

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

LILLY PATHWAY LLC,

Plaintiff,

v.

**TOPO CHICO MINERAL WATER; and
THE COCA-COLA CO.,**

Defendants.

CIVIL ACTION NO.: 4:22-cv-652

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

1. This is an action under the patent laws of the United States, Title 35 of the United States Code, for patent infringement in which Lilly Pathway LLC (“Lilly” or “Plaintiff”) makes the following allegations against Topo Chico Mineral Water and The Coca-Cola Co. (collectively “Defendants”).

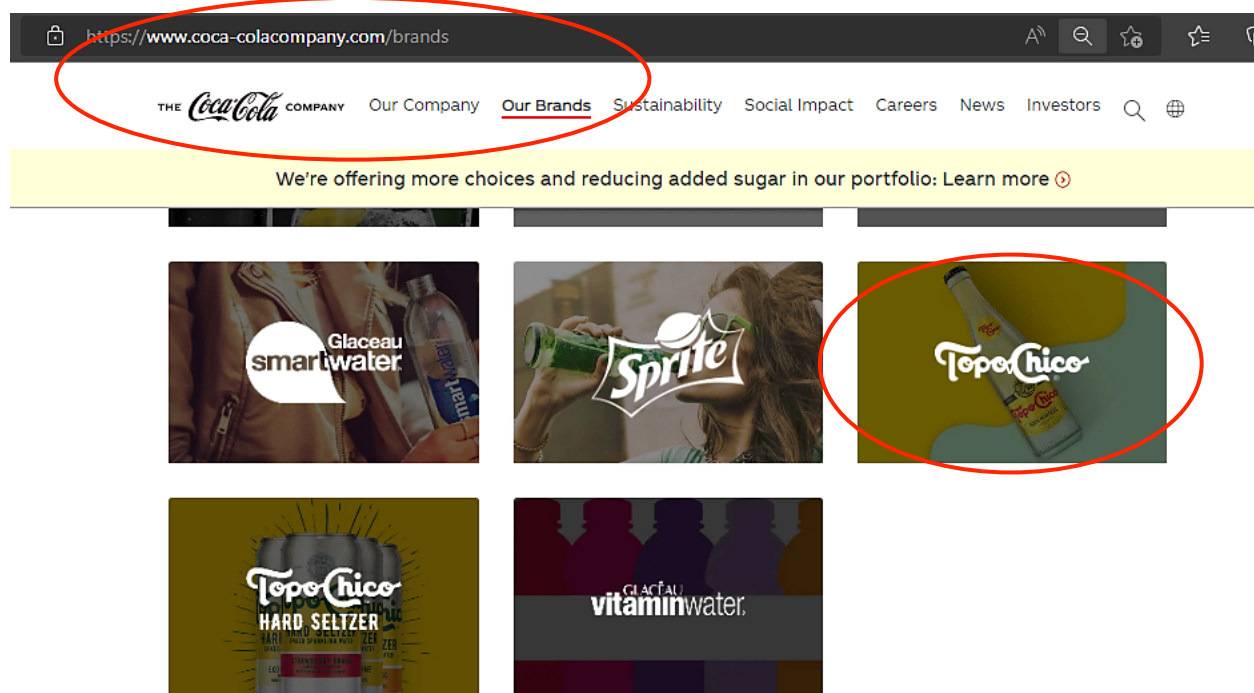
PARTIES

2. Plaintiff is a Texas limited liability company, having its primary office at 2100 14th St., Suite 107 (PMB 1046), Plano, TX 75074 located in Collin County, Texas.

3. Defendant Topo Chico Mineral Water (“Topo”) is a company based and operating in the state of Texas and has a principal place of business at 5800 Granite Parkway, Suite 900, Plano, TX 75024. Defendant Topo does not appear to have a registered agent for service of process in Texas.

