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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 RECKITT BENCKISER LLC, a
15 Delaware Limited Liability Company,

16 Defendant.
17

Case No. 2:17-cv-08873

**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 Reckitt Benckiser LLC.
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. Defendant,
27 directly or through subsidiaries or intermediaries, including distributors, retailers,
28 and others, ships, distributes, offers for sale and sells its products in the

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

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

11 **THE PARTIES**

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

15 5. On information and belief, Defendant is a Delaware limited liability
16 company having a principal place of business in Parsippany, New Jersey.

17 **FACTUAL BACKGROUND AND NATURE OF ACTION**

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

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

26 8. Defendant has infringed and continues to infringe one or more
27 claims of the ‘865 Patent by engaging in acts that constitute infringement under
28 35 U.S.C. § 271 *et seq.*

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

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

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

13 **CLAIM FOR RELIEF**

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

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

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

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

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

27 16. On information and belief, Defendant's infringement of the '865
28 Patent is and has been willful. This is an exceptional case warranting an award of

1 treble damages under 35 U.S.C. § 284 and an award of its reasonable attorneys’
2 fees and costs for the maintenance of this action under 35 U.S.C. § 285.

3 17. As a result of Defendant's past and on-going infringement of the
4 ‘865 Patent, Timely has suffered, and continues to suffers, monetary damages.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff demands judgment against Defendant as follows:

7 1. That this Court adjudge and declare:

8 a. That it has jurisdiction of the parties and of the subject matter
9 of this action;

10 b. That the ‘865 Patent is valid and owned by Plaintiff;

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

14 2. That Defendant's infringement is willful;

15 3. That Defendant and all affiliates, subsidiaries, officers, employees,
16 agents, representatives, licensees, successors, assigns, and all those acting in
17 concert with, or for or on behalf of Defendant, be enjoined from further infringing
18 the ‘865 Patent.

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

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

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

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

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

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

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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

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