



1 United States, 35 U.S.C. § 271, *et seq.*

2 5. This Court has subject matter jurisdiction over this dispute pursuant to 28
3 U.S.C. §§ 1331 and 1338(a).

4 6. This Court has personal jurisdiction over the Defendants because Defendants
5 have each caused or contributed to the manufacturing, importing, sale, offering for sale,
6 and/or distribution of products in this judicial district that infringe Dial’s patent rights and,
7 as a result, Dial has been injured in this judicial district.

8 7. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b) and 1400(b).

9 **DIAL’S BUSINESS AND PATENT**

10 8. Dial has designed, manufactured and provided reliable replacement parts for
11 the evaporative cooler industry since 1965, including cooler fittings, electrical accessories,
12 pumps, motors, thermostats, and switches, among other things.

13 9. Dial is the owner by assignment of all right, title, and interest in and to
14 United States Patent No. 5,568,000 (the “Dial Patent”) entitled “Multiple Pole, Shaded
15 Pole Subfractional-Horsepower Induction Motor,” which duly and legally issued in the
16 name of John Hanneken on October 22, 1996. A copy of the Dial Patent is attached
17 hereto as Exhibit A.

18 10. Without Dial’s authorization, Defendants have made, used, offered to sell,
19 sold, and/or imported into the United States evaporative cooler water pumps and pump
20 motors that infringe at least claims 1 and 5, and possibly others, of the Dial Patent (the
21 “Infringing Products”).

22 11. Defendants import, offer for sale and/or sell Infringing Products on the
23 website www.coolerstore.essickair.com, including Model P-5G-BF (Part No. 110438) and
24 perhaps others. Upon information and belief, Defendants have sold one or more
25 Infringing Products from this website into Arizona.

26 12. Upon information and belief, Defendants make, offer to sell, sell and/or
27 import various evaporative coolers that incorporate Infringing Products, including the
28 UltraCool CP25, UltraCool EC302, Tradewinds Gadabout M150, BFC 2200, and perhaps



1 others. Defendants evaporative coolers that incorporate Infringing Products have been
2 sold to retailers and are available to customers in Arizona.

3 **COUNT I**

4 **(PATENT INFRINGEMENT)**

5 13. Dial re-alleges each and every allegation set forth in paragraphs 1 through 12
6 above, and incorporates them by reference herein.

7 14. Dial has standing to sue for infringement of the Dial Patent because it is the
8 owner of the Dial Patent.

9 15. Defendants have infringed, and continue to infringe, the Dial Patent by
10 making, using, offering to sell, selling, and/or importing into the United States, the
11 Infringing Products.

12 16. Defendants infringement has caused and continues to cause irreparable harm
13 to Dial, which has no adequate remedy at law and will continue to be injured unless and
14 until this Court enters a preliminary and permanent injunction prohibiting further
15 infringement and, specifically, enjoining Defendants and all others who have notice of the
16 injunction from further manufacture, use, offer for sale, sale and importation of products
17 that fall within the scope of claims of the Dial Patent.

18 17. Dial is entitled to recover damages from Defendants in an amount adequate
19 to compensate Dial for the infringement that has occurred and that will continue to occur
20 until an injunction is issued by the Court.

21 **RELIEF REQUESTED**

22 A. Judgment that the Defendants have infringed the Dial Patent in violation of
23 35 U.S.C. § 271;

24 B. A preliminary and permanent injunction prohibiting Defendants, and their
25 affiliates, officers, directors, agents, servants, employees, and all persons in active concert
26 or participation with them, from infringing, contributing to the infringement of, and
27 inducing infringement of the Dial Patent;

28 C. An award of damages in accordance with 35 U.S.C. § 284, together with



1 interest thereon running from the first date of infringement until such damages are paid;

2 D An award of treble damages in the event of a finding that Defendants'
3 infringement is willful;

4 E. An award of Dial's costs, plus an award of its reasonable attorney's fees in
5 accordance with 35 U.S.C. § 285; and

6 F. Such other and further relief as this Court deems just and proper.

7 **DEMAND FOR JURY TRIAL**

8 Dial demands a jury trial on all triable issues raised in this Complaint.

9 RESPECTFULLY SUBMITTED this 19th day of April, 2010.

10 LEWIS AND ROCA LLP

11
12 By /s/ Sean D. Garrison

13 Sean D. Garrison

14 Shane E. Olafson

15 *Attorneys for Dial Manufacturing, Inc.*