4. Defendant The Coca-Cola Co. (“CCC”) is a Delaware corporation with a principal place of business at One Coca-Cola Plaza, Atlanta, Georgia 30313. Defendant CCC’s Registered Agent for service of process in Georgia appears to be C T Corporation System, 289 S. Culver St, Lawrenceville, GA 30046.

5. Topo is a wholly owned subsidiary of CCC:



6. Upon information and belief, Topo operates in conjunction with, or under the control of, CCC.

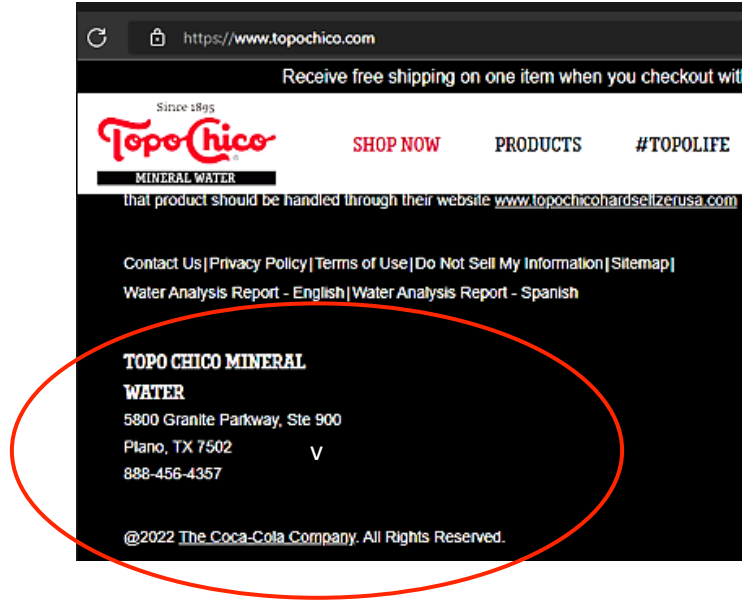
JURISDICTION AND VENUE

7. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

8. Venue is proper in this district under 28 U.S.C. §§ 1391(c), generally, and under 1400(b), specifically. Defendants have a regular and established place of business in this Judicial District, and Defendants have also committed acts of patent infringement in this Judicial District.

9. Defendants are subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to their substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this Judicial District.

10. Topo has a regular and established place of business in Plano, Texas:



11. The instrumentalities accused of infringement (as detailed hereafter) are used and operated daily at this location.

12. By virtue of its ownership and operation of Topo, CCC has a regular and established place of business at the same location.

13. Defendants have infringed, and do infringe, by operating, transacting, and conducting Topo's business within the Eastern District of Texas.

14. Defendants' location in Collin County is a regular and established place of business in this Judicial District, and Defendants have committed acts of infringement at their location within this District. Venue is therefore proper in this District under 28 U.S.C. § 1400(b).

COUNT I
INFRINGEMENT OF U.S. PATENT NO. 7,715,564

15. Plaintiff is the owner by assignment of the valid and enforceable United States Patent No. 7,715,564 ("the '564 Patent") entitled "License Information Conversion Apparatus" – including all rights to recover for past, present and future acts of infringement. The '564 Patent issued on May 11, 2010 and has a priority date of August 8, 2001. A true and correct copy of the '564 Patent is attached as Exhibit A.

16. Defendant CCC owns and operates Defendant Topo:

For information regarding how we measure the volume of Company beverage products sold by the Company and our bottling partners (“Coca-Cola system”), refer to the heading “Operations Review — Beverage Volume” set forth in Part II, “Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations” of this report.

