

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION**

PLASTIPAK PACKAGING, INC.,

Plaintiff,

v.

NIAGARA BOTTLING, LLC,

Defendant.

Civil Action No. 1:17-cv-01463

**JURY TRIAL DEMANDED**

**AMENDED COMPLAINT FOR WILLFUL PATENT INFRINGEMENT**

Plastipak Packaging, Inc. brings this action for willful patent infringement against Niagara Bottling, LLC. On October 17, 2017, Plastipak wrote to Niagara, explaining how Niagara's products infringed Plastipak's patents. (Attached as **Exhibit 7**.) Plastipak asked Niagara to meet so that the parties could discuss Plastipak's assessment, address any questions Niagara might have, and evaluate whether any mutually agreeable business arrangement might resolve this matter. Niagara referred the matter to its attorney, who said he needed time to investigate. Over the next two months, Plastipak reached out to Niagara's attorney on many occasions, seeking Niagara's response to Plastipak's letter and requesting Niagara's availability for a business meeting. On December 20, 2017, Niagara's attorney wrote to Plastipak stating that Niagara would not meet with Plastipak: "my client

has no interest in meeting with you at this time.” Niagara’s attorney also declined to provide any basis to challenge Plastipak’s assessment that Niagara’s products practice Plastipak’s patents. To date, Niagara has provided no substantive response to Plastipak’s detailed letter describing Niagara’s infringement.

Accordingly, Plastipak brings this action for willful patent infringement seeking to stop Niagara’s unlawful manufacture and sale of infringing products and to recover its damages. Plastipak alleges as follows:

### **SUMMARY OF DISPUTE**

1. Through its manufacture, use, and sale of plastic water bottles and preforms, Niagara continues to infringe seven Plastipak U.S. patents: U.S. Patent Nos. 8,857,637; 9,033,168; 9,139,326; 9,403,310; 9,522,759; 9,738,409; and 9,850,019. These patents are directed to light-weighting, a practice that reduces the amount of plastic used in plastic bottles.

2. On or around March 29, 2017, Niagara began operations at its new manufacturing and bottling hub at Meadowville Technology Park in Chesterfield County, Virginia. On information and belief, this \$95 million facility produces Niagara brand and private label bottled water.

3. On information and belief, the image below shows the first pallet of Niagara water rolling off of the production line.



4. This new manufacturing-bottling hub significantly expands the scope of Niagara's infringing activities in this District. On information and belief, the manufacturing methods used at this facility infringe the asserted method claims of the asserted patents, and the millions of plastic bottles produced each day at this facility infringe the asserted apparatus claims of the asserted patents.

5. Plastipak brings this action to seek declaratory and injunctive relief relating to the infringing operations of this new facility, to curtail Niagara's willful infringement of Plastipak's intellectual property rights, and to recover its damages.

### **THE PARTIES**

6. Plaintiff Plastipak Packaging, Inc. (“Plastipak”) is a Delaware corporation having a principal place of business at 41605 Ann Arbor Road, Plymouth, Michigan 48170.

7. Plastipak is one of the world’s leading companies in the business of inventing, developing, manufacturing, and selling containers and packaging for consumer products, including bottled water and other beverages.

8. Since the company was founded in 1967, Plastipak has grown by continuously inventing innovative plastic containers for consumer products. Plastipak is a leading innovator in the industry, surpassing 500 U.S. patents awarded for its technological advances.

9. Today, Plastipak produces over 20 billion plastic preforms and containers annually.

10. Defendant Niagara Bottling, LLC (“Niagara”) is a Delaware corporation having a principal place of business at 2560 East Philadelphia Street, Ontario, CA 91761.

11. Niagara supplies bottled water to general retailers, grocery store chains, convenience store chains, direct delivery, online sales entities, and wholesale customers in this District and throughout the United States.

12. Niagara also manufactures the plastic containers used for its bottled water, including the plastic preforms used to produce the containers, and the plastic closures for sealing the containers.

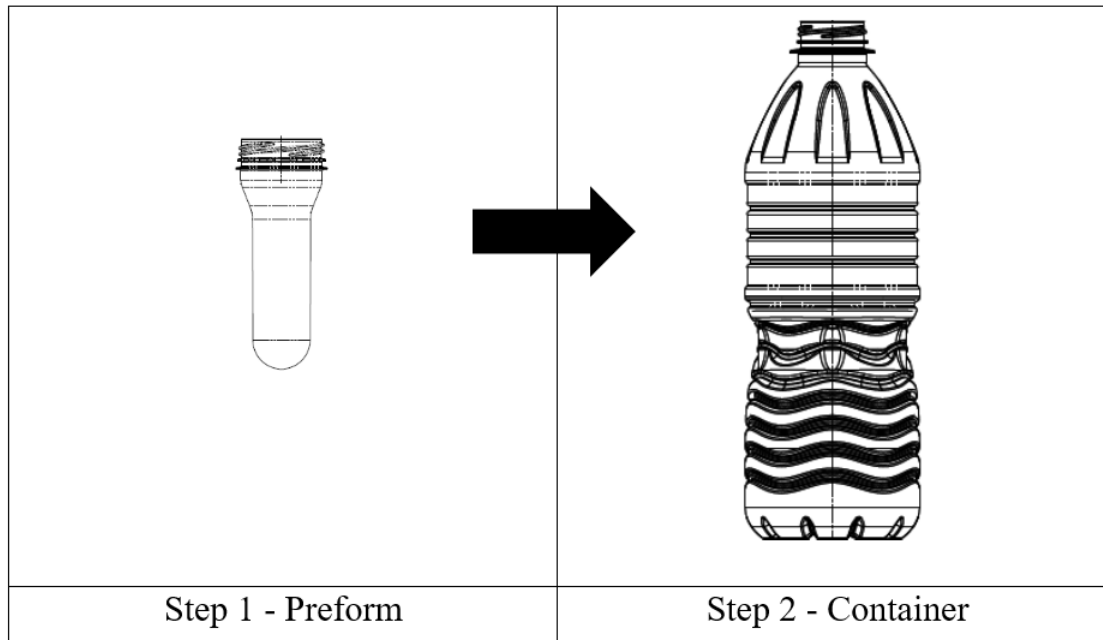
## **BACKGROUND**

### **Producing Plastic Bottles**

13. Containers for bottled water are typically made from PET (polyethylene terephthalate), a thermoplastic material, but may also be made from other polymers, including without limitation polyethylene and polypropylene. The first step in manufacturing a PET bottle typically involves converting PET resin into a preform, a work-in-process product for the final plastic container. A preform may be produced through injection molding, compression molding or other known methods.

