

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

Walter Kidde Portable Equipment Inc.

Plaintiff

v.

First Alert, Inc. and BRK Brands, Inc.,

Defendants.

Civil Action No. 22-cv-566

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Walter Kidde Portable Equipment Inc. (“Kidde”) files this Complaint for willful patent infringement against Defendants First Alert, Inc. (“First Alert”) and BRK Brands, Inc. (“BRK”) (collectively, “Defendants”), relating to: U.S. Patent No. 7,123,158; U.S. Patent No. 7,525,445; U.S. Patent No. 8,791,828; and U.S. Patent No. 7,403,128 (collectively, the “Patents-in-Suit”), and alleges as follows:

PARTIES

1. Plaintiff Kidde is a corporation organized under the laws of the State of Delaware, with a principal place of business at 1016 Corporate Park Drive, Mebane, North Carolina 27302.
2. Defendant BRK is a corporation organized under the laws of the State of Delaware. BRK may be served through its registered agent Corporation Service Company d/b/a CSC – Lawyers Incorporated at 211 E. 7th St., Ste. 620, Austin, Texas 78701.
3. First Alert is a corporation organized under the laws of the State of Delaware, with a principal place of business at 3901 Liberty Street, Aurora, Illinois 60504. First Alert has over 2,800 employees and its operations include a primary distribution facility in El Paso, Texas.

4. Defendants are each part of an interrelated group of companies that together manufacture consumer and commercial products, including through the First Alert®, BRK® and Onelink® brands.

5. Defendants, individually and collectively, offer a comprehensive portfolio of detection and suppression devices, including smoke alarms, carbon monoxide (CO) alarms, combination alarms, and connected fire and CO devices.

6. Defendants, individually and collectively, are engaged in designing, manufacturing, marketing, selling, offering for sale in the United States, importing into the United States, and distributing home security and safety products (including smoke alarms, CO alarms, and combination smoke and CO alarms), including under the brands First Alert®, Onelink® and BRK®.

7. Defendants are each part of the same corporate structure and distribution chain for designing and making the accused devices, importing the accused devices into the United States, and offering to sell, selling, and/or using the accused devices in the United States, including in the State of Texas generally and this judicial district in particular.

8. Defendants share common ownership, advertising platforms, facilities, distribution chains and platforms, and accused product lines and products involving related technologies.

9. Defendants thus operate as a unitary business venture and are jointly and severally liable for the acts of patent infringement alleged herein.

JURISDICTION AND VENUE

10. This is an action for patent infringement under the Patent Laws of the United States, 35 U.S.C. § 1 et seq., including 35 U.S.C. §§ 271, 281-85. The Court has original subject matter jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331 and 1338.

11. This Court has personal jurisdiction over Defendants pursuant to federal due process requirements and the Texas Long Arm Statute because, *inter alia*, (i) Defendants have done and continue to do business in Texas; (ii) Defendants have committed and continue to commit acts of patent infringement in the State of Texas, including making, using, offering to sell, and/or selling accused products in Texas, and/or importing accused products into Texas, including through internet sales and sales via retail and wholesale stores in Texas, inducing others to commit acts of patent infringement in Texas, and/or committing at least a portion of any infringements alleged herein in Texas; and (iii) Defendants recruit Texas residents, directly or through an intermediary located in Texas, for employment inside or outside of Texas.

12. Defendants, individually and collectively, regularly conduct business in this district, including by (i) purposefully and voluntarily placing one or more infringing products into the stream of commerce with the expectation that they will be purchased by consumers in this district (e.g., via retail and wholesale stores in this district); (ii) regularly conducting or soliciting business, engaging in a persistent course of business, employing people, or deriving substantial revenue through the sale of goods and services, including the sale and use of infringing products in this district; and (iii) otherwise availing themselves of the privileges and benefits of doing business in Texas and within this district. Defendants have purposely directed activities at residents of this forum giving rise to this action and have established minimum contacts with this forum such that the exercise of personal jurisdiction over Defendants would be reasonable and fair and not offend traditional notions of fair play and substantial justice.

