

1 Jeremy P. Occek, NY Bar No. 4425930, MA Bar No. 647509
2 (Admitted *pro hac vice*)
3 BOND, SCHOENECK & KING, PLLC
4 Key Center, 40 Fountain Plaza, Suite 600
5 Buffalo, New York 14202
6 Telephone: (716) 566-2800
7 Email: jpoczek@bsk.com

8 Frederick J.M. Price, Esq., NY Bar No. 4229373
9 (Admitted *pro hac vice*)
10 Blaine T. Bettinger, Esq., NY Bar No. 4763314
11 (Admitted *pro hac vice*)
12 BOND, SCHOENECK & KING, PLLC
13 One Lincoln Center
14 Syracuse, New York 13202
15 Telephone: (315) 218-8000
16 Email: fjprice@bsk.com
17 Email: bbettinger@bsk.com

18 Kenneth M. Motolenich-Salas, AZ Bar No. 027499
19 WEISS & MOY, P.C.
20 4204 N. Brown Avenue
21 Scottsdale, Arizona 85251
22 Telephone: (480) 994-8888
23 Email: kmotolenich@weissiplaw.com

24 **IN THE UNITED STATES DISTRICT COURT**
25 **FOR THE DISTRICT OF ARIZONA**

26 Clerisy Corp. and Reed Transition
27 Technologies, LLC,

28 *Plaintiffs,*

v.

AirWare Holdings, Inc. (d/b/a Airware
Labs) and Crown Dynamics Corp.,

Defendants.

Civil Action No. 2:12-cv-02110

(Originally filed in the U.S. District
Court for the Western District of New
York, Case No. 6:12-cv-06396)

AMENDED COMPLAINT AND
JURY DEMAND

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Plaintiffs Clerisy Corp. and Reed Transition Technologies, LLC (collectively, “Plaintiffs”) bring this action against Defendants AirWare Holdings, Inc. (d/b/a AirWare Labs) and Crown Dynamics Corp. (collectively, “Defendants”) and allege as follows:

NATURE OF ACTION

1. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code.

PARTIES

2. Plaintiff Clerisy Corp. (“Clerisy”) is a corporation organized and existing under the laws of the State of New York and has a place of principal business at 3543 Winton Place, Rochester, New York 14623. Clerisy manufactures, markets, and distributes Aromahaler® Nasal SoftStrips™ products, which deliver therapeutic blends of essential oils and provide innovative, safe, and effective solutions for managing and improving consumers’ health and wellness. Aromahaler® Nasal SoftStrips™ are doctor-developed, internationally patented, and FDA market approved for over-the-counter uses.

3. Plaintiff Reed Transition Technologies, LLC (“Reed Transition Technologies”) is a limited liability company organized and existing under the laws of the State of Nevada and has a business address at 80 Elberta Drive, Sedona, Arizona 86336.

1 4. On information and belief, Defendant AirWare Holdings, Inc. (d/b/a
2 AirWare Labs) is a wholly-owned subsidiary of Crown Dynamics Corp. and is a
3 corporation organized and existing under the laws of the State of Nevada and has a
4 business address at 8399 East Indian School Road, Suite 202, Scottsdale, Arizona
5 85251.
6

7 5. On information and belief, Defendant Crown Dynamics Corp. is a
8 corporation organized and existing under the laws of the State of Delaware and has a
9 business address at 8399 East Indian School Road, Suite 202, Scottsdale, Arizona
10 85251.
11

12 **JURISDICTION AND VENUE**
13

14 6. This Court has subject matter jurisdiction in this action pursuant to 28
15 U.S.C. §§ 1331 and 1338(a).
16

17 7. On information and belief, Defendants ship and sell products and
18 advertise their products nationwide, including in the State of New York (where this
19 case was originally filed), the State of Arizona, and this judicial district.
20

21 8. On information and belief, Defendants' products have been offered for
22 sale and continue to be offered for sale in the State of New York (where this case was
23 originally filed), the State of Arizona, and this judicial district, for example, through at
24 least one or more interactive Internet websites and through retail Internet websites such
25 as www.amazon.com, www.drugstore.com, www.walgreens.com, and www.target.com.
26

27 9. Defendants are subject to personal jurisdiction in this judicial district
28 because, among other reasons, on information and belief, Defendants do business and

1 direct business activities toward consumers within the State of New York (where this
2 case was originally filed), the State of Arizona, and this judicial district. On
3 information and belief, both Defendants reside in this judicial district.