14. Plastipak is a leading manufacturer of preforms with a wide range of innovative preform designs for plastic containers.

15. The images below show an example of a preform manufactured by Plastipak and a final 500-ml water bottle manufactured using the preform:



16. In the injection molding process, the neck of a preform is molded into the desired shape of the opening for the final container.

17. The structural features of the neck are referred to as the neck finish, which can include threads to retain a cap, a tamper-evident formation, and a support flange.

18. An example neck finish is shown below:



19. The body of a preform is molded as a preliminary product. The preform is then stretched and blow molded at high temperature into the desired shape of the final container.

20. These manufacturing operations are typically performed using high-speed automated machinery that converts the PET resin into preforms and forms the final bottles, fills the bottles with the desired beverage, and seals the bottles with a closure. These operations may be done in multiple steps and/or at different locations.

**Plastipak's Novel Approach to Lightweight Plastic Bottles**

21. In the course of its research and development, Plastipak discovered that plastic bottles could be produced with a lighter neck finish that still retained functional threads, a tamper-evident formation, and a support flange.

22. On March 6, 2006, Plastipak filed its first patent application with the United States Patent & Trademark Office (PTO) for inventions related to its lightweight neck finish technology.

23. On September 13, 2007, the PTO published Plastipak's application for its innovative lightweight neck finish as U.S. Publication No. 2007/0210026. The publication disclosed, *inter alia*, a plastic container with a "support flange with an upper and lower surface, a tamper-evident formation, and a dispensing opening at the top of the neck portion," wherein "the vertical distance from the top of the dispensing opening to the lower surface of the support flange is 0.580 inches or less." The publication also disclosed that "for a 500 ml version of a container made in accordance with an embodiment of the invention, the total weight of the preform and

unfilled weight of a container produced from such a preform may be 11 grams or less, and for some embodiments may be 10 grams or less.”

24. Plastipak’s innovations in lightweight bottles significantly reduce raw material consumption.

25. Plastipak’s lightweighting invention results in significant raw material cost savings.

26. Plastipak’s lightweighting invention also allows for reduced cap size to be used to fit the reduced weight bottle necks.

27. Plastipak’s innovations also provide savings in energy and other utilities necessary to manufacture and convey its products.

28. Plastipak’s innovations also provide processing efficiencies that provide savings throughout the manufacturing process.

29. Plastipak’s innovations allow for a reduced carbon footprint, conservation of resources, and competitive advantage.

### **THE ASSERTED PLASTIPAK PATENTS**

30. The PTO has awarded Plastipak several patents for its lightweight neck finish technology, including U.S. Patent Nos. 8,857,637 (“the ’637 patent”), 9,033,168 (“the ’168 patent”), 9,139,326 (“the ’326 patent”), 9,403,310 (“the ’310 patent”), 9,522,759 (“the ’759 patent”), 9,738,409 (“the ’409 patent”), 9,850,019 (“the ’019 patent”) (collectively, “the Asserted Patents”).



31. Plastipak is the assignee of the '637 patent and is the owner of all right, title, and interest in the '637 patent, entitled "Lightweight Plastic Container and Preform," which was duly and properly issued by the U.S. Patent and Trademark Office on October 14, 2014. A true and correct copy of the '637 patent is attached hereto as **Exhibit 1**.

32. Plastipak is the assignee of the '168 patent and is the owner of all right, title, and interest in the '168 patent, entitled "Lightweight Plastic Container and Preform," which was duly and properly issued by the U.S. Patent and Trademark Office on May 19, 2015. A true and correct copy of the '168 patent is attached hereto as **Exhibit 2**.

33. Plastipak is the assignee of the '326 patent and is the owner of all right, title, and interest in the '326 patent, entitled "Lightweight Plastic Container and Preform," which was duly and properly issued by the U.S. Patent and Trademark Office on September 22, 2015. A true and correct copy of the '326 patent is attached hereto as **Exhibit 3**.

34. Plastipak is the assignee of the '310 patent and is the owner of all right, title, and interest in the '310 patent, entitled "Lightweight Plastic Container and Preform," which was duly and properly issued by the U.S. Patent and Trademark Office on August 2, 2016. A true and correct copy of the '310 patent is attached hereto as **Exhibit 4**.

35. Plastipak is the assignee of the '759 patent and is the owner of all right, title, and interest in the '759 patent, entitled "Lightweight Plastic Container and Preform," which was duly and properly issued by the U.S. Patent and Trademark Office on December 20, 2016. A true and correct copy of the '759 patent is attached hereto as **Exhibit 5**.

36. Plastipak is the assignee of the '409 patent and is the owner of all right, title, and interest in the '409 patent, entitled "Lightweight Plastic Container and Preform," which was duly and properly issued by the U.S. Patent and Trademark Office on August 22, 2017. A true and correct copy of the '409 patent is attached hereto as **Exhibit 6**.

