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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

SOLOFILL LLC,

Plaintiff,

§ Case No. 2:22-cv-632
§
§

v.

§ **SOLOFILL’S COMPLAINT FOR**
§ **PATENT INFRINGEMENT**

LAURA J. SOMMERS and
JOHN F. KRUGER, JR.,

§
§
§

Defendants.

§ JURY DEMAND

Plaintiff Solofill LLC alleges the following causes of action against Defendants.

I. PARTIES

1. Plaintiff Solofill LLC (“Solofill”) is a Texas limited liability company having a principal place of business at 3790 Westchase Dr., Houston, Texas 77042.
2. Defendant Laura J. Sommers is an individual residing at 4045 116th Ave SE, Olympia, WA 98501.
3. Defendant John F. Kruger, Jr. is an individual residing at 8636 NE 21st Place, Clyde Hill, WA 98004.

II. JURISDICTION AND VENUE

4. Solofill’s claims for patent infringement arise under the patent laws of the United

1 States, including 35 U.S.C. §§ 271 and 281. The Court has original and exclusive subject matter
2 jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3 5. Laura J. Sommers resides in Washington state and in this judicial district. John F.
4 Kruger, Jr. resides in Washington state and in this judicial district. On and after September 11,
5 2018, Laura J. Sommers directed one or more of the business entities that she owned and governed
6 to make, sell, and offer for sale reusable filters branded as ekobrew, Brew & Save, and Brew Your
7 Way in King County, Washington. On and after August 6, 2020, John F. Kruger, Jr. directed a
8 business entity that he governed to make, sell, and offer for sale reusable filters branded as
9 ekobrew, Brew & Save, and Brew Your Way in King County, Washington. Laura J. Sommers has
10 used a reusable filter branded as ekobrew, Brew & Save, or Brew Your Way in King County,
11 Washington and in this judicial district after September 11, 2018. John F. Kruger, Jr. has used a
12 reusable filter branded as ekobrew, Brew & Save, or Brew Your Way in King County, Washington
13 and in this judicial district after August 6, 2020. Solofill contends that those acts and others are
14 acts of patent infringement in King County, Washington and in this judicial district. Venue and
15 personal jurisdiction are proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400(b).
16 Intradistrict assignment of this case is proper in the Seattle Division because a substantial part of
17 the events or omissions that give rise to plaintiff's claims occurred in defendants' business offices
18 and manufacturing facility located in Woodinville, in King County, Washington.

19 **III. OWNERSHIP OF PATENTS**

20 6. On September 11, 2018 the United States Patent and Trademark Office duly and
21 legally issued U.S. Patent No. 10,071,851 (hereinafter the "Side Wall Filter Patent 851") to Robert
22 Vu, the sole inventor of the patent. The Side Wall Filter Patent 851 is in full force and effect and
23 has not lapsed due to failure to pay maintenance fees. A copy of the Side Wall Filter Patent 851
24 is attached as Exhibit 1.

25 7. On April 9, 2019 the United States Patent and Trademark Office duly and legally
26 issued U.S. Patent No. 10,252,854 (hereinafter the "Nozzle Patent 854") to Robert Vu, the sole

1 inventor of the patent. The Nozzle Patent 854 is in full force and effect and has not lapsed due to
2 failure to pay maintenance fees. A copy of the Nozzle Patent 854 is attached as Exhibit 2.

3 8. Solofill is the owner by assignment of the entire right, title, and interest to the Side
4 Wall Filter Patent 851 and to the Nozzle Patent 854. Solofill has all rights to recover damages for
5 all past infringement of the Side Wall Filter Patent 851 and the Nozzle Patent 854.

6 **IV. DEFENDANTS' BUSINESSES**

7 9. Espresso Supply, Inc. ("Espresso Supply") is a Washington corporation. Its last
8 principal office street address was 6029 238th St. SE, Suite 130, Woodinville, WA, 98072-8682.
9 On information and belief, Laura J. Sommers has owned a majority interest in Espresso Supply
10 from its formation on September 29, 1995 until now. On or before March 25, 2022, Espresso
11 Supply became unable to pay its debts as they became due. On March 25, 2022 Laura J. Sommers
12 executed an assignment of all of the assets of Espresso Supply to TurningPointe, LLC
13 ("TurningPointe") as a general receiver for the benefit of creditors pursuant to Revised Code of
14 Washington (RCW) 7.08 and 7.60 *et seq.* A petition to appoint TurningPointe as a general receiver
15 for the assets of Espresso Supply pursuant to RCW 7.08 and 7.60 was filed with the King County
16 Superior Court Clerk on March 31, 2022. The Case number for the receivership proceeding is 22-
17 2-04598-1 SEA. The King County Superior Court approved the petition and appointed
18 TurningPointe as a general receiver for the assets of Espresso Supply. Espresso Supply's debts
19 are much greater than its assets. Espresso Supply is no longer a viable business entity.
20 TurningPointe is in the process of winding up Espresso Supply. The business of Espresso Supply
21 will cease after TurningPointe completes the winding up.

