

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

NANOCHEMSOLUTIONS, INC.,

Plaintiff,

v.

GLOBAL GREEN PRODUCTS, LLC, LARRY
P. KOSKAN, and LEBOND CHEMICALS,
LLC,

Defendants.

Civil Action No. 10 C 5686

JURY DEMANDED

COMPLAINT

Plaintiff NanoChem Solutions Inc. (“Plaintiff” or “NanoChem”), by its attorneys, and for its Complaint against Defendants Global Green Products L.L.C. (“Global”), Larry P. Koskan (“Koskan”) and Lebond Chemicals LLC (“Lebond”), collectively “Defendants,” and alleges as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement arising under the United States Patent Act, 35 U.S.C. § 101 et seq, including 35 U.S.C. § 271 and § 281. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) in that this is a civil action arising out of the patent laws of the United States of America.

JURISDICTION AND VENUE

2. This Court has personal jurisdiction over Global, as Global is an Illinois Limited Liability Company that is committing acts of infringement in this District, maintains a place of business in this District, regularly does and solicits business in this District, and has availed itself of the benefits and protections of Illinois law.

3. This Court has personal jurisdiction over Koskan, as Koskan is an individual residing in this District.

4. This Court has personal jurisdiction over Lebond, as Lebond is a California Limited Liability Company that is committing acts of infringement in this District, regularly does and solicits business in this District, and has availed itself of the benefits and protections of Illinois law.

5. Venue in this District is proper under 28 U.S.C. §§ 1391 (b) and (c), and 1400(b).

THE PARTIES

6. NanoChem is an Illinois corporation with a principal place of business at 208 S. LaSalle St., Suite 814, Chicago, Illinois 60604. NanoChem is at the forefront of providing patented protein-based polymers for a wide range of industrial, agricultural and consumer uses.

7. NanoChem is informed and believes that Global is an Illinois limited liability company with its principal place of business at 8617 Golfview Dr., Orland Park, Illinois 60462.

8. NanoChem is informed and believes that Koskan is an individual residing in Orland Park, Illinois.

9. NanoChem is informed and believes that Lebond is a California limited liability company with its principal place of business at 4 Meadowpoint, Aliso Viejo, California 92656 and/or 4751 Littlejohn St., Unit A, Baldwin Park, California 91706.

PATENTS-IN-SUIT

10. NanoChem is the sole owner of U.S. Patent 5,315,010, entitled “Polyaspartic Acid Manufacture” (“the ‘010 patent”), issued to Koskan, Kim C. Low, Abdul R. Y. Meah, and Anne M. Atencio by the United States Patent and Trademark Office on May 24, 1994. A copy of the ‘010 patent, as available from the U.S. Patent and Trademark Office website, is attached hereto as Exhibit A.

11. NanoChem is the sole owner of U.S. Patent 5,373,086, entitled “Polyaspartic Acid Having More Than 50% β Form and Less Than 50% α Form” (“the ‘086 patent”), issued to Koskan, Kim C. Low, Abdul R. Y. Meah, and Anne M. Atencio by the United States Patent and Trademark Office on December 13, 1994. A copy of the ‘086 patent, as available from the Patent and Trademark Office website, is attached hereto as Exhibit B.

12. NanoChem is the sole owner of U.S. Patent 5,593,947, entitled “Method For More Efficient Uptake of Plant Growth Nutrients” (“the ‘947 patent”), issued to Alan M. Kinnersley, Koskan, David J. Strom, and Abdul R. Y. Meah by the United States Patent and Trademark Office on January 14, 1997. A copy of the ‘947 patent, as available from the Patent and Trademark Office website, is attached hereto as Exhibit C.

13. NanoChem is the sole owner of U.S. Patent 5,152,902, entitled “Polyaspartic Acid as a Calcium Carbonate and a Calcium Phosphate Inhibitor” (“the ‘902 patent”), issued to Koskan, Kim C. Low, Abdul R. Y. Meah, and Anne M. Atencio by the United States Patent and Trademark Office on October 6, 1992. A copy of the ‘902 patent, as available from the Patent and Trademark Office website, is attached hereto as Exhibit D.

FACTUAL BACKGROUND

14. NanoChem is informed and believes that Global is and/or has been selling and/or offering for sale products for industrial water treatment and agriculture uses that include and/or utilize polyaspartic acid. A screenshot of www.globalgreenproducts.com is attached hereto as Exhibit E.

15. NanoChem is informed and believes that Global is and/or has been importing 40% solution of sodium polyaspartic acid and/or L-aspartic acid for the purpose of making polyaspartic acid. Customs records, as available from a searchable U.S. Customs database, are attached hereto as Exhibit F.

16. NanoChem is informed and believes that Global is and/or has been, for all times relevant hereto, owned and controlled by Koskan.

17. NanoChem is informed and believes that Lebond is and/or has been selling and/or offering for sale polyaspartic acid for sale for a variety of uses including scale inhibition, corrosion inhibition, drilling fluid thinner, fertilizer synergistic agent, and detergent additive. Screenshots of www.lebondchem.com describing polyaspartic acid products are attached hereto as Exhibit G.