13. Venue is proper in this district pursuant to 28 U.S.C. § 1400(b) because Defendants have committed and continue to commit acts of patent infringement in this district, including making, using, offering to sell, and/or selling accused products in this district, and/or importing

accused products into this district. Defendants' acts in this district include without limitation making internet sales and sales via retail and wholesale stores, importing into this district accused products from Mexico, inducing others to commit acts of patent infringement in Texas, and/or committing at least a portion of any other infringements alleged herein in this district. BRK and First Alert have a regular and established place of business within this district at 1301 Joe Battle Blvd., El Paso, Texas 79936.

14. Defendants' accused products indicate on their label that their source is "1301 Joe Battle, El Paso TX 79936 USA," and they associate that address with "BRK Brands, Inc.," the "www.firstalert.com" website, and Defendants' "Customer Service Team," further demonstrating that Defendants have a regular and established place of business in this district at 1301 Joe Battle Blvd., El Paso, Texas 79936, including with respect to making, importing, selling, offering for sale and/or distributing the accused products.

15. The following image depicts the exterior of Defendants' regular and established place of business at 1301 Joe Battle, El Paso TX 79936, in this district.



(Image from Google Maps Street View.)

16. Moreover, appraisal records from the El Paso Central Appraisal District indicate that Defendants' property at 1301 Joe Battle, El Paso TX is owned by First Alert.

The screenshot shows the EPCAD Property Search interface. The search criteria are set to Year: 2022 and Address: 1301 JOE BATTLE BLVD EL PASO, TX. The search results are as follows:

Type	Property ID	Name	Address	Geographic ID	Appraised Value
R	271965	5 STAR TECH II-4 LP	1301 JOE BATTLE BLVD EL PASO, TX	P66199900100100	\$11,073,290.00
P	440630	FIRST ALERT	1301 JOE BATTLE BLVD EL PASO, TX	082099909810042	N/A
P	657461	NOVITEX ENTERPRISE SOLUTIONS INC	1301 JOE BATTLE BLVD EL PASO, TX	154199913120650	N/A

(Image from El Paso Central Appraisal District website.)

THE PATENTS-IN-SUIT

17. On October 17, 2006, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 7,123,158 (“the ’158 Patent”), titled, “Life Safety Alarm with a Sealed Battery Power Supply.” A true and correct copy of the ’158 Patent is attached hereto as Exhibit A.

18. The claims of the ’158 Patent are valid, enforceable, and not expired.

19. Kidde is the assignee of the ’158 Patent and has the right to sue and recover damages for infringement of the ’158 Patent.

20. On April 28, 2009, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 7,525,445 (“the ’445 Patent”), titled, “Life Safety Alarm with a Sealed Battery Power Supply.” A true and correct copy of the ’445 Patent is attached hereto as Exhibit B.

21. The claims of the ’445 Patent are valid, enforceable, and not expired.

22. Kidde is the assignee of the '445 Patent and has the right to sue and recover damages for infringement of the '445 Patent.

23. On July 29, 2014, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 8,791,828 (“the '828 Patent”), titled, “Carbon Monoxide Detector, System and Method for Signaling a Carbon Monoxide Sensor End-of-Life Condition.” A true and correct copy of the '828 Patent is attached hereto as Exhibit C.

24. The claims of the '828 Patent are valid, enforceable, and not expired.

25. Kidde is the assignee of the '828 Patent and has the right to sue and recover damages for infringement of the '828 Patent.

26. On July 22, 2008, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 7,403,128, (the “'128 Patent”) titled, “Adverse Condition Detector with Diagnostics.” A true and correct copy of the '128 Patent is attached hereto as Exhibit D.

27. The claims of the '128 Patent are valid, enforceable, and not expired.

28. Kidde is the assignee of the '128 Patent and has the right to sue and recover damages for infringement of the '128 Patent.

