

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

---

Cortec Corporation,

Plaintiff,

**COMPLAINT  
Jury Trial Demanded**

vs.

Corpac GmbH & Co. KG, Verpa Folie  
Weidhausen GmbH and Safe-Pack  
Solutions GmbH

Court File No. 0:22-CV-00476 / \_\_\_\_\_

Defendants.

---

Plaintiff, Cortec Corporation, for its complaint against the above-named Defendants, states and alleges as follows:

**NATURE OF ACTION, JURISDICTION, AND VENUE**

1. This is an action for violation of the Patent Act, the Lanham Act, the Minnesota Deceptive Trade Practices Act, breach of contract, and unjust enrichment. This Court has jurisdiction under 28 U.S.C. §1331, and §1338(a), this being an action arising under the patent and trademark laws of the United States. This Court has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. §1367(a).

2. Venue is proper in this District under 28 U.S.C. §§1391(b) and (c) and §1400(b) as well as contractual agreement of the parties. The Defendant purposefully directed activities at residents of the forum.

3. Personal jurisdiction over Defendants is proper in this District due to contractual agreement. In addition, Defendants have availed themselves of the rights and benefits of the laws

of the United States by knowingly and intentionally inducing the importation of products which infringe upon Plaintiff's U.S. Patent and Trademark rights as enumerated herein. On information and belief, and pursuant to Federal Rule of Civil Procedure 4(k)(2), Defendants are not otherwise subject to personal jurisdiction in any other state court of general jurisdiction. Accordingly, assertion of personal jurisdiction over Defendants is reasonable and fair.

### **THE PARTIES**

4. Plaintiff Cortec Corporation ("Cortec") is a corporation duly organized under the laws of the State of Minnesota, having its principal place of business in White Bear Lake, Minnesota.

5. Defendant Corpac GmbH & Co. KG ("Corpac") is a German Limited Partnership with its principal place of business located in Oberstenfeld, Germany.

6. Defendant Verpa Folie Weidhausen GmbH ("Verpa") is a German company with its principal place of business located in Weidhausen, Germany.

7. Defendant Safe-Pack Solutions GmbH & Co. KG ("Safe-Pack") is a German Limited Partnership with its principal place of business located in Enger, Germany.

### **BACKGROUND FACTS**

8. Plaintiff Cortec is a global leader in innovative, environmentally responsible corrosion control technologies. Cortec delivers cost-effective, user-friendly, integrated solutions for corrosion problems in packaging, metalworking, construction, electronics, oil and gas, and many other industries. Through extensive research and testing, Plaintiff Cortec has developed over 400 industry leading and innovative products since 1977.

### **Plaintiff Cortec's Trademarks**

9. Since at least as early as 1981, the "Cortec" name and mark has been used continually by Plaintiff Cortec and its predecessors in interest and licensees nationwide in interstate commerce to identify certain of its goods and services and to distinguish such goods and services from those made and sold by others.

10. Since at least as early as 2001, the "VpCI" mark has been used continually by Plaintiff Cortec and its predecessors in interest and licensees nationwide in interstate commerce to identify certain of its goods and services and to distinguish such goods and services from those made and sold by others.

11. As a result, Plaintiff Cortec has established, through continuous, long-term use in commerce, common law trademark rights in the "Cortec" and "VpCI" name and marks.

12. Plaintiff Cortec has expended considerable time, resources and effort in promoting the "Cortec" and "VpCI" name and marks and developing substantial goodwill associated therewith.

13. The "Cortec" and "VpCI" name and marks are arbitrary and inherently distinctive when used in conjunction with Plaintiff Cortec's goods and services.

14. Due to the continual use of the "Cortec" and "VpCI" name and marks by Plaintiff Cortec such name and marks acquired secondary meaning many years ago. The "Cortec" and "VpCI" name and marks have come to indicate Plaintiff Cortec as the single source of the quality goods and services associated with the name and marks.

