

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION

KIMBERLY-CLARK WORLDWIDE, INC.,

Plaintiff,

Case No.

v.

VALOR BRANDS, LLC and
GRUPO P.I. MABE SA de CV a/k/a MABESA,

Defendants.

COMPLAINT

Plaintiff Kimberly-Clark Worldwide, Inc. (“Kimberly-Clark”), for its Complaint against Defendants Valor Brands, LLC (“Valor”) and Grupo P.I. Mabe SA de CV a/k/a Mabesa (“Mabesa”), alleges as follows:

The Parties

1. Kimberly-Clark is a corporation organized and existing under the laws of the State of Delaware and having a principal place of business within this district in Neenah, Wisconsin. Kimberly-Clark has manufacturing, research, sales and marketing offices and facilities in Neenah, Wisconsin.

2. Upon information and belief, Valor is a corporation organized under the laws of the State of Delaware and has its principal place of business at 3159 Royal Drive, Suite 360, Alpharetta, Georgia.

3. Upon information and belief, Mabesa is a corporation organized under the laws of Mexico and has its principal place of business at Av. San Pablo Xochimehuacan No. 7213-E, Puebla, Pue., 72230.

Jurisdiction and Venue

4. This action is for patent infringement under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*

5. This Court has subject matter jurisdiction over this dispute pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over Valor and Mabesa because, on information and belief, Valor and Mabesa have done and are doing business in this District. This Court also has personal jurisdiction over Valor and Mabesa because, on information and belief, their infringing products are sold in, distributed to and shipped into this District. Valor and Mabesa have knowingly and intentionally placed infringing products into the stream of commerce through established distribution channels expecting them to be shipped into and purchased by customers in this District.

7. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b)(2) and (3) and, with respect to Mabesa, § 1391(c)(3).

Count I – Infringement of U.S. Patent No. 6,307,119

8. On October 23, 2001, the United States Patent and Trademark Office (“PTO”) duly and legally issued U.S. Patent No. 6,307,119 (“the ‘119 Patent”) to Mark T. Cammarota and other inventors, all of whom assigned to Kimberly-Clark their entire right, title, and interest in the ‘119 Patent.

9. Valor has been infringing and continues to infringe the ‘119 Patent by making, using, offering to sell, selling, and/or importing products that are covered by one or more claims of the ‘119 Patent, including but not limited to, training pants sold under the “Roundy’s,” “Meijer,” and “DG Toddler” names.

10. Mabesa has been infringing and continues to infringe the ‘119 Patent by making, using, offering to sell, selling, and/or importing products that are covered by one or more claims of the ‘119 Patent, including but not limited to, training pants sold under the “Roundy’s,” “Meijer,” and “DG Toddler” names.

11. Valor’s and Mabesa’s acts of infringement have been without express or implied license by Kimberly-Clark, are in violation of Kimberly-Clark’s rights, and will continue unless enjoined by this Court.

12. Kimberly-Clark has previously placed both Valor and Mabesa of notice of their infringement of the ‘119 Patent.

13. Valor and Mabesa have continued their infringement in willful disregard of Kimberly-Clark’s rights under the ‘119 Patent.

14. The case is exceptional under 35 U.S.C. § 285 because of Valor’s and Mabesa’s willful infringement.

15. Kimberly-Clark has been damaged by Valor’s and Mabesa’s infringement.

16. Kimberly-Clark has been and will continue to be irreparably harmed by Valor’s and Mabesa’s infringement of the ‘119 patent.

Count II – Infringement of U.S. Patent No. 6,318,555

17. On November 20, 2001, the PTO duly and legally issued U.S. Patent No. 6,318,555 (“the ‘555 Patent”) to Marci E. Kuske and other inventors, all of whom assigned to Kimberly-Clark their entire right, title, and interest in the ‘555 Patent.

18. Valor has been infringing and continues to infringe the ‘555 Patent by making, using, offering to sell, selling, and/or importing products that are covered by one or more claims of the ‘555 Patent, including but not limited to, overnight diapers and training pants sold under the “7th Generation” name.

19. Mabesa has been infringing and continues to infringe the ‘555 Patent by making, using, offering to sell, selling, and/or importing products that are covered by one or more claims of the ‘555 Patent, including but not limited to, training pants sold under the “7th Generation” name.

20. Valor’s and Mabesa’s acts of infringement have been without express or implied license by Kimberly-Clark, are in violation of Kimberly-Clark’s rights, and will continue unless enjoined by this Court.

21. Kimberly-Clark has previously placed both Valor and Mabesa of notice of their infringement of the ‘555 Patent.

22. Valor and Mabesa have continued their infringement in willful disregard of Kimberly-Clark’s rights under the ‘555 Patent.

