

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Kathryn G. Spelman, Esq. (Cal. Bar No. 154512)  
Daniel H. Fingerman, Esq. (Cal. Bar No. 229683)  
Mount & Stoelker, P.C.  
RiverPark Tower, Suite 1650  
333 West San Carlos Street  
San Jose CA 95110-2740  
Phone: (408) 279-7000  
Fax: (408) 998-1473  
Email: kspelman@mount.com, dfingerman@mount.com  
  
Counsel for San Francisco Technology Inc.

U.S. District Court  
Northern District of California

San Francisco Technology Inc.  
  
Plaintiff  
  
vs.  
  
Mossworld Enterprises, Inc.  
  
Defendant

ADR

E-FILING

FILED  
2018 DEC -8 P 3:21  
RICHARD W. WIEKING  
CLERK U.S. DISTRICT COURT  
N.D. CALIF. # 124  
Ses. Paul

Case No. **CV 18-05574** HRL

Complaint

Demand For Jury Trial

MOUNT & STOELKER, P.C.  
RIVERPARK TOWER, SUITE 1650  
333 WEST SAN CARLOS STREET  
SAN JOSE, CALIFORNIA 95110-2740  
TELEPHONE (408) 279-7000



**Intradistrict Assignment**

1  
2 7. This case is appropriate for District-wide assignment under Civil Local Rule 3-2(c)  
3 because the claims in this Complaint arise under 35 U.S.C. § 292, which is codified with the patent  
4 statutes.

**Mossworld's False Marking**

5  
6 8. SF Tech incorporates by reference all above allegations.

7 9. Upon information and belief, Mossworld makes and sells many types of products,  
8 including the Made For Mom No Spill Bottle Cap System (the "Accused Product").

9 10. Mossworld causes or contributes to the marking and advertising of products with the  
10 U.S. Patent Nos. 5,377,877, 5,339,995, 5,409,144, 5,439,143 and 6,942,121, including, but not  
11 limited to, the Accused Product.

12 11. U.S. Patent Nos. 5,377,877, 5,339,995, 5,409,144, 5,439,143, all entitled "Dispensing  
13 valve for packaging", issued on January 3, 1995, August 23, 1994, April 25, 1995, and August 8,  
14 1995, respectively. U.S. Patent No. 6,942,121, entitled "Commercial container drinking adapter for  
15 juvenile use and drinking system", issued on September 13, 2005.

16 12. Mossworld individually marks the Accused Product with U.S. Patent Nos. 5,213,236,  
17 5,377,877, 5,339,995, 5,409,144, 5,439,143, 5,839,614, and 6,942,121.

18 13. U.S. Patent Nos. 5,377,877, 5,339,995, 5,409,144, 5,439,143 and 6,942,121 are  
19 expired patents. Upon information and belief, U.S. Patent Nos. 5,377,877, 5,409,144, and 5,439,143  
20 expired no later than May 26, 2010. Upon information and belief, U.S. Patent No. 5,339,995 expired  
21 no later than December 7, 2008. Upon information and belief, U.S. Patent No. 6,942,121 expired no  
22 later than September 14, 2009.

23 14. Mossworld's falsely marked products are being sold in 2010 with such false markings,  
24 after the expiration of U.S. Patent Nos. 5,377,877, 5,339,995, 5,409,144, 5,439,143 and 6,942,121.

25 15. Mossworld is a sophisticated company and has many years of experience applying for,  
26 obtaining, and maintaining patent rights. Mossworld also has extensive experience manufacturing  
27 products and either marking or not marking them with words or numbers indicating that such  
28

1 products are protected by patents or pending applications.

2 16. Mossworld (including Mossworld's patent counsel) knew or should have known that  
3 the term of U.S. Patent Nos. 5,377,877, 5,339,995, 5,409,144, 5,439,143 and 6,942,121 expired no  
4 later than their expiration dates.

5 17. Mossworld is no longer paying maintenance fees to the United States Patent and  
6 Trademark Office to maintain U.S. Patent Nos. 5,377,877, 5,339,995, 5,409,144, 5,439,143 and  
7 6,942,121.

8 18. Mossworld knew or should have known that U.S. Patent Nos. 5,377,877, 5,339,995,  
9 5,409,144, 5,439,143 and 6,942,121 had already expired at the same time Mossworld was marking  
10 and advertising products with U.S. Patent Nos. 5,377,877, 5,339,995, 5,409,144, 5,439,143 and  
11 6,942,121.

12 19. Mossworld knows, or reasonably should know, that U.S. Patent Nos. 5,377,877,  
13 5,339,995, 5,409,144, 5,439,143 and 6,942,121 do not protect the Accused Product, or any products  
14 whatsoever.

15 20. Mossworld could have no reasonable belief that it was proper to mark and advertise  
16 products with the numbers of the expired U.S. Patent Nos. 5,377,877, 5,339,995, 5,409,144,  
17 5,439,143 and 6,942,121, and the false marking was done with intent to deceive the public by,  
18 including, but not limited to, misusing its patent rights to extend the term of its patents and inhibiting  
19 competition.

20 21. For at least the reasons set forth herein, Mossworld has wrongfully and illegally  
21 advertised patent rights which it does not possess, and, as a result, has likely benefited in at least  
22 maintaining its market share in the marketplace.

23 22. For at least the reasons set forth herein, Mossworld has wrongfully and illegally  
24 advertised patent rights which it does not possess, and, as a result, has likely caused the retail price of  
25 its Accused Product to be inflated above normal market levels, and has caused the public to face  
26 inflated prices for its products.

27 23. The public deception, and/or competitive harm caused by each of Mossworld's false  
28 markings has and continues to harm the United States and the public, including relator SF Tech, a

1 representative of the public incurring the cost and time associated with this enforcement.

2 **Demand For Judgment**

3 SF Tech demands judgment against Mossworld, as follows:

- 4 1. A declaration that Mossworld violated 35 U.S.C. § 292.
- 5 2. An accounting of the number, sales, and revenue of any falsely marked articles not
- 6 presented at trial.
- 7 3. A civil fine of \$500 for each offense — half paid to the U.S., and half paid to SF Tech.
- 8 4. Costs, including attorney fees.
- 9 5. A finding that this is an exceptional case.
- 10 6. Any other relief the court deems appropriate.

11 **Demand For Jury Trial**

12 SF Tech demands a jury trial on all issues so triable.

13 Date: November 18, 2010

Mount & Stoelker, P.C.,

/s/ Dan Fingerman

Counsel for San Francisco Technology Inc.



MOUNT & STOELKER, P.C.  
RIVERPARK TOWER, SUITE 1650  
333 WEST SAN CARLOS STREET  
SAN JOSE, CALIFORNIA 95110-2740  
TELEPHONE (408) 279-7000