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U.S. DISTRICT COURT

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DISTRICT OF UTAH

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

<p>LIFETIME PRODUCTS, INC., a Utah corporation,</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>ALL-LUMINUM PRODUCTS INC., d/b/a RIO BRANDS, a Pennsylvania corporation,</p> <p style="text-align: center;">Defendant.</p>	<p><b>FIRST AMENDED COMPLAINT</b></p> <p><b>(JURY TRIAL DEMANDED)</b></p> <p>Case No.: 1:06 CV 00094BSJ</p> <p>Judge: Honorable Bruce S. Jenkins</p>
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Plaintiff LIFETIME PRODUCTS, INC. ("Lifetime") hereby complains against the defendant ALL-LUMINUM PRODUCTS INC., d/b/a RIO BRANDS ("Rio"), for causes of action alleges as follows:

**THE PARTIES**

1. Lifetime is a corporation duly organized and existing under the laws of the State of Utah, with its principal place of business in the City of Clearfield, Davis County, Utah.

2. Lifetime alleges on information and belief that Rio is a corporation organized and existing under the laws of the State of Pennsylvania, with its principal place of business at 10981 Decatur Rd., Philadelphia, PA 19154-3210.

3. This is an action for patent infringement. The products accused of infringement are blow-molded plastic tables of a certain style and design which, on information and belief, Lifetime alleges Rio makes, sells and/or offers for sale within the United States.

#### **JURISDICTION AND VENUE**

4. This is a civil action for patent infringement committed by Rio, arising under the patent laws of the United States, including 35 U.S.C. §§ 271, 281, 283, 284 and 285.

5. Subject matter jurisdiction is conferred upon this Court by 28 U.S.C. §§ 1331 and 1338(a).

6. Lifetime further alleges on information and belief that Rio has sold or contracted for the sale of infringing goods within the State of Utah, to Lifetime's injury, which relates to the claims asserted by Lifetime, and out of which Lifetime's claims in part arise.

7. This Court's exercise of personal jurisdiction over Rio is consistent with the Constitutions of the United States and the State of Utah. Moreover, this Court has personal jurisdiction over Rio pursuant to the Utah Long Arm Statute, Utah Code Ann. § 78-27-24.

8. Venue is proper in this judicial district pursuant to, at least, 28 U.S.C. §§ 1391 and 1400(b).

**FACTUAL BACKGROUND**

9. Lifetime is an award-winning innovator in the field of sports equipment, consumer products and office products, which are constructed of high quality steel and blow-molded plastic.

10. Several of Lifetime's most successful innovations have been in the design and development of lightweight and highly durable folding tables and chairs that combine metal frames and blow-molded plastic surfaces.

11. Lifetime's technological and aesthetic innovations in the field of utility tables are protected, *inter alia*, by a portfolio of utility and design patents, including United States Patent No. 6,848,370 (the "'370 Patent"), a true and correct copy of which is attached hereto as Exhibit A, and United States Patent No. 7,114,453 (the "'453 Patent"), a true and correct copy of which is attached hereto as Exhibit B.

12. Lifetime is the owner by assignment of the '370 and '453 Patents.

13. Lifetime has not licensed Rio to practice the '370 or '453 Patents, and Rio does not have any right or authority to license others to practice the '370 or '453 Patents.

**FIRST CLAIM FOR RELIEF**

(Infringement of the '370 Patent)

14. By this reference, Lifetime realleges and incorporates the foregoing paragraphs 1 through 13, as though fully set forth herein.

15. Rio has infringed and continues to infringe the '370 Patent by importing, making, selling and/or offering for sale within the United States plastic tables that fall within the scope of one or more of the claims of the '370 Patent.

16. Rio's infringement of the '370 Patent is, has been and continues to be willful and deliberate.

17. Rio will continue to infringe the '370 Patent unless enjoined by this Court.

18. As a direct and proximate result of Rio's infringement of the '370 Patent, Lifetime has been and continues to be damaged in an amount yet to be determined.

**SECOND CLAIM FOR RELIEF**

(Infringement of the '453 Patent)

19. By this reference, Lifetime realleges and incorporates the foregoing paragraphs 1 through 18, as though fully set forth herein.

20. Rio has infringed and continues to infringe the '453 Patent by importing, making, selling and/or offering for sale within the United States plastic tables that fall within the scope of one or more of the claims of the '453 Patent.

21. Rio's infringement of the '453 Patent is, has been and continues to be willful and deliberate.

22. Rio will continue to infringe the '453 Patent unless enjoined by this Court.

23. As a direct and proximate result of Rio's infringement of the '453 Patent, Lifetime has been and continues to be damaged in an amount yet to be determined.

**PRAYER FOR RELIEF**

WHEREFORE, Lifetime prays for judgment against Rio as follows:

A. A judgment finding Rio liable for infringement of the '370 and '453 Patents;

B. An Order of this Court temporarily, preliminarily and permanently enjoining Rio, its agents and servants, and any and all parties acting in concert with any of them, from directly or indirectly infringing in any manner the '370 or '453 Patents, whether by making, using, selling, offering to sell or importing into the United States any

table or other product falling within the scope of any of the claims of the '370 or '453 Patents, pursuant to at least 35 U.S.C. § 283;

C. An order of this Court directing Rio to destroy its entire stock of infringing products within the United States, pursuant to at least 35 U.S.C. § 283;

D. An award of damages to Lifetime, in an amount to be proven at trial, pursuant to at least 35 U.S.C. § 284;

E. An award to Lifetime of its damages, and that such damages be trebled in view of the infringement by Rio, pursuant to at least 35 U.S.C. § 284;

F. Prejudgment interest, pursuant to at least 35 U.S.C. § 284;

G. An award of Lifetime's costs in bringing this action, pursuant to at least 35 U.S.C. § 284;

H. That this be declared an exceptional case, and that Lifetime be awarded its attorneys' fees and expenses, pursuant to at least 35 U.S.C. § 285;

I. Post-judgment interest, pursuant to at least 28 U.S.C. § 1961(a); and

J. For such other and further relief as the Court deems just, proper, and equitable.

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**DEMAND FOR JURY**

Plaintiff demands TRIAL BY JURY of all causes so triable.

DATED this 8th day of January, 2007.



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Clinton E. Duke

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