15. Plaintiff Cortec is also the owner of the following incontestable U.S.

Trademark Registrations:

<b>U.S. Reg. No.</b>	<b>Word Mark</b>	<b>Date of Registration</b>
3,221,718	CORTEC	March 27, 2007
3,232,610	CORTEC	April 24, 2007
3,224,293	CORTEC	April 3, 2007
3,570,122	VPCI	February 3, 2009

16. Plaintiff Cortec's U.S. Trademark Registrations cover a variety of corrosion control and inhibition products, including, without limitation,

Plastic film incorporating vapor phase corrosion inhibitors for industrial and commercial packaging use; plastic sheeting used to protect a variety of items, namely, automobiles, machinery, scientific instruments, and electronic parts and components; biodegradable packing film for industrial and commercial use; vapor phase corrosion inhibitor plastic film for industrial and commercial wrapping; biodegradable plastic shrink film for commercial, agricultural and industrial uses; packaging foams containing vapor corrosion inhibitors; polyethylene film for packing, coated with corrosion inhibiting chemicals; corrosion inhibiting plastic packing film; plastic shrink film containing vapor phase corrosion inhibitors, flame retardant additives, and ultraviolet inhibitors for military, industrial, and commercial uses; polyethylene film for packing, coated with corrosion inhibiting chemicals and water soluble polyvinyl-alcohol films.

### **Plaintiff Cortec's Patents**

17. Plaintiff Cortec's innovation and technology in the corrosion control and inhibition industry has been covered by as many as 60 United States Patents owned by Cortec since 1977.

18. Plaintiff is the assignee and owner of United States Patent Number 10,697,070 ("070 Patent") covering an innovative and novel corrosion inhibiting film.

19. Plaintiff is the assignee and owner of United States Patent Number 6,420,470 (“470 Patent”) covering an innovative and novel flame retardant corrosion inhibiting film.

**Plaintiff Cortec’s Distribution Agreement with Defendant Corpac**

20. On or about May 12, 2004, Plaintiff Cortec entered into a Distribution Agreement (“Agreement”) with Defendant Corpac’s predecessor in interest SHS Technische Verpackungen GmbH & Co. KG (“SHS”). Such Agreement governs SHS’s and its successor in interest Defendant Corpac’s purchase, repackaging and sale of products covered by Plaintiff Cortec’s patents and trademarks in specific territories. Such Agreement has remained in full force and effect at all times relevant hereto.

21. The Agreement grants Defendant Corpac the right “to purchase” Cortec’s products “for resale in the Territory.” The “Territory” is defined in the Agreement to be limited to “Germany, Switzerland and Austria” and has never been expanded to include any other countries or areas. Consistent with the limited defined territory, the Agreement expressly prohibits Defendant Corpac from “seeking customers for [Plaintiff Cortec’s products], from establishing any branch and from maintaining any distribution depot for [Plaintiff Cortec’s products]” outside of the limited defined territory.

22. The Agreement includes strict requirements and limitations on Defendant Corpac’s use of Cortec’s name and trademarks. Without limitation, the Agreement provides:

- (a) Distributor shall not re-label or otherwise alter the packaging of any non-repackaged Products except that the Distributor may add a statement that the Products are products of THE CORTEC CORPORATION distributed in the Territory by the Distributor.

(b) As to repackaged Products, labels shall be substantially the same as the labels by the Company on the Products except as to the descriptions of quantity or concentration and except that the Distributor may add a statement that the Products are products of THE CORTEC CORPORATION, distributed in the Territory by the Distributor.

(c) Distributor agrees to make any changes in the labels of repackaged Products that are requested from time to time by the Company.

(d) Distributor agrees not to take any action detrimental to the validity of the Company's trademarks or their ownership by the Company or to the goodwill of the Company related to such marks.

(e) Distributor agrees to use such trademarks only in connection with the Products and only in such form and manner as may be prescribed or permitted by the Company.

(f) Distributor also agrees to discontinue use of such trademarks, upon receipt of written notice from the Company that, in the opinion of the Company, use of such trademarks by the Distributor or by such dealer is injurious to the Company's rights, privileges and immunities as owner of such trademarks.

23. The Agreement also expressly provides the Defendant Corpac's rights and duties thereunder are not assignable or delegable without express prior written approval from Plaintiff Cortec, and that any such purported assignment or delegation is void absent express prior written permission from Plaintiff Cortec. The Agreement provides in relevant part:

ASSIGNMENT. The distributorship hereby created and the rights hereunder are not assignable and the obligations imposed on the Distributor pursuant hereto are not delegable without the prior written consent of the Company. Any purported assignment or delegation without such prior written consent is void.