We own and market numerous valuable beverage brands, including the following:

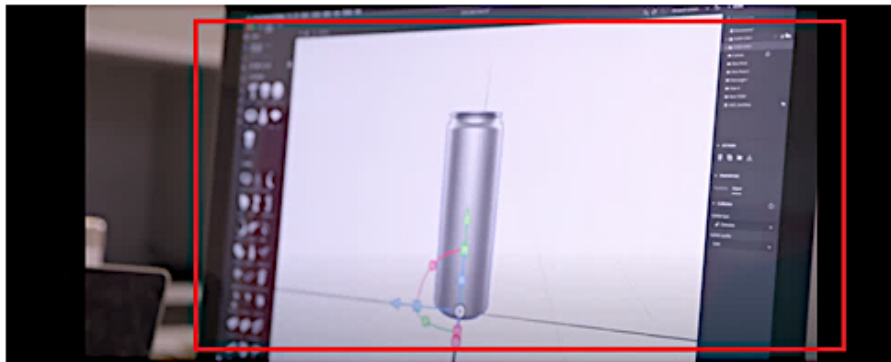
- sparkling soft drinks: Coca-Cola, Diet Coke/Coca-Cola Light, Coca-Cola Zero Sugar, Fanta, Fresca, Schweppes¹, Sprite and Thums Up;
- hydration, sports, coffee and tea: Aquarius, Ayataka, BODYARMOR, Ciel, Costa, dogadan, Dasani, FUZE TEA, Georgia, glacéau smartwater, glacéau vitaminwater, Gold Peak, Ice Dew, I LOHAS, Powerade and **Topo Chico**; and
- nutrition, juice, dairy and plant-based beverages: AdeS, Del Valle, fairlife, innocent, Minute Maid, Minute Maid Pulpy and Simply.

¹Schweppes is owned by the Company in certain countries other than the United States.

17. The Defendants use – in their branding creation, design, and collaboration for their products, merchandise, and advertising materials – Adobe Creative Cloud (“Adobe Systems”):

Global and local design teams use Adobe Creative Cloud apps to create all of the designs for every Coca-Cola brand. Designers handle every aspect of branding, from logos, websites, and billboards, to bottles, labels, and packaging. When global teams all work in Adobe Creative Cloud, they can easily share files and collaborate on design ideas to support the company’s strong global brand.

<https://business.adobe.com/customer-success-stories/coca-cola-case-study.html>



<https://www.youtube.com/watch?v=GXEPeSm0qSo>

18. More specifically, the Adobe Systems that Defendants directly use in commerce are the infringing instrumentalities (“Defendants’ Infringing Instrumentalities” or “Infringing Instrumentalities”).

19. The Defendants’ Infringing Instrumentalities operate based upon an enterprise license from Adobe to CCC, for use of the Infringing Instrumentalities, stored in or accessible from CCC’s systems.

20. An admin within CCC has control over the Infringing Instrumentalities such that the admin can access the enterprise license and, from that license, create end-user specific packages (or sublicenses) to various operations and features of the Infringing Instrumentalities:

Introduction

The Packages page in the [Admin Console](#) provides the following functionality. Use them when you plan to deploy Creative Cloud and Document Cloud applications to end users in your Enterprise.

- Download pre-configured packages by using [Adobe Templates](#).
- Create customized [Named User Licensing](#) or [Shared Device Licensing](#) (for educational institutions) packagers with the configuration and applications you want your end users to have.
- Enable email notifications, so you get notified when new product versions become available.
- View previous packages you or other administrators in your organization have created. Also, view details of a specific package and track available updates for the apps in the package.
- Download the IT tools like [Remote Update Manager](#) and [Adobe Update Server Setup Tool](#).
- Download the Adobe Extension Manager command-line tool to [install extensions and plug-ins](#) from the ZXP file container format.