FACTUAL BACKGROUND

Kidde’s Long History of Innovation and Contribution to Home Safety

29. Kidde is one of the world’s largest manufacturers of fire safety products. Kidde’s products are built upon a long history of innovation and provide advanced solutions to protect people and property from fire and related hazards, helping make the world a safer place to live. Since 1917, Kidde has been writing the story of the fire detection and suppression industry. This legacy of more than 100 years is marked by proven innovation and significant milestones.

30. Walter Kidde founded The Walter Kidde Company more than 100 years ago. The Walter Kidde Company produced the first integrated smoke detection and carbon dioxide fire extinguishing system for use aboard ships. This invention marked just one of many firsts that define Kidde's 100-year history of industry leadership.

31. In 1924, Kidde produced the first portable carbon dioxide fire extinguisher. The next year, in 1925, Kidde installed the first built-in industrial fire extinguishing system. And in 1926, Kidde worked with the United States Navy to design a system to protect airplane engines against fires.

32. Later, during World War II, Kidde designed several systems essential to Allied troop safety, including fire extinguishers for ships, tanks, and aircraft and fire suppression systems for aircraft engines.

33. Kidde has also made numerous innovations to smoke and CO alarm technology. For example, Kidde has invented smoke alarms and other life safety alarms having an extended life, and which are less prone to user mistakes or improper use during installation as well as during the life of the alarm.

34. In 2012, Kidde introduced its Worry-Free line of smoke alarms, which included a 10-year sealed-in lithium battery. In 2013, Kidde became the first manufacturer to offer carbon monoxide alarms designed to last 10 years. Kidde's innovations also extend to interconnected alarm systems which can detect multiple types of threats, intercommunicate, send remote notifications concerning multiple detected alarm conditions, and sound together when a threat is identified in one location.¹ Kidde's history of innovation has resulted in the award of numerous patents, including the Patents-In-Suit.

¹ See, e.g., <https://www.kidde.com/home-safety/en/us/products/homesafe-collection/>

The Accused Products

35. Defendants, individually and collectively, make, use, sell, and offer for sale in the United States, and import into the United States, fire safety products, including smoke and CO alarm systems, and combination smoke and CO alarm systems, under the “First Alert,” “Onelink” and “BRK” brands (collectively, “Defendants’ Product Offerings”).

36. Defendants’ Product Offerings include smoke, CO and combination alarm systems that utilize a 10-year battery power source.

37. Defendants’ Product Offerings include smoke, CO and combination alarm systems that will activate automatically when the “alarm [is mounted] to [a] mounting bracket.”²

38. Defendants’ Product Offerings include smoke, CO and combination alarm systems that “[a]t end of life or low battery indication (chirp): ... must be put into deactivation mode to deactivate remaining stored energy in battery,” and “will no longer function once put into this mode,” and “will resist re-mounting.”³

39. Defendants’ Product Offerings include smoke, CO and combination alarm systems that include Onelink capability.⁴

40. Onelink capable products are wirelessly interconnected with each other and can notify users on their mobile devices when a dangerous condition is detected.⁵

² See, e.g., First Alert, *User’s Manual Smoke and Fire alarm* (2017), <https://www.brkelectronics.com/pdfs/2017/05/24/4b24187e.pdf>

³ *Id.*

⁴ First Alert, Onelink, <https://onelink.firstalert.com/>; see also, e.g., BRK The Professional Standard, <https://www.brkelectronics.com/connectedsafety>

⁵ BRK The Professional Standard, *Decade of Protection*, <https://www.brkelectronics.com/10-year/>

41. The Onelink notifications to mobile devices in Defendants' Product Offerings are triggered by a number of alarm conditions, including 1) if "smoke or carbon monoxide is detected by the Onelink unit," 2) if "[a] test has been completed on the Onelink unit," 3) if "[t]he Onelink alarm is reaching its end-of-life," 4) if "[t]he Onelink alarm has a low battery," and 5) if "updates are available."⁶

42. The end-of-life notifications inform users when the alarm needs to be replaced, so that the detectors can continue to properly detect life-threatening conditions.

