

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

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TC HEARTLAND, LLC,)	
)	
	Plaintiffs,)	
)	
	- against -)	<u>COMPLAINT</u>
)	
DREAMPAK, LLC,)	<u>JURY TRIAL DEMANDED</u>
	Defendant.)	
)	Case No. 3:23-cv-00714
)	
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Plaintiff TC Heartland, LLC, by its attorneys, files this Complaint for Patent Infringement against Defendant Dreampak, LLC, and in support thereof, states as follows:

NATURE OF THE ACTION

1. This a civil action for infringement based on the patent laws of the United States, 35 U.S.C. § 1 *et seq.*

THE PARTIES

2. Plaintiff TC Heartland, LLC (“Heartland”) is a limited liability company organized and existing under the laws of Indiana, having its registered office in Indianapolis, Indiana.

3. Defendant DreamPak, LLC (“DreamPak”) is a limited liability company organized and existing under the laws of Virginia, having its registered office in McLean, Virginia.

JURISDICTION AND VENUE

4. This action arises under the Patent Act of 1952, 35 U.S.C. §§ 1 *et seq.*, as amended.

5. This Court has subject matter jurisdiction to hear this action under 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction to hear this action for at least the reasons that DreamPak is domiciled in Virginia and maintains an agent for service of process in Virginia.

7. Venue is proper in this district for at least the reasons that DreamPak is domiciled in and resides in this district, is a citizen of the Commonwealth of Virginia and maintains its registered office in this district.

THE PATENT

8. On October 12, 2021, United States Patent No. D932,902 (“the ‘902 patent”), entitled “BOTTLE WITH CAP” (Exhibit A), duly and legally issued.

9. Heartland owns all rights, title, and interest in and to the ‘902 patent and has the right to sue and recover for past, present, and future infringement.

10. Heartland manufactures and sells consumer-sized beverage concentrate products in containers embodying the ‘902 patent under its own brands and private labels of its retail customers. These products are typically referred to as liquid water enhancers and abbreviated as LWE.

11. Heartland’s LWE products come in a 48 ml standard size bottle and a large size 92 ml bottle. The ‘902 patent covers Heartland’s 92 ml size bottle.

12. Heartland also owns all rights in a design patent that covers its 48 ml standard size LWE product bottles, which is not asserted here.

13. Heartland has supplied LWE products in its 92 ml size bottles to third-party Walmart Inc. and/or its affiliates (collectively, “Walmart”), under Walmart’s “Great Value” private label since 2017.

CLAIM FOR RELIEF **(Infringement of the ‘902 Patent)**

14. Paragraphs 1 through 13 are incorporated by reference as though fully stated herein.

15. DreamPak, without authority from Plaintiffs, has made, used, offered for sale, and sold LWE products (the “Accused Products”) in bottles that embody the patented invention disclosed and claimed in the ‘902 Patent, including, and not limited to, by supplying the LWE product identified in Exhibit B to one or more units of Walmart.

16. The Accused Products contain elements identical or equivalent to each claimed element of the patented invention defined by claim 1 of the ‘902 Patent.

17. The Accused Products are marketed and sold as direct substitutes for Heartland’s beverage concentrate products covered by the ‘902 patent.

18. Prior to DreamPak’s infringement of the ‘902 patent, Heartland was Walmart’s exclusive supplier of Walmart’s “Great Value” LWE products sold in the large size 92 ml bottles.

19. DreamPak is currently practicing the ‘902 Patent without authority from Plaintiffs and threatens to continue to do so absent injunctive relief from this Court.

20. DreamPak’s infringement has damaged and continues to damage and injure Heartland. The injury to Heartland is irreparable for which it has no adequate remedy at law and will continue unless and until DreamPak is enjoined from further infringement.

21. This is not the first time that Heartland filed suit against DreamPak in this court to enforce and enjoin Dreampak from infringing Heartland’s intellectual property rights relating to Heartland’s LWE products. More specifically, in a matter captioned *Soluble Technologies Group, LLC et al. v. DreamPak, LLC*, EDVA Case No. 3:21-cv-328, Heartland sought enforcement of and damages for Dreampak’s infringement of Heartland’s and its licensor’s patent rights in U.S. Patent No. 10,448,659 for its liquid water enhancement product.

22. Prior to its infringing conduct alleged herein, DreamPak was competing, and continues to compete, against Heartland in the market for LWE products in 48 ml standard size bottles.

23. When it brought its new LWE products in large size 92 ml bottles to market to compete with Heartland's large size 92 ml LWE products, DreamPak ignored its own pre-existing bottle design used for its 48 ml LWE products and instead copied Heartland's bottle design covered by the '902 Patent.

24. On information and belief, DreamPak copied Heartland's 92 ml bottle design because it believed it would be easier to pick up Walmart's business if it could offer LWE products in bottles identical, or nearly identical, to those supplied by Heartland.

25. The risk of infringement under these circumstances was either explicitly known by DreamPak or the risk was so great that the risk of infringement was obvious or should have been obvious to DreamPak.

26. DreamPak's conduct shows that it intentionally copied Heartland's bottle design covered by the '902 Patent.

27. On information and belief, DreamPak had knowledge of the '902 patent well before the filing of this lawsuit and has engaged and is engaging in willful and deliberate infringement of the '902 patent. Such willful and deliberate infringement justifies an increase of three times the damages to be assessed pursuant to 35 U.S.C. § 284 and further qualifies this action as an exceptional case supporting an award of reasonable attorneys' fees pursuant to 35 U.S.C. § 285.

WHEREFORE, Plaintiff Heartland prays that this Court:

- (a) Declare, adjudge, and decree that DreamPak is liable for infringement of the '902 Patent;
- (b) Award Heartland damages in accordance with 35 U.S.C. § 284;
- (c) Award Heartland the total profits from DreamPak's infringing sales pursuant to 35 U.S.C. § 289, by reason of DreamPak's infringement of the '902 patent;

- (d) Award Heartland increased damages pursuant to 35 U.S.C. § 284, in an amount not less than three times the amount of actual damages awarded to Heartland, by reason of DreamPak's willful infringement of the '902 patent;
- (e) Enter a permanent injunction enjoining DreamPak, its officers, directors, servants, managers, employees, agents, attorneys, successors and assignees, and all persons in active convert or participation with any of them from further acts of infringement of the '902 patent pursuant to 35 U.S.C. § 283;
- (f) Declare this case "exceptional" under 35 U.S.C. § 285 and award Heartland its reasonable attorneys' fees, expenses, and costs incurred in prosecuting this action; and
- (g) Grant Heartland such other and further relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Heartland respectfully demands a jury trial on all issues appropriately triable by a jury.

Dated: October 27, 2023

Respectfully submitted,

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