24. Consistent with the quality control and trademark compliance requirements in the Agreement, Defendant Corpac was furnished with Plaintiff Cortec's confidential and proprietary "Quality Control Guidelines" for the manufacture of Cortec's VpCI® film by

all approved subcontractors and licensees. Such guidelines contain detailed quality control standards required to be upheld in the manufacture, extrusion, packaging, and labeling of Cortec VpCI® film. Such guidelines include, without limitation, the requirement that “all artwork must be reviewed and approved [by] Cortec Corporation.” Further, all coextruded films are required to be “clearly marked to denote placement of VpCI (i.e. VpCI Inside, This Side Out).” Further, each box is required “to be labeled with Cortec label.”

25. The Agreement also contains a “Non-Competition” provision which prohibits Defendant Corpac from directly or indirectly competing with Plaintiff Cortec. The Agreement provides that Defendant Corpac “shall not, either directly or indirectly, manufacture or distribute any goods which compete with any of [Plaintiff Cortec’s products] unless [Defendant Corpac] has obtained [Plaintiff Cortec’s] prior written consent.”

26. The Agreement also contains a “Confidentiality” provision restricting Defendant Corpac’s disclosure and use of Plaintiff Cortec’s confidential information. The Agreement provides that “The Company and its affiliates may disclose to the Distributor valuable confidential information and technology relating to the Products and will assist Distributor in gaining market experience in Products.”

27. Plaintiff Cortec has in fact disclosed to Defendant Corpac significant confidential information relating to its products, including, without limitation, detailed information and specifications concerning the manufacture and sale of Cortec’s VpCI® films. Such information includes, but is not limited to, Plaintiff Cortec’s detailed and confidential Quality Control Guidelines.

28. The Agreement further provides that “neither the Distributor nor any of its owners, officers, or personnel shall disclose to any third party any information imparted to it by the Company or any of its affiliates which the Distributor knows or has reason to believe to be a trade secret or otherwise confidential.”

29. The Agreement further provides that “[t]he Distributor acknowledges that the Company considers its specifications for diluting or thinning concentrated Products to be confidential information.”

**Arbitration, Choice of Law, and Jurisdiction Provision**

30. The Agreement contains a provision entitled “Choice of Law and Jurisdiction,” which provides:

CHOICE OF LAW AND JURISDICTION. Any dispute arising out of or in connection with this contract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration under the London Court of International Arbitration Rules, which Rules are deemed to be incorporated by reference into this clause. The number of arbitrators shall be one. The seat, or legal place of arbitration shall be Minneapolis, Minnesota, USA. The language to be used in the arbitral proceeding shall be English. The governing law of contract shall be the substantive law of the State of Minnesota, USA.

31. The London Court of International Arbitration Rules (“LCIA Rules”) are expressly “incorporated by reference” in the “Choice of Law and Jurisdiction” clause. LCIA Rule 9.13 expressly allows and authorizes the parties to “apply to a competent state court or other legal authority for any interim or conservatory measures.”



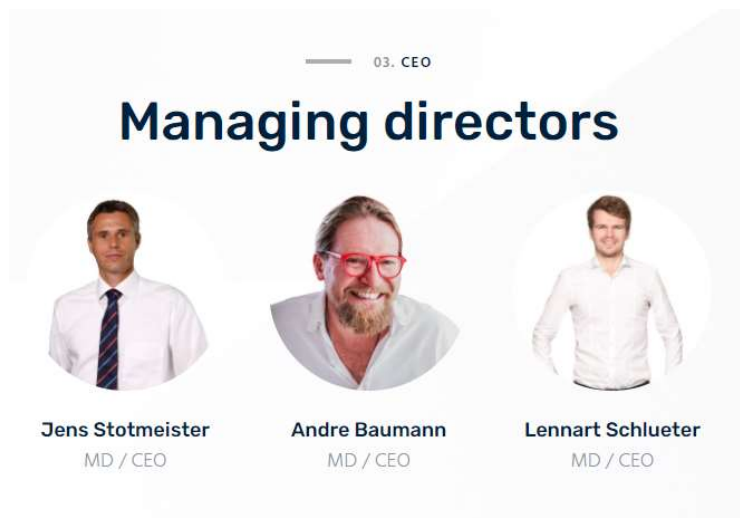
## **Defendant Corpac's Breach of the Agreement**

