

1 **ART HASAN, CA Bar No. 167323**
ahasana@LRRC.com
2 **ANNE WANG, CA Bar No. 151000**
awang@LRRC.com
3 **LEWIS ROCA ROTHGERBER CHRISTIE LLP**
655 N. Central Avenue, Suite 2300
4 **Glendale, CA 91203-1445**
Telephone: (626) 795-9900
5 **Facsimile: (626) 577-8800**

6 Attorneys for Plaintiff
TIMELY INVENTIONS, LLC
7

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10

11 TIMELY INVENTIONS, LLC, a
Delaware Limited Liability Company,

12 Plaintiff,

13 vs.

14 NETGEAR, INC., a Delaware
15 Corporation,

16 Defendant.
17

Case No. 2:17-cv-08864

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

18 Plaintiff Timely Inventions, LLC (“Timely” or “Plaintiff”) through its
19 undersigned counsel, brings this action against Defendant Netgear, Inc.
20 (“Defendant”). In support of the Complaint, Plaintiff alleges as follows:

21 **JURISDICTION**

22 1. This is an action for patent infringement in violation of the patent
23 laws of the United States, 35 U.S.C. § 1, *et seq.* This Court has exclusive subject
24 matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a).

25 2. This Court has personal jurisdiction over Defendant. Defendant has
26 conducted and does conduct business within the State of California, and has its
27 principal place of business in San Jose, California. Defendant, directly or through
28 subsidiaries or intermediaries, including distributors, retailers, and others, ships,

655 North Central Avenue
Suite 2300
Glendale, CA 91203-1445

Lewis Roca
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1 distributes, offers for sale and sells its products in the United States, the State of
2 California, and the Central District of California. Defendant, directly and through
3 subsidiaries or intermediaries, including distributors, retailers and others, has
4 purposefully and voluntarily placed one or more of its infringing products, as
5 described below, into the stream of commerce in the Central District of
6 California. On information and belief, these infringing products have been and
7 continued to be purchased and used by businesses, including Costco, in the
8 Central District of California. Defendant has committed acts of patent
9 infringement within the State of California and, more particularly, within the
10 Central District of California.

11 3. Venue is proper under 28 U.S.C. § 1391(b).

12 **THE PARTIES**

13 4. Plaintiff is a limited liability company organized and existing under
14 the laws of the State of Delaware having a principal place of business in Dover,
15 Delaware.

16 5. On information and belief, Defendant is a Delaware corporation
17 having a principal place of business in San Jose, California.

18 **FACTUAL BACKGROUND AND NATURE OF ACTION**

19 6. United States Patent No. 7,861,865 (“the ‘865 Patent”) is titled
20 “PACKAGING ASSEMBLY,” and was issued by the United States Patent and
21 Trademark Office on January 4, 2011. A true and correct copy of the ‘865 Patent
22 is attached as Exhibit A.

23 7. Timely owns by assignment the entire right, title, and interest in and
24 to the ‘865 Patent. As the owner of the entire right, title, and interest in and to the
25 ‘865 Patent, Timely possesses the right to sue and to recover for infringement of
26 the ‘865 Patent.

1 8. Defendant has infringed and continues to infringe one or more
2 claims of the '865 Patent by engaging in acts that constitute infringement under
3 35 U.S.C. § 271 *et seq.*

4 9. Defendant has infringed and continues to infringe the '865 Patent by
5 manufacturing, making, using, offering for sale, and/or selling within the
6 United States certain products which embody, or in combination embody, one or
7 more claims of the '865 Patent.

8 10. On information and belief, Defendant's ORBI packaging assembly
9 which Defendant sells through Costco, and all reasonably similar products, meet
10 all of the limitations of at least claim 1 of the '865 Patent (the "Accused
11 Products"). As such, Defendant is infringing the '865 Patent in violation of
12 35 U.S.C. § 271.

