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IN THE UNITED STATES DISTRICT COURT

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FOR THE CENTRAL DISTRICT OF CALIFORNIA

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WESTERN DIVISION

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BALBOA WATER GROUP, LLC,

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Plaintiff,

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v.

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CUSTOM MOLDED PRODUCTS, INC.,

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Defendant.

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) Civil Action No. SACV13-01367  
 ) DOC (ANx)

) **FIRST AMENDED**  
 ) **COMPLAINT FOR PATENT**  
 ) **INFRINGEMENT OF U.S.**  
 ) **PATENT NOS. 8,042,962,**  
 ) **8,408,728 AND 8,550,643**

) **DEMAND FOR JURY TRIAL**

1 Plaintiff Balboa Water Group, LLC (“Balboa”) hereby complains of  
2 Defendant Custom Molded Products, Inc. (“CMP”) and alleges as follows:

3 **JURISDICTION AND VENUE**

4 1. This First Amended Complaint states causes of action for  
5 infringement of U.S. Patent Nos. 8,042,962, 8,408,728 and 8,550,643 (the  
6 “Asserted Patents”) arising under the patent laws of the United States, 35 U.S.C.  
7 § 100 *et seq.*, and, more particularly, 35 U.S.C. §§ 271 and 281. This Court has  
8 subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

9 2. Upon information and belief, CMP conducts business throughout  
10 the United States, including in this judicial district. Upon information and  
11 belief, CMP has committed the acts complained of in this judicial district and  
12 elsewhere.

13 3. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b)  
14 and (c) and 1400(b).

15 **PARTIES**

16 4. Balboa is a Delaware limited liability company having its principal  
17 place of business at 1382 Bell Avenue, Tustin, California 92780.

18 5. Upon information and belief, CMP is a Georgia corporation with a  
19 principal place of business at 36 Herring Rd., Newnan, Georgia 30265. Upon  
20 information and belief, CMP operates a distribution center in Ontario,  
21 California.

22 **BACKGROUND ALLEGATIONS**

23 6. On October 25, 2011, the United States Patent and Trademark  
24 Office duly and lawfully issued U.S. Patent No. 8,042,962 (“the ’962 patent”),  
25 titled “Lighted Fittings for Bathing Installations.” Balboa owns the ’962 patent  
26 by assignment. A copy of the ’962 patent is attached hereto as Exhibit 1.

27 7. On April 2, 2013, the United States Patent and Trademark Office  
28 duly and lawfully issued U.S. Patent No. 8,408,728 (“the ’728 patent”), titled

1 “Lighted Fittings for Bathing Installations.” Balboa owns the ’728 patent by  
2 assignment. A copy of the ’728 patent is attached hereto as Exhibit 2.

3 8. On October 8, 2013, the United States Patent and Trademark  
4 Office duly and lawfully issued U.S. Patent No. 8,550,643 (“the ’643 patent”),  
5 titled “Lighted Fittings for Bathing Installations.” Balboa owns the ’643 patent  
6 by assignment. A copy of the ’643 patent is attached hereto as Exhibit 3.

7 9. Balboa has appropriately marked pertinent devices it has sold under  
8 one or more of the Asserted Patents in accordance with 35 U.S.C. § 287(a).

9 10. By letter dated April 10, 2013, written notice was provided to  
10 CMP’s CEO, Mr. William J. Drury, that CMP has introduced and is marketing  
11 lighted fittings that infringe the ’962 and ’728 patents. A copy of the April 10,  
12 2013 letter to Mr. Drury is attached hereto as Exhibit 4. The notice also  
13 identified by name and model no. at least five different CMP products.

14 **FIRST CLAIM FOR RELIEF**

15 **INFRINGEMENT OF U.S. PATENT NO. 8,042,962**

16 11. Balboa incorporates by reference and realleges each of the  
17 allegations in paragraphs 1-10 above.

18 12. This is a claim for patent infringement arising under the patent laws  
19 of the United States, Title 35 of the United States Code.