23. The case is exceptional under 35 U.S.C. § 285 because of Valor’s and Mabesa’s willful infringement.

24. Kimberly-Clark has been damaged by Valor’s and Mabesa’s infringement.

25. Kimberly-Clark has been and will continue to be irreparably harmed by Valor’s and Mabesa’s infringement of the ‘555 patent.

Count III – Infringement of U.S. Patent No. 6,491,165

26. On December 10, 2002, the PTO duly and legally issued U.S. Patent No. 6,491,165 (“the ‘165 Patent”) to Marci E. Kuske and other inventors, all of whom assigned to Kimberly-Clark their entire right, title, and interest in the ‘165 Patent.

27. Valor has been infringing and continues to infringe the ‘165 Patent by making, using, offering to sell, selling, and/or importing products that are covered by one or more claims of the ‘165 Patent, including but not limited to, overnight diapers and training pants sold under

the “7th Generation” name, training pants sold under the “Meijer” name, and diapers sold under the “Chicolor” name.

28. Mabesa has been infringing and continues to infringe the ‘165 Patent by making, using, offering to sell, selling, and/or importing products that are covered by one or more claims of the ‘165 Patent, including but not limited to, training pants sold under the “7th Generation” name, training pants sold under the “Meijer” name, and diapers sold under the “Chicolor” name.

29. Valor’s and Mabesa’s acts of infringement have been without express or implied license by Kimberly-Clark, are in violation of Kimberly-Clark’s rights, and will continue unless enjoined by this Court.

30. Kimberly-Clark has previously placed both Valor and Mabesa of notice of their infringement of the ‘165 Patent.

31. Valor and Mabesa have continued their infringement in willful disregard of Kimberly-Clark’s rights under the ‘165 Patent.

32. The case is exceptional under 35 U.S.C. § 285 because of Valor’s and Mabesa’s willful infringement.

33. Kimberly-Clark has been damaged by Valor’s and Mabesa’s infringement.

34. Kimberly-Clark has been and will continue to be irreparably harmed by Valor’s and Mabesa’s infringement of the ‘165 patent.

Count IV – Infringement of U.S. Patent No. 7,021,466

35. On April 4, 2006, the PTO duly and legally issued U.S. Patent No. 7,021,466 (“the ‘466 Patent”) to Marci E. Kuske and other inventors, all of whom assigned to Kimberly-Clark their entire right, title, and interest in the ‘466 Patent.

36. Valor has been infringing and continues to infringe the ‘466 Patent by making, using, offering to sell, selling, and/or importing products that are covered by one or more claims

of the '466 Patent, including but not limited to, training pants sold under the "7th Generation" and "Meijer" names, and diapers sold under the "Chicolor" name.

37. Mabesa has been infringing and continues to infringe the '466 Patent by making, using, offering to sell, selling, and/or importing products that are covered by one or more claims of the '466 Patent, including but not limited to, training pants sold under the "7th Generation" and "Meijer" names, and diapers sold under the "Chicolor" name.

38. Valor's and Mabesa's acts of infringement have been without express or implied license by Kimberly-Clark, are in violation of Kimberly-Clark's rights, and will continue unless enjoined by this Court.

39. Kimberly-Clark has previously placed both Valor and Mabesa of notice of their infringement of the '466 Patent.

40. Valor and Mabesa have continued their infringement in willful disregard of Kimberly-Clark's rights under the '466 Patent.

41. The case is exceptional under 35 U.S.C. § 285 because of Valor's and Mabesa's willful infringement.

42. Kimberly-Clark has been damaged by Valor's and Mabesa's infringement.

43. Kimberly-Clark has been and will continue to be irreparably harmed by Valor's and Mabesa's infringement of the '466 patent.

WHEREFORE, Kimberly-Clark respectfully requests:

A. Injunctive relief prohibiting further infringement of the '119, '555, '165, and '466 Patents by Valor, Mabesa, their respective officers, agents, employees, attorneys, and all those persons in active concert or participation with any one or more of them;

B. Damages to compensate Kimberly-Clark for Valor's and Mabesa's infringement of the '119, '555, '165, and '466 Patents, together with prejudgment and postjudgment interest;

- C. An assessment of costs against Valor and Mabesa;
- D. Treble damages pursuant to 35 U.S.C. § 284, because Valor's and Mabesa's infringement has been willful;
- E. Judgment declaring that this is an exceptional case under 35 U.S.C. § 285 and awarding Kimberly-Clark all its attorneys' fees; and
- F. Such other and further relief as this Court deems just and proper.

Jury Demand

Kimberly-Clark hereby requests trial by jury.

Dated this 26th day of March, 2012.

s/ Anthony S. Baish

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