

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Harrisonburg Division**

RUBBERMAID COMMERCIAL PRODUCTS LLC,
and
MICROLIN, LLC,

Plaintiffs,

v.

WATERBURY COMPANIES, INC.,

Defendant.

Case No. _____

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs Rubbermaid Commercial Products LLC (“Rubbermaid”) and Microlin, LLC, (“Microlin”) (collectively “Plaintiffs”), by and through their undersigned attorneys, bring this Complaint against Defendant Waterbury Companies, Inc. (“Waterbury”) under Title 35 of the United States Code and relates to U.S. Patent No. 6,419,163. In support of their Complaint, Plaintiffs state as follows:

Parties

1. Rubbermaid is a limited liability company organized and existing under the laws of the State of Delaware with its principal place of business in Winchester, Virginia.
2. Microlin is a limited liability company organized and existing under the laws of the State of Utah with its principal place of business in Salt Lake City, Utah.
3. Upon information and belief, Waterbury is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Waterbury, Connecticut.

Jurisdiction and Venue

4. This Court has original subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1338, and Title 35 U.S.C. §§ 1, *et seq.*

5. Personal jurisdiction of this Court over Waterbury exists because Waterbury has committed acts of infringement in violation of 35 U.S.C. § 271 and has placed infringing products into the stream of commerce, via an established distribution channel, with the knowledge or understanding that such products are sold in the State of Virginia, including in this District. These acts cause foreseeable injury to Plaintiffs within this District. Upon information and belief, Waterbury derives substantial revenue from the sale of infringing products distributed within this District, and expects or should reasonably expect its actions to have consequences within this District. In addition, on information and belief, Waterbury has induced and continues to knowingly induce infringement within this State and within this District by contracting with others to market and sell infringing products with the knowledge and intent to facilitate infringing sales of the products by others within this District.

6. Venue is proper pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

Claim for Patent Infringement

7. Plaintiffs reallege and incorporate by reference the allegations set forth in paragraphs 1 through 6 above as if fully set forth herein.

8. On July 16, 2002, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,419,163 (the “‘163 Patent”), titled “Controlled Release of Substances,” a copy of which is attached as Exhibit A. Microlin is the assignee and owner of the ‘163 Patent, and Rubbermaid is an exclusive licensee and owner of right to sue and recover for infringement of the ‘163 Patent.

9. In violation of Plaintiffs' exclusive rights under the patent laws of the United States, Waterbury has infringed and continues to infringe the '163 Patent by using, making, importing, offering for sale, and selling products that embody the invention claimed in the '163 Patent, including without limitation its TimeWick by TimeMist air freshener products.

10. Waterbury has induced, and continues to induce, others to infringe the '163 Patent in violation of 35 U.S.C. § 271 by taking active steps to encourage and facilitate others' direct infringement of the '163 Patent with knowledge of that infringement, such as, upon information and belief, by contracting for the distribution of the infringing products for infringing sale.

11. Waterbury has contributorily infringed the '163 Patent in violation of 35 U.S.C. § 271 by selling within the United States, offering for sale within the United States, or importing components that embody a material part of the inventions claimed in the '163 Patent, are known by Waterbury to be especially made or specially adapted for use in infringement of the '163 Patent, and are not staple articles or commodities suitable for substantial, non-infringing use, including certain air freshener products and non-staple constituent parts of those air freshener products.

12. Waterbury is aware of the existence of the '163 Patent and, upon information and belief, has willfully infringed and continues to willfully infringe that patent.

13. By reason of Waterbury's infringing activities, Plaintiffs have suffered, and will continue to suffer, substantial damages, in an amount to be proven at trial.

14. Waterbury's conduct has also caused, and will continue to cause, Plaintiffs irreparable harm. Waterbury's conduct is likely to continue unless it is enjoined from such conduct by this Court.

15. This case is an exceptional one, and Plaintiffs are entitled to an award of their reasonable attorney fees under 35 U.S.C. § 285.

PRAYER FOR RELIEF

WHEREFORE, as a result of the unlawful acts of Waterbury set forth herein, Plaintiffs pray for:

A. a declaration that Microlin is the owner and Rubbermaid is an exclusive licensee of the '163 Patent;

B. entry of judgment that Waterbury has infringed, and continues to infringe, and to contribute to and induce infringement of, the '163 Patent;

C. an injunction prohibiting Waterbury, and all persons in concert and participation with it, from using, making, importing, offering for sale, and selling air freshener products or any other products that embody the inventions claimed in the '163 Patent;

D. an award of damages adequate to compensate Plaintiffs for Waterbury's infringement of the '163 Patent;

E. an award that trebles the amount of actual damages assessed against Waterbury and in favor of Plaintiffs pursuant to 35 U.S.C. § 284;

F. an award of reasonable attorney fees and costs pursuant to 35 U.S.C. § 285; and

G. such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38, Plaintiffs hereby demand a jury trial on all issues triable by jury.

RUBBERMAID COMMERCIAL PRODUCTS LLC
and
MICROLIN, LLC
By Counsel

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