1 2 3 4 5 6 UNITED STATES DISTRICT COURT 7 FOR THE WESTERN DISTRICT OF WASHINGTON AT TACOMA 8 BORAL BUILDING PRODUCTS INC., 9 CASE NO. Plaintiff, 10 PLAINTIFF'S ORIGINAL COMPLAINT 11 v. 12 AQUOR WATER SYSTEMS INC., **JURY DEMAND** 13 Defendant. 14 15 This is a complaint for patent infringement. Boral Building Products Inc. ("Boral") brings 16 this action against Defendant Aquor Water Systems Inc. ("Aquor") and states as follows. 17 **PARTIES** 18 1. Boral is a corporation duly organized and existing under the laws of the State of 19 Michigan with its principal place of business at 29797 Beck Road, Wixom, Michigan 48393. Among 20 other things, Boral is engaged in the development, manufacture, and sale of exterior mounting 21 blocks for a wide range of electrical and plumbing fixtures. 22 2. Defendant Aquor is a Delaware corporation with its principal place of business at 23 240 Airport Rd., Port Townsend, Washington, 98368-9726. 24 3. Defendant Aquor is in the business of manufacturing, selling, marketing, and 25 distributing mounting block products, including the Aquor Water System Mounting Block ("Aquor 26 PLAINTIFF'S ORIGINAL COMPLAINT - 1 SUMMIT LAW GROUP, PLLC CASE NO.

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Mounting Block"). Aquor distributes and sells these products throughout the United States, including in Washington.

JURISDICTION AND VENUE

- 4. The allegations contained in paragraphs 1 through 3 above are incorporated by reference as if fully set forth herein.
- 5. This action arises under the Patent Act, Title 35 of the United States Code, and is an action for patent infringement under 35 U.S.C. § 271. Accordingly, this Court has subject matter jurisdiction under 28 U.S.C. § 1338(a).
- 6. This Court has personal jurisdiction over Aquor because, *inter alia*, Aquor is a resident of Washington and maintains its principal place of business in Washington. Aquor is registered to conduct business in Washington and maintains a registered office in Washington.
- 7. This Court also has personal jurisdiction over Aquor because, *inter alia*, Aquor has purposefully availed itself of the rights and benefits of Washington law by engaging in systematic and continuous contacts with the State of Washington. On information and belief, Aquor regularly and continuously transacts business within Washington, including by selling products, including the infringing Aquor Mounting Block, directly and/or through affiliates, and/or by continuously and systematically placing goods into the stream of commerce for distribution throughout the United States, including Washington. On information and belief, Aquor derives substantial revenue from the sale of those products in Washington and has thereby availed itself of the privilege of conducting business within Washington.
- 8. This Court is the proper venue for this dispute pursuant to 28 U.S.C. §§ 1391 and 1400(b). Aquor has committed acts of infringement and has an established place of business within this district. For instance, Aquor maintains its principal place of business in Port Townsend, Washington, in Jefferson County, which is within the Western District of Washington. Additionally, Aquor maintains an Office and Show Room at 12015 NE 8th Street. Suite 4, Bellevue, Washington, in King County, which is within the Western District of Washington. Aquor has committed acts of

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PLAINTIFF'

infringement within this judicial district, including importing, making, using, offering to sell, and selling the Aquor Mounting Block.

FACTUAL ALLEGATIONS

Background

- 9. Boral and its related entities form a leading international building products and construction materials group. In the United States, Boral develops, manufactures, and sells high quality building products, including roofing, siding, trim, brick, and stone products.
- 10. Among other products, Boral designs, develops, manufactures, and sells a range of innovative exterior mounting blocks for a wide range of electrical and plumbing fixtures, including its SturdiMount® mounting block products, in the United States. Boral's mounting block products provide a flat, smooth mounting surface for exterior fixtures. Boral's mounting block products, which are composed of fiber cement, provide long-term exterior protection from water and other natural elements. Boral's mounting block products are designed to include features that assure fast, easy installation and a polished look.
- 11. Boral, through considerable investment in research and development and the skill of its researchers and engineers, has been an innovator of exterior mounting block technology. Boral has protected its innovations by pursuing intellectual property protection, including United States Patent No. 8,881,468 ("468 Patent").