### **Breach of Non-Assignment and Non-Delegation Provision**

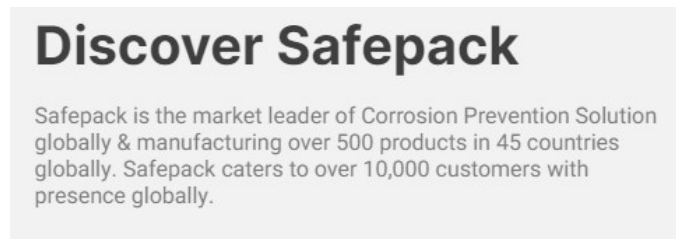
32. Defendant Verpa originally acted independently as Defendant Corpac's manufacturer or extruder for the authorized Cortec VpCI® film distributed by Defendant Corpac pursuant to the Agreement. According to Defendant Corpac's website ( [www.corpac.de](http://www.corpac.de) ), Corpac, Verpa and Safe-Pack entered into and created a formal or implied partnership on or about June 2018. This creates a company ( a "contractual joint venture" ) under German civil law ( such entity hereinafter referred to as the "CVS Partnership" ). Defendant Corpac's website indicates the three entities are now part of a "worldwide operating company":



33. Defendant Corpac's website identifies Corpac CEO Jens Stotmeister, Verpa CEO Andre Baumann, and Safe-Pack CEO Lennart Schlueter as the "Managing Directors" of the CVS Partnership:



34. Both Defendant Safe-Pack and Defendant Verpa are direct competitors of Plaintiff Cortec in the VCI packaging market. Defendant Safe-Pack’s website ( <https://safepack.com> ) touts Safe-Pack as “the market leader” of corrosion prevention globally, including, without limitation, VCI film and other VCI packaging products:



35. Defendant Verpa’s website ( <https://verpa.de> ) touts its sales and provision of VCI film to, without limitation, the furniture and automotive industries in direct competition with Plaintiff Cortec.

36. Defendant Corpac never advised or informed Plaintiff Cortec it intended to create the CVS Partnership.

37. Defendant Corpac never requested Plaintiff Cortec’s permission to form the CVS Partnership.

38. Defendant's manufacture, sales and distribution of products covered by Plaintiff Cortec's patents and bearing Plaintiff Cortec's trademarks, including, without limitation, Plaintiff Cortec's VpCI® film, by and through the CVS Partnership constitutes an assignment and delegation of Defendant Corpac's rights, duties and obligations under the Agreement.

39. Defendant Corpac never requested Plaintiff Cortec's permission or authority to assign or delegate Defendant Corpac's rights, duties and obligations under the Agreement to the CVS Partnership.

40. Plaintiff Corpac never agreed to or authorized, in writing or otherwise, the assignment of Defendant Corpac's rights, duties and obligations under the Agreement to the CVS Partnership.

41. Products covered by Plaintiff Cortec's patents and bearing Plaintiff Cortec's trademarks manufactured, sold and distributed by the CVS Partnership, including, without limitation, Plaintiff Cortec's VpCI® film, constitute unauthorized and infringing products.

**Breach of Territory Restrictions**

42. Defendant Corpac, by and through the CVS Partnership, has sold Cortec VpCI® film to customers outside of the Agreement's limited territory and in direct competition with Corpac. Without limitation, Defendant Corpac, by and through the CVS Partnership, has sold Cortec VpCI® film to Volkswagen in Poland and Volvo in Sweden.

