



**JURISDICTION AND VENUE**

3. This Complaint includes an action for infringement of a United States patent. Accordingly, this action arises under the patent laws of the United States of America, 35 U.S.C. section 1 *et seq.*, and jurisdiction over the infringement action is proper pursuant to 35 U.S.C. §§ 271, 281 and 28 U.S.C. § 1338(a).
4. Defendant transacts business in, does business in, or may be found within the Western District of New York. Venue is therefore proper in the Western District of New York under 28 U.S.C. § 1391(b) and (c) and under 28 U.S.C. § 1400(b).

**FIRST CAUSE OF ACTION FOR PATENT INFRINGEMENT  
OF UNITED STATES PATENT NO. 6,116,045**

5. On September 12, 2000, United States Patent No. 6,116,045 (“the ‘045 patent”) entitled “INSULATED CONTAINER AND RECEPTACLE THEREFOR” was duly and legally issued. A true and correct copy of the ‘045 patent is attached as Exhibit A.
6. Pursuant to 35 U.S.C. § 282, the above-listed United States Patent is presumed valid.
7. CII, an assignee of the ‘045 Patent, at all times relevant hereto has had the right to file patent infringement suits to enforce the ‘045 patent rights.
8. On information and belief, Defendant practices the methods and have made and sold coolers as described and claimed in the ‘045 patent. Specifically, Defendant has made, used, sold, offered for sale, and/or imported goods, including but not limited to Defendant’s soft-sided coolers MaxCold 12, including at least model nos. 46539, DI 146539, NA 46321, DI 146321, MaxCold 24 including at least model nos.46540, DI 146540, NA 46322, DI 146322. By performing such acts, Defendant, committed and

continues to commit direct infringement of at least claims 1, 6, 9, and 24 of the '045 patent.

9. In addition, Defendant has made, used, sold, offered for sale, and/or imported goods, including Defendant's soft-sided MaxCold 48 cooler. By performing such acts, Defendant, committed and continues to commit direct infringement of at least claims 1, 6, 17, 20, and 24 of the '045 patent.
10. Defendant has made, used, sold, offered for sale, and/or imported goods, including Defendant's soft-sided UltraCool cooler with model nos. 10137 and 10958. By performing such acts, Defendant, committed and continues to commit direct infringement of at least claims 1, 6, 17, 20, 21, 22, 23, 24 of the '045 patent.
11. The above-described activities of Defendant render it guilty of infringing one or more claims of the '045 patent, including but not limited to, claims 1, 6, 9, 17, 20, 21, 22, 23, and 24 under 35 U.S.C. § 271.
12. The above-described acts of infringement by Defendant have taken place and are taking place in this District and elsewhere.
13. Upon information and belief, Defendant will continue to infringe the '045 patent unless enjoined by this Court.
14. As a result of Defendant's infringing conduct, CII has been irreparably damaged to an extent not yet determined. CII will continue to be irreparably damaged by such acts in the future unless Defendant is enjoined by this Court from committing further acts of infringement.

15. The infringement of the '045 patent alleged above has injured CII. Plaintiff is entitled to recover damages in an amount that adequately compensates CII for Defendant's infringement, which in no event can be less than a reasonable royalty.

**SECOND CAUSE OF ACTION FOR PATENT INFRINGEMENT  
OF UNITED STATES PATENT NO. 6,067,816**

16. On May 30, 2000, United States Patent No. 6,067,816 ("the '816 patent") entitled "INSULATED SOFT-SIDED PORTABLE CASE HAVING EXTERNALLY ACCESSIBLE RECEPTACLE" was duly and legally issued. A true and correct copy of the '816 patent is attached as Exhibit B.
17. Pursuant to 35 U.S.C. § 282, the above-listed United States Patent is presumed valid.
18. CII, an assignee of the '816 Patent, at all times relevant hereto has had the right to file patent infringement suits to enforce the '816 patent rights.
19. On information and belief, Defendant practices the methods and has made and sold soft-side coolers as described and claimed in the '816 patent. Specifically, Defendant has made, used, sold, offered for sale, and/or imported goods, including, but not limited to, MaxCold 12, including at least model nos. 46539, DI 146539, NA 46321, DI 146321, and MaxCold 24 including at least model nos. 46540, DI 146540, NA 46322, DI 146322. By performing such acts, Defendant committed and continues to commit direct infringement of at least claims 1, 2, 4, 5, and 9 of the '816 patent.
20. In addition, Defendant has made, used, sold, offered for sale, and/or imported goods, including Defendant soft-sided cooler MaxCold 48. By performing such acts, Defendant committed and continues to commit direct infringement of at least claims 1, 2, 3, 6, 7, 9, 10, 11, and 12 of the '816 patent.