20 13. Without authority, CMP, through its agents, employees and servants,  
21 has manufactured, used, promoted, offered for sale, and/or sold within the United  
22 States, and/or imported into the United States products covered by one or more  
23 claims of the ’962 patent, has actively induced others to do the same and/or has  
24 contributed to others’ performance of the same. CMP has thereby infringed,  
25 actively induced others to infringe and/or contributed to others’ infringement of  
26 one or more claims, including, for example, Claim 1 of the ’962 patent in violation  
27 of 35 U.S.C. § 271, including 35 U.S.C. §§ 271(a), (b) and/or (c). This  
28 infringement is currently ongoing. The products relating to CMP’s infringement

1 include, without limitation, the following models: wallfittings 25036-089-200,  
2 25030-089-200, 25048-889-200, and 25048-089-200; and LED bezel and nut  
3 25090-089-200.

4 14. By no later than April 10, 2013, Balboa had given CMP written  
5 notice of its infringement of the '962 patent.

6 15. By no later than April 10, 2013, CMP had knowledge and awareness  
7 of the '962 patent.

8 16. Upon information and belief, CMP's infringement of at least the '962  
9 patent has been and continues to be deliberate and willful.

10 17. Upon information and belief, CMP's infringement of the '962 patent  
11 will continue unless enjoined by this Court.

12 18. Upon information and belief, CMP has derived, received, and will  
13 continue to derive and receive gains, profits and advantages from the aforesaid  
14 acts of infringement of the '962 patent in an amount that is not presently known to  
15 Balboa. Due to the infringement of the '962 patent by CMP, Balboa has been  
16 damaged and is entitled to monetary relief in an amount to be determined at trial.

17 19. Unless CMP is enjoined from infringing the '962 patent, Balboa will  
18 continue to suffer irreparable injury for which it has no adequate remedy at law.

19 **SECOND CLAIM FOR RELIEF**

20 **INFRINGEMENT OF U.S. PATENT NO. 8,408,728**

21 20. Balboa incorporates by reference and realleges each of the  
22 allegations in paragraphs 1-10 above.

23 21. This is a claim for patent infringement arising under the patent laws  
24 of the United States, Title 35 of the United States Code.

25 22. Without authority, CMP, through its agents, employees and servants,  
26 has manufactured, used, promoted, offered for sale, and/or sold within the United  
27 States, and/or imported into the United States products covered by one or more  
28 claims of the '728 patent, has actively induced others to do the same and/or has

1 contributed to others' performance of the same. CMP has thereby infringed,  
2 actively induced others to infringe and/or contributed to others' infringement of  
3 one or more claims, including, for example, Claim 12 of the '728 patent in  
4 violation of 35 U.S.C. § 271, including 35 U.S.C. §§ 271(a), (b) and/or (c). This  
5 infringement is currently ongoing. The products relating to CMP's infringement  
6 include, without limitation, the following models: wallfittings 25036-089-200,  
7 25030-089-200, 25048-889-200, and 25048-089-200; and LED bezel and nut  
8 25090-089-200.

9 23. By no later than April 10, 2013, Balboa had given CMP written  
10 notice of its infringement of the '728 patent.

11 24. By no later than April 10, 2013, CMP had knowledge and awareness  
12 of the '728 patent.

13 25. Upon information and belief, CMP's infringement of at least the '728  
14 patent has been and continues to be deliberate and willful.

15 26. Upon information and belief, CMP's infringement of the '728 patent  
16 will continue unless enjoined by this Court.

17 27. Upon information and belief, CMP has derived, received, and will  
18 continue to derive and receive gains, profits and advantages from the aforesaid  
19 acts of infringement of the '728 patent in an amount that is not presently known to  
20 Balboa. Due to the infringement of the '728 patent by CMP, Balboa has been  
21 damaged and is entitled to monetary relief in an amount to be determined at trial.

