

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

WHIRLPOOL CORPORATION,

Plaintiff,

v.

PRICEBREAK, LLC,

Defendant.

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Civil Action No. 2:16-cv-416

COMPLAINT FOR PATENT INFRINGEMENT

COMES NOW Plaintiff Whirlpool Corporation (“Whirlpool”), and for its Complaint for Patent Infringement of United States Patent No. 7,000,894 against PriceBreak, LLC, states as follows:

PARTIES

1. Plaintiff Whirlpool is a corporation organized and existing under the laws of the state of Delaware with a principal place of business at 2000 North M-63, Benton Harbor, Michigan.

2. Defendant PriceBreak, LLC (“PriceBreak”) is a limited liability company organized and existing under the laws of the state of New York. It is assigned ID No. 4262591 by the New York Department of State and has a principal place of business at 1407 Broadway, Suite 700, New York, New York.

JURISDICTION & VENUE

3. This action arises under the patent laws of the United States, Title 35 United States Code. The jurisdiction of this Court is proper under Title 35 U.S.C. § 271, *et seq.* and Title 28 U.S.C. §§ 1331, 1332, and 1338.

4. PriceBreak is a seller of water filters for refrigerators.

5. PriceBreak has offered for sale and sold throughout the United States Whirlpool-compatible replacement water filters that infringe United States Patent No. 7,000,894, such as water filters bearing Model No. RFC0800A, which is a Whirlpool “Filter 3” design. PriceBreak has offered for sale and sold such infringing products through on-line retail outlets such as www.newegg.com and eBay.

6. PriceBreak has offered for sale and sold Whirlpool-compatible refrigerator water filters that infringe U.S. Patent No. 7,000,894, such as Model No. RFC0800A filters, to residents and citizens of Texas who reside within this district.

7. The Court has personal jurisdiction over PriceBreak because it has advertised in Texas, including the Eastern District of Texas, the sale of infringing filters via the internet, and has offered for sale and sold the infringing products to customers in the state of Texas, including the Eastern District of Texas, thereby harming Whirlpool by offering to sell and/or selling infringing products in this district.

8. Venue is proper in this district pursuant to Title 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b) because PriceBreak has committed acts of infringement in this judicial district.

COUNT I
Infringement of U.S. Patent No. 7,000,894

9. Whirlpool restates and incorporates by reference paragraphs 1 through 9 as if fully stated herein.

10. On February 21, 2006, the United States Patent and Trademark Office (“USPTO”) duly and legally issued United States Patent No. 7,000,894 (“the ‘894 patent”) entitled “Fluidic Cartridges and End Pieces Thereof.” On March 3, 2014, the USPTO issued an

ex parte reexamination certificate for the '894 patent. Appended as Exhibit A is a true and correct copy of the '894 patent, inclusive of the ex parte reexamination certificate.

11. Whirlpool is the owner by assignment of the entire right, title and interest in and to the '894 patent, including the right to sue and recover past, present, and future damages for infringement.

12. Whirlpool manufactures products that practice the '894 patent, including Whirlpool "Filter 3" refrigerator water filters, and marks such products with the '894 patent.

13. The validity and enforceability of the '894 patent has been recognized and acknowledged in Consent Judgments entered by this Court in the patent infringement cases captioned *Whirlpool Corporation v. Brauchla TV, Inc. d/b/a Brauchla TV & Appliance*, Civil Action No. 2:15-cv-2068 (Document 5); *Whirlpool Corporation v. National Trade Supply, LLC*, Civil Action No. 2:15-cv-1701-JRG (Document 5); *Whirlpool Corporation v. Zipras, Inc.*, Civil Action No. 2:15-cv-1636-JRG (Document 7); *Whirlpool Corporation v. Air 1 Supply, Inc.*, Civil Action No. 2:15-cv-1640-JRG (Document 6), *Whirlpool Corporation v. Global Parts Supply, LLC d/b/a Pandora's OEM Appliance Parts*, Civil Action No. 2:15-cv-1563-JRG (Document 7), and *Whirlpool Corporation v. JJ Wholesale Group Inc. d/b/a Bob's Filters and Joseph Spira*, Civil Action No. 2:15-cv-1565-JRG (Document 11); *Whirlpool Corporation v. Spectacular Products and William Long*, Civil Action No. 2:15-cv-86 consolidated with 2:15-cv-2103 (Document 20); *Whirlpool Corporation v. Dilmen, LLC d/b/a Coral Premium Water Filters and Huseyin Dilmen*, Civil Action No. 2:15-cv-1722 consolidated with 2:15-cv-2103 (Document 17) and *Whirlpool Corporation v. Dilmen, LLC d/b/a Coral Premium Water Filters and Huseyin Dilmen*, Civil Action No. 2:15-cv-2056 consolidated with 2:15-cv-2103 (Document 18).

14. PriceBreak has been infringing the '894 patent by importing, offering for sale and/or selling water filters covered by at least claims 1 and 4 of the '894 patent.

15. Whirlpool has obtained a water filter identified as Model No. RFC0800A from PriceBreak (hereinafter the "Infringing Filter"). Photographs that are fair and accurate representations of the Infringing Filter are appended as Exhibit B. The Infringing Filter infringes at least claims 1 and 4 of the '894 patent pursuant to Title 35, U.S.C. § 271(a), *et seq.*

16. PriceBreak's offers for sale and sales of the Infringing Filter were without permission, authority, or license from Whirlpool. Further acts of infringement, unless enjoined by this Court, will continue to damage Whirlpool and cause irreparable harm to Whirlpool.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Whirlpool respectfully requests the following relief:

- a. That the Court enter a judgment that PriceBreak has infringed the '894 patent;
- b. That the Court enter a judgment that the '894 patent is not invalid;
- c. That the Court enter a judgment that the '894 patent is enforceable;
- d. That the Court enter a permanent injunction preventing PriceBreak and its respective officers, directors, agents, servants, employees, attorneys, licensees, successors, and assigns, and those in active concert or participation with any of them, from engaging in infringing activities with respect to the '894 patent;
- e. That the Court award damages for the infringement to which Whirlpool is entitled;
- f. That the Court award interest on the damages; and
- g. For any and all such other relief as this Court may deem appropriate.

Dated: April 18, 2016.

Respectfully submitted,

By: /s/ *Melissa R. Smith*

Melissa R. Smith (*TX State Bar No. 24001351*)

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