**Breach of Non-Competition Provision**

43. Defendant Corpac's sales of Cortec VpCI® film by and through the CVS Partnership outside of the Agreement's limited authorized territory is in direct competition

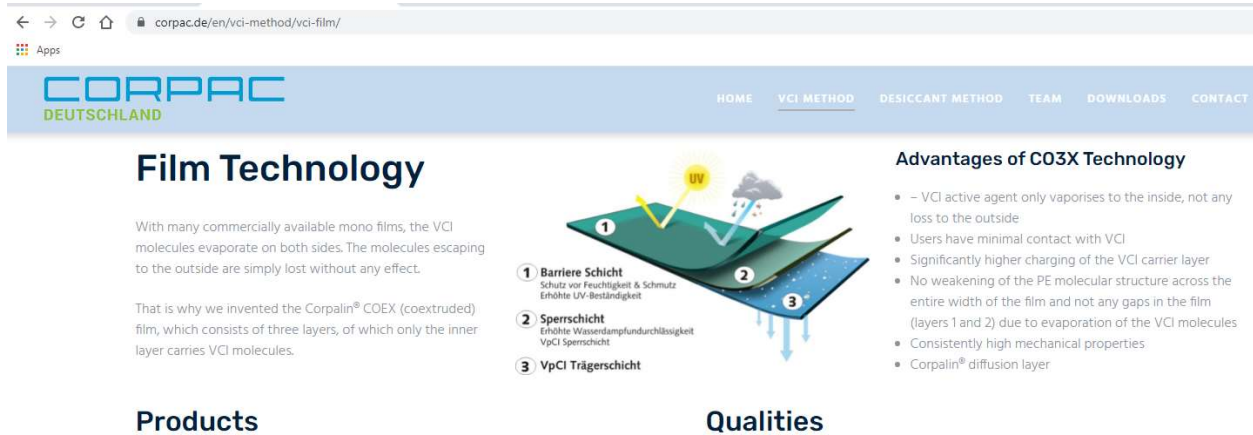
with Plaintiff Cortec and/or Plaintiff Cortec's authorized distributor(s) in such territories. Namely, and without limitation, Defendant Corpac's sales of Cortec VpCI® film by and through the CVS Partnership to Volvo in Sweden and Volkswagen in Poland is in direct competition with Plaintiff Cortec in violation of the Agreement.

44. Defendant Corpac has also sold directly competitive non-Cortec® vapor corrosion inhibiting products by and through the CVS Partnership. Without limitation, Defendant Corpac, by and through the CVS Partnership, has sold a VCI film manufactured using inferior materials from a South Korean supplier in violation of the Agreement. Defendant Corpac admits and acknowledges such sales. Despite the fact such acknowledged South Korean sourced product is in the exact same category and a direct alternative to Plaintiff Cortec's VpCI® film, Defendant Corpac contends such product is not competitive because it is of lesser quality and therefore less expensive.

#### **Breach of Trademark and Labeling Requirements**

45. Defendant Corpac, by and through the CVS Partnership, is advertising and promoting Plaintiff Cortec's VpCI® products in violation of the Agreement and Plaintiff Cortec's applicable "Quality Control Guidelines." Namely, Defendant Corpac, by and through the CVS Partnership, is promoting Plaintiff Cortec's VpCI® products without Plaintiff Cortec's required trademarks and labels. Rather, Defendant Corpac, by and through the CVS Partnership, is utilizing Defendant Corpac's own claimed or alleged "Corpalin®" mark and utilizing generic marks without the contractually required Cortec trademarks and labels in violation of the Agreement.

46. Defendant Corpac, by and through the CVS Partnership, is also falsely representing that it is the inventor of Plaintiff Cortec’s VpCI® film. Defendant Corpac’s website claims “That is why we invented the Corpalin® COEX (coextruded) film. . .”



47. Plaintiff Cortec has serious and legitimate concerns Defendant Corpac, by and through the CVS Partnership, is selling product manufactured utilizing inferior materials sourced from South Korea utilizing Plaintiff’s “Cortec” and “VpCI” valuable federally registered and incontestable trademarks. This would result in inferior products falsely and misleadingly bearing Plaintiff’s valuable name and trademarks.

48. Unauthorized products sold by Defendant Corpac, by and through the CVS Partnership, have been imported into the United States. Without limitation, unauthorized Cortec VpCI® film and Cortec CorrLam® LD VpCI® Barrier Laminate have been imported into the United States in violation of Plaintiff Cortec’s U.S. Patent and Trademark rights.

