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7 **UNITED STATES DISTRICT COURT**
8 **CENTRAL DISTRICT OF CALIFORNIA**
9

10 **Timely Inventions, LLC**, a Delaware
11 limited liability company,

12 Plaintiff,

13 v.

14 **Winplus North America, Inc.**, a
15 California corporation,

16 Defendant.
17
18

Case No. _____

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

19 For its Complaint, Plaintiff Timely Inventions, LLC (“Timely”) hereby
20 alleges as follows:

21 **JURISDICTION AND VENUE**

22 1. This is an action including for infringement under the patent laws of the
23 United States, 35 U.S.C. § 101, *et. seq.* This Court has subject matter jurisdiction
24 under 28 U.S.C. §§ 1331 and 1338(a).

25 2. This Court has personal jurisdiction over Defendant because it is a
26 California corporation and regularly conducts business through places of business in
27 California including in this District, where it has committed the infringing acts
28 alleged herein.

1 3. Venue is proper in this Judicial District under 28 U.S.C. §§ 1391(b)-(c)
2 and 1400.

3 **PARTIES**

4 4. Plaintiff is a Delaware company having its principal place of business
5 in Dover, Delaware.

6 5. Upon information and belief, Defendant is a California corporation
7 having a principal place of business at 820 South Wanamaker Avenue, Ontario,
8 California 91761.

9 **CLAIM FOR RELIEF**

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

11 6. Plaintiff incorporates by this reference all of the allegations stated in
12 the above paragraphs.

13 7. Plaintiff is the owner by assignment of U.S. Patent No. 7,861,865 (“the
14 ‘865 patent”) entitled “Packaging Assembly,” which duly and lawfully issued on
15 January 4, 2011. A true and correct copy of the ‘865 patent is attached hereto as
16 Exhibit A.

17 8. The ‘865 patent protects the exclusive right of Plaintiff and its licensees
18 to utilize the claimed inventions without infringement by competitors or their
19 products. These methods and systems were not routine or conventional, particularly
20 at the time of the claimed inventions.

21 9. On information and belief, Defendant has made, used, offered for sale,
22 sold and/or imported into the United States products covered by the claims of the
23 ‘865 patent, and continues to do so. For example, as shown in Exhibit B,
24 Defendant’s “Car Jump Start” product (sold at retailers including Costco) utilizes
25 the inventions claimed in the ‘865 patent.

26 10. On information and belief, Defendant has caused, encouraged and
27 aided others, including customers, to directly infringe the ‘865 patent having full
28

1 knowledge of the '865 patent and the specific intent that its acts and the acts of its
2 customers and/or others to directly and/or indirectly infringe the '865 patent.

3 11. By the acts of making, using, offering to sell, selling and/or importing
4 the accused infringing products, Defendant has directly infringed the '865 patent
5 under 35 U.S.C. § 271(a).

6 12. By the acts of actively inducing others to infringe the '865 patent,
7 Defendant has infringed the '865 patent under 35 U.S.C. § 271(b). On information
8 and belief, having knowledge of the '865 patent, Defendant specifically intended for
9 its customers to infringe the '865 patent by using and/or re-selling the accused
10 infringing products.

11 13. The acts of infringement asserted herein have been and continue to be
12 deliberate and willful, at least since Defendant first learned about the '865 patent.

13 14. Defendant has derived and received gains, profits and advantages from
14 the aforesaid acts of infringement, and Plaintiff has lost profits and has otherwise
15 been damaged and is entitled to monetary relief in an amount to be determined at
16 trial.

17 15. The infringement of the '865 patent has caused and continues to cause
18 irreparable harm to Plaintiff, for which there is no adequate remedy at law, and the
19 infringement will continue unless and until it is enjoined by this Court.

20 **PRAYER FOR RELIEF**

21 Therefore, Plaintiff prays for the following relief:

22 A. A determination that Defendant has infringed the '865 patent under 35
23 U.S.C. § 271, either literally and/or under the doctrine of equivalents;

24 B. An accounting for damages adequate to compensate for the patent
25 infringement under 35 U.S.C. § 284, including Plaintiff's actual damages including
26 lost profits, treble damages, pre-judgment and post-judgment interest, and costs;

1 C. A determination of willful patent infringement, and that this is an
2 exceptional case, and an award of attorney fees and expenses to Plaintiff under 35
3 U.S.C. § 285; and

4 D. Such other and further relief as this Court deems just and proper.

5 Respectfully submitted,

6 Dated: March 22, 2018

FOUNDATION LAW GROUP, LLP

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8 By: /s/ Stephen M. Lobbin
Attorneys for Plaintiff

JURY TRIAL DEMAND

Pursuant to Fed. R. Civ. P. 38(b)(1) and (c), and L.R. 38-1, Plaintiff hereby demands a jury trial on all the issues in this action so triable of right by a jury.

Respectfully submitted,

Dated: March 22, 2018

FOUNDATION LAW GROUP LLP

By: /s/ Stephen M. Lobbin
Attorneys for Plaintiff