

IN THE UNITED STATES DISTRICT COURT  
IN THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CIVIL ACTION NO. 3:11-cv-289

WIX FILTRATION CORP LLC,  
Plaintiff,

vs.

**FIRST AMENDED**  
**COMPLAINT**

PUROLATOR FILTERS NA LLC,  
Defendant.

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Plaintiff WIX FILTRATION CORP LLC (“WIX”) demands a trial by jury on all issues and hereby alleges as follows for its First Amended Complaint against Defendant PUROLATOR FILTERS NORTH AMERICA, LLC (“PUROLATOR”):

**THE PARTIES**

1. WIX is a North Carolina limited liability company with a principal place of business at 1 Wix Way, Gastonia, North Carolina 28054.
2. PUROLATOR is a North Carolina limited liability company, with a principal place of business at 3200 Natal Street, Fayetteville, North Carolina 28306.
3. PUROLATOR is in the business of manufacturing, distributing and selling air filters, including air filters used in automobiles and other vehicles.

**JURISDICTION AND VENUE**

4. This action arises under the patent laws of the United States, Title 35 of the United States Code.
5. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).
6. This Court has personal jurisdiction over PUROLATOR by virtue of the business activities it conducts within the State of North Carolina as set forth below in

paragraphs 7 and 8.

7. PUROLATOR sells air filters for distribution in the United States, including North Carolina and this judicial district, that infringe U.S. Patent Nos. 6,824,581 (the “‘581 patent”) and 7,122,068 (the “‘068 patent”) (collectively, “WIX’s patents”). By making, importing, using, offering to sell and/or selling products that infringe Wix’s patents in this district, or by inducing or causing those acts to occur, PUROLATOR has participated in the sales of goods in this district. PUROLATOR has caused injury and damages in this district while deriving substantial revenue from the goods manufactured and/or sold in this district.

8. PUROLATOR has placed infringing products into the stream of commerce knowing and intending that this judicial district was and is a likely destination of those products, because it has caused injury to WIX in this judicial district, and because it has committed acts of infringement in this judicial district.

9. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and (c), and 1400(b) for the reasons set forth above in paragraphs 7 and 8.

#### **NATURE OF THE ACTION**

10. This is an action for patent infringement arising out of PUROLATOR’s infringement of the ‘581 patent and the ‘068 patent in violation of the patent laws of the United States, 35 U.S.C. §§ 271 and 281-285.

11. WIX is the sole owner by assignment of the ‘581 patent, which was filed on May 1, 2001 and is entitled “PLEATED FILTER MEDIA WITH EMBOSSED SPACERS AND CROSS FLOW.” The United States Patent and Trademark Office (“PTO”) duly and legally issued the ‘581 patent on November 30, 2004. A true and correct copy of the ‘581 patent is attached as Exhibit A and is made a part of this Complaint.

12. WIX is the sole owner by assignment of the ‘068 patent, which was filed on May 1, 2001 and is entitled “PLEATED FILTER MEDIA WITH EMBOSSED SPACERS AND

CROSS FLOW.” The PTO duly and legally issued the ‘068 patent on October 17, 2006. A true and correct copy of the ‘068 patent is attached as Exhibit B and is made a part of this Complaint.

13. PUROLATOR manufactures and distributes, markets and sells pleated air filters for use in vehicles under the brand name “Purolator,” including, but not limited to Purolator Part Number A56314.

14. PUROLATOR also distributes, markets and sells air filters for use in vehicles to original equipment manufacturers, such as the Ford Motor Company, under the brand names “Motorcraft” and/or “Fram” including, but not limited to, Motorcraft Part Number FA-1902 and Fram Part Nos. F07B14P1 and CA 10261.

