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9 *Attorneys for Plaintiff Zurn Industries, LLC*

10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
12 **WESTERN DIVISION**

13
14 ZURN INDUSTRIES, LLC,
15 Plaintiff,
16 v.
17 CONBRACO INDUSTRIES, INC.,
18 Defendant.

Case No. 2:16-CV-5656

**COMPLAINT FOR
PATENT INFRINGEMENT
DEMAND FOR JURY TRIAL**

19 Plaintiff, Zurn Industries, LLC, for its Complaint against Defendant Conbraco Industries,
20 Inc. alleges as follows:

21 **NATURE OF THE ACTION**

22 1. This is a civil action seeking a permanent injunction and monetary damages
23 stemming from Conbraco’s infringement of Zurn’s United States Patent Number 8,997,772.

24 **THE PARTIES**

25 2. Plaintiff Zurn Industries, LLC is a limited liability corporation organized under the
26 laws of the State of Delaware having its principal place of business located at 1801 Pittsburgh
27 Avenue, Erie, Pennsylvania 16502, with a facility located in this judicial district at 1747
28

1 Commerce Way, Paso Robles, California 93446.

2 3. Defendant Conbraco Industries, Inc. is a corporation organized under the laws of
3 the State of North Carolina having its principal place of business located at 701 Matthews Mint
4 Hill Road, Matthews, North Carolina 28105.

5 **JURISDICTION AND VENUE**

6 4. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 (federal
7 question) and § 1338 (any Act of Congress relating to patents), with reference to the United
8 States Patent Laws, Title 35 of the United States Code.

9 5. This Court has personal jurisdiction over Conbraco under 28 U.S.C. § 1400
10 because Conbraco resides in this judicial district pursuant to 28 U.S.C. § 1391 and is subject to
11 personal jurisdiction here because it has committed acts of infringement in this judicial district.

12 6. Venue is proper in this Court under 28 U.S.C. §§ 1391 and 1400.

13 **ZURN'S PATENT**

14 7. U.S. Patent No. 8,997,772, entitled "Backflow Prevention and Method of
15 Manufacture," duly and legally issued on April 7, 2015. A true and correct copy of the '772
16 Patent is attached hereto as Exhibit A.

17 8. Zurn is the owner by assignment of the entire right, title, and interest in and to the
18 '772 Patent.

19 9. The '772 Patent relates to a replacement backflow prevention assembly and a
20 method for making a replacement backflow prevention assembly, including a backflow
21 prevention valve, a spool spacer, an inlet shut-off valve, and an outlet shut-off valve, where the
22 assembly is certified by a certifying authority prior to installation.

23 10. In general, back flow prevention assemblies and valves permit forward flow of
24 fluid through the valve, while preventing backsiphonage and backpressure of contaminated fluid.

25 11. These assemblies are particularly important in the potable water supply industries
26 where potential health hazards could exist.

27 12. To conform to regulations, backflow prevention assemblies must be certified from
28 inlet shut-off valves to outlet shut-off valves.

1 13. Valves are not manufactured to a standard length or footprint.

2 14. Because no certified replacement assemblies exist that are capable of accounting
3 for all valve lengths, when a contractor needs to replace a backflow prevention assembly in an
4 existing fluid line, the contractor must order a certified assembly with a valve that does not
5 account for the footprint left behind from the valve that needs to be replaced.

6 15. The contractor must then retrofit the new certified assembly to the fluid line by
7 having a flanged spool machined to compensate for the difference in length between the new
8 valve and footprint of the used valve.

9 16. The spool then must be connected to either the outlet of the outlet shut-off valve or
10 the inlet of the inlet shut-off valve for the new assembly to be installed into the existing fluid line.

11 17. Depending on the location and number of spools required, the backflow prevention
12 assembly may require recertification upon installation.

13 18. The inventors of the '772 Patent invented a method for making a certified
14 backflow prevention assembly that is capable of accounting for the footprint of any valve in a
15 used backflow prevention assembly and does not require recertification upon installation into an
16 existing fluid line.

17 19. The '772 Patent is novel and non-obvious.

18 20. There are no acceptable non-infringing alternatives to the invention claimed in the
19 '772 Patent.

20 21. Zurn has complied with the notice requirements of 35 U.S.C. § 287.

21 **CONBRACO'S INFRINGING ACTS**

22 22. Conbraco sells backflow prevention devices under the name Apollo Valves.

23 23. Conbraco and Zurn compete directly for sales of backflow prevention devices.

24 24. Upon information and belief, Conbraco is aware of Zurn and monitors Zurn's back
25 flow prevention products and marketing.

26 25. After Zurn filed the application that became the '772 Patent, Conbraco introduced
27 backflow prevention devices that are certified before installation and do not require recertification
28 upon installation into an existing fluid line.

1 26. Attached as Exhibit B is sales literature from Conbraco that advertises certified
2 custom length replacement backflow prevention devices, including the Apollo Double Check
3 Valve Backflow Preventer Model Nos. DCLF4AR and DCDALF4AR.

4 27. By making, using, selling, and offering for sale at least the Apollo Double Check
5 Valve Backflow Preventer Model Nos. DCLF4AR and DCDALF4AR, Conbraco infringes at least
6 claim 1 of the '772 Patent.

7 28. Upon information and belief, Conbraco was aware of the '772 Patent at the time of
8 its infringement.

9 29. Upon information and belief, Conbraco was aware of the published patent
10 application that became the '772 Patent (U.S. Patent Application Publication No. 2012/0055572)
11 before the '772 Patent issued.

12 **PATENT INFRINGEMENT UNDER 35 U.S.C. § 271**

13 30. Zurn incorporates by reference the allegations above as if fully set forth herein.

14 31. By making, using, selling, and offering for sale in the United States, or importing
15 into the United States, at least its Apollo Double Check Valve Backflow Preventer Model Nos.
16 DCLF4AR and DCDALF4AR, Conbraco has infringed and continues to infringe the '772 Patent,
17 literally or under the doctrine of equivalents.

18 32. Upon information and belief, Conbraco has profited from its infringement of the
19 '772 Patent.

20 33. Zurn has sustained damages as a direct and proximate result of Conbraco's
21 infringement of the '772 Patent, and is entitled to damages under 35 U.S.C. § 284.

22 34. Upon information and belief, Conbraco's infringement has been willful,
23 intentional, and in reckless disregard of Zurn's rights.

24 35. Conbraco's infringement has caused, and unless enjoined by the Court under
25 35 U.S.C. § 283, will continue to cause Zurn to suffer irreparable harm for which it cannot be
26 adequately compensated by a monetary award.

PRAYER FOR RELIEF

WHEREFORE, Zurn Industries, LLC respectfully requests that this Court:

A. Enter judgment in favor of Zurn;

B. Permanently enjoin Conbraco Industries, Inc. and its predecessors, successors, divisions, subsidiaries, partners, agents, representatives, employees, and all others acting in concert with Conbraco from infringing U.S. Patent No. 8,997,772;

C. Award Zurn financial relief for the infringement of its U.S. Patent No. 8,997,772 in an amount to be determined at trial;

D. Adjudicate that Conbraco's infringement of U.S. Patent No. 8,997,772 was willful, and increase Conbraco's liability for damages up to three time the amount found or assessed;

E. Award Zurn provisional rights damages under 35 U.S.C. § 154;

F. Declare that this is an exceptional case under 35 U.S.C. § 285, and award increased damages, attorneys' fees, and costs;

G. Grant such other and further relief as the Court deems just and proper.

Dated: July 29, 2016

By:  _____

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