

1 **Steven M. Wilker**, CA Bar #150946  
Direct Dial: 503.802.2040  
2 Direct Fax: 503.972.3740  
3 Email: steven.wilker@tonkon.com  
4 **TONKON TORP LLP**  
888 SW Fifth Avenue, Suite 1600  
Portland, OR 97204-2099

5 Attorneys for Plaintiff CamelBak Products, LLC

6  
7  
8 UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
10 \_\_\_\_\_DIVISION

11 **CAMELBAK PRODUCTS, LLC**, a  
12 Delaware limited liability company,

13 Plaintiff,

14 v.

15 **OSPREY PACKS, INC.**, a Colorado  
16 corporation,

17 Defendant.

Case No. 3:15-cv-906

**COMPLAINT (Patent Infringement;  
Injunction)**

***DEMAND FOR JURY TRIAL***

18  
19 JURISDICTION

20 1. This Court has original jurisdiction over the subject matter of this action for  
21 patent infringement pursuant to 28 U.S.C. §§1331 and 1338(a).

22 INTRADISTRICT ASSIGNMENT

23 2. Under Civil L.R. 3-2(c), this Intellectual Property Action is subject to district-  
24 wide assignment as an excepted action. To the extent the court considers it relevant, Plaintiff's  
25 principal place of business is in Sonoma County.

26 NATURE OF THE ACTION

27 3. This is an action for infringement of CamelBak Products, LLC's ("CamelBak's" or  
28 "Plaintiff's") United States Patent No. 7,063,243 under the United States Patent Act, 35 U.S.C.

1 §271, against Defendant for its illegal, unauthorized and unlicensed commercial manufacture,  
2 importation, use, offer of sale and sale of Defendant's HYDRAFORM, HYDRAULICS, and  
3 HYDRAULICS LT hydration reservoir products ("Accused Products").

4 THE PARTIES

5 4. Plaintiff CamelBak is a limited liability company organized under the laws of  
6 Delaware with its principal place of business in Petaluma, California.

7 5. Defendant Osprey Packs, Inc. ("Osprey" or "Defendant") is a Colorado  
8 corporation with its principal place of business in Cortez, Colorado.

9 VENUE

10 6. Defendant conducts substantial business in this judicial district and regularly  
11 solicits business in and does business with and derives revenue from goods sold or offered for  
12 sale in this judicial district. Defendant has sold and offered for sale the Accused Products and  
13 otherwise has committed and continues to commit acts of patent infringement in this judicial  
14 district.

15 7. Venue is proper in this judicial district under 28 U.S.C. §§1391(b) and 1400(b)  
16 because Defendant is subject to personal jurisdiction in this judicial district and conducts  
17 substantial business in this judicial district, including the sale and offer of sale of the Accused  
18 Products.

19 THE ASSERTED PATENT

20 8. U.S. Patent No. 7,063,243 ("the '243 Patent") was duly and legally issued on  
21 June 20, 2006, and names Barley A. Forsman, Robert Miros and Robert Choi as inventors. The  
22 '243 Patent is valid and enforceable.

23 9. The '243 Patent, attached as Exhibit 1 to this Complaint, entitled HYDRATION  
24 SYSTEM WITH IMPROVED FLUID RESERVOIR, is directed to a personal hydration system  
25 that includes a fill port wrench assembly with a handle that serves as a counter lever for  
26 removing and attaching the fill port cap.

27 10. CamelBak is the owner by assignment from the named inventors of the entire  
28 right, title and interest in the '243 Patent.

1 BACKGROUND FACTS

2 11. CamelBak developed its original hands-free reservoir hydration system in the late  
3 1980s. Since that time, CamelBak developed innovative designs that have continuously  
4 improved its hands-free reservoir hydration system, including the invention disclosed in the '243  
5 Patent.

6 12. CamelBak has sold, and continues to sell products that are covered by the '243  
7 Patent, including its ANTIDOTE<sup>®</sup> hydration reservoirs, throughout the United States. CamelBak  
8 has marked its ANTIDOTE<sup>®</sup> hydration reservoirs with the '243 Patent since it began marketing  
9 and selling ANTIDOTE<sup>®</sup> hydration reservoirs on or before November 1, 2010. The CamelBak  
10 ANTIDOTE<sup>®</sup> hydration reservoir is shown here:



21 ANTIDOTE<sup>®</sup>

22  
23  
24 13. Well after the '243 Patent issued in 2006, Defendant began to market and sell the  
25 Accused Products. Defendant has marketed and continues to market the Accused Products on its  
26 website at [www.ospreypacks.com](http://www.ospreypacks.com). Defendant sells its infringing products through retailers that  
27 also sell CamelBak's reservoir hydration products. Defendant's Hydraform, Hydraulics, and  
28 Hydraulics LT products are shown here:



HYDRAFORM



HYDRAULICS



HYDRAULICS LT

DEFENDANT'S INFRINGEMENT

14. On information and belief, Defendant became aware of the '243 Patent on or before Defendant's first commercial sale of the Accused Products.