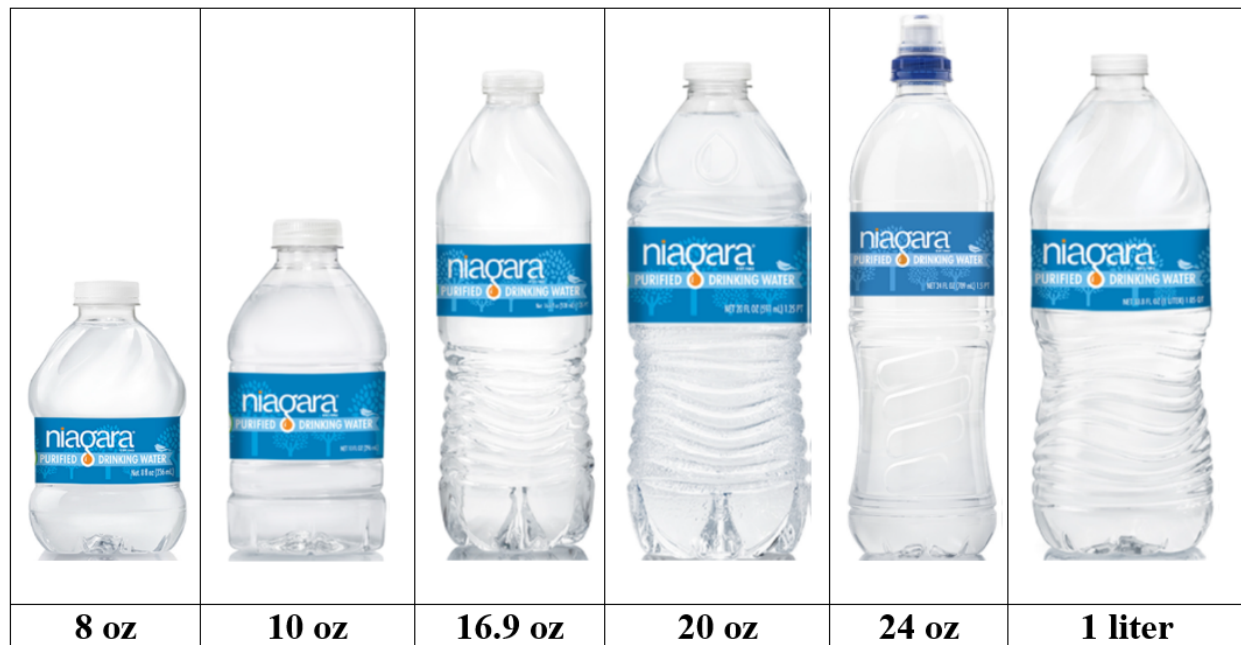
37. Plastipak is the assignee of the '019 patent and is the owner of all right, title, and interest in the '019 patent, entitled "Lightweight Plastic Container and Preform," which was duly and properly issued by the U.S. Patent and Trademark Office on December 26, 2017. A true and correct copy of the '019 patent is attached hereto as **Exhibit 8**.

### **NIAGARA AND THE ACCUSED PRODUCTS**

38. Niagara manufactures preforms and containers for store brand, private label, and Niagara-brand bottled water ("the Accused Products") that infringe one or more claims of the '637 patent, the '168 patent, the '326 patent, the '310 patent, the '759 patent, the '409 patent, and the '019 patent. For example, Niagara's 8 oz,

10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, and the preforms used to manufacture each product, all use Plastipak's patented lightweight neck finish technology.

39. Example 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter Niagara-brand bottled water products are shown below:



40. In 2009, after Plastipak's patent application was published, Niagara began selling its 16.9 oz (500 ml) bottle under the name Eco-Air.

41. The neck finish for Niagara's 16.9 oz bottled water products (shown below) has threads, a tamper-evident formation, and a support flange.



42. The height from the top of the opening to the bottom of the support flange for Niagara's 16.9 oz bottled water products (and the preforms for each product) is approximately 0.38 inches.

43. The weight of the neck portion of Niagara's 16.9 oz bottled water products (and the preforms for each product) is approximately 1.1 grams.

44. Since 2009, Niagara has launched additional bottled water products with reduced weight neck finishes, including its 8 oz, 10 oz, 20 oz, 24 oz, and 1 liter product lines.

45. The neck finish for Niagara's 8 oz bottled water products is the same as the neck finish on Niagara's 16.9 oz bottled water products.

46. The neck finish for Niagara's 10 oz, 20 oz, 24 oz, and 1 liter bottled water products has the same structural features as Niagara's 16.9 oz bottled water products, with a vertical distance from the top of the opening to the bottom of the support flange of approximately 0.45 inches.

47. The containers for Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products (and the preforms used to make each product) are comprised of polyethylene terephthalate (PET).

48. Niagara advertises the benefits of using Plastipak's lightweight finish innovation. According to Niagara President Andrew Peykoff, Niagara produces "the lightest bottles in the world with the least carbon footprint." Niagara's website also claims that, "because of the reduced weight in our plastic, we are able to transport more water per truck load which reduced CO<sub>2</sub> emission; use less plastic per bottle which helps conserve resources; [and] use less energy to produce which reduces our carbon footprint."

### **JURISDICTION AND VENUE**

49. This action for patent infringement arises under the laws of the United States, Title 35 of the United States Code, 35 U.S.C. § 1 *et seq.*

50. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

51. This Court has at least specific personal jurisdiction over Niagara pursuant to due process and the Virginia Long Arm Statute, due at least to its continuous business contacts and infringing activities in the Commonwealth of Virginia and in this District.

52. Niagara has transacted and continues to transact business within this District, including by advertising, offering for sale, and selling infringing products within this District and the Commonwealth.

53. For example, Niagara sells at least its 8 oz, 10 oz, 16.9 oz, 20 oz, and 1 liter bottled water to national chain retailers with stores in this District, which in turn sell the bottled water to consumers in this District.

54. Niagara has a regular and established place of business in this district. For example, Niagara recently opened a \$95 million manufacturing and bottling operation at 1700 Digital Drive in the Meadowville Technology Park in Chesterfield County, Virginia, in this District.

55. This facility has been described as a new manufacturing-bottling hub for Niagara to produce its Niagara brand and private label bottled water. The Chesterfield facility significantly expands Niagara's ability to sell infringing bottles in this District and on the east coast. In welcoming Niagara to Chesterfield, Secretary of Commerce and Trade Maurice Jones said: "Chesterfield will be a strategic location for its new manufacturing and bottling center. I am pleased we were able to assist the company in their east coast expansion and efforts to reach a growing customer base."

56. Brian Hess, Executive Vice President of Operation for Niagara stated: "The Chesterfield, Virginia location allows the company to fulfill that commitment

by providing an optimal location that is close to both its existing and growing customer market.”

