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Attorneys for Plaintiff
PureLine Treatment Systems, LLC

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

PureLine Treatment Systems, LLC,

Plaintiff,

vs.

SMM Distributors, LLC d/b/a
Biocide Systems, SMM
Manufacturing Inc. d/b/a Biocide
Systems and Does 1-10.

Defendants.

CASE NO.: 2:20-cv-04440 PSG-PJW

Honorable Philip S. Gutierrez

**FIRST AMENDED COMPLAINT
FOR PATENT INFRINGEMENT**

DEMAND FOR JURY TRIAL

THE PARTIES

1. Plaintiff PureLine Treatment Systems, LLC (“PureLine”) is a Delaware limited liability company, having its principal place of business located at 1241 N Ellis Street, Bensenville, IL 60106.

1 antimicrobial uses, including disinfecting drinking water and clearing airborne
2 odors.

3 11. PureLine’s proven products and business is used worldwide to
4 enhance the safety, reliability, efficiently, and cost-effectiveness of the water
5 treatment process. Because of PureLine’s proven products and business, vital
6 water supplies across the globe are cleaner.

7 12. PureLine’s products can be found in industries such as food safety,
8 water treatment, and oil and gas, among others.

9 13. On July 6, 2011, provisional application 13/177,275 was filed
10 claiming a composition for generating chlorine dioxide.

11 14. On September 24, 2013, the aforementioned provisional application
12 matured into United States Patent No. 8,540,895 (the ’895 Patent) and was duly
13 and legally issued by the United States Patent and Trademark Office for an
14 invention entitled “Solid Compositions And Methods For Generating Chlorine
15 Dioxide.” A true and correct copy of the ’895 patent is attached hereto as Exhibit
16 1, and incorporated herein by reference.

17 15. On September 23, 2013, provisional application 14/033,833 was filed
18 claiming a composition for generating chlorine dioxide. This application was
19 identified as a continuation of the ’895 Patent.

20 16. On December 5, 2017, the aforementioned provisional application
21 matured into United States Patent No. 9,834,443 (the ’443 Patent) and was duly
22 and legally issued by the United States Patent and Trademark Office for an
23 invention entitled “Solid Compositions And Methods For Generating Chlorine
24 Dioxide.” A true and correct copy of the ’443 patent is attached hereto as Exhibit
25 2, and incorporated herein by reference.

26 17. PureLine is the exclusive licensee of the entire right, title, and interest
27 in and to the ’895 patent and the ’443 patent (collectively, the “Patents”), including
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1 the right to exclude others and to enforce, sue, and recover damages for past and
2 future infringement.

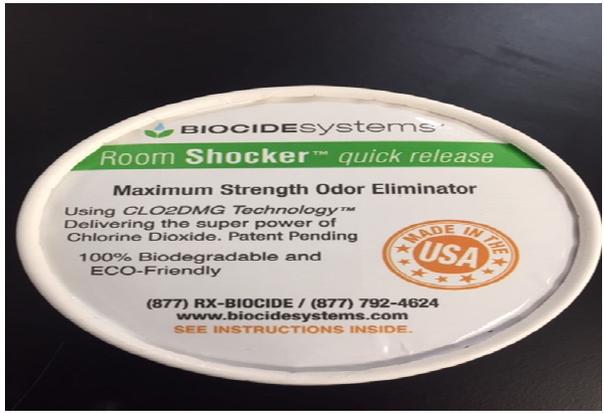
3 18. In one embodiment, the Patents claim a dry blended composition that
4 generates chlorine dioxide, comprising of: (1) an alkali metal chlorite salt in an
5 amount between 2 and 70 weight percent; (2) an acid source in an amount between
6 2 and 80 weight percent; (3) a hydrophobic compound that is so sufficiently
7 hydrophobic as to repel a solvent for at least 30 seconds, in an amount between 2
8 and 60 weight percent; and (4) a superabsorbent compound.

9 19. PureLine discovered that Defendants are making, using, importing,
10 offering to sell, and/or selling, and continuing to make, use, import, offer to sell
11 and/or sell products that infringe the Patents (the “Infringing Biocide Products”).
12 On October 9, 2019, PureLine sent a cease and desist letter to Defendants notifying
13 them of their acts of patent infringement.

14 20. On information and belief, these Infringing Biocide Products utilize a
15 dry blended composition that generates chlorine dioxide, comprising of: (1) an
16 alkali metal chlorite salt in an amount between about 2 and about 70 weight
17 percent; (2) an acid source in an amount between about 2 and about 80 weight
18 percent; (3) a hydrophobic compound that is so sufficiently hydrophobic as to repel
19 a solvent for at least 30 seconds, in an amount between about 2 and about 60
20 weight percent; and (4) a super absorbent compound.

21 21. An example of an Infringing Biocide Products is the Room Shocker,
22 pictured below:
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22. The Room Shocker utilizes a dry blended composition containing an alkali metal chlorite salt, an acid source, and a hydrophobic compound as described above:



23. The Room Shocker also uses a super absorbent as claimed in the Patents.

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24. On information and belief, Defendants have actual or constructive knowledge of PureLine’s rights and of the Patents.

25. On information and belief, despite such knowledge Defendants have willfully infringed and continue to infringe PureLine’s rights and the Patents by making, providing, selling, offering for sale, using, and/or distributing infringing systems, articles, products, and methods.