49. Plaintiff Cortec has repeatedly notified Defendant Corpac of its violations of the Agreement, including the recently discovered breaches by and through the CVS Partnership, and has requested information to address and alleviate Plaintiff Cortec’s

concerns. Defendant Corpac has failed to cease the complained of conduct, has failed to respond accordingly, and/or has failed to provide the requested information (including information required to be provided and disclosed pursuant to the Agreement).

**COUNT I**  
**INDIRECT PATENT INFRINGEMENT**  
**Inducement to Infringe**  
**35 U.S.C. §271(b)**

50. Plaintiff incorporates the preceding paragraphs as though fully set forth herein.

51. This count is based on indirect patent infringement and arises under the patent laws of the United States.

52. Defendants have been and are inducing infringement of the Patent by actively and knowingly inducing others to import into and use in the United States products covered by the inventions claimed in Plaintiff Cortec's '070 and '470 Patents. Specifically, Defendants have knowingly and intentionally sold unauthorized Cortec VpCI® film with full knowledge (i) of Cortec's '070 and '470 Patents, including what is claimed by those patents; (ii) that such film was covered by the claims in Cortec's '070 and '470 Patents; and (iii) such film would be applied to products outside the United States for import into and use in the United States.

53. The unauthorized Cortec VpCI® film sold by Defendants and covered by Cortec's '070 and '470 Patents has in fact been imported into and used in the United States.

54. Defendants have actual notice of Plaintiff's patent rights and have continued to engage in their inducing acts. Accordingly, Defendants' infringement is willful and this case is exceptional under 35 U.S.C. §285.

55. Plaintiff has been and continues to be damaged by the acts of Defendants in an amount that has not yet been determined, but will be determined upon access to Defendants' records during the discovery phase of this litigation.

**COUNT II**  
**INDIRECT OR CONTRIBUTORY UNFAIR COMPETITION OR PASSING OFF**

56. Plaintiff incorporates the preceding paragraphs as though fully set forth herein.

57. Defendants have been and are actively and knowingly contributing to infringement by others to import into and use in the United States unauthorized products bearing Plaintiff Cortec's identical "Cortec" and "VpCI" marks. Specifically, Defendants have sold unauthorized Cortec VpCI® film bearing Plaintiff's "Cortec" and "VpCI" marks with full knowledge such film would be applied to products for import into and use in the United States bearing Plaintiff's "Cortec" and "VpCI" marks.

58. Defendants have sold unauthorized Cortec VpCI® film bearing Plaintiff's "Cortec" and "VpCI" marks for import into and use in the United States with the intent to deceive the public, including relevant U.S. consumers, that such film was approved by, sponsored by, or affiliated with Plaintiff.

59. The unauthorized Cortec VpCI® film sold by Defendants has in fact been imported into and used in the United States bearing Plaintiff's "Cortec" and "VpCI" marks.

60. Defendants' acts as alleged herein were committed with the intent to pass off and palm off Defendants' unauthorized goods and/or services as authorized goods and/or services of Plaintiff, and with the intent to deceive and defraud the public.

61. Defendants' acts constitute unfair competition and passing off, and have caused Plaintiff damages, including, without limitation, lost profits, harm to reputation, and costs to remediate the confusion and harm to goodwill and reputation caused by Defendants.

62. Plaintiff is without an adequate remedy at law for the ongoing harm and irreparable injury to its goodwill and reputation.

63. Defendants' acts constitute violations of 15 U.S.C. §1125 and of the common law.

64. Plaintiff seeks judgment pursuant to, without limitation, 15 U.S.C. § 1117 for Defendants' profits made by its unfair competition and passing off of Defendants' unauthorized goods and services, for the damages sustained by Plaintiff, for all costs necessary to remediate the unfair competition and passing off and their effects, and for the costs, expenses and reasonable attorneys' fees incurred in bringing the present action.

65. Plaintiff further seeks judgment for three times the amount of Defendants' profits or Plaintiff's damages, whichever is greater, due to the willful and exceptional nature of Defendants' conduct.