Defendants' Knowledge of the '158 and '445 Patents

43. The first named inventor on each of Kidde's asserted '158 and '445 Patents is Joseph G. DeLuca. On information and belief, Mr. DeLuca, after contributing to Kidde's '158 and '445 Patent inventions, which are duly and legally owned by Kidde, began working at Defendant First Alert in March 2008 as Vice President of Engineering. Mr. DeLuca became First Alert's Senior Vice President of Engineering on or about January 2016.

44. On information and belief, Mr. DeLuca, as First Alert's Vice President of Engineering, and later, as its Senior Vice President of Engineering, led a more than fifty member team that designed First Alert's smoke and CO alarms, fire extinguishers and safes for First Alert's North American, European and Australian markets.

45. Defendants commercialized the accused products only after Mr. DeLuca began working for First Alert as a product engineering and design executive.

⁶ First Alert, *Customer Support: How to use push notifications for Onelink alarms*, <https://support.firstalert.com/s/article/Set-up-mobile-push-notifications-for-Onelink-devices>

46. Defendants thus knew of the '158 and '445 Patents at least as early as March 2008, when named inventor Mr. DeLuca began working as a product engineering and design executive at First Alert.

COUNT I: PATENT INFRINGEMENT OF THE '158 PATENT

47. Kidde incorporates by reference the allegations set forth in the preceding paragraphs as if fully set forth herein.

48. On information and belief, in violation of 35 U.S.C. § 271, Defendants have each directly infringed, contributed to the infringement of, and/or induced others to infringe the '158 Patent, either literally or under the doctrine of equivalents, by, among other things, making, using, offering for sale, selling, and/or importing into the United States unlicensed systems, assemblies, and/or products in a manner that infringes at least claims 1 and 12 of the '158 Patent.

49. As one non-limiting example, Claim 1 of the '158 Patent states as follows:

1. An electronic device, comprising:

a first portion;

a second portion configured for attachment to the first portion, the second portion including electronics to operate the device and at least one battery for powering the electronics; and

cooperating features on the first portion and the second portion that automatically activate the second portion upon initial attachment of the second portion to the first portion;

wherein the cooperating features comprise an activate/deactivate system, the activate/deactivate system being configured to automatically activate the second portion upon initial attachment of the second portion to the first portion;

wherein the activate/deactivate system is configured to enable the user to manually deactivate the second portion; and

wherein, when deactivated, the second portion cannot be reactivated and the second portion cannot be reattached to the first portion.

50. As another non-limiting example, Claim 12 of the '158 Patent states as follows:

12. An electronic device, comprising:
 - a first portion;
 - a second portion configured for attachment to the first portion, the second portion including electronics to operate the device and at least one battery for powering the electronics;
 - an activation mechanism to activate the second portion;
 - a permanent deactivation mechanism to permit permanent deactivation of the second portion after the second portion has been activated, wherein the permanent deactivation mechanism is accessible when the first and second portions are detached; and
 - a reattachment prevention mechanism to prevent reattachment of the first and second portions once the second portion is permanently deactivated.

51. Each and every limitation of the '158 Patent's claims 1 and/or 12 is satisfied by many of Defendants' Product Offerings, including Defendants' smoke, CO and combination alarm systems utilizing sealed 10-year batteries.