22 10. Espresso Supply provided business information to the Washington Secretary of
23 State that names Laura J. Sommers as one of its two active governors. Espresso Supply provided
24 business information to the Washington Secretary of State naming John F. Kruger, Jr. as one of its
25 two active governors. Laura J. Sommers has been a governor of Espresso Supply from before
26 August 30, 2018 to the present. John F. Kruger, Jr. has been a governor of Espresso Supply from

1 August 6, 2020 to the present. Laura J. Sommers has controlled all of the conduct of Espresso
2 Supply complained of herein. Laura J. Sommers is a decision maker having joint and several
3 liability with Espresso Supply for all of the acts of patent infringement complained of herein. John
4 F. Kruger, Jr. has controlled all of the conduct of Espresso Supply complained of herein on and
5 after August 6, 2020. John F. Kruger, Jr. is a decision maker having joint and several liability with
6 Espresso Supply for all of the acts of patent infringement complained of herein occurring on and
7 after August 6, 2020.

8 11. Eko Brands, LLC (“Eko Brands”) is a Washington limited liability corporation. Its
9 last principal office street address was 6029 238th St. SE, Suite 130, Woodinville, WA, 98072-
10 8682. Espresso Supply has owned 100% of Eko Brands since October 31, 2015. On or before
11 March 25, 2022, Eko Brands became unable to pay its debts as they became due. On March 25,
12 2022 Laura J. Sommers executed an assignment of all of the assets of Eko Brands to TurningPointe
13 as a general receiver for the benefit of creditors pursuant to RCW 7.08 and 7.60 *et seq.* A petition
14 to appoint TurningPointe as a general receiver for the assets of Eko Brands pursuant to RCW 7.08
15 and 7.60 was filed with the King County Superior Court Clerk on March 31, 2022. The Case
16 number for the receivership proceeding is 22-2-04598-1 SEA. The King County Superior Court
17 approved the petition and appointed TurningPointe as a general receiver for the assets of Eko
18 Brands. Eko Brands’ debts are much greater than its assets. Eko Brands is no longer a viable
19 business entity. TurningPointe is in the process of winding up Eko Brands. The business of Eko
20 Brands will cease after TurningPointe completes the winding up.

21 12. Eko Brands provided business information to the Washington Secretary of State
22 naming John F. Kruger, Jr. as its sole active governor. John F. Kruger, Jr. has been a governor of
23 Eko Brands from March 4, 2021 to the present. Laura J. Sommers was a governor of Eko Brands
24 from before March 12, 2018 until March 4, 2021. Laura J. Sommers has controlled all of the
25 conduct of Eko Brands complained of herein. Laura J. Sommers is a decision maker having joint
26 and several liability with Eko Brands for all of the acts of patent infringement complained of

1 herein. John F. Kruger, Jr. has controlled all of the conduct of Eko Brands complained of herein
2 after August 6, 2020. John F. Kruger, Jr. is a decision maker having joint and several liability with
3 Eko Brands for all of the acts of patent infringement complained of herein occurring after
4 August 6, 2020.

5 13. Espresso Supply and Eko Brands shared employees and operations. Espresso
6 Supply and Eko Brands were run as a single business with combined financials and accounting.
7 On and after September 11, 2018, Laura J. Sommers controlled and directed the business of
8 Espresso Supply and Eko Brands. On and after September 11, 2018, Laura J. Sommers has run
9 Espresso Supply and Eko Brands as a single business. On and after August 6, 2020, John F.
10 Kruger, Jr. controlled and directed the business of Espresso Supply and Eko Brands. On and after
11 August 6, 2020, John F. Kruger, Jr. has run Espresso Supply and Eko Brands as a single business.

12 14. On and after September 11, 2018, the business of Espresso Supply and Eko Brands
13 (the “business”) included the manufacture, use, sale, and offer for sale in the United States of
14 reusable filters for use with Keurig® brand coffee brewing machines. Reusable filters were made,
15 used, sold, and offered for sale in the United States through the business on and after September
16 11, 2018 under the trademarks “ekobrew,” “Brew & Save,” and “Brew Your Way.” The reusable
17 filters made, used, sold, and offered for sale in the United States on and after September 11, 2018
18 under the ekobrew, Brew & Save, and Brew Your Way trademarks all have the same features,
19 shape, dimensions, design, and function.