COUNT I: INFRINGEMENT OF U.S. PATENT 5,315,010, 35 U.S.C. § 271

18. NanoChem incorporates by reference paragraphs 1 through 17 of this Complaint and realleges them as fully set forth herein.

19. NanoChem is informed and believes, and thereon alleges, that Defendants, in violation of 35 U.S.C. § 271, are currently infringing the '010 patent by, among other things, making, using, offering to sell, and selling polyaspartic acid manufactured using the invention of the '010 patent in this Judicial District and elsewhere throughout the United States, without authority or license from NanoChem.

20. NanoChem is informed and believes, and thereon alleges, that Defendants are currently contributorily infringing the '010 patent in violation of 35 U.S.C. § 271(c), by selling or offering for sale to third parties, in this Judicial District and elsewhere throughout the United States, without authority or license from NanoChem, chemicals to manufacture polyaspartic acid according to the invention of the '010 Patent which are not suitable for substantial and/or non-infringing use. NanoChem is informed and believes, and thereon alleges, that these third parties are infringing and will infringe the '010 patent, in violation of 35 U.S.C. § 271(a), by manufacturing polyaspartic acid according to a method of the '010 patent.

21. NanoChem is informed and believes, and thereon alleges, that Defendants are inducing the infringement of the '010 patent in violation of 35 U.S.C. § 271(b), by knowingly and intentionally encouraging or aiding third parties to manufacture polyaspartic acid in a method of the '010 patent in this Judicial District and elsewhere throughout the United States, without authority or license from NanoChem. NanoChem is informed and believes, and thereon alleges, that these third parties are infringing and will infringe the '010 patent, in violation of 35 U.S.C. § 271(a), by manufacturing polyaspartic acid in a method of the '010 patent.

22. NanoChem is informed and believes, and thereon alleges, that Defendants infringement of the '010 patent is willful.

23. Unless enjoined by this Court, Defendants will continue to infringe the '010 patent.

24. As a direct and proximate result of Defendants' conduct, NanoChem will suffer irreparable injury, for which it has no adequate remedy at law. NanoChem has also been damaged and, until an injunction issues, will continue to be damaged in an amount yet to be determined.

COUNT II – INFRINGEMENT OF U.S. PATENT 5,373,086, 35 U.S.C. § 271

25. NanoChem incorporates by reference paragraphs 1 through 17 of this Complaint and realleges them as fully set forth herein.

26. NanoChem is informed and believes, and thereon alleges, that Defendants, in violation of 35 U.S.C. § 271, are currently infringing the '086 patent by, among other things, making, using, offering to sell, and selling polyaspartic acid, as claimed in the '086 patent, in this Judicial District and elsewhere throughout the United States, without authority or license from NanoChem.

27. NanoChem is informed and believes, and thereon alleges, that Defendants are contributorily infringing the '086 patent in violation of 35 U.S.C. § 271(c), by selling or offering for sale to third parties, in this Judicial District and elsewhere throughout the United States, without authority or license from NanoChem, chemical and instructions to create polyaspartic acid as claimed in the '086 patent, which are not suitable for substantial and/or non-infringing use. NanoChem is informed and believes, and thereon alleges, that these third parties are infringing and will infringe the '086 patent, in violation of 35 U.S.C. § 271(a), by creating polyaspartic acid as claimed in the '086 patent.

28. NanoChem is informed and believes, and thereon alleges, that Defendants are inducing the infringement of the '086 patent in violation of 35 U.S.C. § 271(b), by knowingly and intentionally encouraging or aiding third parties to obtain polyaspartic acid, as claimed in the '086 patent, in this Judicial District and elsewhere throughout the United States, without authority or license from NanoChem. NanoChem is informed and believes, and thereon alleges, that these third parties are infringing and will infringe the '086 patent, in violation of 35 U.S.C. § 271(a), by using the polyaspartic acid of the '086 patent.

29. NanoChem is informed and believes, and thereon alleges, that Defendants infringement of the '086 patent is willful.

30. Unless enjoined by this Court, Defendants will continue to infringe the '086 patent.

31. As a direct and proximate result of Defendants' conduct, NanoChem will suffer irreparable injury, for which it has no adequate remedy at law. NanoChem has also been damaged and, until an injunction issues, will continue to be damaged in an amount yet to be determined.

COUNT III – INFRINGEMENT OF U.S. PATENT 5,593,947, 35 U.S.C. § 271

32. NanoChem incorporates by reference paragraphs 1 through 17 of this Complaint and realleges them as fully set forth herein.

33. NanoChem is informed and believes, and thereon alleges, that Defendants, in violation of 35 U.S.C. § 271, are currently infringing the ‘947 patent by, among other things, making, using, offering to sell, and selling the method of the ‘947 patent in this Judicial District and elsewhere throughout the United States, without authority or license from NanoChem.