52. Defendants' infringing products include, for example, Slim Photoelectric Smoke Alarm with 10-year Battery (Model No. P1210); 10-Year Battery Ultimate Protection Smoke Alarm (Model No. SA3210); Sealed Ionization Smoke Alarm with 10-Year Lithium Battery (Model No. 0827); 10-Year Battery Photoelectric Smoke Alarm, Slim Profile with Safety Path Light (Model No. P1210E); Micro Photoelectric Smoke Alarm with 10-Year Battery (Model No. P1010); Combination Photoelectric Smoke and Carbon Monoxide Alarm with 10-Year Battery, Voice and Location (Model No. PC1210V); Combination Photoelectric Smoke and Carbon Monoxide Alarm with 10-Year Battery (Model No. PC1210) (collectively, the "'158 Patent Accused Products").

53. A chart demonstrating infringement of claims 1 and 12 of the '158 Patent is attached hereto as Exhibit E.

54. Defendants also are liable for contributory infringement under 35 U.S.C. § 271(c). The products sold by Defendants are not a staple article or commodity of commerce suitable for substantial non-infringing use, and are products that have been specifically engineered to be used, and have been used, to infringe the '158 Patent.

55. Since at least the filing of this Complaint, Defendants know and have known that these products are especially made and/or especially adapted for use in an infringement of the '158 Patent, and are not a staple article or commodity of commerce suitable for substantial non-infringing use.

56. Due to named inventor Mr. DeLuca's involvement as a design and engineering executive at First Alert since March 2008, Defendants also know and have known that these products are especially made and/or especially adapted for use in an infringement of the '158 Patent, and are not a staple article or commodity of commerce suitable for substantial non-infringing use, since the '158 Patent Accused Products were first introduced to the market.

57. Defendants also are liable for induced infringement under 35 U.S.C. § 271(b), by knowingly and intentionally encouraging, instructing, and aiding others to make and use the '158 Patent Accused Products in an infringing manner, including through its manufacture, use, offer to sell, provision, and/or sale of the parts necessary to assemble and use the '158 Patent Accused Products along with materials showing customers how to assemble and use the '158 Patent Accused Products.

58. Due to named inventor Mr. DeLuca's involvement as a design and engineering executive at First Alert since March 2008, Defendants have known of the '158 Patent and its relevance to the '158 Patent Accused Products, since the '158 Patent Accused Products were first introduced to the market.

59. Defendants also have known of the '158 Patent and its relevance to the '158 Patent Accused Products, since at least the filing of this Complaint.

60. Defendants continue to engage in these activities knowing that the products they sell are made and adapted for use, and are in fact used, in a manner that constitutes infringement of the '158 Patent.

61. As a result of Defendants' infringement of the '158 Patent, Kidde has suffered and continues to suffer damages in an amount not yet determined, of at least a reasonable royalty and/or lost profits due to loss of sales, profits, and potential sales that Kidde would have made but for Defendants' infringing acts.

62. Defendants' infringement of the '158 Patent has been and continues to be willful, such that Kidde is entitled to enhanced damages and to recover its attorneys' fees and other expenses of litigation pursuant to 35 U.S.C. §§ 284 and 285.

COUNT II: PATENT INFRINGEMENT OF THE '445 PATENT

63. Kidde incorporates by reference the allegations set forth in paragraphs 1-46 as if fully set forth herein.

64. On information and belief, in violation of 35 U.S.C. § 271, Defendants have directly infringed, contributed to the infringement of, and/or induced others to infringe the '445 Patent, either literally or under the doctrine of equivalents, by, among other things, making, using, offering for sale, selling, and/or importing into the United States unlicensed systems, assemblies, and/or products in a manner that infringes at least claim 8 of the '445 Patent.

65. As one, non-limiting example, Claim 8 of the '445 Patent states as follows:

8. An electronic device, comprising:
a first portion;

a second portion configured for attachment to the first portion, the second portion including electronics to operate the device and at least one battery for powering the electronics; and

an activation mechanism to activate the second portion;

a permanent deactivation mechanism to permit permanent deactivation of the second portion after the second portion has been activated; and

a reattachment prevention mechanism to prevent reattachment of the first and second portions once the second portion is permanently deactivated.

