



Press Release

Coffee Capsules: Ethical Coffee Company strikes back against Nespresso

Fribourg, February 10, 2016 - Ethical Coffee Company (ECC) filed actions against Nespresso Deutschland GmbH and others requesting to stop the sale of Nespresso coffee machines infringing ECC's patents. ECC successfully defended against Nestlé's attempt to have one of ECC's patents revoked by the European Patent Office.

Four years ago, ECC had opened the market for Nespresso-compatible coffee capsules in Germany by introducing ECC's bio-degradable capsules as a competitor to Nespresso. ECC, founded by Mr. Jean-Paul Gaillard, President of Nespresso from 1988 to 1997, is a manufacturer of bio-degradable premium coffee capsules compatible with the Nespresso system.

ECC has filed actions against Nespresso Deutschland GmbH, Krups GmbH and De'Longhi Deutschland GmbH based on infringement of its patent EP 2 312 978 B1 and its three utility models DE 20 2010 017 801 U1, DE 20 2010 017 802 U1 and DE 20 2010 017 784 U1. The actions are pending before the District Courts of Düsseldorf (docket no. 4b O 9/16) and Munich (docket no. 7 O 24 470/15). ECC holds the IP rights on certain modifications of Nespresso coffee-machines that aim at preventing customers from using non-aluminum capsules in the Nespresso system.

Nestlé's attempt to have the patent EP 2 312 978 B1 revoked in EPO opposition proceedings failed. On 29 January 2016, the EPO confirmed the validity of ECC's patent without any restrictions and dismissed the opposition filed by Nestlé subsidiaries Nestec S.A. and Nespresso France.

With the patent infringement actions filed in Munich and Düsseldorf, ECC is requesting Nespresso, Krups and De'Longhi to stop any further sales of the Nespresso coffee machines in Germany in their current form, and to pay damages for past sales for both machines and capsules as well as other accessories.

ECC had already defended itself successfully in the various proceedings initiated by Nestlé alleging infringement of several patents back in 2012. Nestlé had unsuccessfully tried to prevent the sale of ECC's capsules in Europe, including Germany. Both the Düsseldorf District Court and the Düsseldorf Appeal Court rejected Nestlé's requests (docket no. 4b O 81/12 and I-2 U 72/12). ECC's success cleared the way for competition on the capsule market and a choice for the consumer to use bio-degradable capsules instead of aluminum capsules.

Jean-Paul Gaillard, President of Ethical Coffee Company comments: "Every obstacle to the basic principle of free competition is detrimental to the economy and detrimental to the consumer. These obstacles have been put in place by Nestlé, simply because of ECC's superiority in technology and quality for the consumer. ECC's bio-sourced and biodegradable capsules are highlighting the fact that coffee capsules made out of plastic or aluminum, are simply in a complete "out of tune" situation in today's context of major concerns about Global Warming and Pollution.



This is why we are very pleased with the decision of the EPO to dismiss Nestlé's attempt to revoke Ethical Coffee Company's patent and forces Nestlé/Nespresso to respect at least part of the rules of fair competition and stops Nestlé from further counterfeiting of ECC's Intellectual Property. More importantly, this is a great step forward for the environment and the consumer, who now has undisrupted freedom of choice. Values which are part of the Ethical Coffee Company SA's very DNA. The EPO decision is valid on a European wide basis. It will also positively influence rulings to come outside of Europe.

On the business side, this means that ECC is reinforcing its position in what can be called an all-out war waged by Nestlé, and this, solely against ECC, which is the only Company offering a better cup of coffee to the Consumer while not contributing to Global Warming and Pollution. Obviously, Nestlé talks about fair competition. I would love them not to only talk, but to act accordingly. The above decision proves that Nestlé does talk from the two sides of their mouth.

ECC has filed and is filing several claims against Nestlé in different countries, for both patent infringement and for Commercial Damages. ECC's claims are reaching a total amount of around Euro 2.0 billion. For instance, last week, ECC filed another claim against Nestlé covering both Patent Infringement and Commercial Damages before the Commercial Court of Brussels. The filing in Brussels is in addition to the filings already registered in France, Switzerland, and Germany.

I allow myself to wonder how Nestlé will explain this to their Shareholders during the upcoming General Assembly in April 2016. Nestlé's auditors, KPMG, will certainly issue a note in their Report on the above". This, in relation to the provisions Nestlé will have to take in their accounts, and also in relation to this unfair and unlawful behavior towards the very consumers that allow Nestlé's existence. Also in relation to the damages done to the environment. This, at a moment where all Governments and Consumers are trying to act on Pollution and Global Warming.

About Ethical Coffee Company

Founded by Jean-Paul Gaillard, the former CEO of Nespresso, Ethical Coffee Company is developing and marketing, since 2010 in France, and gradually since 2011 throughout Europe, patented biodegradable coffee capsules, compatible with all Nespresso®* coffee machines, taking into account that Nespresso is required by law to guarantee the upholding of its warranty in any case. Benefitting from an innovative packaging, these capsules prove to be equal or superior than those from competitors.

For more information

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*Brand belonging to a third party having no link with Ethical Coffee Company