57. On information and belief, the project area encompasses up to 62 acres and includes an approximately 600,000-square-foot warehouse with office space, parking spaces, a loading bay, drive aisles, utilities, data infrastructure and stormwater management facilities.

58. On information and belief, this facility was built in part with \$1.7 million in grants provided by the Commonwealth and Chesterfield County.

59. On information and belief, Niagara has hired and continues to hire residents of the Commonwealth to work at this facility.

60. On information and belief, production at the Niagara Bottling manufacturing-bottling hub in Chesterfield began on or about March 29, 2017.

61. On information and belief, a second phase is expected to follow, with a \$50 million build-out.

62. On information and belief, at full production, Niagara Bottling uses about 900,000 gallons of county water per day, which could equate to over one billion 16.9 oz water bottles per year, at the Chesterfield location alone.

63. Niagara has committed acts of infringement in this district. For example, on information and belief, the manufacturing methods used at this facility infringe the asserted method claims of the asserted patents, and the millions of plastic

preforms and bottles produced each day at this facility infringe the asserted apparatus claims of the asserted patents.

64. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b).

### **NIAGARA'S WILLFUL INFRINGEMENT**

65. On October 17, 2017, Plastipak sent a letter to the President and CEO of Niagara (**Exhibit 7**), enclosing Plastipak's patents and claim charts explaining how Niagara was infringing Plastipak's patents. The letter requested that Niagara and Plastipak meet at a place convenient to Niagara so that Plastipak could explain its position, answer any questions Niagara had, and see if there is a mutually agreeable business arrangement for resolving the matter.

66. Niagara has not substantively responded to Plastipak's letter or otherwise explained why it does not infringe Plastipak's patents.

67. Despite repeated requests, Niagara has refused to meet with Plastipak. On December 20, 2017, Niagara's attorney wrote to Plastipak stating: "However, as I stated before, my client has no interest in meeting with you at this time."

68. Niagara continues to manufacture and sell preforms and bottles that infringe Plastipak's patents; Niagara has not substantively responded to Plastipak's letter explaining Niagara's infringement. And Niagara refused to even meet with Plastipak to discuss Plastipak's concerns regarding its infringement.



**COUNT I - INFRINGEMENT OF THE '637 PATENT**

69. Plastipak hereby incorporates by reference its allegations contained in paragraphs 1 through 68 of this complaint as though fully set forth herein.

70. Niagara has directly infringed and continues to directly infringe various method claims of the '637 patent, including at least claims 29 and 30-34, under 35 U.S.C. § 271(a) by making the Accused Products in the United States using each step of the claimed methods.

71. Niagara has made and continues to make its 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products by forming a container using a preform having a dispensing opening, a tamper-evident formation, a support flange with a lower surface, and a lower portion below the support flange, where the vertical distance from the dispensing opening to the lower surface of the support flange, including threads and the tamper-evident formation, is 0.580 inches or less, and the lower portion has an initial axial length.

72. Niagara has made and continues to make at least its 24 oz and 1 liter bottled water products using preforms weighing at least 9 grams.

73. Niagara has made and continues to make at least its 8 oz and 16.9 oz bottled water products using a preform with a dispensing opening that is at least 22 mm.

74. Niagara has made and continues to make its 8 oz, 10z, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products by blow-molding preforms.

75. Niagara has made and continues to make at least its 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products by filling the containers with water at one or more locations substantially adjacent to where the containers for those products are formed.

76. Niagara does not have a license or permission to use the '637 patent.

77. Niagara has been willfully infringing the '637 patent since at least the time it received Plastipak's October 17, 2017, letter.

78. Niagara's behavior is an egregious case of willful misconduct. Niagara has known of the '637 patent and Plastipak's allegation that Niagara infringed the patent since at least its receipt of Plastipak's October 17, 2017, letter. On information and belief, Niagara has no good faith defense to Plastipak's infringement allegations, and refused to meet to discuss a business resolution. Instead, Niagara has deliberately and wantonly continued its infringement. As a result of Niagara's willful infringement of the '637 patent, Plastipak has suffered and will continue to suffer damages, in an amount not yet determined, of at least a reasonable royalty.

79. Niagara's continued willful infringement of Plastipak's '637 patent rights will irreparably harm Plastipak. Unless such infringing acts are enjoined by this Court, Plastipak will continue to suffer additional irreparable injury.

**COUNT II - INFRINGEMENT OF THE '168 PATENT**

80. Plastipak hereby incorporates by reference its allegations contained in paragraphs 1 through 79 of this complaint as though fully set forth herein.

81. Niagara has directly infringed and continues to directly infringe at least claims 1-5, 7-18, 20-23, and 26-30 of the '168 patent under 35 U.S.C. § 271(a) by making, using, offering to sell and/or selling the Accused Products in the United States.

82. Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products each have a plastic blow molded container with a hollow body portion including a lower supporting base portion; a sidewall portion extending upwardly from the base portion; and a neck portion extending upwardly from the sidewall portion, wherein the neck portion has a support flange with an upper and lower surface, threads, a tamper-evident formation having a lower surface, and a dispensing opening having a top.

83. For at least Niagara's 8 oz and 16.9 oz bottled water products, the dispensing opening has an inner diameter that is at least 22 mm and less than 29 mm.

84. For Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, the vertical distance from the top of the dispensing opening to the lower surface of the support flange, including threads and the tamper-evident formation, is less than 0.450 inches.

85. Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products each have a tamper-evident formation comprising a bead.

86. For Niagara's 8 oz and 16.9 oz bottled water products, the vertical distance from a furthest outwardly radially-extending portion of the lower surface of the tamper-evident formation to the upper surface of the support flange at the same outward radial distance is 0.08 inches or less.

87. For Niagara's 10 oz, 20 oz, 24 oz, and 1 liter bottled water products, the vertical distance from a furthest outwardly radially-extending portion of the lower surface of the tamper-evident formation to the upper surface of the support flange at the same outward radial distance is 0.15 inches or less.

