

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

RYAN DATA EXCHANGE, LTD and RYDEX TECHNOLOGIES LLC d/b/a RYDEX, Plaintiffs, v. GRACO, INC., Defendant.	LAW NO. _____ COMPLAINT AND JURY DEMAND
--	---

Plaintiffs Ryan Data Exchange, LTD and Rydex Technologies LLC (“Rydex”) by way of their Complaint for Patent Infringement and Breach of Contract against Defendant Graco, Inc., allege the following:

NATURE OF THE ACTION

1. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*, and for breach of contract arising under the laws of the State of Iowa.

THE PARTIES

2. Plaintiff Ryan Data Exchange, LTD is a limited liability company organized under the laws of the State of Iowa with its place of business being Mitchellville, Polk County, IA.

3. Plaintiff Rydex Technologies LLC is a limited liability company organized under the laws of the State of Delaware, with its place of business being Newark, Delaware.

4. Defendant Graco, Inc. is a corporation organized under the laws of the State of Minnesota, with its principal place of business at 88 11th Ave NE Minneapolis, Minnesota.

JURISDICTION AND VENUE

5. The cause of action for patent infringement arises under the Patent Laws of the United States, Title 35 of the United States Code.

6. Upon information and belief, Defendants conduct substantial business in this forum, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in Iowa.

7. This Court has subject matter jurisdiction of this claim under 28 U.S.C. §§ 1331 and 1338(a).

8. Venue is proper in this judicial district for this claim under 28 U.S.C. §§ 1391(b)(c) and 1400(b).

9. Ryan Data Exchange, LTD filed suit against Graco, Inc. in the United States District Court for the Southern District of Iowa, alleging patent infringement. A “Settlement Agreement” was entered into by and between Graco, Inc. and Ryan Data Exchange, LTD on September 13, 2005, resolving this suit, and setting out the contractual relationship between Graco and Ryan Data Exchange, LTD. Disputes regarding the “Settlement Agreement” are to be resolved pursuant to the laws of the State of Iowa. A true and correct copy of the “Settlement Agreement” is attached as Exhibit C to this Complaint. The cause of action for breach of contract arises from this “Settlement Agreement.”

10. Ryan Data Exchange, LTD has since assigned rights in the patent at issue to Rydex Technologies LLC.

11. The amount in controversy is in excess of \$75,000.

12. This Court has subject matter jurisdiction of this claim under 28 U.S.C. §§ 1332.

13. Venue is proper in this judicial district for this claim under 28 U.S.C. §§ 1391(b) and (c).

COUNT I – BREACH OF CONTRACT

14. On June 15, 1999, U.S. Patent No. 5,913,180, entitled “Fluid Delivery Control Nozzle,” was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of such patent is attached as Exhibit A to this Complaint. On April 26, 2011, re-examination certificate 5,913,180 C1 was duly and legally issued by the United States Patent and Trademark Office (the original patent along with re-exam certificate are collectively referred to herein as the “’180 Patent”). A true and correct copy of the reexamination certificate is attached as Exhibit B to this Complaint.

15. Rydex is the assignee and owner of the right, title and interest in and to the ’180 Patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it

16. On September 13, 2005, Ryan Data Exchange, LTD and Graco entered into a Settlement Agreement which established a contractual relationship between Rydex and Graco with regards to the 180 patent. The term of the Settlement Agreement is through 2015.

17. Graco has been, and is, in breach of this Settlement Agreement.

18. Graco has repudiated the contract, claiming that the Settlement Agreement was terminated as of August of 2012.

19. Graco’s actions have resulted in damage to Rydex.

COUNT II – INFRINGEMENT OF U.S. PATENT NO. 5,913,180 C1

20. The allegations set forth in the foregoing paragraphs are hereby realleged and incorporated herein by reference.

21. The Settlement Agreement of September 13, 2005 granted Graco a license with regards to the '180 patent.

22. Graco has been in breach of this contract since August of 2005. Graco was notified of this breach in August of 2012.

23. Graco filed notice with Rydex in 2014 that the Settlement Agreement was terminated as of August 2012.

24. Graco has not had a license to use, sell, import or cause to be used products that have the capability to wirelessly transmit information regarding fluid delivery to a remote device, after the termination of this contract, whether in 2005, 2012 or 2014.

25. Upon information and belief, Defendant has and continues to directly infringe one or more claims of the '180 Patent by making, using, selling, importing, and/or providing and causing to be used products that have the capability to wirelessly transmit information regarding a fluid delivery to a remote device.

26. Upon information and belief Defendants have induced and continue to induce others to infringe at least one claim of the '180 Patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including but not limited to Defendants' partners and customers.

27. In particular, Defendants' actions that aid and abet others such as its partners and customers to infringe include advertising and distributing and providing instruction materials, training, and services.

28. Defendants have engaged in such actions with specific intent to cause infringement or with willful blindness to the resulting infringement because Defendants have had actual knowledge of the '180 Patent and that their acts were inducing their customers to infringe the '180 Patent.

29. Defendants have conceded infringement of at least claims 4 and 5 of the '180 Patent.

30. Defendants previously challenged the validity of the '180 Patent, and pursuant to the Settlement Agreement the '180 Patent was placed in into re-examination in the United States Patent and Trademark Office. The patentability of certain claims of the '180 Patent was confirmed during re-examination, including claims 4 and 5.

31. Despite Defendant's knowledge of the '180 Patent, Defendants admitted infringement, the confirmation of claims of the '180 Patent in re-examination and the breach and/or repudiation of the Settlement Agreement. Defendants have continued to infringe the '180 Patent. On information and belief, Defendants' infringement has been and continues to be willful.

32. Rydex has been harmed by Defendants' infringing activities.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Rydex demands a trial by jury on all issues triable as such.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Rydex demands judgment for itself and against Defendants as follows:

- A. An adjudication that Graco has been, and is, in breach of the Settlement Agreement;
- B. An award to Rydex of the damages arising from this breach, including attorney fees;

C. An adjudication that Defendants have infringed the '180 Patent;

D. An award of damages to be paid by Defendants adequate to compensate Rydex for their past infringement of the '180 Patent, and any continuing or future infringement through the date such judgment is entered, including interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;

E. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of Plaintiff's reasonable attorneys' fees; and

F. An award to Rydex of such further relief at law or in equity as the Court deems just and proper.

MUNRO LAW OFFICE, P.C.

By: /s/Kenneth R. Munro

Kenneth R. Munro AT0005581

4844 Urbandale Avenue

Des Moines, IA 50310

Phone: (515) 279-0443

Fax: (515) 279-0445

Email: ken.munro@munrolawoffice.com

ATTORNEY FOR PLAINTIFFS

Original filed.