

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN**

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**S. C. JOHNSON & SON, INC. and  
CONSULTORIA TÉCNICA E REPRESENTAÇÕES, LDA,**

**Plaintiffs and Counterdefendants,**

**vs.**

**Case No. 3:08-cv-00505**

**THE DIAL CORPORATION,**

**Defendant and Counterclaimant.**

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**COMPLAINT AND DEMAND FOR JURY TRIAL**

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Plaintiffs S. C. Johnson & Son, Inc. (“S. C. Johnson”) and Consultoria Técnica e Representações, LDA (“CTR”) (collectively “Plaintiffs” or “SCJ”) for their Complaint against defendant The Dial Corporation (“Dial”) state as follows:

**NATURE OF THE ACTION**

This action arises under the United States Patent Laws, 35 U.S.C. § 1 *et seq.* SCJ brings this action seeking damages and injunctive relief arising from Dial’s infringement of United States Patent No. RE40,464 E (the “‘464 patent”), attached as Exhibit A.

**PARTIES**

1. S. C. Johnson is a Wisconsin corporation with a principal place of business in Racine, Wisconsin. S. C. Johnson is a family corporation that, for more than 100 years, has provided consumers with superior products under brand names including Pledge®, Scrubbing

Bubbles®, Shout®, Windex®, Raid®, and Ziploc® in more than 100 countries around the world. S.C. Johnson sells its home air freshener products under, for example, the Glade® and Oust® brands.

2. CTR is a corporation organized and existing under the laws of Portugal, having its principal place of business in Samora Correia, Portugal. CTR is the sole assignee and lawful owner of the '464 patent.

3. S. C. Johnson and CTR entered into a License Agreement effective March 28, 2007 (the "License Agreement"). Under the License Agreement S. C. Johnson is possessed of an exclusive, worldwide license to make, use and sell certain volatile products covered by the '464 patent. S. C. Johnson furthermore has rights to enforce the '464 patent.

4. On information and belief, Dial is a Delaware corporation with its principal place of business in Scottsdale, Arizona. Dial competes with S. C. Johnson in the home care products market generally and in the home air freshener market specifically. Dial sells its home air freshener products under the Renuzit® brand name.

### **JURISDICTION AND VENUE**

5. The Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a) because this case arises under the federal patent laws, 35 U.S.C. § 1 *et seq.*

6. Dial is registered to do business in Wisconsin and regularly and systematically conducts business activities in this judicial district. Such business activities include regularly selling its products to retailers in this district.

7. This Court may properly exercise personal jurisdiction over Dial under Wisconsin's long arm statute, Wisconsin Statute § 801.05.

8. Venue is proper in this district under 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b).

### **GENERAL ALLEGATIONS**

9. S.C. Johnson and Dial are competitors in the home air freshener market.

10. The '464 patent covers certain embodiments of multiple fragrance home air fresheners.

11. Since at least December 2007, Dial has offered to sell and sold a plug-in scented oil air freshener with multiple fragrances under the brand name Renuzit® Tri Scents™ ("Tri Scents product"). This product has been offered for sale or sold in this District and throughout the United States.

12. On information and belief, the Tri Scents product infringes valid claims of the '464 patent.

### **CAUSE OF ACTION**

#### **Infringement of the '464 Patent**

13. Dial's offer for sale and sale of the Tri Scents product constitutes infringement of the '464 patent, either directly or indirectly, literally, or under the doctrine of equivalents.

14. If Dial's activities are not enjoined, SCJ will suffer irreparable harm that cannot be adequately compensated by a monetary award.

**REQUEST FOR RELIEF**

WHEREFORE, SCJ seeks the following relief of the Court:

A. Judgment that the Tri Scents product infringe valid claims of United States Patent No. RE40,464;

B. An order preliminarily and permanently enjoining Dial and its affiliates, subsidiaries, officers, directors, agents, employees, representatives, licensee, successors, assigns, and all those acting for Dial and on its behalf, or acting in concert with it directly or indirectly from importing, making, using, selling, and/or offering to sell its Tri Scents product and/or any other air freshener product that infringes the '464 patent;

C. An award of damages, together with interest, to SCJ in an amount adequate to compensate SCJ for Dial's infringement of the '464 patent, as provided under 35 U.S.C. § 284;

D. A determination that Dial's infringement of the '464 patent is and has been willful;

E. A determination that this is an exceptional case and an award of attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285; and

F. Such other and further relief that the Court may deem equitable or appropriate under the circumstances.

**JURY DEMAND**

Plaintiffs hereby demand trial by jury on all issues.

Dated this 26<sup>th</sup> day of August, 2008.

**HELLER EHRMAN LLP**

*/s/ John S. Skilton*

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