88. For Niagara's 8 oz and 16.9 oz bottled water products, the vertical distance from a furthest outwardly radially-extending portion of the lower surface of the tamper-evident formation to the lower surface of the support flange at the same outward radial distance is 0.15 inches or less.

89. For Niagara's 10 oz, 20 oz, 24 oz and 1 liter bottled water products, the vertical distance from a furthest outwardly radially-extending portion of the lower

surface of the tamper-evident formation to the lower surface of the support flange at the same outward radial distance is 0.20 inches or less.

90. For at least Niagara's 8 oz and 16.9 oz bottled water products, the vertical distance from the top of the dispensing opening to the upper surface of the support flange is 0.40 inches or less.

91. For Niagara's 10 oz, 20 oz, 24 oz, and 1 liter bottled water products, the vertical distance from the top of the dispensing opening to the upper surface of the support flange is 0.50 inches or less.

92. For Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, the vertical distance from the lower surface of the tamper-evident formation to the top of the dispensing opening is 0.30 inches or less.

93. For Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, the radially extending length of the support flange is 0.17 inches or less.

94. For Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, an angle from a furthest outward radially-extending portion of the lower surface of the support flange to a nearest radially-extending portion of the upper surface of the support flange is 16 degrees or more.

95. For Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, the least distance from a furthest radially-extending portion of the support

flange to the furthest radially extending portion of the upper surface of the dispensing opening is 0.50 inches or less.

96. For Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, the weight of the neck portion is 2.3 grams or less.

97. Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products each have a shoulder portion extending upwardly and inwardly from the sidewall portion to the neck portion.

98. The ratio of the height of the center of gravity to the container height for at least Niagara's 8 oz, 16.9 oz, and 1 liter bottled water products is less than 0.53.

99. For Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, the container is comprised of polyethylene terephthalate (PET).

100. To the extent Niagara continued or continues to sell the Accused Products after it learned of the '168 patent, in no event later than the date it received Plastipak's October 17, 2017, letter, Niagara induces infringement of the '168 patent under 35 U.S.C. § 271(b) by selling the Accused Products in the United States for subsequent use or re-sale by Niagara's customers, and by providing those customers with marketing material and/or product packaging intended to promote subsequent use and re-sale.

101. Niagara does not have a license or permission to use the '168 patent.

102. Niagara has been willfully infringing the '168 patent since at least the time it received Plastipak's October 17, 2017, letter.

103. Niagara's behavior is an egregious case of willful misconduct. Niagara has known of the '168 patent and Plastipak's allegation that Niagara infringed the patent since at least its receipt of Plastipak's October 17, 2017, letter. On information and belief, Niagara has no good faith defense to Plastipak's infringement allegations, and refused to meet to discuss a business resolution. Instead, Niagara has deliberately and wantonly continued its infringement. As a result of Niagara's willful infringement of the '168 patent, Plastipak has suffered and will continue to suffer damages, in an amount not yet determined, of at least a reasonable royalty.

104. Niagara's continued willful infringement of Plastipak's '168 patent rights will irreparably harm Plastipak. Unless such infringing acts are enjoined by this Court, Plastipak will continue to suffer additional irreparable injury.

### **COUNT III –INFRINGEMENT OF THE '326 PATENT**

105. Plastipak hereby incorporates by reference its allegations contained in paragraphs 1 through 104 of this complaint as though fully set forth herein.

106. Niagara has directly infringed and continues to directly infringe at least claims 1-6, 8-13, 15-23, and 29-30 of the '326 patent under 35 U.S.C. § 271(a) by

making, using, offering to sell and/or selling the Accused Products in the United States.

107. Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products each have a plastic blow molded container with a hollow body portion including a lower supporting base portion and a sidewall portion extending upwardly from the base portion; a neck portion extending upwardly from the sidewall portion; a dispensing opening at the top of the neck portion; multiple-lead threads positioned below the dispensing opening; a tamper-evident formation positioned below the threads; and a support flange with an upper and lower surface positioned below the tamper-evident formation.

108. For Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, the weight of the neck portion from the lower surface of the support flange to a top of the dispensing opening is 2.3 grams or less.

109. For Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, the vertical distance from the top of the dispensing opening to the lower surface of the support flange, including threads and the tamper-evident formation, is 0.450 inches or less.

110. For Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, the container is formed of a material comprising polyethylene terephthalate (PET).



111. For Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, the container is formed of a material comprising recycled material.

112. For at least Niagara's 8 oz and 16.9 oz bottled water products, the dispensing opening has an inner diameter that is at least 22 mm and less than 29 mm.

113. For Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, each have a tamper-evident formation comprising a bead.

114. For at least Niagara's 8 oz, 16.9 oz, and 1 liter bottled water products, the ratio of the height of the center of gravity to the container height is less than 0.57.

115. For at least Niagara's 8 oz and 16.9 oz bottled water products, the vertical distance from a furthest outwardly radially-extending portion of the lower surface of the tamper-evident formation to the upper surface of the support flange at the same outward radial distance is 0.10 inches or less.

116. For Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, each container is formed of a material that is bi-axially oriented.

117. For Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, the vertical distance from a furthest outwardly radially-extending portion of a lower surface of the tamper-evident formation to the lower surface of the support flange at the same outward radial distance is 0.20 inches or less.

118. For at least Niagara's 8 oz, 10 oz, and 16.9 oz bottled water products, the combined weight of the neck portion and the hollow body portion is 10 grams or less.

119. For at least Niagara's 8 oz and 16.9 oz bottled water products, the vertical distance from the top of the dispensing opening to the upper surface of the support flange is 0.40 inches or less.

120. For Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, the vertical distance from a lower surface of the tamper-evident formation to the top of the dispensing opening is 0.30 inches or less.

121. For Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, the radially extending length of the support flange is 0.17 inches or less.

122. For Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, the outside diameter of the support flange is greater than 22 mm and less than or equal to 39.2 mm.

123. Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products each have a transparent body portion.

124. For Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, each have a tamper-evident formation that is vertically spaced from the threads.

125. For at least Niagara's 8 oz and 16.9 oz bottled water products, the vertical distance from a furthest outwardly radially-extending portion of the lower surface of the tamper-evident formation to the lower surface of the support flange at the same outward radial distance is 0.15 inches or less.