**COUNT I - INFRINGEMENT OF U.S. PATENT 6,824,581**

15. The allegations of paragraphs 1-14 are incorporated herein by reference.

16. WIX is the sole owner by assignment of the ‘581 patent.

17. PUROLATOR has infringed and, if not enjoined, will continue to infringe one or more claims of the ‘581 patent by performing, without authority, one or more of the following acts: (1) making, using, offering for sale, or selling in the United States air filter products that infringe one or more claims of the ‘581 patent in violation of 35 U.S.C. 271(a); (2) inducing infringement of one or more claims of the ‘581 patent, in violation of 35 U.S.C. 271(b); and/or (3) contributing to the infringement of one or more claims of the ‘581 patent in violation of 35 U.S.C. 271(c).

18. PUROLATOR’s acts of infringement of the ‘581 Patent include, but are not limited to, the manufacturing, using, marketing, offering for sale, and/or selling of the air filters identified as Purolator Part Number A56314, Motorcraft Part Number FA-1902 and Fram Part

Numbers F07B14P1 and CA10261.

19. PUROLATOR's acts of infringing the '581 patent have been willful and in deliberate disregard of WIX's patent rights.

20. As a result of PUROLATOR's infringement of the '581 patent, WIX has suffered and will continue to suffer damages.

**COUNT II - INFRINGEMENT OF U.S. PATENT 7,122,068**

21. The allegations of paragraphs 1-20 are incorporated herein by reference.

22. WIX is the sole owner by assignment of the '068 patent.

23. PUROLATOR has infringed and, if not enjoined, will continue to infringe one or more claims of the '068 patent by performing, without authority, one or more of the following acts: (1) making, using, offering for sale, or selling in the United States air filter products that infringe one or more claims of the '068 patent in violation of 35 U.S.C. 27 1(a); (2) inducing infringement of one or more claims of the '068 patent, in violation of 35 U.S.C. 27 1(b); and/or (3) contributing to the infringement of one or more claims of the '068 patent in violation of 35 U.S.C. 271(c).

24. PUROLATOR's acts of infringement of the '068 patent include, but are not limited to, the manufacturing, using, marketing, offering for sale, and/or selling of the air filters identified as Purolator part Number A56314, Motorcraft Part Number FA-1902 and Fram Part Numbers F07B14P1 and CA 10261.

25. PUROLATOR's acts of infringing the '068 patent have been willful and in deliberate disregard of WIX's patent rights.

26. As a result of PUROLATOR's infringement of the '068 patent, WIX has suffered and will continue to suffer damages.

**JURY DEMAND**

27. WIX demands a trial by jury on all issues so triable.

**RELIEF REQUESTED**

WHEREFORE, Plaintiff WIX respectfully requests that this Court enter a judgment in its favor against Defendant PUROLATOR as set forth below:

A. Declare that PUROLATOR has directly and/or indirectly infringed the '581 patent;

B. Declare that PUROLATOR has directly and/or indirectly infringed the '068 patent;

C. Declare that PUROLATOR's infringement of the '581 patent has been willful and deliberate;

D. Declare that PUROLATOR's infringement of the '068 patent has been willful and deliberate;

E. Order that PUROLATOR and its officers, agents, representatives, employees and all others in concert or participation with them, directly or indirectly, be enjoined preliminarily and permanently from infringing, inducing others to infringe and contributing to the infringement of the '581 patent;

F. Order that PUROLATOR and its officers, agents, representatives, employees and all others in concert or participation with them, directly or indirectly, be enjoined preliminarily and permanently from infringing, inducing others to infringe and contributing to the infringement of the '068 patent;

G. Award WIX damages adequate to compensate for PUROLATOR's infringement of the '581 patent together with pre-judgment interest pursuant to 35 U.S.C. § 284;

H. Award WIX damages adequate to compensate for PUROLATOR' s infringement of the '068 patent together with pre-judgment interest pursuant to 35 U.S.C. § 284;

I. Award WIX treble damages, costs and reasonable attorneys' fees and expenses in this action in accordance with 35 U.S.C. §§ 284 and 285; and

J. Award WIX such other and further relief as this Court may deem just and proper.

This the 19th day of October, 2011.

s/JEFFREY D. KEISTER  
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