66. Each and every limitation of the '445 Patent's claim 8 is satisfied by many of Defendants' Product Offerings, including Defendants' smoke, CO and combination alarm systems utilizing sealed 10-year batteries.

67. Defendants' infringing products include, for example, Slim Photoelectric Smoke Alarm with 10-year Battery (Model No. P1210); 10-Year Battery Ultimate Protection Smoke Alarm (Model No. SA3210); Sealed Ionization Smoke Alarm with 10-Year Lithium Battery (Model No. 0827); 10-Year Battery Photoelectric Smoke Alarm, Slim Profile with Safety Path Light (Model No. P1210E); Micro Photoelectric Smoke Alarm with 10-Year Battery (Model No. P1010); Combination Photoelectric Smoke and Carbon Monoxide Alarm with 10-Year Battery, Voice and Location (Model No. PC1210V); Combination Photoelectric Smoke and Carbon Monoxide Alarm with 10-Year Battery (Model No. PC1210) (collectively, the "'445 Patent Accused Products").

68. A chart demonstrating infringement of claim 8 of the '445 Patent is attached hereto as Exhibit F.

69. Defendants also are liable for contributory infringement under 35 U.S.C. § 271(c). The products sold by Defendants are not a staple article or commodity of commerce suitable for substantial non-infringing use, and are products that have been specifically engineered to be used, and have been used, to infringe the '445 Patent.

70. Since at least the filing of this Complaint, Defendants know and have known that these products are especially made and/or especially adapted for use in an infringement of the '445 Patent, and are not a staple article or commodity of commerce suitable for substantial non-infringing use.

71. Due to named inventor Mr. DeLuca's involvement as a design and engineering executive at First Alert since March 2008, Defendants also know and have known that these products are especially made and/or especially adapted for use in an infringement of the '445 Patent, and are not a staple article or commodity of commerce suitable for substantial non-infringing use, since the '445 Patent Accused Products were first introduced to the market.

72. Defendants also are liable for induced infringement under 35 U.S.C. § 271(b), by knowingly and intentionally encouraging, instructing, and aiding others to make and use the '445 Patent Accused Products in an infringing manner, including through its manufacture, use, offer to sell, provision, and/or sale of the parts necessary to assemble and use the '445 Patent Accused Products along with materials showing customers how to assemble and use the '445 Patent Accused Products.

73. Due to named inventor Mr. DeLuca's involvement as a design and engineering executive at First Alert since March 2008, Defendants have known of the '445 Patent and its relevance to the '445 Patent Accused Products, since the '445 Patent Accused Products were first introduced to the market.

74. Defendants also have known of the '445 Patent and its relevance to the '445 Patent Accused Products, since at least the filing of this Complaint.

75. Defendants continue to engage in these activities knowing that the products they sell are made and adapted for use, and are in fact used, in a manner that constitutes infringement of the '445 Patent.

76. As a result of Defendants' infringement of the '445 Patent, Kidde has suffered and continues to suffer damages in an amount not yet determined, of at least a reasonable royalty and/or lost profits due to loss of sales, profits, and potential sales that Kidde would have made but for Defendants' infringing acts.

77. Defendants' infringement of the '445 Patent has been and continues to be willful, such that Kidde is entitled to enhanced damages and to recover its attorneys' fees and other expenses of litigation pursuant to 35 U.S.C. §§ 284 and 285.

COUNT III: PATENT INFRINGEMENT OF THE '828 PATENT

78. Kidde incorporates by reference the allegations set forth in paragraphs 1-42 as if fully set forth herein.

79. On information and belief, in violation of 35 U.S.C. § 271, Defendants have directly infringed, contributed to the infringement of, and/or induced others to infringe the '828 Patent, either literally or under the doctrine of equivalents, by, among other things, making, using, offering for sale, selling, and/or importing into the United States unlicensed systems, assemblies, and/or products in a manner that infringes at least claim 1 of the '828 Patent.