21. Defendant has made, used, sold, offered for sale, and/or imported goods, including Defendant soft-sided cooler UltraCool with model nos. 10137 and 10958. By performing such acts, Defendant committed and continues to commit direct infringement of at least claims 1, 2, 5, 6, and 7 of the '816 patent.
22. Defendant has made, used, sold, offered for sale, and/or imported goods, including Defendant soft-sided cooler Ice Cube Deluxe. By performing such acts, Defendant committed and continues to commit direct infringement of at least claims 1, 2, 4, 5, 6, 8, 9, 10, 11, 13, 14, 15, 16, 18, 19, and 20 of the '816 patent.
23. Defendant has made, used, sold, offered for sale, and/or imported goods, including Defendant soft-sided cooler Ice Cube Wheeled 50 cans. By performing such acts, Defendant, committed and continues to commit direct infringement of at least claims 1, 2, 4, 5, 6, 8, 9, 10, 11, 13, 14, 15, 16, 18, 19, and 20 of the '816 patent.
24. Defendant's activities render it guilty of infringing one or more claims of the '816 patent, including but not limited to claims 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, and 20, under 35 U.S.C. § 271.
25. The described acts of infringement by Defendant have taken place and are taking place in this District and elsewhere.
26. Upon information and belief, Defendant will continue to infringe the '816 patent unless enjoined by this Court.
27. As a result of Defendant's infringing conduct, CII has been irreparably damaged to an extent not yet determined, and CII will continue to be irreparably damaged by such acts in the future unless Defendant is enjoined by this Court from committing further acts of infringement.

28. The infringement of the '816 patent alleged above has injured CII. Plaintiff is entitled to recover damages in an amount that adequately compensates CII for Defendant's infringement, which, in no event, can be less than a reasonable royalty.

**THIRD CAUSE OF ACTION FOR PATENT INFRINGEMENT  
OF UNITED STATES PATENT NO. 6,481,239**

29. On November 19, 2002, United States Patent No. 6,481,239 ("the '239 patent") entitled "INSULATED CONTAINER AND RECEPTACLE THEREFOR" was duly and legally issued. A true and correct copy of the '239 patent is attached as Exhibit C.
30. Pursuant to 35 U.S.C. § 282, the above-listed United States Patent is presumed valid.
31. CII, an assignee of the '239 Patent, at all times relevant hereto has had the right to file patent infringement suits to enforce the '239 patent rights.
32. On information and belief, Defendant practices the methods and has made and sold soft-side coolers as described and claimed in the '239 patent. Specifically, Defendant has made, used, sold, offered for sale, and/or imported goods, including but not limited to MaxCold 48. By performing such acts, Defendant committed and continues to commit direct infringement of at least claim 1 of the '239 patent.
33. In addition, Defendant has made, used, sold, offered for sale, and/or imported goods, including Defendant's soft-sided UltraCool cooler with model nos. 10137 and 10958. By performing such acts, Defendant committed and continues to commit direct infringement of at least claims 1 and 2 of the '239 patent.
34. The described acts of infringement by Defendant have taken place and are taking place in this District and elsewhere.

35. Defendant's activities render them guilty of infringing one or more claims of the '239 patent, including but not limited to claim 1 and 2, under 35 U.S.C. § 271.
36. Upon information and belief, Defendant will continue to infringe the '239 patent unless enjoined by this Court.
37. As a result of Defendant's infringing conduct, CII has been irreparably damaged to an extent not yet determined, and CII will continue to be irreparably damaged by such acts in the future unless Defendant is enjoined by this Court from committing further acts of infringement.
38. The infringement of the '239 patent alleged above has injured CII. Plaintiff is entitled to recover damages in an amount that adequately compensates CII for Defendant's infringement, which, in no event, can be less than a reasonable royalty.

