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16 Attorneys for Plaintiff

17 UNITED STATES DISTRICT COURT  
18 WESTERN DISTRICT OF WASHINGTON  
19 AT SEATTLE

20 HELLY HANSEN (U.S.) Inc.,

21 Plaintiff,

22 v.

23 ECOLAB USA, Inc., a Delaware Corporation;  
24 ECOLAB, Inc., a Delaware Corporation,

25 Defendants.

No. 2:10-cv-632

**COMPLAINT FOR DECLARATORY  
RELIEF**

JURY DEMAND

**INTRODUCTION**

26 This is an action for declaratory relief sought by Helly Hansen (U.S.) Inc., (“Helly Hansen”) against Defendants, Ecolab, Inc. and Ecolab USA, Inc. (collectively referred to herein as “Ecolab”).

COMPLAINT FOR DECLARATORY  
RELIEF  
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1 As set forth herein, Ecolab, Inc. claims Helly Hansen is infringing and diluting Ecolab’s registered  
2 trademark “Ecolab,” which Ecolab, Inc. claims to own for goods and services related to the  
3 sanitation industry. Helly Hansen denies all allegations and contends there is no actionable  
4 trademark infringement or trademark dilution caused by Helly Hansen’s use of its “Ecolab”  
5 trademark on its high-quality outdoor sporting apparel and related products. Ecolab has not  
6 indicated that it intends to file suit against Helly Hansen regarding its alleged infringement. Ecolab  
7 has, however, declared it has superior rights to those of Helly Hansen and has requested that Helly  
8 Hansen stop using the Ecolab mark on its clothing line. Accordingly, the parties have adverse legal  
9 interests and there is a substantial controversy of sufficient immediacy and reality to warrant the  
10 issuance of a declaratory judgment in favor of Helly Hansen.  
11

12  
13 **I. PARTIES, JURISDICTION & VENUE**

14 1.1 Plaintiff Helly Hansen (U.S.) Inc. is a corporation organized and existing under the  
15 laws of the State of Washington, with its principal place of business located in Auburn, Washington.  
16 Helly Hansen is a globally-known manufacturer of high-quality outdoor sports apparel, including a  
17 line of apparel products marketed and sold under both the names “HellyHansen” (or “HH”) and  
18 “Ecolab.” Its products, including the Ecolab product line at issue, are sold throughout this judicial  
19 district, the country, and the world. Helly Hansen is a well-known brand name and the company has  
20 tremendous goodwill as evidenced by numerous industry awards and consumer recognition of, and  
21 appreciation for, Helly Hansen’s goods.  
22

23 1.2 Defendant Ecolab, Inc. is organized and existing under the laws of the State of  
24 Delaware, with its principal place of business in St. Paul, Minnesota. On information and belief,  
25 Ecolab, Inc. is registered with the Washington Secretary of State to do business in this state,  
26 maintains offices in this judicial district, as well as a sales force, and provides extensive goods and

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1 services to the consuming public in this judicial district under the “Ecolab” name. As set forth  
2 herein, attorneys for Ecolab, Inc., have asserted that it owns U.S. Trademark Registration Nos.  
3 1,497,423, 1,525,025, 1,525,025, 1,527,356, 1,538,458, 1,538,718, 1,538,857, and 1,539,982  
4 (collectively referred to herein as the “Ecolab Registrations”).

5  
6 1.3 On information and belief, Defendant Ecolab USA, Inc. is organized and existing  
7 under the laws of the State of Delaware, with its principal place of business in St. Paul, Minnesota.  
8 According to the records on file with the United States Patent and Trademark Office (“USPTO”)  
9 Ecolab USA, Inc. is the recent assignee of “the entire interest” in all of the Ecolab Registrations. On  
10 information and belief, Ecolab Inc.’s systematic and continuous business operations in this judicial  
11 district, including the use of the Ecolab registered marks is encouraged by, authorized by, and done  
12 for the benefit of Ecolab USA, Inc. As such, Ecolab USA, Inc. has purposefully availed itself of the  
13 laws of the State of Washington and is subject to jurisdiction in this judicial district.  
14

