

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

12 CIV 5039

LAMINA PACKAGING INNOVATIONS,
LLC,

Case No.

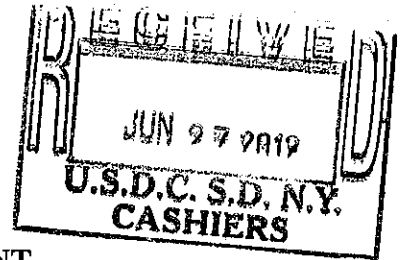
Plaintiff,

JURY TRIAL DEMANDED

v.

MONSIEUR TOUTON SELECTION,
LTD.,

Defendant.



COMPLAINT FOR PATENT INFRINGEMENT

1. This is an action for patent infringement in which Lamina Packaging Innovations, LLC (“Lamina” or “Plaintiff”) makes the following allegations against Monsieur Touton Selection, Ltd. (“M.T.S.”).

PARTIES

2. Plaintiff Lamina is a limited liability company organized and existing under the laws of the State of Texas with its principal place of business at 3301 W. Marshall Ave., Longview, TX 75604.

3. On information and belief, Defendant Monsieur Touton Selection, Ltd. is a New York corporation with its principal place of business at 129 West 27th St., 9th Floor, New York, NY 10001. M.T.S. may be served with process via its registered agent, National Corporate Research, Ltd., 10 East 40th St., 10th Floor, New York, NY 10016.

JURISDICTION AND VENUE

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

5. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b). On information and belief, M.T.S. has transacted business in this district, and has committed acts of patent infringement in this district.

FACTUAL BACKGROUND

6. M.T.S. is in the business of importing into and/or distributing within the United States various alcoholic beverages. At least some of the products M.T.S. imports and/or distributes are packaged in laminated paperboard boxes, some of which infringe at least one claim of each of the Patents-in-Suit.

7. Lamina contends that at least M.T.S.'s "Ascott XO" brandy packaging infringes the Patents-in-Suit.

THE PATENTS-IN-SUIT

8. United States Patent No. 6,780,480 ("the '480 Patent"), entitled "Laminated Package Having Metalized Paper," was duly and lawfully issued on August 24, 2004, based upon an application filed by the inventor, Roger P. Hoffman. A copy of the '480 Patent is attached hereto as **Exhibit A**.

9. Lamina is the owner of the '480 Patent and has the right to sue, and recover damages, for infringement thereof.

10. United States Patent No. 6,207,242 ("the '242 Patent"), entitled "Laminated Package With Enhanced Interior and Exterior," was duly and lawfully issued on March 27, 2001, based upon an application filed by the inventor, Roger P. Hoffman. A copy of the '242 Patent is attached hereto as **Exhibit B**.

11. Lamina is the owner of the '242 Patent and has the right to sue, and recover damages, for infringement thereof.

COUNT I
INFRINGEMENT OF U.S. PATENT NO. 6,780,480

12. On information and belief, M.T.S. has been and is now directly infringing the '480 Patent in this judicial district, and elsewhere in the United States. Infringements by M.T.S. include, without limitation, making, using, offering for sale, and/or selling within the United States, and/or importing into the United States, at least its "Ascott XO" brandy packaging ("Packaging"), infringing one or more claims of the '480 Patent. By making, using, importing, offering for sale, and/or selling within the United States, and/or importing into the United States said Packaging, and all like Packaging that are covered by one or more claims of the '480 Patent, M.T.S. is liable for infringement of the '480 Patent under 35 U.S.C. § 271(a).

13. M.T.S. infringes at least Claim 1 of the '480 Patent, by way of example only, and without limitation on Lamina's assertion of infringement by M.T.S. of other claims of the '480 Patent. Claim 1 of the '480 Patent reads as follows:

1. A laminated carton comprising:
 - a laminated composite sheet folded and secured in the configuration of a box;
 - said sheet comprising a non-corrugated base layer of unbleached cellulosic fibers and having an inner surface and an outer surface;
 - an outer layer of separately formed non-corrugated metalized paper having an inner surface and an outer surface; printed graphics disposed on the outer surface of the outer layer;
 - an adhesive disposed between the inner surface of the outer layer and the outer surface of the base layer.

On information and belief, M.T.S.'s Packaging comprises each and every step of at least Claim 1 of the '480 Patent.

14. M.T.S.'s Packaging is a "laminated carton []" as shown in the picture attached as **Exhibit C**, obtained from <http://www.mazbeverage.com/brandy.htm>.

15. M.T.S.'s Packaging comprises the first element of Claim 1, "a laminated composite sheet folded and secured in the configuration of a box," as shown in the picture attached as **Exhibit C**.

