

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF IOWA  
CEDAR RAPIDS DIVISION

CMI ROADBUILDING, INC.,	)	
	)	
Plaintiff,	)	No. 16 cv 33 EJM
vs.	)	
	)	ORDER
IOWA PARTS, INC. and CLIMATE	)	
ENGINEERS, INC.,	)	
	)	
Defendants.	)	
	)	

This matter is before the court on defendant Iowa Parts, Inc.'s (Iowa Parts) resisted Motion to Dismiss various counts of the Amended Complaint, filed April 25, 2016. Denied.

Plaintiff CMI Roadbuilding, Inc., (CMI) brought this action against Iowa Parts and Climate Engineers, Inc., for copyright infringement, trademark infringement, unfair competition and stealing trade secrets relating to their competition in the asphalt paving industry. Jurisdiction under 28 U.S.C. §§1331 and 1332.

Iowa Parts moves to dismiss Counts I, II, IV, VI, VII, VIII and IX for failure to state a claim under Fed.R.Civ.Pro. 12(b)(6). For purposes of this motion to dismiss, the court will "accept as true all of the factual allegations contained in the Complaint," and will draw "all reasonable inferences...in favor of the plaintiff." Schaaf v. Residential Funding Corp., 517 F.3d 544, 549 (8<sup>th</sup> Cir. 2009).

In Count I, the amended complaint pleads that Iowa Parts slightly modified, relabeled and then marketed CMI's product. This sufficiently pleads a "reverse palming-off" cause of action, including the required elements of section 43(a) of the Lanham Act,

Walker Mfg. v. Hoffman, Inc., 261 F.Supp.2d 1054 (N.D. IA 2003); Pioneer Hi-Bred v. Holden Foundation Seeds, 35 F.3d 1226 (8<sup>th</sup> Cir. 1994).


Regarding Counts II, IV, VI, VII, VIII and IX, movant claims the amended complaint does not plead sufficient factual detail. The amended complaint properly pleads the elements of causes of action for (Count II) misappropriation of trade secrets under Iowa Code Chapter 550, and under Iowa common law for (Count IV) unfair competition, Basic Chemicals, Inc. v. Benson, 251 N.W.2d 220 (Iowa 1977), (Count VI) tortious interference with business contract, Revere Transducers, Inc. v. Deere & Co., 595 N.W.2d 751 (Iowa 1999), (Count VII) inducement to breach contract, 205 Corp v. Brandow, 517 N.W.2d 548 (Iowa 1994), (Count VIII) conversion, Sioux Biochemicals v. Cargill, 410 F.Supp.2d 785 (N.D.IA. 2005) quoting Whalen v. Connelly, 621 N.W.2d 681 (Iowa 2000), and (Count IX) unjust enrichment, W. Branch State Bank v. Gates, 477 N.W.2d 848 (Iowa 1991), with sufficient particularity under federal notice pleadings rules contained in F.R.Civ.P. 8. Further information and detail can be obtained in the discovery phase.

It is therefore

ORDERED

Denied.

June 1, 2016

  
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Edward J. McManus, Judge  
UNITED STATES DISTRICT COURT