

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

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PKOH NYC, LLC,)	Civil Action No.
)	1:13-cv-04913 (PKC)
Plaintiff,)	
)	
v.)	COMPLAINT
)	PATENT INFRINGEMENT
EVRIHOLDER PRODUCTS LLC,)	(Trial by Jury Demanded)
)	
Defendant.)	
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Plaintiff, PKOH NYC, LLC (“PKOH”), for its Complaint against Defendant, Evriholder Products LLC. (“Evri”), alleges as follows:

I. THE PARTIES

1. PKOH is a New York limited liability company with its principal place of business at 204 W. Houston Street, New York, New York 10014.
2. On information and belief, Evri is a Limited Liability Company of Indiana with its principal place of business at 1500 South Lewis Street, Anaheim, CA 92805. Upon information and belief, Evri regularly conducts business throughout the United States and within this judicial district.

II. JURISDICTION AND VENUE

3. Subject matter jurisdiction is based on 28 U.S.C. §§ 1331 and 1338, in that this action arises under the patent laws of the United States (35 U.S.C. § 1, *et seq.*).
4. Venue lies in this Court pursuant to 28 U.S.C. §§ 1391(b)-(c) and/or 1400(b).

5. This Court has personal jurisdiction over Evri pursuant to at least N.Y. C.P.L.R. §§ 301 and/or 302.

III. GENERAL ALLEGATIONS

6. United States Patent No. 7,959,036 (“the ‘036 Patent”), entitled “Elastomeric Dispensing Container,” was duly and legally issued by the United States Patent and Trademark Office on June 14, 2011, and is still in full force and effect.

7. PKOH is the owner of the ‘036 Patent, a true and correct copy of which is attached hereto as Exhibit A.

8. On information and belief, Evri has manufactured, offered to sell, sold and/or imported elastomeric dispensing containers that infringe one or more of the claims of the ‘036 patent (“the infringing products”), including at least claim 1 thereof. Copies of printouts showing the advertisement of the infringing products obtained on June 29, 2013, from Evri’s website (<http://www.theEvrisqueeze.com/>) are attached hereto as Exhibit B.

9. On information and belief, the infringing products have been, and are now, on sale in this judicial district and elsewhere throughout the United States.

10. On information and belief, the acts of infringement by Evri are willful, intentional, and in conscious disregard of PKOH’s rights under the ‘036 patent.

11. As a result of Evri’s infringement of the claims of the ‘036 patent, Evri has made and will continue to make unlawful gains and profits, and PKOH has been and will continue to be deprived of revenue that it would otherwise have generated but for such infringement.

12. PKOH has been and will continue to be substantially and irreparably harmed by Evri’s infringement of the ‘036 patent.

13. The extent of PKOH’s damages cannot be determined except by an accounting.

IV. JURY DEMAND

Pursuant to Fed. R. Civ. P. 38(b), PKOH requests a trial by jury.

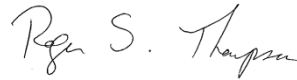
V. PRAYER FOR RELIEF

Wherefore, PKOH prays for relief as follows:

- A. A judgment that Evri has infringed the '036 patent, under 35 U.S.C. § 281;
 - B. A judgment preliminarily and permanently enjoining and restraining Evri, its officers, directors, agents, servants, employees, affiliates, attorneys, and all others in active concert or participation with Evri, from infringing the '036 patent, under 35 U.S.C. § 283;
 - C. A judgment awarding PKOH its damages, but not less than a reasonable royalty, resulting from Evri's infringement, under 35 U.S.C. § 284;
 - D. A judgment that Evri's acts of infringement have been in willful, knowing, and deliberate disregard of PKOH's patent rights, and awarding PKOH enhanced damages under 35 U.S.C. § 284;
 - E. A judgment awarding PKOH its costs and disbursements incurred in prosecuting this action as authorized by Fed. R. Civ. P. 54, 28 U.S.C. § 1920, and/or 35 U.S.C. § 285;
 - F. A judgment awarding PKOH its attorneys' fees incurred in prosecuting this action as authorized by 35 U.S.C. § 285 for an exceptional case;
 - G. A judgment awarding PKOH pre- and post-judgment interest on any monetary award;
- and

H. Such other relief as the Court may deem just, equitable, and proper under the circumstances.

THE LAW OFFICES OF ROGER S. THOMPSON



Date: July 16, 2013

By: _____

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