



Court asked for ruling in diaper patent dispute

Infringement | A federal judge is being asked to determine validity of patent

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Apparently the world of organic baby diapers isn't as soft and fuzzy as the products.

The Bozeman-based Natural Baby Co. filed a lawsuit this week in U.S. District Court against Cotton Babies Inc., claiming that cries of patent violations by Cotton Babies are false. The attorney for Natural Baby owner Kim Ormsby — a Helena native — alleges that they have a “reasonable apprehension of being sued by Cotton Babies” for patent infringement, and want a federal judge to rule that the patent claims are invalid.

According to court documents, part of the reasoning behind the infringement being invalid is that another company, Rumparooz Diaper, had been sold at least one year before Cotton Babies filed an application for its patent.

Ormsby created her first organic diaper line after trying numerous cloth diapers on her infant and finding they just

didn't suit her needs. So together with a Bozeman woman who knew how to sew, they started designing, making and marketing the Natural Baby cloth diapers.

In 2009, Natural Baby came up with a new line called GroVia, which also included biodegradable/compostable disposable diapers. They have a waterproof shell that an organic cotton liner snaps into; the liner is disposed of when soiled, making it easier and cheaper for parents to use.

But Cotton Babies said they filed for a patent in March 2008, and in it “described and claimed” the same design as Natural Baby. On June 7, 2012, Cotton Babies sent a cease and desist letter to Natural Baby, alleging copyright infringement.

After Natural Baby looked into the allegation, the company says it wasn't infringing on the patent and turned the tables, claiming that Cotton Babies had engaged in “inequitable conduct” when filing for the patent because it withheld evident from the U.S. Patent and Trademark Office that Kanga Care LLC had been selling the Rumparooz diaper — a similar make and model — since March 2007.

“... the deliberate withholding of this prior art information from the USPTO constitutes inequitable conduct on the part of Cotton Babies,” wrote Natural Baby attorney Antoinette Tease.

She also states in the federal court lawsuit that while Cotton Babies alleged that certain stitch lines were copied, the Natural Baby Diaper doesn't have those.

Tease wrote that since Natural Baby has now received three cease and desist communications from Cotton Babies, and because of that company's “history of pursuing

others for alleged infringement of its patents” and direct competitors, they're taking pre-emptive action to get the issue resolved legally.

Ormsby couldn't be reached for comment.

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