COUNT I

(Direct Infringement of The ’895 Patent)

26. The allegations of paragraphs 1-23 are repeated and re-alleged as if fully set forth herein.

27. On information and belief, Defendants have infringed and continue to infringe, literally and/or under the doctrine of equivalents, the ’895 Patent as set forth by 35 U.S.C §271(a), by using the methods covered by the ’895 Patent.

28. Defendants do not have a license or permission from PureLine to use the claimed subject matter of the ’895 Patent.

29. On information and belief, Defendants’ infringement is the result of its importing, making, using, selling, and/or offering to sell dry blended compositions that generate chlorine dioxide compositions comprising of: (1) an alkali metal chlorite salt in an amount between about 2 and about 70 weight percent; (2) an acid source in an amount between about 2 and about 80 weight

1 percent; (3) a hydrophobic compound that is so sufficiently hydrophobic as to repel
2 a solvent for at least 30 seconds, in an amount between about 2 and about 60
3 weight percent; and (4) a super absorbent compound.

4 30. Defendants' aforementioned acts have caused damage to PureLine
5 and will continue to do so unless and until enjoined.

6 31. On information and belief, Defendants have been on notice of
7 PureLine's rights and the '895 Patent. Despite this knowledge of the '895 Patent
8 and an objectively high likelihood that its actions constitute infringement of
9 PureLine's valid patent rights, Defendants continued to infringe.

10 32. As this objectively-defined risk was either known or so obvious that it
11 should have been known to Defendants, PureLine seeks enhanced damages
12 pursuant to 35 U.S.C. §284 from Defendants.

13 33. As a result of Defendants' infringement of the '895 Patent, PureLine
14 has suffered monetary damages. Defendants are thereby liable to PureLine in an
15 amount that adequately compensates it for Defendants' infringement, which, by
16 law cannot be less than a reasonable royalty, together with interest and costs fixed
17 by this Court under 35 U.S.C. §284.

18 **COUNT II**

19 **(Direct Infringement of the '443 Patent)**

20 34. The allegations of paragraphs 1-31 are repeated and re-alleged as if
21 fully set forth herein.

22 35. On information and belief, Defendants have infringed and continue to
23 infringe, literally and/or under the doctrine of equivalents, the '443 Patent as set
24 forth by 35 U.S.C §271(a), by using the methods covered by the '443 Patent.

25 36. Defendants do not have a license or permission from PureLine to use
26 the claimed subject matter of the '443 Patent.

27 37. On information and belief, Defendants' infringement is the result of
28 its importing, making, using, selling, and/or offering to sell dry blended

1 compositions that generate chlorine dioxide compositions comprising of: (1) an
2 alkali metal chlorite salt in an amount between about 2 and about 70 weight
3 percent; (2) an acid source in an amount between about 2 and about 80 weight
4 percent; (3) a hydrophobic compound that is so sufficiently hydrophobic as to repel
5 a solvent for at least 30 seconds, in an amount between about 2 and about 60
6 weight percent; and (4) a super absorbent compound.

7 38. Defendants' aforementioned acts have caused damage to PureLine
8 and will continue to do so unless and until enjoined.

9 39. On information and belief, Defendants have been on notice of
10 PureLine's rights and the '443 Patent. Despite this knowledge of the '443 Patent
11 and an objectively high likelihood that their actions constitute infringement of
12 PureLine's valid patent rights, Defendants continued to infringe.

13 40. As this objectively-defined risk was either known or so obvious that it
14 should have been known to Defendants, PureLine seeks enhanced damages
15 pursuant to 35 U.S.C. §284 from Defendants.

16 41. As a result of Defendants' infringement of the '443 Patent, PureLine
17 has suffered monetary damages. Defendants are thereby liable to PureLine in an
18 amount that adequately compensates it for Defendants' infringement, which, by
19 law cannot be less than a reasonable royalty, together with interest and costs fixed
20 by this Court under 35 U.S.C. §284.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, PureLine respectfully requests this Court to enter judgment:

- 23 A. Declaring that Defendants have infringed one or more claims of the
24 Patents;
25 B. Declaring that Defendants' infringement has been willful;
26 C. Awarding to PureLine damages adequate to compensate PureLine for
27 each instance of infringement of the Patents in an amount to be determined at trial,
28 with interest as fixed by the Court;

1 C. That PureLine’s damages be enhanced pursuant to 35 U.S.C. § 284 as
2 a result of Defendants’ willful infringement.

3 D. Declaring that this case is exceptional under 35 U.S.C. § 285 and
4 awarding PureLine its reasonable costs and expenses of litigation, including
5 attorneys’ and experts’ fees;

6 E. Awarding PureLine such other and further relief as this Court deems
7 just and proper.

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DEMAND FOR JURY TRIAL

10 Plaintiff respectfully demands a jury trial on all issues so triable pursuant to
11 Fed. R. Civ. P. 38(b) and L.R. 38-1.

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13 DATED: August 13, 2020

STRADLING YOCCA CARLSON &
RAUTH, P.C.

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By: /s/ Douglas Q. Hahn

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Douglas Q. Hahn

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Salil Bali

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Attorneys for Plaintiff

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PureLine Treatment Systems, LLC

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