126. Niagara has also directly infringed and continues to directly infringe at least claims 24-27 of the '326 patent under 35 U.S.C. § 271(a) by making the Accused Products in the United States.

127. Niagara has made and continues to make at least its 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, by providing a preform having a hollow body portion and a neck portion, the neck portion including a dispensing opening positioned at the top of the neck portion, threads positioned below the dispensing opening, a tamper-evident formation positioned below the threads, and a support flange positioned below the tamper-evident formation, the support flange having an upper and lower surface, wherein the preform is formed of a material comprising polyethylene terephthalate (PET).

128. Niagara has made and continues to make at least its 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products by stretch blow-molding a preform to form the container, wherein the weight of the neck portion from the lower surface of the support flange to a top of the dispensing opening is 2.3 grams or less, the outside diameter of the support flange is greater than 22 mm and less than or equal

to 39.2 mm, the radially extending length of the support flange is 0.20 inches or less, and the vertical distance from a lower surface of the tamper-evident formation to the top of the dispensing opening is 0.30 inches or less.

129. Niagara has made and continues to make at least its 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products by filling the containers with water just after they are formed and in close proximity to where the containers are formed.

130. To the extent Niagara continued or continues to sell the Accused Products after it learned of the '326 patent, in no event later than the date it received Plastipak's October 17, 2017, letter, Niagara induces infringement of the '326 patent under 35 U.S.C. § 271(b) by selling the Accused Products in the United States for subsequent use or re-sale by Niagara's customers and by providing those customers with marketing material and/or product packaging intended to promote subsequent use and re-sale.

131. Niagara does not have a license or permission to use the '326 patent.

132. Niagara has been willfully infringing the '326 patent since at least the time it received Plastipak's October 17, 2017, letter.

133. Niagara's behavior is an egregious case of willful misconduct. Niagara has known of the '326 patent and Plastipak's allegation that Niagara infringed the patent since at least its receipt of Plastipak's October 17, 2017, letter. On

information and belief, Niagara has no good faith defense to Plastipak's infringement allegations, and refused to meet to discuss a business resolution. Instead, Niagara has deliberately and wantonly continued its infringement. As a result of Niagara's infringement of the '326 patent, Plastipak has suffered and will continue to suffer damages, in an amount not yet determined, of at least a reasonable royalty.

134. Niagara's continued infringement of Plastipak's '326 patent rights will irreparably harm Plastipak. Unless such infringing acts are enjoined by this Court, Plastipak will continue to suffer additional irreparable injury.

#### **COUNT IV – INFRINGEMENT OF THE '310 PATENT**

135. Plastipak hereby incorporates by reference its allegations contained in paragraphs 1 through 134 of this complaint as though fully set forth herein.

136. Niagara has directly infringed and continues to directly infringe at least claims 1-5, 7-9, and 11-21 of the '310 patent under 35 U.S.C. § 271(a) by making, using, offering to sell, and/or selling the Accused Products in the United States.

137. Niagara's preforms for its 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, each have a hollow body portion, including a closed bottom portion and a lower portion extending upwardly from the bottom portion; a neck portion extending upwardly from the lower portion, the neck portion including a dispensing opening positioned at the top of the neck portion, multiple-lead threads

positioned below the dispensing opening, a tamper-evident formation positioned below the threads, and a support flange positioned below the tamper-evident formation, the support flange having an upper surface and a lower surface.

138. For Niagara's preforms for its 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, the weight of the neck portion from the lower surface of the support flange to a top of the dispensing opening is 2.3 grams or less.

139. For Niagara's preforms for its 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, the vertical distance from the top of the dispensing opening to the lower surface of the support flange, including the threads and the tamper-evident formation, is 0.450 inches or less.

140. The preforms for Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products are comprised of polyethylene terephthalate (PET).

141. For Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, the container is formed of a material comprising recycled material.

142. The preforms for at least Niagara's 8 oz and 16.9 oz bottled water products each have a dispensing opening with an inner diameter between 22 mm and 29 mm.

143. The preforms for Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products each have a tamper-evident formation comprising a bead.

144. For Niagara's preforms for at least its 8 oz and 16.9 oz bottled water products, the vertical distance from a furthest outwardly radially-extending portion of a lower surface of the tamper-evident formation to the upper surface of the support flange at the same outward radial distance is 0.10 inches or less.

145. For Niagara's preforms for its 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, the vertical distance from a furthest outwardly radially-extending portion of a lower surface of the tamper-evident formation to the lower surface of the support flange at the same outward radial distance is 0.20 inches or less.

146. For Niagara's preforms for at least its 8 oz, 10 oz, and 16.9 oz bottled water products, the combined weight of the neck portion, the closed bottom portion and the lower portion is 10 grams or less.

147. For Niagara's preforms for at least its 8 oz and 16.9 oz bottled water products, the vertical distance from the top of the dispensing opening to the upper surface of the support flange is 0.40 inches or less.

148. For Niagara's preforms for its 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, the vertical distance from a lower surface of the tamper-evident formation to the top of the dispensing opening is 0.30 inches or less.

149. For Niagara's preforms for its 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, an outside diameter of the support flange is greater than 22 mm and less than or equal to 39.2 mm.

150. For Niagara's preforms for its 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, the radially extending length of the support flange is 0.17 inches or less.

151. Niagara's preforms for its 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products each have a transparent body portion.

152. Niagara's preforms for its 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products each have a tamper-evident formation that is vertically spaced from the threads.

153. For Niagara's preforms for at least its 8 oz and 16.9 oz bottled water products, the vertical distance from a furthest outwardly radially-extending portion of the lower surface of the tamper-evident formation to the lower surface of the support flange at the same outward radial distance is 0.15 inches or less.

154. Niagara does not have a license or permission to use the '310 patent.

155. Niagara has been willfully infringing the '310 patent since at least the time it received Plastipak's October 17, 2017, letter.

