United States District Court
Northern District of California

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

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| TROVE BRANDS, LLC,<br>Plaintiff,<br>v.<br>CAMELBAK PRODUCTS, LLC, et al.,<br>Defendants. | Case No. 23-cv-04267-PCP<br><br>**ORDER RE: MOTION TO AMEND PLEADINGS** |

In this patent case, defendants CamelBak Products, LLC and Vista Outdoors Inc. (VOI) filed a single "motion to amend the pleadings" seeking (1) to sever and dismiss VOI as a defendant, or alternatively, to dismiss the claims against VOI for lack of subject-matter jurisdiction, and (2) to amend their counterclaims to add an additional infringement claim. The motion to sever and/or dismiss is denied. Leave to amend the counterclaims is granted.

Plaintiff Trove Brands, LLC filed this action on August 21, 2023 against both CamelBak and VOI seeking declaratory judgments of non-infringement of several patents. On November 8, 2023, defendants answered the complaint and asserted counterclaims of infringement. Dkt. No. 19. On November 29, 2023, the Court entered a scheduling order. Dkt. No. 25. That order required infringement contentions by December 21, 2023; invalidity contentions by January 22, 2024; and exchange of proposed terms for claim construction by February 5, 2024; as well as many subsequent deadlines. The order also set a December 21, 2023 deadline to amend the pleadings. On December 6, 2023, the Patent Office announced that U.S. Patent No. 11,851,250 would issue on December 26, 2023 (five days after the deadline to amend pleadings). The '250 Patent is assigned to CamelBak. On December 21, 2023, after the parties were unable to agree to a stipulation adding an additional counterclaim of infringement of the new '250 Patent, defendants

filed this motion seeking both dismissal of VOI as a party and leave to add an additional infringement counterclaim.

Under Federal Rule of Civil Procedure 20, parties "may be joined in one action as defendants if: (A) any right to relief is asserted against them jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and (B) any question of law or fact common to all defendants will arise in the action." "Rule 20 … regarding permissive joinder is to be construed liberally in order to promote trial convenience and to expedite the final determination of disputes, thereby preventing multiple lawsuits.… Under the rules, the impulse is toward entertaining the broadest possible scope of action consistent with fairness to the parties; joinder of claims, parties and remedies is strongly encouraged." *League to Save Lake Tahoe v. Tahoe Reg'l Planning Agency*, 558 F.2d 914, 917 (9th Cir. 1977) (cleaned up). VOI, CamelBak's ultimate parent company, says it has no relationship to this action because it did not send the letter to plaintiff alleging infringement, it does not own the patents in suit, and it does not make, use, sell, offer, or import any of the CamelBak products that embody the patents in suit. It argues that Rule 20's test for permissive joinder is not satisfied because VOI has no relationship to the claims at issue. Trove counters that VOI either has or at some point had an interest in the patents at issue, and would at least have standing to assert equitable rights over the patent even if it did not have legal rights. Based on the pleadings, the Court is satisfied that Rule 20's lenient test is met. Defendants' motion to sever is denied.

As part of this broader motion to amend the pleadings, defendants also argue in the alternative that the claims against VOI should be dismissed under Rule 12(b)(1) for lack of subject matter jurisdiction. Given the fact-based nature of defendants' jurisdictional challenge, however, defendants' arguments will be better addressed and considered in the context of a standalone motion. Defendants' motion to dismiss the claims against VOI for lack or jurisdiction is dismissed without prejudice to the filing of such a motion.

Separately, defendants seek leave to amend the answer and counterclaims to add a counterclaim for the newly issued '250 Patent that is related to the three patents already asserted. Rule 15 specifies that "a party may amend its pleading only with the opposing party's written

consent or the court's leave," and directs that the Court "should freely give leave when justice so requires." Trove argues that it would be prejudiced by the addition of new infringement claims if it is not given additional time to prepare its corresponding invalidity contentions. According to emails submitted alongside defendants' motion, Trove offered to consent to defendants' addition of the new patent claims if defendants would agree to modify the case schedule and allow Trove to submit its invalidity contentions 60 days after defendants' infringement contentions. Given Trove's position, the Court will grant defendants' motion for leave to amend and will modify the case schedule accordingly. Defendants' amended answer and counterclaims and the corresponding infringement contentions will be due Friday, February 16, 2024.[1] Plaintiff's invalidity contentions with respect to the newly added claims will be due Friday, April 12, 2024.

The Court also notes the inconsistency in the previous case schedule proposed in the parties' Nov. 22, 2023 Joint Case Management Statement, which set the deadline for Invalidity Contentions as "1/22/24, 45 days after service upon it of the Disclosure of Asserted Claims and Infringement Contentions." But January 22, 2024 is only 32 days after the deadline for infringement contentions. Accordingly, the invalidity contentions for the already-asserted claims shall be due February 16, 2024 (in addition to the March 29, 2024 deadline for the new claims).

Based on these new deadlines, the case schedule for this action is updated as follows:

**Deadlines**

- Amended Answer and Counterclaims and '250 Patent Infringement Contentions — Feb. 16, 2024
- Invalidity Contentions (Except '250 Patent) — Feb. 16, 2024
- '250 Patent Invalidity Contentions — Apr. 12, 2024
- Exchanged of Proposed Terms for Construction — Apr. 26, 2024
- Exchange of Preliminary Claim Construction and Extrinsic Evidence — May 17, 2024

[1] Defendants have submitted a redlined proposal of their amended pleading alongside this motion. This draft version drops VOI as a defendant and appears to incorrectly suggest that Trove has stipulated to dismissing VOI. Defendants should update the draft to reflect Trove's position and this Order (which does not dismiss VOI) before filing the amended pleading.

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| • Damages Contentions | May 31, 2024 |
| • Joint Claim Construction and Prehearing Statement and Expert Reports | Jun. 26, 2024 |
| • Responsive Damages Contentions | Jul. 1, 2024 |
| • Claim Construction Discovery Cutoff | Jul. 12, 2024 |
| • Opening Claim Construction Brief | Jul. 26, 2024 |
| • Responsive Claim Construction Brief | Aug. 9, 2024 |
| • Reply Claim Construction Brief | Aug. 16, 2024 |
| • Damages Contention Meeting | Aug. 28, 2024 |
| • Claim Construction Hearing | Aug. 28, 2024 |
| • Non-Expert Discovery Cutoff | Dec. 9, 2024 |
| • Expert Discovery Cutoff | Mar. 10, 2025 |
| • Deadline for Hearing Dispositive Motion(s) | Jun. 5, 2025 |

**Trial Schedule**

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| • Joint Pretrial Conference | Sept. 2, 2025 |
| • Trial (5 days) | Sept. 22, 2025 |

**IT IS SO ORDERED.**

Dated: February 14, 2024

P. Casey Pitts
United States District Judge