80. As one, non-limiting example, Claim 1 of the '828 Patent states as follows:

1. A carbon monoxide detector comprising:

a sensor configured to detect a presence of carbon monoxide, and generate a signal indicative of the presence of carbon monoxide;

a controller in signal communication with the sensor, the controller configured to measure a level of detected carbon monoxide in response to receiving the signal generated by the sensor, the controller further configured to detect a first trouble

condition representative of an end-of-life condition of the sensor, and a second trouble condition different from the first trouble condition;

a transmitter operatively coupled to the controller, the transmitter configured to transmit, to a remote agent, a first trouble signal indicative of the first trouble condition, and a second trouble signal indicative of the second trouble condition, the first trouble signal being different from the second trouble signal so that an end-of-life condition of the sensor detected by the controller and indicated by the first trouble signal can be distinguished at the remote agent from a second trouble condition detected by the controller and indicated by the second trouble signal.

81. Each and every limitation of the '828 Patent's claim 1 is satisfied by many of Defendants' Product Offerings, including Defendants' smoke, CO and combination alarm systems with Onelink capability.

82. Defendants' infringing products include, for example, the First Alert Smart Onelink Smoke + CO Alarm – Battery Operated; the First Alert Onelink Smoke + CO Alarm – Hardwired; and the Onelink Safe & Sound Smart Smoke + Carbon Monoxide Alarm and Speaker with Amazon Alexa (collectively, the "'828 Patent Accused Products").

83. A chart demonstrating infringement of claim 1 of the '828 Patent is attached hereto as Exhibit G.

84. Defendants also are liable for contributory infringement under 35 U.S.C. § 271(c). The products sold by Defendants are not a staple article or commodity of commerce suitable for substantial non-infringing use, and are products that have been specifically engineered to be used, and have been used, to infringe the '828 Patent.

85. Since at least the filing of this Complaint, Defendants know and have known that these products are especially made and/or especially adapted for use in an infringement of the '828 Patent, and are not a staple article or commodity of commerce suitable for substantial non-infringing use.

86. Defendants also are liable for induced infringement under 35 U.S.C. § 271(b), by knowingly and intentionally encouraging, instructing, and aiding others to make and use the '828 Patent Accused Products in an infringing manner, including through its manufacture, use, offer to sell, provision, and/or sale of the parts necessary to assemble the '828 Patent Accused Products along with materials showing customers how to assemble the '828 Patent Accused Products.

87. Defendants have known of the '828 Patent and its relevance to the '828 Patent Accused Products, since at least the filing of this Complaint.

88. Defendants continue to engage in these activities knowing that the products they sell are made and adapted for use, and are in fact used, in a manner that constitutes infringement of the '828 Patent.

89. As a result of Defendants' infringement of the '828 Patent, Kidde has suffered and continues to suffer damages in an amount not yet determined, of at least a reasonable royalty and/or lost profits due to loss of sales, profits, and potential sales that Kidde would have made but for Defendants' infringing acts.

90. Defendants' infringement of the '828 Patent has been and continues to be willful, such that Kidde is entitled to enhanced damages and to recover its attorneys' fees and other expenses of litigation pursuant to 35 U.S.C. §§ 284 and 285.

COUNT IV: PATENT INFRINGEMENT OF U.S. PATENT NO. 7,403,128

91. Kidde incorporates by reference the allegations set forth in paragraphs 1-42 as if fully set forth herein.

92. On information and belief, in violation of 35 U.S.C. § 271, Defendants have directly infringed, contributed to the infringement of, and/or induced others to infringe the '128 Patent, either literally or under the doctrine of equivalents, by, among other things, making, using, offering

for sale, selling, and/or importing into the United States unlicensed systems, assemblies, and/or products in a manner that infringes at least claim 1 of the '128 Patent.