156. Niagara's behavior is an egregious case of willful misconduct. Niagara has known of the '310 patent and Plastipak's allegation that Niagara infringed the



patent since at least its receipt of Plastipak's October 17, 2017, letter. On information and belief, Niagara has no good faith defense to Plastipak's infringement allegations, and refused to meet to discuss a business resolution. Instead, Niagara has deliberately and wantonly continued its infringement. As a result of Niagara's infringement of the '310 patent, Plastipak has suffered and will continue to suffer damages, in an amount not yet determined, of at least a reasonable royalty.

157. As a result of Niagara's willful infringement of the '310 patent, Plastipak has suffered and will continue to suffer damages, in an amount not yet determined, of at least a reasonable royalty.

158. Niagara's continued willful infringement of Plastipak's '310 patent rights will irreparably harm Plastipak. Unless such infringing acts are enjoined by this Court, Plastipak will continue to suffer additional irreparable injury.

#### **COUNT V – INFRINGEMENT OF THE '759 PATENT**

159. Plastipak hereby incorporates by reference its allegations contained in paragraphs 1 through 158 of this complaint as though fully set forth herein.

160. Niagara has directly infringed and continues to directly infringe claims 1-5, 7-18, and 20-30 of the '759 patent under 35 U.S.C. § 271(a) by making, using, offering to sell and/or selling the Accused Products in the United States.

161. Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products each have a plastic blow molded container with a lower supporting base portion; a sidewall portion extending upwardly from the base portion; a neck portion extending upwardly from the sidewall portion, the neck portion including a support flange having an upper and lower surface; multiple-lead threads; a tamper-evident formation; and a dispensing opening at the top of the neck portion, the dispensing opening having a top.

162. For Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, the weight of the neck portion is 2.3 grams or less.

163. For Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, the vertical distance from the top of the dispensing opening to the lower surface of the support flange, is 0.450 inches or less.

164. For Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, the outside diameter of the support flange is greater than 22 mm and less than or equal to 39.2 mm.

165. Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products each have a tamper-evident formation comprising a bead.

166. Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products each have a radially extending length of the support flange that is 0.20 inches or less.

167. The ratio of the height of the center of gravity to the container height for at least Niagara's 8 oz, 16.9 oz, and 1 liter bottled water products is less than 0.57.

168. The containers for Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products are comprised of polyethylene terephthalate (PET).

169. For at least Niagara's 8 oz, 10 oz, and 16.9 oz bottled water products, the combined weight of the neck portion, the sidewall portion, and the base portion is 11 grams or less.

170. For at least Niagara's 8 oz and 16.9 oz bottled water products, the inner diameter of the dispensing opening is at least 22 mm.

171. Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products each have a tamper-evident formation that is vertically spaced from the threads.

172. To the extent Niagara continued or continues to sell the Accused Products after it learned of the '759 patent, in no event later than the date it received Plastipak's October 17, 2017, letter, Niagara induces infringement of the '759 patent under 35 U.S.C. § 271(b) by selling the Accused Products in the United States for subsequent use or re-sale by Niagara's customers and by providing those customers with marketing material and/or product packaging intended to promote subsequent use and re-sale.

173. Niagara does not have a license or permission to use the '759 patent.

174. Niagara has been willfully infringing the '759 patent since at least the time it received Plastipak's October 17, 2017, letter.

175. Niagara's behavior is an egregious case of willful misconduct. Niagara has known of the '759 patent and Plastipak's allegation that Niagara infringed the patent since at least its receipt of Plastipak's October 17, 2017, letter. On information and belief, Niagara has no good faith defense to Plastipak's infringement allegations, and refused to meet to discuss a business resolution. Instead, Niagara has deliberately and wantonly continued its infringement. As a result of Niagara's willful infringement of the '759 patent, Plastipak has suffered and will continue to suffer damages, in an amount not yet determined, of at least a reasonable royalty.

176. Niagara's continued willful infringement of Plastipak's '759 patent rights will irreparably harm Plastipak. Unless such infringing acts are enjoined by this Court, Plastipak will continue to suffer additional irreparable injury.

**COUNT VI – INFRINGEMENT OF THE '409 PATENT**

177. Plastipak hereby incorporates by reference its allegations contained in paragraphs 1 through 176 of this complaint as though fully set forth herein.

178. Niagara has directly infringed and continues to directly infringe claims 1-5, 7-19, and 21-30 of the '409 patent under 35 U.S.C. § 271(a) by making, using, offering to sell and/or selling the Accused Products in the United States.

179. Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products each are a container assembly comprising a plastic blow molded container with a lower supporting base portion; a sidewall portion extending upwardly from the base portion; a neck portion extending upwardly from the sidewall portion, the neck portion including a dispensing opening positioned at a top of the neck portion, the dispensing opening having a top; multiple-lead threads positioned below the dispensing opening; a tamper-evident formation, having a lower surface, that is positioned below the threads; and a support flange, having an upper and lower surface, that is positioned below the tamper-evident formation.

180. Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products each have a closure configured to receive the threads.

181. For Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, the weight of the neck portion is 2.3 grams or less.

182. For Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, the vertical distance from the top of the dispensing opening to the lower surface of the support flange, including the threads and tamper-evident formation, is 0.450 inches or less.

183. For Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, the outside diameter of the support flange is greater than 22 mm and less than or equal to 39.2 mm.

184. Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products each have a tamper-evident formation comprising a bead.

185. Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products each have a radially extending length of the support flange that is 0.20 inches or less.

186. The ratio of a height of the center of gravity of the container to the container height for at least Niagara's 8 oz, 16.9 oz, and 1 liter bottled water products is less than 0.57.

187. The containers for Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products are comprised of polyethylene terephthalate (PET).

188. For at least Niagara's 8 oz, 10 oz, and 16.9 oz bottled water products, the combined weight of the neck portion, the sidewall portion, and the base portion is 11 grams or less.

189. For at least Niagara's 8 oz and 16.9 oz bottled water products, the inner diameter of the dispensing opening is at least 22 mm.

190. Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products each have a tamper-evident formation that is vertically spaced from the threads.

191. For at least Niagara's 8 oz and 16.9 oz bottled water products, the vertical distance from the top of the dispensing opening to the upper surface of the support flange is 0.40 inches or less.