4
5 10. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391.

6 **CLAIM FOR PATENT INFRINGEMENT**

7 **Infringement of U.S. Patent No. 6,295,982**

8
9 11. Plaintiffs hereby incorporate the allegations of Paragraphs 1 through 10 as
10 if fully set forth herein.

11 12. U.S. Patent No. 6,295,982 (“the ’982 Patent”), entitled “Apparatus for
12 and Methods of Administering Volatile Substances into an Inhalation Flow Path,” was
13 duly issued by the United States Patent and Trademark Office on October 2, 2001, a
14 copy of which is attached as Exhibit A.

15
16 13. The ’982 Patent is valid and enforceable.

17
18 14. Reed Transition Technologies is the owner by assignment of the ’982
19 Patent. Clerisy is the sole and exclusive licensee of all claims of the ’982 Patent,
20 including the right to grant sublicenses, and has the right to prosecute any and all claims
21 against third-party infringers or infringements of the ’982 Patent.

22
23 15. Clerisy marks its Aromahaler® Nasal SoftStrips™ products in
24 accordance with 35 U.S.C. § 287.

25
26 16. On information and belief, Defendants market, sell, and distribute “AIR”
27 branded nasal products nationwide, including AIR TRAVEL, AIR DECONGEST, AIR
28 SLEEP/SNORE, AIR HEADACHE, AIR NAUSEA, and AIR SPORT branded

1 products, which are promoted by Defendants as being infused with aromatherapeutic
2 essential oils.

3 17. Plaintiffs are informed and believe, and thereon allege, that Defendants
4 have infringed, are currently infringing, and will continue to infringe the '982 Patent,
5 literally or under the doctrine of equivalents, in violation of 35 U.S.C. § 271, by
6 making, using, selling, offering to sell, and/or importing into the United States, nasal
7 products with essential oils which infringe one or more claims of the '982 Patent. Such
8 products include, by way of example and without limitation, AIR TRAVEL, AIR
9 DECONGEST, AIR SLEEP/SNORE, AIR HEADACHE, AIR NAUSEA, and AIR
10 SPORT nasal products.
11

12 18. Plaintiffs are informed and believe, and thereon allege, that Defendants
13 have induced, and continue to induce, others to infringe the '982 Patent, literally or
14 under the doctrine of equivalents, in violation of 35 U.S.C. § 271, by selling, offering to
15 sell, encouraging, and intending for consumers within the United States to use their
16 nasal products with essential oils in a manner that infringes on the patented process
17 claimed in the '982 Patent by, among other things, contracting for the distribution of the
18 infringing nasal products for sale by retail sales channels nationwide, and marketing the
19 infringing nasal products as being infused with essential oils to provide aromatherapy.
20 Such products include, by way of example and without limitation, AIR TRAVEL, AIR
21 DECONGEST, AIR SLEEP/SNORE, AIR HEADACHE, AIR NAUSEA, and AIR
22 SPORT nasal products.
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1 19. Plaintiffs are informed and believe, and thereon allege, that Defendants
2 have contributorily infringed the '982 Patent, literally or under the doctrine of
3 equivalents, in violation of 35 U.S.C. § 271, by selling, offering to sell, and causing
4 others within the United States to use their nasal products with essential oils in
5 practicing the patented process claimed in the '982 Patent, such products are material to
6 practicing the invention, have no substantial non-infringing uses, and are believed to be
7 known by Defendants to be especially made or adapted for use in infringement of said
8 patent. Such products include, by way of example and without limitation, AIR
9 TRAVEL, AIR DECONGEST, AIR SLEEP/SNORE, AIR HEADACHE, AIR
10 NAUSEA, and AIR SPORT nasal products.