93. As one, non-limiting example, Claim 1 of the '128 Patent states as follows:

1. A method of operating an adverse condition detector including at least an adverse condition detection circuit and a microprocessor contained within a housing, the method comprising the steps of:

activating an internal clock within the microprocessor upon the initial activation of the adverse condition detector;

operating the microprocessor within the adverse condition detector to monitor for the occurrence of one of a series of monitored events related to the operation of the adverse condition detector;

recording the occurrence of the monitored event and a time stamp within the microprocessor of the adverse condition detector, the time stamp being the value of the internal clock upon the occurrence of the monitored event; and

interrogating the microprocessor to extract the recorded occurrences of the monitored events and the associated time stamps.

94. Each and every limitation of the '128 Patent's claim 1 is satisfied by many of Defendants' Product Offerings, including Defendants' smoke, CO and combination alarm systems with Onelink capability.

95. Such products include, for example, the First Alert Smart Onelink Smoke + CO Alarm – Battery Operated; the First Alert Onelink Smoke + CO Alarm – Hardwired; and the Onelink Safe & Sound Smart Smoke + Carbon Monoxide Alarm and Speaker with Amazon Alexa (collectively, the "'128 Patent Accused Products").

96. A chart demonstrating infringement of claim 1 of the '128 Patent is attached hereto as Exhibit H.

97. Defendants also are liable for contributory infringement under 35 U.S.C. § 271(c). The products sold by Defendants are not a staple article or commodity of commerce suitable for

substantial non-infringing use, and are products that have been specifically engineered to be used, and have been used, to infringe the '128 Patent.

98. Since at least the filing of this Complaint, Defendants know and have known that these products are especially made and/or especially adapted for use in an infringement of the '128 Patent, and are not a staple article or commodity of commerce suitable for substantial non-infringing use.

99. Defendants also are liable for induced infringement under 35 U.S.C. § 271(b), by knowingly and intentionally encouraging, instructing, and aiding others to make and use the '128 Patent Accused Products in an infringing manner, including through its manufacture, use, offer to sell, provision, and/or sale of the parts necessary to assemble the '128 Patent Accused Products along with materials showing customers how to assemble the '128 Patent Accused Products.

100. Defendants have known of the '128 Patent and its relevance to the '128 Patent Accused Products, since at least the filing of this Complaint.

101. Defendants continue to engage in these activities knowing that the products they sell are made and adapted for use, and are in fact used, in a manner that constitutes infringement of the '128 Patent.

102. As a result of Defendants' infringement of the '128 Patent, Kidde has suffered and continues to suffer damages in an amount not yet determined, of at least a reasonable royalty and/or lost profits due to loss of sales, profits, and potential sales that Kidde would have made but for Defendants' infringing acts.

103. Defendants' infringement of the '128 Patent has been and continues to be willful, such that Kidde is entitled to enhanced damages and to recover its attorneys' fees and other expenses of litigation pursuant to 35 U.S.C. §§ 284 and 285.

DEMAND FOR JURY TRIAL

Kidde hereby demands trial by jury in this action of all claims so triable.

PRAYER FOR RELIEF

Wherefore, Kidde respectfully requests the following relief:

- A. A judgment that Defendants have infringed the '158 Patent;
- B. A judgment that Defendants have infringed the '445 Patent;
- C. A judgment that Defendants have infringed the '828 Patent;
- D. A judgment that Defendants have infringed the '128 Patent;
- E. An award of damages adequate to compensate Kidde for infringement in an amount equal to Kidde's lost profits but in no event less than a reasonable royalty, together with prejudgment interest, post-judgment interest, and costs pursuant to 35 U.S.C. §§ 284 and 289;
- F. An award of treble damages in light of the willful, intentional, and deliberate character of Defendants' infringing acts pursuant to 35 U.S.C. § 284;
- G. A judgment declaring this an exceptional case and awarding Kidde its reasonable attorneys' fees under 35 U.S.C. § 285;
- H. Such other and further relief as the Court may deem just and proper.

Dated: June 2, 2022

Respectfully submitted,

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