

争议解决法律热点问题

上海一中院一审判决上海科华染料工业有限公司侵害亨斯迈先进材料(瑞士)有限公司发明专利权

亨斯迈先进材料(瑞士)有限公司(以下简称亨斯迈材料公司)是精细化学品全球制造商及营销商亨斯迈公司的子公司,其于2006年12月1日,经专利权转移获得名称为“偶氮染料及制备方法与用途”(专利号 ZL00106403.7)发明专利的专利权。该专利最初由西巴特殊化学品控股有限公司于2000年3月10日向国家知识产权局提出申请,并于2004年8月25日获得授权。

亨斯迈材料公司认为,上海科华染料工业有限公司(以下简称上海科华公司)制造、销售的“科华超级黑 LC-G”、“科华超级黑 LC-R”染料落入上述发明专利的权利要求 1-7、9 的保护范围,其于2007年9月,将上海科华公司起诉至上海一中院,请求法院判令上海科华公司立即停止侵权并赔偿经济损失50万元。

上海科华公司是浙江龙盛集团股份有限公司的控股子公司,浙江龙盛集团股份有限公司是国内染料行业首家上市公司。

上海一中院受理该案后,于2008年3月6日,根据

亨斯迈材料公司的申请,委托技术鉴定机构,就被控侵权产品“科华超级黑 LC-G”和“科华超级黑 LC-R”与原告发明专利“偶氮染料及制备方法与用途”的权利要求 1-7、9 的技术特征是否相同,进行技术鉴定。2010年2月5日,中国科学院上海有机化学研究所分析测试中心出具“分析测试报告”,确认检测产品与对照品主成分相同。

2012年11月16日,北京国科知识产权司法鉴定中心根据中国科学院上海有机化学研究所分析测试中心出具的“分析测试报告”,出具司法鉴定意见书,确认两者技术特征相同。

上海一中院在采信北京国科知识产权司法鉴定中心出具司法鉴定意见的基础上,认定亨斯迈材料公司的侵权指控成立,判令上海科华公司立即停止侵权,并赔偿亨斯迈材料公司经济损失40万元。该案产生的检测费10万元、鉴定费8.2万元,均由上海科华公司负担。

上海科华公司不服一审判决,向上海市高级人民法院提起上诉。目前,该案正在二审程序进行中。

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Dispute Resolution

Shanghai No.1 Intermediate People's Court Ruled Against Shanghai Colva Dyestuff Industrial Co., Ltd. in the Infringement of the Invention Patent of Huntsman Advanced Materials LLC's (Switzerland) in the First Instance Judgment

Huntsman Advanced Materials LLC ("Huntsman") is a subsidiary of Huntsman Corporation, which is a global manufacturer and marketer of differentiated chemicals. On December 1, 2006, Huntsman obtained an invention patent entitled "Azo dyes, their preparation and uses" (Patent No. ZL00106403.7) through patent ownership transfer. This patent was initially filed by Ciba Specialty Chemicals Holding, Inc on March 10, 2000 with the State Intellectual Property Office (SIPO) of the People's Republic of China and was granted on August 25, 2004.

Huntsman alleged that Shanghai Colva Dyestuff Industrial Co., Ltd.'s ("Colva") infringed claims 1-7 and 9 of its patent by manufacturing and selling the products of "Colvazol Super Black LC-G" and "Colvazol Super Black LC-R". In September 2007, Huntsman filed an action against Colva with the Shanghai No.1 Intermediate People's Court (the "Shanghai Court") for infringement of its patent, and requested Colva to stop the infringement activities immediately and pay damages up to RMB 0.5 million.

Colva is a subsidiary of Zhejiang Longsheng Group, which is the first domestically listed public company specializing in dyeing materials.

After accepting the case, the Shanghai Court, on March 6, 2008, requested a technical appraisal agency to analyze whether the alleged infringing

products "Colvazol Super Black LC-G" and "Colvazol Super Black LC-R" are equivalent in technical characteristics to the products covered in Claims 1-7 and 9 of the patent. On February 5, 2010, the Shanghai Institute of Organic Chemistry provided an analysis and testing report, which concluded that the samples of the alleged infringing products are identical to the main components of the reference products.

On November 16, 2012, the Beijing National Science Intellectual Property Forensic Center provided a judicial evaluation report stating that the alleged infringing products and the patented products are identical in technical characteristic based on the analysis and testing report of the Shanghai Institute of Organic Chemistry.

The Shanghai Court accepted the evaluation results stated by the Beijing National Science Intellectual Property Forensic Center in its judicial evaluation report, and decided that Colva had committed infringement of Huntsman's patent. The Shanghai Court ordered Colva to stop the infringement immediately, and pay Huntsman RMB 0.4 million in damages. Colva shall also be responsible for payment of the testing fee of RMB 100,000 and the appraisal fee of RMB 82,000.

Currently, this case has been appeal to the Shanghai High People's Court as the court of second instance.

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