11 20. Plaintiffs will have put Defendants on notice of the '982 Patent and
12 Defendants' infringement thereof no later than upon service of this Complaint.
13 Moreover, on information and belief, Defendants had actual knowledge of the '982
14 Patent, which was marked on Aromahaler® Nasal SoftStrips™ products, or were
15 willfully blind as to the existence of said patent.

16 21. Defendants' infringement of the '982 Patent has caused damage to
17 Plaintiffs, and Plaintiffs are entitled to recover all damages sustained as a result of
18 Defendants' wrongful acts in an amount yet to be determined and subject to proof at
19 trial.

20 22. Plaintiffs have been, and are being, irreparably harmed and have incurred,
21 and will continue to incur, damages as a result of Defendants' infringement of the '982
22 Patent.

1 Patent. On information and belief, the infringement of the '982 Patent by Defendants
2 will continue unless enjoined by this Court.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiffs pray that the Court:

5
6 A. Enter judgment that Defendants have infringed, induced the infringement
7 of, and/or contributed to the infringement of, one or more claims of the '982 Patent;

8
9 B. Pursuant to 35 U.S.C. § 283, preliminarily and permanently enjoin
10 Defendants, their subsidiaries, affiliates, owners, officers, agents, servants, employees,
11 directors, partners, representatives and any and all parties in active concert and/or
12 participation with Defendants from directly or indirectly making, having made, selling,
13 offering for sale, using, or importing into the United States all nasal products which
14 infringe one or more claims of the '982 Patent;

15
16 C. Pursuant to 35 U.S.C. § 284, award Plaintiffs compensatory damages and
17 order Defendants to account for and pay to Plaintiffs any and all damages caused to
18 Plaintiffs by Defendants' infringement of the '982 Patent;

19
20 D. Order Defendants to file and serve a report in writing, and under oath,
21 setting forth the manner and form in which they have complied with the Court's order
22 and injunction;

23
24 E. Order Defendants to pay Plaintiffs' attorneys' fees pursuant to 35 U.S.C.
25 § 285 or other applicable law;

26
27 F. Award Plaintiffs their costs, pre-judgment interest and post-judgment
28 interest; and

1 G. Award Plaintiffs such other relief as the Court deems just and proper.

2 **DEMAND FOR JURY TRIAL**

3 Plaintiffs hereby request a trial by jury on all issues so triable.

4
5 Dated: November 7, 2012

Respectfully submitted,

6 /s/ Jeremy P. Oczek

7 Jeremy P. Oczek, Esq.

8 (Admitted *pro hac vice*)

9 BOND, SCHOENECK & KING, PLLC

Key Center, 40 Fountain Plaza, Suite 600

10 Buffalo, New York 14202

Telephone: (716) 566-2800

11 Email: jpoczek@bsk.com

12 Frederick J.M. Price, Esq.

13 (Admitted *pro hac vice*)

14 Blaine T. Bettinger, Esq.

(Admitted *pro hac vice*)

15 BOND, SCHOENECK & KING, PLLC

16 One Lincoln Center

Syracuse, New York 13202

17 Telephone: (315) 218-8000

18 Email: fjprice@bsk.com

Email: bbettinger@bsk.com

19
20 Kenneth M. Motolenich-Salas, Esq.

(AZ Bar No. 027499)

21 WEISS & MOY, P.C.

22 4204 N. Brown Avenue

Scottsdale, Arizona 85251

23 Telephone: (480) 994-8888

24 Email: kmotolenich@weissiplaw.com

25 *Counsel for Plaintiffs Clerisy Corp.*

26 *and Reed Transition Technologies, LLC*

CERTIFICATE OF SERVICE

I hereby certify that on November 7, 2012, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

Devan V. Padmanabhan, Esq.
Michelle E. Dawson, Esq.
Nathan J. Witzany, Esq.
WINTHROP & WEINSTINE
Capella Tower
225 South 6th Street, Suite 3500
Minneapolis, Minnesota 55402
Telephone: (612) 604-6400
Email: dpadmanabhan@winthrop.com
Email: mdawson@winthrop.com
Email: mwitzany@winthrop.com

*Counsel for Defendants AirWare Holdings, Inc.
(d/b/a AirWare Labs) and Crown Dynamics Corp.*

/s/ Jeremy P. OczeK
Jeremy P. OczeK