

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