20 **V. FIRST CLAIM: INFRINGEMENT OF SIDE WALL FILTER PATENT 851**

21 15. The ekobrew “Classic Series” reusable filter is compatible with Keurig® brand
22 single serve coffee brewers. Laura J. Sommers and John F. Kruger, Jr. controlled and directed
23 their business to make, use, sell, and offer for sale the ekobrew Classic Series reusable filter in the
24 United States on and after September 11, 2018 and continuing through March 25, 2022. Laura J.
25 Sommers and John F. Kruger, Jr. controlled and directed their business to make, use, sell, and offer
26 for sale reusable filters branded as “Brew & Save” and “Brew Your Way” in the United States on

1 and after September 11, 2018 and continuing through March 25, 2022.

2 16. A true and correct representation of the ekobrew Classic Series reusable filter is set
 3 forth below on the left. Eko Brands owns U.S. Patent No. 8,707,855 (the 855 patent). Laura J.
 4 Sommers contends that the 855 patent describes and covers the ekobrew reusable filter. John F.
 5 Kruger, Jr. contends that the 855 patent describes and covers the ekobrew reusable filter. A true
 6 and correct representation of Fig. 3 of the 855 patent is set forth below on the right. Reference
 7 numbers from Fig. 3 of the 855 patent are used below.

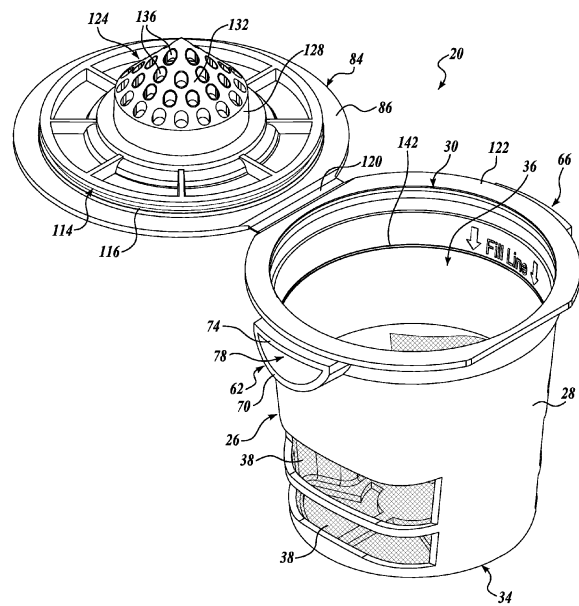


Fig. 3.

17. Claim 1 of Solofill’s Side Wall Filter Patent 851 requires “[a] reusable cartridge
 25 configured for being enclosed in a brewing machine, said brewing machine having a discharge
 26 needle and liquid injector.” The ekobrew Classic Series reusable filter is a reusable cartridge, and

1 it is configured for being enclosed in a brewing machine, specifically a Keurig brand brewing
2 machine which has a discharge needle and a liquid injector.

3 18. Claim 1 of Solofill's Side Wall Filter Patent 851 further requires "a housing having
4 a liquid impermeable frame defining a bottom and a side wall extending upward from the bottom."
5 The ekobrew Classic Series has a cylindrical body 26 for housing a liquid impermeable frame
6 defining a bottom end 34 and a sidewall 28 extending upward from the bottom end 34.

7 19. Claim 1 of Solofill's Side Wall Filter Patent 851 further requires "at least one
8 opening defined in said side wall, with a filter material spanning said opening to form a liquid exit
9 out of the side wall." The ekobrew Classic Series has openings in sidewall 28 and a filter 38
10 disposed within the openings that allows a brewed beverage, *e.g.*, liquid coffee, to pass through
11 and exit out of the side wall through filter 38.

12 20. Claim 1 of Solofill's Side Wall Filter Patent 851 further requires "said liquid
13 impermeable frame and said filter material defining a material holding space having an entrance
14 thereto." The liquid impermeable frame and filter material of the ekobrew Classic Series discussed
15 above define a brew chamber 36, a space sized and shaped to receive and hold a dry beverage
16 medium, such as coffee grounds, *i.e.*, a material. The ekobrew Classic Series has an open top end
17 30 that is an entrance to the material holding space where the brew chamber 36 may be filled with
18 coffee grounds.

19 21. Claim 1 of Solofill's Side Wall Filter Patent 851 further requires "said housing
20 further defining a discharge needle space configured to receive the discharge needle without the
21 discharge needle piercing the reusable cartridge when the reusable cartridge is enclosed in the
22 brewing machine." The ekobrew Classic Series has receptacles (54 and 58 in the 855 patent Fig.
23 2) on the bottom surface that isolate the outlet probe, *i.e.*, discharge needle, from the brew chamber
24 36 to prevent the discharge needle from piercing the reusable cartridge when it is enclosed in the
25 brewing machine.