**FOURTH CAUSE OF ACTION FOR PATENT INFRINGEMENT  
OF UNITED STATES PATENT NO. 6,644,063**

39. On November 11, 2003, United States Patent No. 6,644,063 ("the '063 patent") entitled "DIVIDED INSULATED CONTAINER" was duly and legally issued. A true and correct copy of the '063 patent is attached as Exhibit D.
40. Pursuant to 35 U.S.C. § 282, the above-listed United States Patent is presumed valid.
41. CII, an assignee of the '063 patent, at all times relevant hereto has had the right to file patent infringement suits to enforce the '063 patent rights.
42. On information and belief, Defendant, Igloo, practices the methods and has made and sold soft-side coolers as described and claimed in the '063 patent. In addition, Defendant has made, used, sold, offered for sale, and/or imported goods, including but not limited to Defendant's soft-sided coolers PolarMate 9, including those with model nos. 11786,

12320, 46038 and the 2003 model, PolarMate 18, including those with model nos. 11789, 12323, 46042, 46045 and the 2003 model, Little Lunchmate, including those coolers with model nos. 11398, 12106 and the 2003 model, Pop-Top Lunch Kit, including the cooler with model no. 12144 and the 2003 model, PolarMax 12, including those coolers with model nos. NA 46320, DI 146320, 46541, and DI 146541, Playmate Gripper 9, including those coolers with model nos. NA 46308, DI 146308, 46765, DI 146765, 46765, DI 146765, IL 47084, and IL DI 147084, Playmate Gripper 18, including those coolers with model nos. NA 46309, DI 146309, 46766, DI 146766, Playmate Lunch, Lunch Works, including those coolers with model nos. 467783, DI 146783, DI 146783, and IL DI 147090, PolarMax 12+4, including those coolers with model nos. 46541, DI 146541, IL 47108, and IL DI 147108, Playmate Gripper 18+4, including those coolers with model nos. 46766, DI 146766, IL 47085, IL DI 147085. By performing such acts, Defendant committed and continues to commit direct infringement of at least claims 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 13, 14, 15, 16, 17, 18, and 19 of the '063 patent. The described acts of infringement by Defendant have taken place and are taking place in this District and elsewhere.

43. Defendant's activities render them guilty of infringing one or more claims of the '063 patent, including but not limited to claims 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 13, 14, 15, 16, 17, 18, and 19, under 35 U.S.C. § 271.
44. Upon information and belief, Defendant will continue to infringe the '063 patent unless enjoined by this Court.
45. As a result of Defendant's infringing conduct, CII has been irreparably damaged to an extent not yet determined, and CII will continue to be irreparably damaged by such acts



in the future unless Defendant is enjoined by this Court from committing further acts of infringement.

46. The infringement of the '063 patent alleged above has injured CII. Plaintiff is entitled to recover damages in an amount that adequately compensates CII for Defendant's infringement, which, in no event, can be less than a reasonable royalty.

**PRAYER FOR RELIEF**

Plaintiff CII respectfully demands judgment against Defendant, granting CII the following relief:

- A. A declaration that Defendant has infringed one or more claims of the '045, '816, '239 and '063 patents;
- B. A declaration that the '045, '816, '239 and '063 patents are not invalid;
- C. An award to CII of all available and legally permissible damages caused by Defendant's infringing acts, but in no event less than a reasonable royalty;
- D. A permanent injunction against Defendant from further acts of infringement of the '045, '816, '239 and '063 patents;
- E. A declaration that this case is exceptional under 35 U.S.C. § 285, and on such basis, an award of attorney fees against Defendant;
- F. An award to CII of costs, pre-judgment and post-judgment interest; and
- G. An award to CII of all other legal and equitable relief available.

**JURY DEMAND**

In accordance with Fed. R. Civ. P. 38(b), CII hereby demands a trial by jury.

Respectfully submitted,

Date: February 12, 2008

By: s/James R. Muldoon

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