United States Patent No. 8,881,468

- 12. The 468 Patent duly and legally issued from U.S. Patent Application 13/119,910 on November 11, 2014. The 468 Patent is titled "Fixture Wall Mount Assembly with Integral Flashing" and names Brian K. McMullen as the inventor. A true and correct copy of the 468 Patent is attached hereto as Exhibit A.
- 13. The claims of the 468 Patent are valid and enforceable. All rights in, to, and under the 468 Patent have been assigned to Boral, and Boral has the exclusive right to enforce the 468 Patent.

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Aquor's Infringing Product

14. Aquor is a manufacturer of water valves and related accessory products for use with its water valves, including an exterior mounting block. Aquor competes directly with Boral in the market for exterior mounting blocks.

15. At least as early as March 2019, Aquor introduced its Aquor Mounting Block, which consists of a fiber cement block, and a weather-resistant and pre-flashed, pre-cut flange. Aquor markets the Aquor Mounting Block as an accessory for a faster and better-weatherproofed installation of its water valve products. Aquor's Mounting Block's literature is attached hereto as Exhibit B (Aquor Mounting Block Specification Sheet), and Exhibit C (Aquor Mounting Block For Sale Page located at https://aquorwatersystems.com/shop/mounting-block/). Images from Aquor Mounting Block Specification Sheet (Ex. B) are reproduced below:





- 16. Aquor's exterior mounting block product, including the Aquor Mounting Block, practices the claims of the 468 Patent, including at least claim 1-5, 7, 10-12 and 18-19 of the 468 Patent. An exemplary claim chart showing Aquor's infringement of claims 1-5, 7, 10-12 and 18-19 of the 468 Patent is attached hereto as Exhibit D.
- 17. Aquor has had knowledge of the 468 Patent since at least as early as the filing of this Complaint.

COUNT I: INFRINGEMENT OF THE 468 PATENT

18. Boral reasserts and realleges the allegations contained in the foregoing paragraphs 1 through 17 as if each allegation was set forth herein in its entirety.

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- 19. As shown in Exhibit D, Aquor's mounting block products, including the Aquor Mounting Block, practice the claims of the 468 Patent.
- 20. Aquor has imported, made, used, offered for sale, and sold its infringing mounting block product, including the Aquor Mounting Block, in the United States.
- Aquor has infringed and continues to infringe the claims of the 468 Patent. Aquor's 21. infringing acts have not been authorized by Boral.
- 22. Boral has suffered damages as a direct and proximate result of Aquor's infringement. Boral is entitled to an award of monetary damages.
- 23. Boral will suffer and is suffering irreparable harm from Aquor's infringement. Boral lacks an adequate remedy at law and is entitled to an injunction against Aquor's continuing infringement of the 468 Patent. Unless enjoined, Aquor will continue its infringing conduct. This case is exceptional, and Boral is entitled to an award of attorneys' fees pursuant to 35 U.S.C. § 285. Treble damages are also warranted.

PRAYER FOR RELIEF

WHEREFORE, Boral prays that the Court:

- Issue a judgement that Aquor has infringed one or more claims of the 468 Patent; a)
- Issue an injunction preliminarily and permanently enjoining Aquor, its employees, b) agents, officers, directors, attorneys, successors, affiliates, subsidiaries and assigns, and all of those in active concert and participation with any of the foregoing persons or entities from infringing the 468 Patent;
- c) Award damages adequate to compensate Boral for Aquor's infringement, with the maximum pre-judgment and post-judgment interest and costs, as provided by 35 U.S.C. § 284;
- d) Rule that the damages award be increased up to three times the actual amount assessed, as provided by 35 U.S.C. § 284;
- Declare this case exceptional, in accordance with 35 U.S.C. § 285; e)

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1	f) Award Boral its attorneys' fees, costs, and expenses; and
2	g) Grant Boral any further relief that may be necessary to achieve justice.
3	JURY TRIAL DEMAND
4	Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Boral requests a trial by jury
5	of all issues triable to a jury raised in this Complaint.
6	DATED this 11th day of December, 2019.
7	Respectfully submitted,
8	SUMMIT LAW GROUP, PLLC
9	By <u>s/ Christopher T. Wion</u>
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