16. M.T.S.'s Packaging comprises the second element of Claim 1, "said sheet comprising a non-corrugated base layer of unbleached cellulosic fibers and having an inner surface and an outer surface," as shown in the picture attached as **Exhibit D**.

17. M.T.S.'s Packaging comprises the third element of Claim 1, "an outer layer of separately formed non-corrugated metalized paper having an inner surface and an outer surface; printed graphics disposed on the outer surface of the outer layer," as shown in the picture attached as **Exhibit E**.

18. M.T.S.'s Packaging comprises the fourth element of Claim 1, "an adhesive layer disposed between the inner surface of the outer layer and the outer surface of the base layer," as shown in the picture attached as **Exhibit F**.

COUNT II
INFRINGEMENT OF U.S. PATENT NO. 6,207,242

19. On information and belief, M.T.S. has been and is now directly infringing the '242 Patent in this judicial district, and elsewhere in the United States. Infringements by M.T.S. include, without limitation, making, using, offering for sale, and/or selling within the United States, and/or importing into the United States, at least its "Ascott XO" brandy packaging ("Packaging"), infringing one or more claims of the '480 Patent. By making, using, importing, offering for sale, and/or selling within the United States, and/or importing into the United States said Packaging, and all like Packaging that are covered by one or more claims of the '242 Patent, M.T.S. is liable for infringement of the '480 Patent under 35 U.S.C. § 271(a).

20. M.T.S. infringes at least Claim 25 of the '242 Patent, by way of example only, and without limitation on Lamina's assertion of infringement by M.T.S. of other claims of the '242 Patent. Claim 25 of the '242 Patent reads as follows:

25. A carton comprising a laminated composite sheet folded and glued in a configuration of a box, said sheet comprising;

- a first layer;
- a second layer;
- a core, with a first core surface and second core surface, said first layer adhesively attached to the first core surface and said second layer adhesively attached to the second core surface;
- said second layer comprises:
 - a fiberboard base layer comprised of cellulosic fibers selected from the group consisting of unbleached virgin Kraft pulp and recycled pulp, said base layer having an inner surface and an outer surface;
 - a second outer layer with printed graphics thereon; and
 - a separate layer of adhesive disposed between said base layer and said second outer layer serving to bond the second outer layer to the base layer, the outer layer being bonded continuously to the outer surface of said base layer.

On information and belief, M.T.S.'s Packaging comprises each and every step of at least Claim 25 of the '242 Patent.

21. M.T.S.'s Packaging is a "carton comprising a laminated composite sheet folded and glued in a configuration of a box []" as shown in the picture attached as **Exhibit C**, obtained from <http://www.mazbeverage.com/brandy.htm>.

22. M.T.S.'s Packaging comprises the first element of Claim 25, "a first layer," as shown in the picture attached as **Exhibit G**.

23. M.T.S.'s Packaging comprises the second element of Claim 25, "a second layer," as shown in the pictures attached as **Exhibits H**.

24. M.T.S.'s Packaging comprises the third element of Claim 25, "a core, with a first core surface and second core surface, said first layer adhesively attached to the first core surface and said second layer adhesively attached to the second core surface," as shown in the picture attached as **Exhibit I**.

25. M.T.S.'s Packaging comprises the fourth element of Claim 25, the second layer comprising "a fiberboard base layer comprised of cellulosic fibers selected from the group consisting of unbleached virgin Kraft pulp and recycled pulp, said base layer having an inner surface and an outer surface," as shown in the picture attached as **Exhibit J**.

26. M.T.S.'s Packaging comprises the fifth element of Claim 25, "a second outer layer with printed graphics thereon," as shown in the picture attached as **Exhibit K**.

27. M.T.S.'s Packaging comprises the sixth element of Claim 25, "a separate layer of adhesive disposed between said base layer and said second outer layer serving to bond the second outer layer to the base layer, the outer layer being bonded continuously to the outer surface of said base layer," as shown in the picture attached as **Exhibit F**.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this court enter:

28. A judgment in favor of Lamina that M.T.S. has infringed the '242, and '480 Patents;

29. A judgment and order requiring M.T.S. to pay Lamina its damages, costs, expenses, and prejudgment and post-judgment interest for M.T.S.'s infringement of the '242 and '480 Patents as provided under 35 U.S.C. § 284;

30. A judgment and order finding that this is an exceptional case within the meaning of U.S.C. § 285 and awarding to Lamina its reasonable attorneys' fees; and

31. Any and all other relief to which Lamina may show itself to be entitled.

DEMAND FOR JURY TRIAL

Lamina, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

June 26, 2012

Respectfully submitted,

/s/ 

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