**COUNT III  
INDIRECT OR CONTRIBUTORY FALSE DESIGNATION OF ORIGIN**

66. Plaintiff incorporates the preceding paragraphs as though fully set forth herein.

67. Defendants have been and are actively and knowingly inducing others to import into and use in the United States unauthorized products bearing Plaintiff Cortec's federally registered "Cortec" and "VpCI" marks. Specifically, Defendants have sold unauthorized Cortec VpCI® film bearing Plaintiff's federally registered "Cortec" and "VpCI" marks with full knowledge such film would be applied to products for import into and use in the United States bearing Plaintiff's federally registered "Cortec" and "VpCI" marks.

68. Defendants have sold unauthorized Cortec VpCI® film bearing Plaintiff's federally registered "Cortec" and "VpCI" marks for import into and use in the United States bearing such marks with the intent to deceive the public, including relevant U.S. consumers, that such film was approved by, sponsored by, or affiliated with Plaintiff.

69. The unauthorized Cortec VpCI® film sold by Defendants has in fact been imported into and used in the United States bearing Plaintiff's "Cortec" and "VpCI" marks.

70. Defendants have intentionally caused the importation and use of unauthorized goods through interstate commerce with Plaintiff Cortec's federally registered trademarks connected therewith.

71. The differences between genuine and authorized Plaintiff Cortec products, and the unauthorized products sold by Defendants for importation into and use in the

United States are material, including, without limitation, the available warranty coverage on such products.

72. Defendants' use of said designation and representation on such unauthorized products imported and used in the United States constitutes a false designation of origin which is likely to cause confusion, to cause mistake and to deceive as to the affiliation, connection or association with Plaintiff and as to the origin, sponsorship or approval of the unauthorized goods and/or services by Plaintiff.

73. Defendants' acts are in violation of 15 U.S.C. §1125 in that Defendants have used, caused to be used, or contributed to the use in connection with unauthorized goods and/or services a false designation of origin, or a false or misleading description and representation of fact, which is likely to cause confusion, and to cause mistake and to deceive as to the affiliation, connection or association with Plaintiff and as to the origin, sponsorship, and approval of the unauthorized goods, services, and commercial activities by Plaintiff.

74. Plaintiff seeks judgment pursuant to, without limitation, 15 U.S.C. § 1117 for Defendants' profits made by such acts and false designation of origin, for the damages sustained by Plaintiff, for all costs necessary to remediate the false designation of origin and their effects, and for the costs, expenses and reasonable attorneys' fees incurred in bringing the present action.

75. Plaintiff further seeks judgment for three times the amount of Defendants' profits or Plaintiff's damages, whichever is greater, due to the willful and exceptional nature of Defendants' conduct.

76. Plaintiff is without an adequate remedy at law for the ongoing harm and irreparable injury to its goodwill and reputation.

**COUNT IV  
INDIRECT OR CONTRIBUTORY TRADEMARK INFRINGEMENT AND  
COUNTERFEITING**

77. Plaintiff incorporate the preceding paragraphs as though fully set forth herein.

78. Defendants' acts constitute indirect or contributory trademark infringement in violation of the Lanham Act, including, without limitation, 15 U.S.C. § 1114 applicable to counterfeit marks.

79. Plaintiff seeks judgment pursuant to, without limitation, 15 U.S.C. § 1117 for Defendants' profits made by its trademark and/or trade name infringement, for the damages sustained by Plaintiff, for all costs necessary to remediate the trademark and/or trade name infringement and their effects, and for the costs, expenses and reasonable attorneys' fees incurred in bringing the present action.

80. Plaintiff further seeks judgment for three times the amount of Defendants' profits or Plaintiff's damages, whichever is greater, due to the willful and exceptional nature of Defendants' conduct.

81. Plaintiff is without an adequate remedy at law for the ongoing harm and irreparable injury to its goodwill and reputation.

**COUNT V**  
**MINNESOTA UNIFORM DECEPTIVE TRADE PRACTICES ACT**

82. Plaintiff incorporate the preceding paragraphs as though fully set forth herein.

83. Defendants have used, caused to be used, or contributed to the use in connection with unauthorized goods and/or services a false designation of origin, or a false or misleading description and representation of fact, which is likely to cause confusion, and to cause mistake and to deceive as to the affiliation, connection or association with Plaintiff and as to the origin, sponsorship, and approval of the unauthorized goods, services, and commercial activities by Plaintiff. Defendants acts have included the sale of unauthorized Cortec VpCI® film with the knowledge and intent such unauthorized product would be imported into and used in the United States bearing Cortec’s “Cortec” and “VpCI” name/trademarks as alleged herein.