15. Defendant introduced its Hydraform product to the market in or about the spring of 2010. Defendant continued to market and sell its Hydraform product after CamelBak began marketing and selling ANTIDOTE<sup>®</sup> hydration reservoirs on or before November 1, 2010.

16. Defendant introduced its Hydraulics product to the market in or about the spring of 2013, well after CamelBak had introduced its ANTIDOTE<sup>®</sup> hydration reservoir products.

17. Defendant introduced its Hydraulics LT product to the market in or about the spring of 2014.

18. CamelBak's ANTIDOTE<sup>®</sup> products are protected by the claims of the '243 Patent.

19. Defendant has infringed and continues to infringe the '243 Patent by making, importing, selling and/or offering to sell the Accused Products that embody or use the inventions claimed in the '243 Patent.

20. Each of the Accused Products infringes independent Claim 1 of the '243 Patent and several of its dependent claims.

1 21. Defendant's Hydraform product also infringes independent Claim 36 of the '243  
2 Patent and several of its dependent claims.

3 22. Defendant's Hydraulics product also infringes independent Claims 29 and 36 of  
4 the '243 Patent and several of their dependent claims.

5 23. In addition to meeting the other limitations of the claims of the '243 Patent, the  
6 Accused Products have a wrench assembly with a handle that serves as a counter lever for  
7 removing and attaching the cap to the fill port.

8 CLAIM FOR RELIEF

9 (Direct Patent Infringement)

10 24. Plaintiff realleges and incorporates herein paragraphs 1 through 23 above.

11 25. In violation of 35 U.S.C. §271(a), Defendant has infringed and continues to  
12 infringe one or more of the claims in the '243 Patent, literally and/or under the doctrine of  
13 equivalents, by making, importing, selling, and/or offering for sale the Accused Products in the  
14 United States.

15 26. Pursuant to 35 U.S.C. §284, Plaintiff is entitled to recover from Defendant the  
16 damages that Plaintiff has suffered as a result of Defendant's infringing conduct including  
17 Plaintiff's lost profits, in an amount to be proven at trial, but in no case less than a reasonable  
18 royalty. Plaintiff is also entitled to recover pre-judgment interest.

19 27. Defendant's infringement of the '243 Patent is willful in that Defendant was aware  
20 of the '243 Patent when it introduced the Accused Products to the market. Accordingly, Plaintiff  
21 is entitled to recover enhanced damages of three times the amount of damages awarded pursuant  
22 to 35 U.S.C. §284.

23 28. Defendant's infringing acts have caused and will continue to cause irreparable  
24 harm unless such infringing acts are enjoined by this Court pursuant to 35 U.S.C. §283. Plaintiff  
25 has no adequate remedy at law.

26 29. Pursuant to 35 U.S.C. §285, this is an exceptional case in which Plaintiff is  
27 entitled to recover its reasonable attorney fees incurred.  
28

DEMAND FOR JURY TRIAL

30. Plaintiff demands a trial by jury of any and all causes of action.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests judgment against Defendant as follows:

1. Adjudging that Defendant has infringed the '243 Patent literally and/or under the doctrine of equivalents;

2. Granting an injunction permanently enjoining Defendant, its employees, agents, officers, directors, successors, affiliates and assigns, and all those acting in active concert and participation with any of the foregoing persons and entities from infringing, contributing to the infringement, or inducing infringement of the '243 Patent;

3. Ordering Defendant to pay damages pursuant to 35 U.S.C. §284 sufficient to compensate Plaintiff for Defendant's past infringement and any continuing future infringement up to the date that Defendant is finally and permanently enjoined from infringement;

4. Ordering Defendant to pay Plaintiff pre-judgment and post-judgment interest and costs pursuant to 35 U.S.C. §284;

5. Ordering that the damages award against Defendant be increased up to three times the actual award pursuant to 35 U.S.C. §284;

6. Declaring this case to be exceptional and awarding Plaintiff its reasonable attorney fees pursuant to 35 U.S.C. §285; and

7. Awarding Plaintiff such other relief as this Court deems just and equitable.

DATED: February 27, 2015.

TONKON TORP LLP

By: /s/ Steven M. Wilker

Steven M. Wilker, CA Bar #150946

Direct Dial: 503.802.2040

Direct Fax: 503.972.3740

Email: steven.wilker@tonkon.com

1600 Pioneer Tower

888 SW Fifth Avenue

Portland, OR 97204-2099

Attorneys for Plaintiff CamelBak Products, LLC