26 22. Claim 1 of Solofill's Side Wall Filter Patent 851 further requires "a lid operable to

1 seal the entrance is hingely affixed to the housing, said lid operable in an open position to allow
2 access through the entrance to the material holding space.” The ekobrew Classic Series has a lid
3 84 that is sized and configured on an interior side to seat within the top opening of cylindrical body
4 26 to sealingly enclose the entrance at top end 30 of brew chamber 36. A seal 116 defines a
5 watertight seal between the annular protrusion 114 and the cylindrical body 26. The lid 84 is
6 hingedly secured to the cylindrical body 26 by a flexible hinge 120 such that lid 84 may be moved
7 between open and closed positions. In an open position, lid 84 allows access to the material holding
8 space in brew chamber 36 through the entrance at open top end 30.

9 23. Claim 1 of Solofill’s Side Wall Filter Patent 851 further requires “said lid defining
10 a liquid entry port into the material holding space, said liquid entry port comprising a port nozzle
11 extending into said material holding space.” The ekobrew Classic Series has a lid 84 with a
12 dispersion cone opening, *i.e.*, liquid entry port, defined in substantially the center of the lid 84 for
13 entry of water, a liquid, into the material holding space of brew chamber 36. When lid 84 is closed,
14 a dispersion cone 124, *i.e.*, a port nozzle, extends downwardly at least partially into the material
15 holding space of brew chamber 36.

16 24. Claim 1 of Solofill’s Side Wall Filter Patent 851 further requires “said liquid entry
17 port receiving the liquid injector with at least a portion of the liquid injector extending into said
18 port nozzle when said reusable cartridge is enclosed in the brewing machine.” The liquid entry
19 port of the ekobrew Classic Series receives an inlet probe, *i.e.*, a liquid injector, and at least a
20 portion of the inlet probe extends into the dispersion cone 124. A beverage brewing machine
21 dispenses heated water through the inlet probe which passes through the dispersion cone opening
22 and into dispersion cone 124 when the ekobrew cartridge is enclosed in a brewing machine.

23 25. Claim 1 of Solofill’s Side Wall Filter Patent 851 further requires “said port nozzle
24 having liquid outlet orifices distributed on a periphery of a sidewall of said port nozzle with said
25 liquid outlet orifices residing within the material holding space.” The dispersion cone 124 of the
26 ekobrew Classic Series has openings 136, *i.e.*, orifices, that permit the flow of water, a liquid,

1 through openings 136 and out into the brew chamber 36. The openings 136 are distributed on a
2 periphery of the sidewall of dispersion cone 124, and the dispersion cone 124 positions the
3 openings 136 within the brew chamber 36, *i.e.*, the material holding space.

4 26. Claim 1 of Solofill’s Side Wall Filter Patent 851 further requires “said liquid outlet
5 orifices injecting liquid from the liquid injector in a plurality of directions about the periphery of
6 the sidewall of the port nozzle during a brewing cycle.” The dispersion cone 124 of the ekobrew
7 Classic Series receives water released from the inlet probe of a brewing machine, *i.e.*, a liquid
8 injector, and positions the openings 136 within the brew chamber 36 in an even, distributed manner
9 to help direct water, a liquid, in a substantially even, uniform manner throughout the coffee in
10 brew chamber 36.

11 27. The ekobrew Classic Series reusable filter contains each limitation of claim 1 of
12 Solofill’s Side Wall Filter Patent 851. Laura J. Sommers and John F. Kruger, Jr., by directing and
13 controlling their business to make, use, sell, and offer for sale in the United States the ekobrew
14 Classic Series reusable filter, or the identical Brew & Save or Brew Your Way reusable filters, in
15 the United States on and after September 11, 2018, literally and directly infringed claim 1 of
16 Solofill’s Side Wall Filter Patent 851 under 35 U.S.C. § 271(a). Laura J. Sommers’s use of an
17 ekobrew Classic Series reusable filter, or the identical Brew & Save or Brew Your Way reusable
18 filter in the United States on and after September 11, 2018 literally and directly infringed claim 1
19 of Solofill’s Side Wall Filter Patent 851 under 35 U.S.C. § 271(a). John F. Kruger, Jr.’s use of an
20 ekobrew Classic Series reusable filter, or the identical Brew & Save or Brew Your Way reusable
21 filters, in the United States on and after August 6, 2020 literally and directly infringed claim 1 of
22 Solofill’s Side Wall Filter Patent 851 under 35 U.S.C. § 271(a).