34. NanoChem is informed and believes, and thereon alleges, that Defendants are contributorily infringing the ‘947 patent in violation of 35 U.S.C. § 271(c), by selling or offering for sale to third parties, in this Judicial District and elsewhere throughout the United States, without authority or license from NanoChem, polyaspartic acid known by Defendants to be especially used or especially adapted for the method of the ‘947 patent, and are not suitable for substantial and/or non-infringing use. NanoChem is informed and believes, and thereon alleges, that these third parties are infringing and will infringe the ‘947 patent, in violation of 35 U.S.C. § 271(a), by using polyaspartic acid in a method of the ‘947 patent.

35. NanoChem is informed and believes, and thereon alleges, that Defendants are inducing the infringement of the ‘947 patent in violation of 35 U.S.C. § 271(b), by knowingly and intentionally encouraging or aiding third parties to use polyaspartic acid in a method of the ‘947 patent in this Judicial District and elsewhere throughout the United States, without authority or license from NanoChem. NanoChem is informed and believes, and thereon alleges, that these third parties are infringing and will infringe the ‘947 patent, in violation of 35 U.S.C. § 271(a), by using polyaspartic acid in a method of the ‘947 patent.

36. NanoChem is informed and believes, and thereon alleges, that Defendants infringement of the ‘947 patent is willful.

37. Unless enjoined by this Court, Defendants will continue to infringe the '947 patent.

38. As a direct and proximate result of Defendants' conduct, NanoChem will suffer irreparable injury, for which it has no adequate remedy at law. NanoChem has also been damaged and, until an injunction issues, will continue to be damaged in an amount yet to be determined.

COUNT II – INFRINGEMENT OF U.S. PATENT 5,152,902, 35 U.S.C. § 271

39. NanoChem incorporates by reference paragraphs 1 through 17 of this Complaint and realleges them as fully set forth herein.

40. NanoChem is informed and believes, and thereon alleges, that Defendants, in violation of 35 U.S.C. § 271, are currently infringing the '902 patent by, among other things, making, using, offering to sell, and the method of the '902 patent in this Judicial District and elsewhere throughout the United States, without authority or license from NanoChem.

41. NanoChem is informed and believes, and thereon alleges, that Defendants are contributorily infringing the '902 patent in violation of 35 U.S.C. § 271(c), by selling or offering for sale to third parties, in this Judicial District and elsewhere throughout the United States, without authority or license from NanoChem, polyaspartic acid known by Defendants to be especially used or especially adapted for use in infringement of the '902 patent, and are not suitable for substantial and/or non-infringing use. NanoChem is informed and believes, and thereon alleges, that these third parties are infringing and will infringe the '902 patent, in violation of 35 U.S.C. § 271(a), by using the polyaspartic acid in a method of the '902 patent.

42. NanoChem is informed and believes, and thereon alleges, that Defendants are inducing the infringement of the '902 patent in violation of 35 U.S.C. § 271(b), by knowingly and intentionally encouraging or aiding third parties to use polyaspartic acid in the method of the

‘902 patent in this Judicial District and elsewhere throughout the United States, without authority or license from NanoChem. NanoChem is informed and believes, and thereon alleges, that these third parties are infringing and will infringe the ‘902 patent, in violation of 35 U.S.C. § 271(a), by using the polyaspartic acid in a method of the ‘902 patent.

43. NanoChem is informed and believes, and thereon alleges, that Defendants infringement of the ‘902 patent is willful.

44. Unless enjoined by this Court, Defendants will continue to infringe the ‘902 patent.

45. As a direct and proximate result of Defendants’ conduct, NanoChem will suffer irreparable injury, for which it has no adequate remedy at law. NanoChem has also been damaged and, until an injunction issues, will continue to be damaged in an amount yet to be determined.

PRAYER FOR RELIEF

WHEREFORE, NanoChem prays that the Court enter a judgment as follows:

A. For a judicial determination and declaration that the ‘010 patent, the ‘086 patent, the ‘947 patent, and the ‘902 patent are infringed by Defendants, as set for in Counts I, II, III, and IV of this Complaint;

B. For a judicial determination and declaration that the ‘010 patent, the ‘086 patent, the ‘947 patent, and the ‘902 patent are valid and enforceable;

C. For a judicial determination and declaration that Defendants’ infringement of each of the ‘010 patent, the ‘086 patent, the ‘947 patent, and the ‘902 patent is willful;

D. For an order preliminarily and permanently enjoining Defendants, and their directors, officers, employees, attorneys, distributors, agents, and all other persons in active

concert or participation with any of the foregoing, from further acts of infringement of the '010 patent, the '086 patent, the '947 patent, and the '902 patent;

E. For damages resulting from Defendants' infringement of the '010 patent, the '086 patent, the '947 patent, and the '902 patent, and the trebling of such damages because of the willful nature of Defendants' infringement;

F. For an assessment of interest on damages;

G. For a declaration that this case is exceptional pursuant to 35 U.S.C. § 285 and an award of attorneys' fees and costs in this action; and

J. For such other and further relief as this Court deems just and equitable.

DEMAND FOR JURY TRIAL

Plaintiff demands jury trial on all issues.

Respectfully submitted,

NANOChem SOLUTIONS INC.

By: _____
One of Its Counsel

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