21. The admin creates the end-user specific packages based upon the end-user's system information:

2 Click Create a Package.



<https://helpx.adobe.com/enterprise/using/create-sdl-packages.html>

5 On the System screen, select the required options and then click Next.

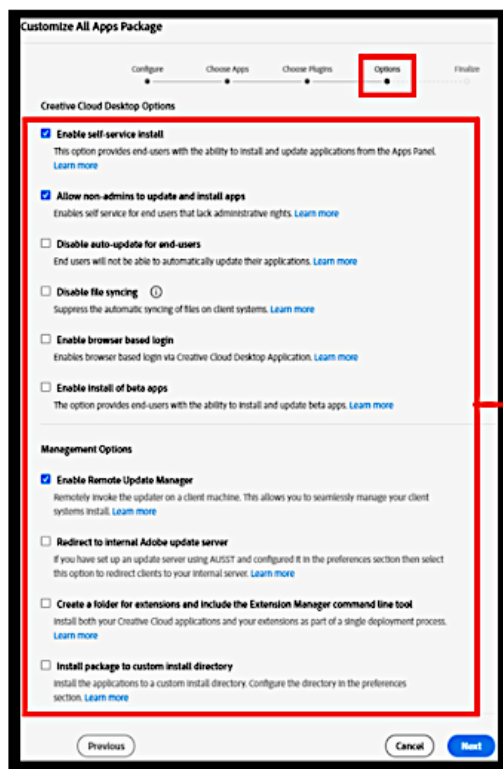
- **Choose a Platform:** Choose the operating system and the processor support from the following:

- macOS (Universal)
- macOS (Intel)
- macOS (Apple Silicon)
- Windows (64-bit)
- Windows (32-bit)
- Windows (ARM)

a second system which is different from the first system

<https://helpx.adobe.com/enterprise/using/create-sdl-packages.html>

22. The admin configures various permissions within the end-user package by selecting from a plurality of possible permissions associated with the enterprise license:



the first license information including at least two pieces of usage permission information for permitting use of content data.

<https://helpx.adobe.com/content/dam/help/en/enterprise/using/package-templates/customize-template.png.img.png>

23. The admin user has a stored license package that can be translated/converted to a sharable package that can be deployed to different devices/platforms and users. The Infringing Instrumentalities store permissions for this conversion, and history of packages created by the admin. Non-admin users who get a generated package do not have permission to share the generated license or further create a sharable package:

How to create Shared Device Licensing packages

To learn how to create packages for Shared Device Licensing, follow the instructions:

- 1 Log in to the [Admin Console](#) and navigate to **Packages > Packages**. The history of all packages created by all admins in your organization is displayed.

storing conversion-
permission
information

If you have not created any packages as yet, you are presented with the following screen to help you get started.

<https://helpx.adobe.com/enterprise/using/create-sdl-packages.html>

Using the Adobe Admin Console, organizations can define a flexible administrative hierarchy that enables fine-grained management of Adobe product access and usage. One or more System admins, provisioned during the enterprise onboarding process, sit at the top of the hierarchy. These System admins can delegate responsibilities to other admins, while still retaining overall control.

Administrative Roles provide the following key benefits to enterprises:

- Controlled decentralization of administrative responsibilities
- Quick view of product assignments—by user and by product
- Functionality to assign quotas to Product admins

<https://helpx.adobe.com/enterprise/using/admin-roles.html>

A user group is a collection of different users that have to be given a shared set of permissions. There are various permissions across different products that have to be assigned to many users in varying order. Managing permissions by user is not a sustainable model.

For example, say that you have a department and you want to assign a product to every member of the department. One way to do it would be to modify the individual permissions of every user in the department and assign the product to each of them. The more convenient method is to create a user group containing all the members of the department and then assign the product to that user group. This method allows the administrator to be decoupled from the management of every user. You could later add more users to that group or remove users from the group. The group permissions remain the same while the users within the group changes.

<https://helpx.adobe.com/enterprise/using/user-groups.html>

Introduction

Shared Device License is a licensing method targeted at educational institutions where software is assigned to a device instead of an individual. Anyone who logs on to the device will have access to Adobe's products and services. This method of licensing is ideal for desktop computer labs and classrooms.