23 28. Claim 2 of Solofill’s Side Wall Filter Patent 851 has the same limitations as claim
24 1 and in addition requires a reusable cartridge having a fill line and a port nozzle extending into
25 the material holding space past the fill line. The ekobrew Classic Series has a fill line 142 and is
26 designed so that coffee grounds will be tamped by the dispersion cone 124 when the lid 84 is

1 closed. The coffee grounds being tamped are below the fill line 142, so the dispersion cone 124,
2 *i.e.*, the port nozzle, extends into brew chamber 36, *i.e.*, the material holding space, when lid 84 is
3 closed.

4 29. The ekobrew Classic Series reusable filter contains each limitation of claim 2 of
5 Solofill's Side Wall Filter Patent 851. Laura J. Sommers and John F. Kruger, Jr., by directing and
6 controlling their business to make, use, sell, and offer for sale in the United States the ekobrew
7 Classic Series reusable filter, literally and directly infringed claim 2 of Solofill's Side Wall Filter
8 Patent 851 under 35 U.S.C. § 271(a). Laura J. Sommers's use of an ekobrew Classic Series
9 reusable filter, or the identical Brew & Save or Brew Your Way reusable filter in the United States
10 on and after September 11, 2018 literally and directly infringed claim 2 of Solofill's Side Wall
11 Filter Patent 851 under 35 U.S.C. § 271(a). John F. Kruger, Jr.'s use of an ekobrew Classic Series
12 reusable filter, or the identical Brew & Save or Brew Your Way reusable filters, in the United
13 States on and after August 6, 2020 literally and directly infringed claim 2 of Solofill's Side Wall
14 Filter Patent 851 under 35 U.S.C. § 271(a).

15 30. Before April 8, 2019, Laura J. Sommers was aware of Solofill's Side Wall Filter
16 Patent 851. On April 8, 2019, Laura J. Sommers met with Robert Vu, the inventor of Solofill's
17 Side Wall Filter Patent 851, in Houston, Texas. At that meeting, Laura J. Sommers acknowledged
18 that the ekobrew Classic Series reusable filter infringed Solofill's Side Wall Filter Patent 851. On
19 and after April 8, 2019, Laura J. Sommers actively induced her business to make, use, sell, and
20 offer for sale the ekobrew Classic Series reusable filter in the United States. Laura J. Sommers is
21 liable as an infringer of claims 1 and 2 of Solofill's Side Wall Filter Patent 851 under 35 U.S.C. §
22 271(b).

23 31. On or before August 6, 2020, John F. Kruger, Jr. was aware of Solofill's Side Wall
24 Filter Patent 851 and aware that the ekobrew Classic Series reusable filter infringed that patent.
25 On or before August 6, 2020 and continuing through March 25, 2022, John F. Kruger, Jr. actively
26 induced his business to make, use, sell, and offer for sale the ekobrew Classic Series reusable filter

1 in the United States. John F. Kruger, Jr. is liable as an infringer of claims 1 and 2 of Solofill's
2 Side Wall Filter Patent 851 under 35 U.S.C. § 271(b).

3 32. Because the Brew & Save branded and Brew Your Way branded reusable filters
4 are the same as the ekobrew Classic Series reusable filter, Laura J. Sommers and John F. Kruger,
5 Jr. are liable as infringers of Solofill's Side Wall Filter Patent 851 for the manufacture, use, offer
6 for sale and sale of Brew & Save branded reusable filters and Brew Your Way branded reusable
7 filters under 35 U.S.C. §§ 271(a) and 271(b).

8 33. Solofill has sold and continues to sell its own K cups that are covered by and
9 protected by the Side Wall Filter Patent 851. Solofill has consistently marked its K cups with the
10 Side Wall Filter Patent 851 number in accordance with 35 U.S.C. § 287(a).

11 34. Solofill has not granted any license under Solofill's Side Wall Filter Patent 851 or
12 other authority from Solofill to Laura J. Sommers, to John F. Kruger, Jr., or to their Espresso
13 Supply/Eko Brands' business, to make, use, offer for sale, or sell the ekobrew Classic Series
14 reusable filters, the Brew & Save branded reusable filters or the Brew Your Way branded reusable
15 filters.

16 35. Laura J. Sommers's and John F. Kruger, Jr.'s infringement of Solofill's Side Wall
17 Filter Patent 851 has caused monetary damages to Solofill. Laura J. Sommers, through her
18 business, has asserted in court that a reasonable royalty for patent infringement under these
19 circumstances is \$1.46 per unit. One measure of Solofill's damages is \$1.46 multiplied by the
20 number of ekobrew Classic Series, Brew & Save, and Brew Your Way branded reusable filters
21 that were made, used, sold, or offered for sale in the United States on and after September 11,
22 2018. On information and belief, Laura J. Sommers's and John F. Kruger, Jr.'s business has made,
23 offered for sale and sold in the United States after September 11, 2018 more than 7 million units
24 of ekobrew, Brew & Save and Brew Your Way branded reusable filters. Solofill's monetary
25 damages for the infringement by Laura J. Sommers and John F. Kruger, Jr. exceed ten million
26 dollars (\$10,000,000.00). The actual number of reusable filters made, used, sold, and offered for

1 sale in the United States during the infringement period and the amount of actual damages, which
2 may be greater than ten million dollars, will be established at trial.