84. The differences between genuine and authorized Plaintiff Cortec products, and the unauthorized products sold by Defendants for importation into and use in the United States are material, including, without limitation, the available warranty coverage on such products.

85. Defendants have also falsely claimed to be the “inventor” of Plaintiff Cortec’s patented VpCI® film as alleged herein. Such acts are likely to cause confusion or mistake, and to deceive as to the origin, sponsorship and approval of Defendants’ goods and/or services.

86. Defendants' false representations and designation of origin, sponsorship and approval constitute a violation of Minn. Stat. § 325D.44, as a result of which Plaintiff seeks injunctive relief plus costs and attorneys' fees pursuant to, without limitation, Minn. Stat. §§ 8.31 and 325D.45.

**COUNT VI  
UNJUST ENRICHMENT**

87. Plaintiff incorporates the preceding paragraphs as though fully set forth herein.

88. Defendants have made a profit and continue to derive pecuniary gain through their unauthorized use of Plaintiffs' intellectual property as alleged herein.

89. Defendants have been, and continue to be, unjustly enriched as a result of their unauthorized use of Plaintiff's intellectual property as alleged herein.

90. Plaintiff has sustained injury, loss and damages in excess of \$75,000 as a result of Defendants' actions.

**COUNT VII  
BREACH OF CONTRACT**

91. Plaintiff incorporates the preceding paragraphs as though fully set forth herein.

92. Defendant Corpac has directly or indirectly sold, and continues to sell, products outside the limited territory provided for in the Agreement in violation thereof as alleged herein.

93. Defendant Corpac has directly or indirectly sold products in direct competition with Plaintiff in violation of the Agreement as alleged herein.

94. Defendant Corpac has directly or indirectly failed to comply with the Agreements applicable trademark, labeling and packaging requirements, including, without limitation, Plaintiff's applicable "Quality Control Standards" in violation of the Agreement as alleged herein.

95. Defendant Corpac has failed to remedy such violations and failed to comply with Plaintiff's reasonable requests for Defendant Corpac to comply with the Agreement, including, without limitation, the applicable trademark, labeling and packaging requests.

96. Such actions constitute breaches of the above-referenced and cited sections and provisions of the Agreement.

97. Plaintiff has sustained injury, loss, and damages as a result of Defendant Corpac multiple breaches of the Agreement and is entitled to an award of damages in an amount to be determined at trial.

### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays for the following relief:

(a) That this Court issue an injunction enjoining and restraining Defendants, and their affiliates, agents, servants, and employees, including, without limitation, the CVS Partnership, from directly or indirectly importing into the United States any unauthorized product covered by Plaintiff's patents or bearing the "Cortec" and/or "VpCI" marks, or any mark or name similar to Plaintiff's trademarks.

(b) That Defendants be required to account to Plaintiff for any and all profits derived by Defendants from the sale and importation of any and all unauthorized goods, and for all damages sustained by Plaintiff by reason of said acts complained of herein.

(c) That this Court award Plaintiff treble the amount of damages.

(d) That this Court award the maximum statutory damages available under the law to the extent Plaintiff elects statutory damages for any claim for relief;

(e) That this Court award Plaintiff its attorneys' fees, costs and expenses incurred in this action.

(f) That the Court grant Plaintiff such other and further relief as this Court may deem just and proper.

**JURY DEMAND**

Plaintiff demands a trial by jury on all issues so triable.

Dated: February 22, 2022

**TAFT STETTINIUS & HOLLISTER LLP**

By: /s/Michael M. Lafeber  
Michael M. Lafeber (#0242871)  
Gregory Stenmoe (#0131155)  
O. Joseph Balthazor (#0399093)  
2200 IDS Center  
80 South Eighth Street  
Minneapolis, MN 55402  
Telephone: (612) 977-8400  
Facsimile: (612) 977-8650

***ATTORNEYS FOR PLAINTIFF CORTEC  
CORPORATION***