15 1.4 This is a civil action for declaratory judgment pursuant to 28 U.S.C. § 2201.  
16 Jurisdiction is vested in this Court under 28 U.S.C. § 1338, as this is a dispute concerning the rights  
17 of the parties under the federal Lanham Act. On information and belief, jurisdiction is also vested in  
18 this Court under 28 U.S.C. § 1332, as there is diversity of citizenship between the parties and the  
19 amount in controversy exceeds \$75,000 exclusive of interest and costs. As set forth above, on  
20 information and belief, defendants have continuous and systematic contacts with this judicial district  
21 such that this Court has personal jurisdiction over them.  
22

23 1.5 Venue in this judicial district is proper under 28 U.S.C. § 1391(b) because Defendants  
24 provide goods and services under the Ecolab mark in this judicial district, Defendant Ecolab, Inc.  
25 sent two demand letters to Helly Hansen in this judicial district, Helly Hansen is located in this  
26 judicial district, and is marketing the allegedly-infringing and diluting goods in this judicial district.

1 As such, a substantial portion of the events giving rise to the present controversy have occurred in  
2 this judicial district.

3 **II. FACTUAL ALLEGATIONS**

4  
5 2.1 Helly Hansen is a company based in Norway with its U.S. operations based in  
6 Auburn, Washington. Helly Hansen is a global leader in providing high quality apparel and  
7 protective technical gear for work, survival and sports enthusiasts. Helly Hansen's products are of  
8 the highest quality and durability and sold throughout this district, the country, and the world.

9  
10 2.2 Helly Hansen has a well-known reputation for practicing environmentally-sound  
11 corporate practices when it comes to all facets of its business operations. One such product line that  
12 was manufactured with particular attention to environmental concerns is the Helly Hansen "Ekolab"  
13 line. The name "Ekolab" was inspired by "økologisk laboatorium" which directly translated from  
14 Norwegian means "ecological laboratory." This name is consistent with the Norwegian heritage of  
15 Helly Hansen and reflects its approach to being more environmental friendly and constantly  
16 evolving to ensure that it develops more environmentally-friendly products and ways of working.  
17 Helly Hansen has been manufacturing and selling sports apparel products under the name "Ekolab"  
18 since at least July 2008, with extensive pre-sale marketing activity occurring in commerce since  
19 approximately November, 2007. Like all Helly Hansen products, the "Ekolab" line of products  
20 represents the highest in quality outdoor apparel with unsurpassed attention to detail. Further, the  
21 Ekolab line of products is simultaneously sold and marketed under the "Helly Hansen" name and  
22 associated trademarks. Examples are set forth in Exhibit A depicting how the Ekolab name is used  
23 on Helly Hansen's products and marketing materials as well as the marketing and sales information  
24 of third party vendors who are authorized to sell Helly Hansen products.  
25  
26





1 interests because those accusations are intended to place a cloud over Helly Hansen's efforts to  
2 market and sell its Ecolab products. Accordingly, there is an actual, substantial, and continuing  
3 justicable controversy between Helly Hansen and Ecolab. Helly Hansen is entitled to a declaration  
4 that its Ecolab product line, including but not limited to the way in which the Ecolab mark is used as  
5 set forth in Exhibit A, is not diluting whatever rights Ecolab may have in the Ecolab mark.  
6

7 **V. JURY DEMAND**

8 Plaintiff Helly Hansen hereby demands a jury trial on all issues so triable.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Helly Hansen prays for relief as follows:

- 11 1. For a judgment declaring that Helly Hansen's use of the Ecolab mark is  
12 proper and is not violating any trademark rights, if any, owned by Ecolab in the Ecolab mark;  
13  
14 2. For an award of attorney's fees and other costs of suit as provided by statute  
15 or equity;  
16  
17 3. For such other and further relief as the Court deems just and equitable.

18 DATED this 14<sup>th</sup> day of April, 2010.

19 K&L GATES LLP  
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