<https://helpx.adobe.com/enterprise/using/create-sdl-packages.html>

PACKAGE NAME	PLATFORM	APPLICATIONS	LANGUAGE	ACTIVATION	CREATED ON	STATUS	DOWNLOAD
PS_FRL_AllAppskense	macOS	3	English (North America)	Connected	Dec 3, 2018	Up to date	Download
NUD_InDesign	macOS	3	English (North America)	Named	Dec 3, 2018	Up to date	Download

2 items < Page 1/1 > Items per page: 10 -

<https://helpx.adobe.com/enterprise/using/create-sdl-packages.html>

24. Plaintiff herein restates and incorporates by reference paragraphs 16 – 23, above.

25. All recited elements of – at least – claims 1 and 2 of the ‘564 Patent are present within the structure and/or operation of Defendants’ Infringing Instrumentalities.

26. Defendants’ Infringing Instrumentalities convert first license information (*e.g.*, enterprise level license information associated with admin) for a first system (*e.g.*, admin’s system) into second license information (*e.g.*, license information associated with an end-user) for a second system (*e.g.*, end-user’s system), which is different from the first system.

27. The first license information of the Defendants’ Infringing Instrumentalities comprises at least two pieces of usage permission information for permitting use of content data.

28. Defendants’ Infringing Instrumentalities store conversion-permission information (*e.g.*, permissions selected as part of an end-user license package) that indicates at least one piece of usage permission information from the first license information (*e.g.*, permission to create packages) that is not permitted to be converted into the second license information.

29. Defendants’ Infringing Instrumentalities convert information contained in the first license information (*e.g.*, license information associated with admin), except the at least one piece of usage permission information (*e.g.*, permission to create packages), into the second license information (*e.g.*, license information associated with end-user license package).

30. Defendants’ Infringing Instrumentalities infringe – at least – claims 1 and 2 of the ‘564 Patent.

31. Defendants’ Infringing Instrumentalities literally and directly infringe – at least – claims 1 and 2 of the ‘564 Patent.

32. Defendants’ Infringing Instrumentalities perform or comprise all required elements of – at least – claims 1 and 2 of the ‘564 Patent.

33. In the alternative, Defendants’ Infringing Instrumentalities infringe – at least – claims 1 and 2 of the ‘564 Patent under the doctrine of equivalents. Defendants’ Infringing Instrumentalities perform substantially the same functions in substantially the same manner with substantially the same structures, obtaining substantially the same results, as the required

elements of – at least – claims 1 and 2 of the ‘564 Patent. Any differences between Defendants’ Infringing Instrumentalities and the claims of the ‘564 Patent are insubstantial.

34. All recited elements of – at least – claims 1 and 2 of the ‘564 Patent are present within, or performed by, Defendants’ Infringing Instrumentalities.

35. Defendants’ Infringing Instrumentalities, when used and/or operated in their intended manner or as designed, infringe – at least – claims 1 and 2 of the ‘564 Patent, and Defendants are therefore liable for infringement of the ‘564 Patent.

DEMAND FOR JURY TRIAL

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter:

- a. A judgment in favor of Plaintiff that Defendants have infringed the ‘564 Patent;
- b. A permanent injunction enjoining Defendants and their officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert therewith, from infringement of the ‘564 Patent;
- c. A judgment and order requiring Defendants to pay Plaintiff its damages, costs, expenses, and pre-judgment and post-judgment interest for Defendants’ infringement of the ‘564 Patent, as provided under 35 U.S.C. § 284;
- d. An award to Plaintiff for enhanced damages resulting from the knowing and deliberate nature of Defendants’ prohibited conduct with notice being made at least as early as the service date of this complaint, as provided under 35 U.S.C. § 284;
- e. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Plaintiff its reasonable attorneys’ fees; and
- f. Any and all other relief to which Plaintiff may show itself to be entitled.

July 28, 2022

Respectfully Submitted,

By: /s/ Ronald W. Burns

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