

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI

NOVOZYMES A/S and NOVOZYMES
NORTH AMERICA, INC.,

Plaintiffs,

v.

BOLI BIOPRODUCTS USA, LLC

Defendant.

Case No. 13-1786

JURY TRIAL DEMANDED

**COMPLAINT FOR PATENT
INFRINGEMENT**

COMPLAINT

Plaintiffs Novozymes A/S and Novozymes North America, Inc. (collectively “Novozyms”), for their Complaint against defendant Boli Bioproducts USA, LLC (“Boli”), allege the following:

NATURE OF THE ACTION

1. This is a civil action for infringement of United States Patent Nos. 6,255,084 (“the ‘084 patent”).

PARTIES

2. Plaintiff Novozymes A/S is a Danish corporation with its principal place of business at Krogshøjvej 36, DK-2880 Bagsvaerd, Denmark. Novozymes A/S is a global biotechnology company that develops and sells a variety of products including industrial enzymes, microorganisms and biopharmaceutical ingredients. Novozymes A/S owns, by valid assignment, all rights, title and interest in the ‘084 patent.

3. Plaintiff Novozymes North America, Inc. is a New York corporation with a regular and established place of business at 77 Perry Chapel Church Road, Franklinton, North Carolina. Novozymes North America, Inc. is an indirect subsidiary of Novozymes A/S. Novozymes North America, Inc. is a licensee of the '084 patent.

4. Upon information and belief, defendant Boli Bioproducts USA, is a Missouri limited liability company, with a regular and established place of business at 11960 Moorland Manor Court, St. Louis, Missouri 63146.

5. Upon information and belief, Boli is in the business of importing into the United States, distributing, offering for sale and selling enzyme products to customers in the United States.

6. Upon information and belief, one of the enzyme products sold by Boli is a glucoamylase product designated BOLI GA 130.

7. Upon information and belief, BOLI GA 130 is or contains glucoamylase enzymes used, for example, in the industrial production of fuel ethanol.

8. Upon information and belief, the BOLI GA 130 product is used by Boli's customers in industrial processes that include the production of glucose from starch, a process known as saccharification, such as, for example, the production of fuel ethanol.

9. Upon information and belief, Boli assists its customers in using Boli's BOLI GA 130 product in industrial saccharification processes, for the production of glucose from starch.

JURISDICTION

10. This action arises under the patent laws of the United States, Title 35 of the United States Code. This court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a).

11. This Court has personal jurisdiction over Boli because, among other things, Boli has committed acts of infringement in Missouri, including in this district, and has engaged in continuous and systematic activities in Missouri.

VENUE

12. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and (c) and 1400(b), because, among other things, Defendant Boli is a Missouri limited liability company with a regular and established place of business at 11960 Moorland Manor Court, St. Louis, Missouri 63146, and has committed acts of infringement in this judicial district, and is subject to personal jurisdiction here.

FIRST CLAIM FOR RELIEF (INFRINGEMENT OF U.S. PATENT NO. 6,255,084)

13. Plaintiffs Novozymes A/S and Novozymes North America, Inc. incorporate by reference all of the paragraphs above as if fully set forth herein.

14. On July 3, 2001, United States Patent No. 6,255,084 entitled “Thermostable Glucoamylase” was duly and legally issued to Novozymes A/S. A copy of the ‘084 patent is attached to this Complaint as Exhibit A. Plaintiff Novozymes A/S owns the ‘084 patent. Plaintiff Novozymes North America, Inc. is a licensee of the ‘084 patent.

15. Defendant Boli has directly infringed and will continue to infringe the ‘084 patent in this judicial district and elsewhere in the United States, by using, offering to sell, and selling within the United States and/or importing into the United States without authority, a glucoamylase product that embodies the patented invention including, but not limited to, BOLI GA 130, and is liable for literal direct infringement of the ‘084 patent pursuant to 35 U.S.C. § 271(a).

16. To the extent that any fact finder deems any of the elements of the ‘084 patent claims not literally satisfied by the BOLI GA 130 glucoamylase product, such elements are satisfied under the doctrine of equivalents.

17. Novozymes has no statutory obligation to mark any products with the number of the ‘084 patent. Novozymes has notified Boli of the infringement of the ‘084 patent by filing the present action for patent infringement, as permitted by 35 U.S.C. §287(a).

18. For past infringement, Novozymes has been damaged as a result of Boli's conduct described in this Court. Boli is therefore liable to Novozymes under 35 U.S.C. § 284 for past damages in an amount that adequately compensates Novozymes for Boli's infringing conduct but no less than a reasonable royalty, together with interest and costs as fixed by this Court.

19. For future infringement, Novozymes will be irreparably harmed unless this Court issues a permanent injunction prohibiting Boli, its agents, servants, employees, representatives, and all others acting in active concert with Boli, from infringing the '084 patent.

JURY DEMAND

20. Novozymes hereby respectfully demands a jury trial on all issues appropriately triable by a jury.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs Novozymes A/S and Novozymes North America, Inc. pray that they have judgment against Defendant entered as follows:

- a. Entry of a judgment declaring that defendant Boli has infringed one or more claims of the '084 patent;
- b. A permanent injunction against continuing infringement of the '084 patent;
- c. An award of damages to compensate Novozymes A/S and Novozymes North America, Inc. for Boli's infringement, pursuant to 35 U.S.C. § 284.
- d. An award of costs to Novozymes A/S and Novozymes North America, Inc.;
- e. Entry of judgment that the actions of defendant have made this an exceptional case and an award of reasonable attorneys' fees pursuant to 35 U.S.C. § 285; and
- f. Such other and further relief, at law or in equity, to which Novozymes is entitled.

Dated: September 11, 2013

RESPECTFULLY SUBMITTED,

LATHROP & GAGE LLP

By: /s/ Scot J. Dickenson

Scott J. Dickenson, #50478

sdickenson@lathropgage.com

7701 Forsyth Blvd., Suite 500

St. Louis, MO 63105

(314) 613-2800 (314) 613-2801 FAX

Dave Barnard, #47127

dbarnard@lathropgage.com

2345 Grand Blvd., Suite 2200

Kansas City, MO 64108

(816) 292-2000 (816) 292-2001

Robert C. Sullivan, Jr. (of counsel)

Samuel S. Woodley (of counsel)

FISH & RICHARDSON P.C.

601 Lexington Avenue – 52nd Floor

New York, NY 10022

Telephone: (212) 765-5070

Facsimile: (212) 258-2291

Attorneys for Plaintiffs

NOVOZYMES A/S AND

NOVOZYMES NORTH AMERICA, INC.