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

KEMIN FOODS, L.C., THE CATHOLIC UNIVERSITY OF AMERICA,	)	
Plaintiffs,	)	Civil Action No. 4:02-CV-40327
vs.	)	
PIGMENTOS VEGETALES DEL CENTRO S.A. DE C.V.,	)	(JURY TRIAL DEMANDED)
Defendant.	)	

COMPLAINT

COME NOW, the Plaintiffs, by and through the undersigned attorneys and hereby plead the complaint as follows:

The Parties

1. Kemin Foods, L.C. ("Kemin Foods") is an Iowa limited liability company with its principal office at 600 East Court Avenue, Suite A, Des Moines, Iowa 50309.

2. The Catholic University of America is a non-profit corporation duly organized and existing under the laws of the District of Columbia and having its principal office at 620 Michigan Avenue, NE, Washington, D.C. 20064.

3. Upon information and belief, Defendant Pigmentos Vegetales Del Centro S.A. De C.V. is a foreign corporation, organized and existing under the laws of the State of Mexico with

its principal place of business at Camino a San Jose de Guanajuato s/n C.P. 38110 Celaya, Gto, +52 (4) 615-1800, fax +52 (4) 614-4040 hereinafter ("PIVEG").

4. PIVEG or its associated business entity controlled by it, has a place of business in the United States of America at 14023 Fountain View Drive, Montgomery, Texas 77356.

Venue and Jurisdiction

5. This action arises under the patent laws of the United States, Title 35 United States Code, and this Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1338(a).

6. Venue is proper under 28 U.S.C. § 1391 and 28 U.S.C. § 1400(b) since Plaintiff Kemin Foods resides in this judicial district and Defendant resides in this judicial district by virtue of its doing business in this district, and since acts of which Plaintiffs complain occur in this district and elsewhere in the U.S.A. Defendant is an alien and subject to suit here pursuant to 28 U.S.C. § 1391(d)

COUNT I
(Patent Infringement – U.S. Patent 5,382,714)

7. United States Letters Patent 5,382,714 entitled Process for Isolation, Purification and Recrystallization of Lutein from Saponified Marigold Oleoresin and Uses Thereof, issued to The Catholic University of America, Washington, D.C. on January 17, 1995, and was duly and legally issued.

8. Plaintiff Kemin Foods is the exclusive licensee of U.S. Patent 5,382,714 and has the right to sue under U.S. Patent 5,382,714.

9. Defendant PIVEG is infringing certain claims of United States Letters Patent 5,382,714, including without limitation claim 1, and has induced others to infringe this patent by

making, selling, distributing and/or using within this judicial district and elsewhere throughout the United States lutein powder which is described by it as 100% natural marigold carotenoids.

10. On information and belief, Defendant PIVEG will continue to infringe unless enjoined by this Court.

11. Upon information and belief, Defendant PIVEG had both constructive and actual notice of Plaintiffs' patent and in particular that said patent was duly and legally issued and it is aware of or should have been aware of the fact that Defendant's manufacture, use, offer for sale and sale of its lutein product infringes U.S. Patent 5,382,714.

12. Defendant's acts of infringement are willful and in wanton disregard of Plaintiffs' rights accorded by U.S. Patent 5,382,714.

COUNT II
(U.S. Patent 5,648,564)

13. United States Letters Patent 5,648,564 entitled Process for the Formation, Isolation, and Purification of Comestible Xanthophyll Crystals From Plants, issued to Rodney L Ausich and David Sanders on July 15, 1997.

14. Plaintiff Kemin Foods is the assignee of all right, title and interest in, and has the right to sue under U.S. Patent 5,648,564.

15. Defendant PIVEG is infringing certain claims of United States Letters Patent 5,648,564, including without limitation claim 1, and has induced others to infringe this patent by making, selling, distributing, importing and/or using within this judicial district and elsewhere throughout the United States lutein powder which it describes as 100% natural marigold carotenoids which is made by use of Kemin's patented process.

16. On information and belief, Defendant PIVEG will continue to infringe unless enjoined by this Court.

17. Upon information and belief, Defendant PIVEG had both constructive and actual notice of Plaintiffs' patent and in particular that said patent was duly and legally issued, and it is also aware of, or should have been aware of, the fact that Defendant's process and its importation and sale of its lutein product infringes U.S. Patent 5,648,564.

18. Defendant's acts of infringement are willful and in wanton disregard of Plaintiffs' rights accorded by U.S. Patent 5,648,564.

WHEREFORE, Plaintiffs pray for the following relief:

1. An injunction against the Defendant's continued infringement of U.S. Patent 5,382,714 and U.S. Patent 5,648,564;

2. An award of damages on each Count, and with respect to both Counts I and II, a trebling of damages due to the knowing, willful and wanton nature of the Defendant's conduct;

3. An award of Plaintiffs' attorneys' fees and costs in this action under any and all applicable statutes;

4. An award of prejudgment interest from the date of first patent infringement to entry of judgment;

5. Such other and further relief as the Court deems equitable under the circumstances, including where appropriate punitive damages for the Defendant's conduct.

DEMAND FOR JURY TRIAL

Plaintiffs demand trial by jury as to all issues triable by jury in this case as a matter of right.

Dated: July 9, 2002

Respectfully submitted,

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