13 11. A representative and preliminary infringement claim chart for
14 claim 1 of the '865 Patent and the Accused Products is attached as Exhibit B and
15 is incorporated by reference to this Complaint.

16 **CLAIM FOR RELIEF**

17 **(Patent Infringement of U.S. Patent No. 7,861,865)**

18 12. Plaintiff incorporates by reference the foregoing paragraphs of this
19 Complaint as if fully set forth herein.

20 13. On information and belief, Defendant, alone or by directing and
21 controlling others, has manufactured, used, imported, offered for sale, and/or sold
22 and continues to sell in this district and elsewhere in the United States, the
23 Accused Products which infringe at least claim 1 of the '865 Patent, as identified
24 in Exhibit B in violation of 35 U.S.C. § 271.

25 14. On information and belief, the acts of infringement of Defendant will
26 continue unless enjoined by this Court.

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1 15. Timely is being damaged by Defendant's infringement of the '865
2 Patent and is being and will continue to be irreparably damaged unless
3 Defendant's infringement is enjoined by this Court.

4 16. On information and belief, Defendant's infringement of the '865
5 Patent is and has been willful. This is an exceptional case warranting an award of
6 treble damages under 35 U.S.C. § 284 and an award of its reasonable attorneys'
7 fees and costs for the maintenance of this action under 35 U.S.C. § 285.

8 17. As a result of Defendant's past and on-going infringement of the
9 '865 Patent, Timely has suffered, and continues to suffers, monetary damages.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff demands judgment against Defendant as follows:

12 1. That this Court adjudge and declare:

13 a. That it has jurisdiction of the parties and of the subject matter
14 of this action;

15 b. That the '865 Patent is valid and owned by Plaintiff;

16 c. That Defendant has committed acts of patent infringement by
17 its manufacture, importation, use, offer for sale and/or sale of the Accused
18 Products;

19 2. That Defendant's infringement is willful;

20 3. That Defendant and all affiliates, subsidiaries, officers, employees,
21 agents, representatives, licensees, successors, assigns, and all those acting in
22 concert with, or for or on behalf of Defendant, be enjoined from further infringing
23 the '865 Patent.

24 4. That Defendant be required by mandatory injunction to deliver up to
25 Timely for destruction any and all of the Accused Products in Defendant's
26 possession, custody or control, as well as any promotional literature and
27 packaging which display the Accused Products;

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1 5. That Plaintiff be awarded damages covered by the acts of patent
2 infringement of Defendant in an amount not less than a reasonable royalty
3 pursuant to 25 U.S.C. § 284 or in an amount equal to Defendant's profits pursuant
4 to 35 U.S.C. § 289, whichever is greater and that such damages be trebled in
5 accordance with the provisions of 35 U.S.C. § 284;

6 6. That Defendant pay Plaintiff prejudgment interest on all
7 infringement damages;

8 7. That Plaintiff recover their costs in this action, including attorneys'
9 fees; and

10 8. That Plaintiff has such other or further relief as the Court may deem
11 just and proper.

12
13 Dated: December 8, 2017

Respectfully submitted,

LEWIS ROCA ROTHGERBER
CHRISTIE LLP

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16 By /s/Art Hasan
17 Art Hasan
Anne Wang

18 Attorneys for Plaintiff
19 TIMELY INVENTIONS, LLC
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Lewis Roca
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DEMAND FOR JURY TRIAL

Plaintiff Timely Inventions, LLC, pursuant to Federal Rule of Civil Procedure 38, hereby demands a trial by jury of all issues so triable.

Dated: December 8, 2017

Respectfully submitted,

LEWIS ROCA ROTHGERBER
CHRISTIE LLP

By /s/Art Hasan
Art Hasan
Anne Wang

Attorneys for Plaintiff
TIMELY INVENTIONS, LLC

655 North Central Avenue
Suite 2300
Glendale, CA 91203-1445

Lewis Roca
ROTHGERBER CHRISTIE