22 28. Unless CMP is enjoined from infringing the '728 patent, Balboa will  
23 continue to suffer irreparable injury for which it has no adequate remedy at law.

24 **THIRD CLAIM FOR RELIEF**

25 **INFRINGEMENT OF U.S. PATENT NO. 8,550,643**

26 29. Balboa incorporates by reference and realleges each of the  
27 allegations in paragraphs 1-10 above.

28 30. This is a claim for patent infringement arising under the patent laws

1 of the United States, Title 35 of the United States Code.

2 31. Without authority, CMP, through its agents, employees and servants,  
3 has manufactured, used, promoted, offered for sale, and/or sold within the United  
4 States, and/or imported into the United States products covered by one or more  
5 claims of the '643 patent, has actively induced others to do the same and/or has  
6 contributed to others' performance of the same. CMP has thereby infringed,  
7 actively induced others to infringe and/or contributed to others' infringement of  
8 one or more claims, including, for example, Claim 1 of the '643 patent in violation  
9 of 35 U.S.C. § 271, including 35 U.S.C. §§ 271(a), (b) and/or (c). This  
10 infringement is currently ongoing. The products relating to CMP's infringement  
11 include, without limitation, the following models: on-off valves (e.g., 25031-307-  
12 000, 25032-211-000 and 25030-001-000) and diverter valves (e.g., 25048-001-  
13 000, 25048-707-000, 25048-802-700) along with accessory LED wallfittings (e.g.,  
14 25036-089-200, 25030-089-200, 25048-889-200, and 25048-089-200).

15 32. Upon information and belief, CMP had knowledge and awareness of  
16 the '643 patent prior to the filing of this First Amended Complaint.

17 33. Upon information and belief, CMP's infringement of at least the '643  
18 patent has been and continues to be deliberate and willful.

19 34. Upon information and belief, CMP's infringement of the '643 patent  
20 will continue unless enjoined by this Court.

21 35. Upon information and belief, CMP has derived, received, and will  
22 continue to derive and receive gains, profits and advantages from the aforesaid  
23 acts of infringement of the '643 patent in an amount that is not presently known to  
24 Balboa. Due to the infringement of the '643 patent by CMP, Balboa has been  
25 damaged and is entitled to monetary relief in an amount to be determined at trial.

26 36. Unless CMP is enjoined from infringing the '643 patent, Balboa will  
27 continue to suffer irreparable injury for which it has no adequate remedy at law.

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**PRAYER FOR RELIEF**

Balboa respectfully prays for:

A. An order adjudging CMP to have infringed each of the Asserted Patents;;

B. A permanent injunction enjoining CMP, as well as its officers, agents, servants, employees, successors, assigns, and attorneys and those persons in active concert or participation with HP, from infringing the Asserted Patents;

C. An accounting of all gains, profits, and advantages derived by CMP's infringement of the Asserted Patents and an award of damages adequate to compensate Balboa for CMP's infringement of the Asserted Patents;

D. An order adjudging CMP to have willfully infringed the Asserted Patents, and declaring this to be an exceptional case;

E. An order trebling damages and/or for exemplary damages because of CMP's intentional and willful conduct;

F. An award of pre-judgment and post-judgment interest and costs of this action against CMP;

G. An award to Balboa of its attorneys' fees incurred in connection with this action; and

H. Such other and further relief as the Court deems just and proper.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: December 9, 2013

By: /s/ Douglas G. Muehlhauser

Douglas G. Muehlhauser  
Payson J. LeMeilleur

Attorneys for Plaintiff  
BALBOA WATER GROUP, LLC

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**JURY DEMAND**

Plaintiff Balboa Water Group, LLC, hereby demands trial by jury on all issues triable to a jury.

Respectfully submitted,  
KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: December 9, 2013

By: /s/ Douglas G. Muehlhauser  
Douglas G. Muehlhauser  
Payson J. LeMeilleur

Attorneys for Plaintiff  
BALBOA WATER GROUP, LLC

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