3 36. Laura J. Sommers's and John F. Kruger, Jr.'s infringement of Solofill's Side Wall
4 Filter Patent 851 has caused and will continue to cause irreparable harm to Solofill for which there
5 is no adequate remedy at law.

6 37. Laura J. Sommers's and John F. Kruger, Jr.'s infringement was carried out with
7 full knowledge of Solofill's Side Wall Filter Patent 851 and knowledge that their actions infringed.
8 Laura J. Sommers's and John F. Kruger, Jr.'s infringement of Solofill's Side Wall Filter Patent
9 851 was and is willful infringement.

10 **VI. SECOND CLAIM: INFRINGEMENT OF THE NOZZLE PATENT 854**

11 38. The ekobrew "Classic Series" reusable filter is compatible with Keurig® brand
12 single serve coffee brewers. Laura J. Sommers and John F. Kruger, Jr. controlled and directed
13 their business to make, use, sell, and offer for sale the ekobrew Classic Series reusable filter in the
14 United States on and after April 9, 2019 and continuing through March 25, 2022. Laura J.
15 Sommers and John F. Kruger, Jr. controlled and directed their business to make, use, sell, and offer
16 for sale reusable filters branded as "Brew & Save" and "Brew Your Way" in the United States on
17 and after April 9, 2019 and continuing through March 25, 2022.

18 39. Claim 1 of Solofill's Nozzle Patent 854 requires "[a] reusable cartridge configured
19 for being enclosed in a brewing machine, said brewing machine having a discharge needle and a
20 liquid injector, said reusable cartridge comprising." The ekobrew Classic Series reusable filter is
21 a reusable cartridge, and it is configured for being enclosed in a brewing machine, specifically a
22 Keurig brewing machine which has a discharge needle and a liquid injector.

23 40. Claim 1 of Solofill's Nozzle Patent 854 further requires "a housing having a liquid
24 impermeable frame defining at least one opening, with a filter material spanning said opening to
25 form a liquid exit." The ekobrew Classic Series reusable filter has a cylindrical body 26 with a
26 sidewall 28 that is a liquid impermeable frame. The ekobrew Classic Series has openings in

1 sidewall 28 and a filter 38 disposed within the openings that allows a brewed beverage, *e.g.*, liquid
2 coffee, to pass through and exit out of the side wall through filter 38.

3 41. Claim 1 of Solofill's Nozzle Patent 854 further requires "said liquid impermeable
4 frame and said filter material defining a material holding space having an entrance thereto." The
5 liquid impermeable frame and filter material of the ekobrew Classic Series discussed above define
6 a brew chamber 36, a space sized and shaped to receive and hold a dry beverage medium, such as
7 coffee grounds, *i.e.*, a material. The ekobrew Classic Series has an open top end 30 that is an
8 entrance to the material holding space where the brew chamber 36 may be filled with coffee
9 grounds.

10 42. Claim 1 of Solofill's Nozzle Patent 854 further requires "said housing further
11 defining a discharge needle space configured to receive the discharge needle without the discharge
12 needle piercing the reusable cartridge when the reusable cartridge is enclosed in the brewing
13 machine." The ekobrew Classic Series has receptacles (54 and 58 in the 855 patent Fig. 2) on the
14 bottom surface that isolate the outlet probe, *i.e.*, discharge needle, from the brew chamber 36 to
15 prevent the discharge needle from piercing the reusable cartridge when it is enclosed in the brewing
16 machine.

17 43. Claim 1 of Solofill's Nozzle Patent 854 further requires "a lid operable to seal the
18 entrance is hingely attached to the housing, said lid operable in an open position to allow access
19 through the entrance to the material holding space." The ekobrew Classic Series has a lid 84 that
20 is sized and configured on an interior side to seat within the top opening of cylindrical body 26 to
21 sealingly enclose the entrance at top end 30 of brew chamber 36. A seal 116 defines a watertight
22 seal between the annular protrusion 114 and the cylindrical body 26. The lid 84 is hingedly secured
23 to the cylindrical body 26 by a flexible hinge 120 such that lid 84 may be moved between open
24 and closed positions. In an open position, lid 84 allows access to the material holding space in
25 brew chamber 36 through the entrance at open top end 30.