192. For at least Niagara's 8 oz and 16.9 oz bottled water products, the vertical distance from a furthest radially-extending portion of a lower surface of the tamper-evident formation to the upper surface of the support flange is 0.10 inches or less.

193. For Niagara's 8 oz and 16.9 oz bottled water products, the vertical distance between a furthest outwardly radially-extending portion of the lower surface of the tamper-evident formation and the lower surface of the support flange at the same outward radial distance is 0.15 inches or less.

194. To the extent Niagara continued or continues to sell the Accused Products after it learned of the '409 patent, in no event later than the date it received Plastipak's October 17, 2017, letter, Niagara induces infringement of the '409 patent under 35 U.S.C. § 271(b) by selling the Accused Products in the United States for subsequent use or re-sale by Niagara's customers and by providing those customers

with marketing material and/or product packaging intended to promote subsequent use and re-sale.

195. Niagara does not have a license or permission to use the '409 patent.

196. Niagara has been willfully infringing the '409 patent since at least the time it received Plastipak's October 17, 2017, letter.

197. Niagara's behavior is an egregious case of willful misconduct. Niagara has known of the '409 patent and Plastipak's allegation that Niagara infringed the patent since at least its receipt of Plastipak's October 17, 2017, letter. On information and belief, Niagara has no good faith defense to Plastipak's infringement allegations, and refused to meet to discuss a business resolution. Instead, Niagara has deliberately and wantonly continued its infringement. As a result of Niagara's willful infringement of the '409 patent, Plastipak has suffered and will continue to suffer damages, in an amount not yet determined, of at least a reasonable royalty.

198. Niagara's continued willful infringement of Plastipak's '409 patent rights will irreparably harm Plastipak. Unless such infringing acts are enjoined by this Court, Plastipak will continue to suffer additional irreparable injury.

#### **COUNT VII – INFRINGEMENT OF THE '019 PATENT**

199. Plastipak hereby incorporates by reference its allegations contained in paragraphs 1 through 198 of this complaint as though fully set forth herein.



200. Niagara has directly infringed and continues to directly infringe claims 1-5, 7-18, and 20-30 of the '019 patent under 35 U.S.C. § 271(a) by making, using, offering to sell and/or selling the Accused Products in the United States.

201. The preforms for Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, each have a closed bottom portion and a lower portion extending upwardly from the bottom portion; a neck portion extending upwardly from the lower portion, the neck portion including a support flange having an upper surface and a lower surface, multiple-lead threads, a tamper-evident formation, and a dispensing opening having a top at an upper end of the neck portion.

202. For Niagara's preforms for its 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, the weight of the neck portion is 2.3 grams or less.

203. For Niagara's preforms for its 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, the vertical distance from the top of the dispensing opening to the lower surface of the support flange, including the threads and tamper-evident formation, is 0.45 inches or less.

204. For Niagara's preforms for its 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products, the outside diameter of the support flange is greater than 22 mm and less than or equal to 39.2 mm.

205. For Niagara's preforms for its Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products the tamper-evident formation comprises a bead.

206. For Niagara's preforms for its 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products the radially extending length of the support flange is 0.20 inches or less.

207. For at least the preforms for Niagara's 8 oz, 16.9 oz, and 1 liter bottled water products the ratio of the height of the center of gravity to the container height is less than 0.57.

208. The preforms for Niagara's 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products are comprised of polyethylene terephthalate (PET).

209. For Niagara's preforms for its 8 oz, 10 oz, and 16.9 oz bottled water products, the combined weight of the neck portion, the lower portion, and the bottom portion is 11 grams or less.

210. For Niagara's preforms for at least its 8 oz and 16.9 oz bottled water products, the inner diameter of the dispensing opening is at least 22 mm.

211. For Niagara's preforms for its 8 oz, 10 oz, 16.9 oz, 20 oz, 24 oz, and 1 liter bottled water products the tamper-evident formation is vertically spaced from the threads.

212. For Niagara's preforms for at least its 8 oz and 16.9 oz bottled water products, the vertical distance from the top of the dispensing opening to the upper surface of the support flange is 0.40 inches or less.

213. Niagara does not have a license or permission to use the '019 patent.

214. On information and belief, Niagara has had knowledge of the '019 patent since shortly after it issued on December 26, 2017. Niagara has been willfully infringing the '019 patent since at least the time it learned of the '019 patent.

215. Niagara's behavior is an egregious case of willful misconduct. On information and belief, Niagara has no good faith defense to Plastipak's infringement allegations. As a result of Niagara's willful infringement of the '019 patent, Plastipak has suffered and will continue to suffer damages, in an amount not yet determined, of at least a reasonable royalty.

216. Niagara's continued willful infringement of Plastipak's '019 patent rights will irreparably harm Plastipak. Unless such infringing acts are enjoined by this Court, Plastipak will continue to suffer additional irreparable injury.

### **PRAYER FOR RELIEF**

WHEREFORE, Plastipak prays for relief as follows:

A. For a judgment declaring that Niagara has infringed the Asserted Patents;

B. For a judgment declaring that Niagara's infringement of the Asserted Patents has been willful.

C. For a grant of an injunction pursuant to 35 U.S.C. § 283, enjoining Niagara from further acts of infringement;

D. For a judgment awarding Plastipak compensatory damages as a result of Niagara's infringement of the Asserted Patents, together with interest, including post-judgment interest, and costs, and in no event less than a reasonable royalty, and an accounting;

E. For a judgment declaring that this case is exceptional and awarding Plastipak its expenses, costs, and attorneys' fees in accordance with 35 U.S.C. § 285 and Rule 54(d) of the Federal Rules of Civil Procedure;

F. For a judgment awarding Plastipak enhanced damages under 35 U.S.C. § 284; and

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

**DEMAND FOR A JURY TRIAL**

Plastipak hereby demands a trial by jury in this action.

Respectfully submitted,

By: /s/ Ahmed J. Davis

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*Counsel for Plaintiff Plastipak Packaging,  
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Dated: January 16, 2018

**CERTIFICATE OF SERVICE**

I hereby certify that on January 16, 2018, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, and will send a notification of such filing (NEF) to the following:

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