26 44. Claim 1 of Solofill's Nozzle Patent 854 further requires "said lid defining a liquid

1 entry port into the material holding space, said liquid entry port comprising a port nozzle extending
2 into said material holding space.” The ekobrew Classic Series has a lid 84 with a dispersion cone
3 opening, *i.e.*, liquid entry port, defined in substantially the center of the lid 84 for entry of water,
4 a liquid, into the material holding space of brew chamber 36. When lid 84 is closed, a dispersion
5 cone 124, *i.e.*, a port nozzle, extends downwardly at least partially into the material holding space
6 of brew chamber 36.

7 45. Claim 1 of Solofill’s Nozzle Patent 854 further requires “said liquid entry port
8 receiving the liquid injector with at least a portion of the liquid injector extending into said port
9 nozzle when said reusable cartridge is enclosed in the brewing machine.” The liquid entry port of
10 the ekobrew Classic Series receives an inlet probe, *i.e.*, a liquid injector, and at least a portion of
11 the inlet probe extends into the dispersion cone 124. A beverage brewing machine dispenses
12 heated water through the inlet probe which passes through the dispersion cone opening and into
13 dispersion cone 124 when the ekobrew cartridge is enclosed in a brewing machine.

14 46. Claim 1 of Solofill’s Nozzle Patent 854 further requires “said port nozzle injecting
15 liquid from the liquid injector into the material holding space during a brewing cycle.” The liquid
16 entry port of the ekobrew Classic Series receives an inlet probe, *i.e.*, a liquid injector. A beverage
17 brewing machine dispenses heated water, a liquid, through the inlet probe. The heated water passes
18 through the dispersion cone opening, into dispersion cone 124, *i.e.*, a port nozzle, and then into
19 brew chamber 36, *i.e.*, the material holding space, when the ekobrew cartridge is enclosed in a
20 brewing machine during a brewing cycle.

21 47. Claim 2 of Solofill’s Nozzle Patent 854 has the same limitations as claim 1 and in
22 addition requires a reusable cartridge having a fill line and a port nozzle extending into the material
23 holding space past the fill line. The ekobrew Classic Series has a fill line 142 and is designed so
24 that coffee grounds will be tamped by the dispersion cone 124 when the lid 84 is closed. The coffee
25 grounds being tamped are below the fill line 142, so the dispersion cone 124, *i.e.*, the port nozzle,
26 extends into brew chamber 36, *i.e.*, the material holding space, when lid 84 is closed.

1 48. Claim 3 of Solofill's Nozzle Patent 854 has limitations that are all found in claim
2 1. Claim 3 reads on the ekobrew Classic Series reusable filter for the same reasons given above
3 for claim 1.

4 49. Solofill has not granted any license under Solofill's Nozzle Patent 854 or other
5 authority from Solofill to Laura J. Sommers, to John F. Kruger, Jr., or to their Espresso Supply/Eko
6 Brands' business, to make, use, offer for sale, or sell the ekobrew Classic Series reusable filters,
7 the Brew & Save branded reusable filters, or the Brew Your Way branded reusable filters.

8 50. The ekobrew Classic Series reusable filter contains each limitation of claims 1, 2
9 and 3 of Solofill's Nozzle Patent 854. Laura J. Sommers and John F. Kruger, Jr., directed and
10 controlled their business to make, use, sell, and offer for sale in the United States the ekobrew
11 Classic Series reusable filter. Laura J. Sommers and John F. Kruger, Jr., literally and directly
12 infringed claims 1, 2, and 3 of Solofill's Nozzle Patent 854 under 35 U.S.C. § 271(a).

13 51. Before April 8, 2019, Laura J. Sommers was aware of Solofill's Side Wall Filter
14 Patent 851. On April 8, 2019, Laura J. Sommers met with Robert Vu, the inventor of Solofill's
15 Side Wall Filter Patent 851, in Houston, Texas. At that meeting, Laura J. Sommers acknowledged
16 that the ekobrew Classic Series reusable filter infringed Solofill's Side Wall Filter Patent 851.
17 Shortly after that meeting, Laura J. Sommers was made aware of Solofill's Nozzle Patent 854 that
18 issued on April 9, 2019. On and after April 9, 2019, Laura J. Sommers actively induced her
19 business to make, use, sell, and offer for sale the ekobrew Classic Series reusable filter in the
20 United States. Laura J. Sommers is liable as an infringer of claims 1, 2 and 3 of Solofill's Nozzle
21 Patent 854 under 35 U.S.C. § 271(b).

22 52. On or before August 6, 2020, John F. Kruger, Jr. was aware of Solofill's Nozzle
23 Patent 854 and aware that the ekobrew Classic Series reusable filter infringed that patent. On or
24 before August 6, 2020 and continuing through March 25, 2022, John F. Kruger, Jr. actively
25 induced his business to make, use, sell, and offer for sale the ekobrew Classic Series reusable filter
26 in the United States. John F. Kruger, Jr. is liable as an infringer of claims 1, 2 and 3 of Solofill's

1 Nozzle Patent 854 under 35 U.S.C. § 271(b).

2 53. Because the Brew & Save branded and Brew Your Way branded reusable filters
3 are the same as the ekobrew Classic Series reusable filter, Laura J. Sommers and John F. Kruger,
4 Jr. are liable as infringers of Solofill's Nozzle Patent 854 for the manufacture, use, offer for sale
5 and sale of Brew & Save branded reusable filters and Brew Your Way branded reusable filters
6 under 35 U.S.C. §§ 271(a) and 271(b).

7 54. Solofill has sold and continues to sell its own K cups that are covered by and
8 protected by the Nozzle Patent 854. Solofill has consistently marked its K cups with the Nozzle
9 Patent 854 number in accordance with 35 U.S.C. § 287(a).

10 55. Laura J. Sommers's and John F. Kruger, Jr.'s infringement of Solofill's Nozzle
11 Patent 854 has caused damages to Solofill. Laura J. Sommers, through her business, has asserted
12 in court that a reasonable royalty for patent infringement under these circumstances is \$1.46 per
13 unit. One measure of Solofill's damages is \$1.46 multiplied by the number of ekobrew Classic
14 Series, Brew & Save, and Brew Your Way branded reusable filters that were made, used, sold, or
15 offered for sale in the United States on and after April 9, 2019. On information and belief, Laura
16 J. Sommers's and John F. Kruger, Jr.'s business has made, offered for sale and sold in the United
17 States on and after April 9, 2019 more than 6 million units of ekobrew, Brew & Save and Brew
18 Your Way branded reusable filters. Solofill's monetary damages for the infringement by Laura J.
19 Sommers and John F. Kruger, Jr. exceed nine million dollars (\$9,000,000.00). The actual number
20 of reusable filters made, used, sold, and offered for sale in the United States during the
21 infringement period and the amount of actual damages, which may be greater than nine million
22 dollars, will be established at trial.

23 56. Laura J. Sommers's and John F. Kruger, Jr.'s infringement of Solofill's Nozzle
24 Patent 854 has caused and will continue to cause irreparable harm to Solofill for which there is no
25 adequate remedy at law.

26 57. Laura J. Sommers's and John F. Kruger, Jr.'s infringement was carried out with

1 full knowledge of Solofill’s Nozzle Patent 854 and knowledge that their actions infringed. Laura
2 J. Sommers’s and John F. Kruger, Jr.’s infringement of Solofill’s Nozzle Patent 854 was and is
3 willful infringement.

4 **VII. PRAYER FOR RELIEF**

5 58. Plaintiff Solofill requests the following relief:

- 6 (a) a judgment that Laura J. Sommers and John F. Kruger, Jr. have infringed claims 1 and
7 2 of the Side Wall Filter Patent 851 and that their infringement was willful;
- 8 (b) a judgment that Laura J. Sommers and John F. Kruger, Jr. have infringed claims 1, 2
9 and 3 of the Nozzle Patent 854 and that their infringement was willful;
- 10 (c) that the Court grant a permanent injunction pursuant to 35 U.S.C. § 283 prohibiting
11 Laura J. Sommers and John F. Kruger, Jr. from making, using, importing, offering for sale
12 or selling in the United States any ekobrew Classic Series reusable filter, any Brew & Save
13 reusable filter, any Brew Your Way reusable filter, and any other reusable beverage
14 cartridge, pod, cup or filter that is substantially similar to the ekobrew Classic Series;
- 15 (d) an award to Solofill of damages of ten million dollars (\$10,000,000) for Laura J.
16 Sommers’s and John F. Kruger, Jr.’s infringing use of Solofill’s patented inventions;
- 17 (e) an award of increased damages up to three times the amount found or assessed pursuant
18 to 35 U.S.C. § 284;
- 19 (f) a determination by the Court that this is an exceptional case and an award of Solofill’s
20 reasonable attorney fees pursuant to 35 U.S.C. § 285;
- 21 (g) an award of prejudgment interest, post-judgment interest and costs; and,
- 22 (h) such other relief as the Court deems just.

23 **VIII. JURY DEMAND**

24 59. Solofill demands a trial by jury on all the issues so triable.

1 Dated: May 10, 2022

Respectfully submitted,

2 /s/ Michael E. Wilson

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