

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION

NuVinAir, LLC,	)	CIVIL ACTION NO.:
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>COMPLAINT</b>
	)	<b>(JURY TRIAL DEMANDED)</b>
<b>Robert Goldberg, individually,</b>	)	
	)	
<b>Defendant.</b>	)	
_____	)	

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff NuVinAir, LLC (“NuVinAir” or “Plaintiff”) by its attorneys, files this Complaint for Patent Infringement, and Request for Jury Trial, and accompanying Application for Preliminary Injunction and Motion for Expedited Discovery, complaining of Robert Goldberg (“Goldberg” or “Defendant”), individually, and would respectfully show as follows:

**Nature of the Action**

1. Plaintiff NuVinAir has been a pioneer in the application of chlorine-based technologies for odor control in the automotive industry. NuVinAir has been at the forefront of the research, development, and deployment of in-vehicle odor control based on chemical reactions, including with respect to releasing a gaseous cleaning agent within the vehicle. This technology is highly valuable. NuVinAir has expended significant resources in money and engineering time to perfect its NuVinAir® Cyclone technology, which has become the industry leader in this application. NuVinAir received U.S. Patent No. 9,925,959 (“959 Patent”) issued March 27, 2018 covering its groundbreaking inventions. NuVinAir’s success has not gone unnoticed by its competitors. Defendant Goldberg has sought to copy and benefit from the hard-earned intellectual

property of Plaintiff by distributing a competing product that infringes the '959 Patent. Defendant's conduct has been willful, and has forced Plaintiff to engage the undersigned counsel to seek injunctive relief, damages and attorneys' fees.

### **Parties**

2. Plaintiff NuVinAir, LLC is organized and existing under the laws of the State of Texas, with a principal office located at 5851 Legacy Cir., Ste. 600, Plano, Texas 75024-5969.

3. Defendant Goldberg, on information and belief, resides at 9 Oakmont Ct. Simpsonville, SC 29681, and may be served with process at this address.

### **Jurisdiction and Venue**

4. Subject matter jurisdiction is proper in this Court under 28 U.S.C. §§ 1331 and 1338(a) as this case involves a claim for infringement of a U.S. patent pursuant to 35 U.S.C. § 1 et seq., including 35 U.S.C. § 271.

5. Defendant is subject to personal jurisdiction within South Carolina and this judicial district, as Defendant resides in this district, and on information and belief sells and offers to sell a product or products in this district that in use by the customer infringe at least claim 1 of the '959 Patent, and such infringing use in this district is believed to have occurred. Defendant's address is also located within this district, and constitutes a regular and established place of business pursuant to 28 U.S.C. 1400(b).

### **FIRST CAUSE OF ACTION** **(Infringement of the '959 Patent)**

6. The '959 Patent, a copy of which is attached as Ex. A, is titled "SYSTEMS FOR AIR-BORNE CLEANING OF SURFACES" and was duly and legally issued by the U.S. Patent and Trademark Office on March 27, 2018 with Plaintiff as assignee, and an *ex parte* reexamination

certificate was issued on January 4, 2023. Plaintiff is currently the assignee of the '959 Patent, including standing to sue and the right to recover all past, present, and future damages for infringement of the '959 Patent.

7. Defendant is contributing to and/or inducing infringement of at least claim 1 of the '959 Patent by, on information and belief, offering to sell and/or selling in the United States including in South Carolina the odor control product an exemplar of which is shown below, as well as similar versions, for use by car dealers or rental car fleets in their cars:



8. Claim 1 of the '959 Patent reads:

1. A method for cleaning a cabin interior of a car, truck, SUV or tractor-trailer rig of a microbial or viral contamination *or malodor*, the [system] *method* comprising: 25

[sealing the cabin of a car, truck, SUV or tractor-trailer rig from the outside environment and starting an air recirculation system of the cabin;

placing] *selecting* a portable apparatus [inside the sealed 30 cabin interior, the apparatus] comprising:

a container [having therein] *comprising*:

*an opening having a first size, and wherein the container contains water [with] and a solid or a gel [pak] pack that releases a gaseous cleaning 35 agent [upward and out of the container optionally] upward and out of the container, and*

*an impeller within the container, and*

*a lid removably coupled to the container to at least partially seal the opening, wherein the lid defines 40 an aperture with a second size that is smaller than the first size such that, during operation, when the water and the solid or the gel pack are agitated in the container to accelerate release of the gaseous cleaning agent, an air borne spray is emitted from 45 the aperture into the cabin;*

*sealing the cabin interior from an outside environment with the portable apparatus inside;*

*agitating the water and the solid or the gel pack with the impeller;* 50

*starting an air recirculation system of the cabin; and*

*maintaining the cabin interior closed while allowing the gaseous cleaning agent to dwell for an effective time in the sealed cabin interior to reduce the malodor, or a microbial and viral load on interior surfaces within the 55 sealed cabin.*

On information and belief, a customer's use of the accused product supplied by Defendant satisfies each of these limitations. Pursuant to 35 U.S.C. §271(c), liability for contributory infringement arises where the infringing party "offers to sell or sells . . . a component of a patented [invention]

. . . , constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use, shall be liable as a contributory infringer.”

9. The odor control product shown above in paragraph no. 7 supplied by Defendant, along with any similar products, constituting the chemical packs supplied with mixing container, constitute a material part of the claimed invention of at least claim 1 of the ‘959 Patent and is not a staple article or commodity of commerce suitable for substantial non-infringing use.

10. 35 U.S.C. §271(b) states: “[w]hoever actively induces infringement of a patent shall be liable as an infringer.” On information and belief, Defendant induces infringement of the ‘959 Patent by offering for sale and/or selling in the United States the chemical packs supplied with the mixing container in the product shown above in paragraph no. 7, and similar products to, for example, one or more pre-owned car dealers or rental car companies in North Carolina, by verbally specifically instructing customers and potential customers on methodology and the alleged benefits of using the product.

11. To the extent that knowledge of the ‘959 Patent and specific intent regarding infringement of the ‘959 Patent (including direct infringement) must be shown to demonstrate liability for inducement to infringe or contributing to infringement, such knowledge and specific intent by Defendant is present in this case at least on the basis that Defendant is a former supplier of NuVinAir’s competing Cyclone® product within the same sales territory in South Carolina, and the cease and desist letter sent by another of Plaintiff’s counsel dated June 29, 2022 sent via certified U.S. mail, return receipt requested, followed by a second cease and desist letter from the undersigned counsel sent via Federal Express and received on February 17, 2023. Defendant has refused to substantively respond and refused to cease and desist from the foregoing infringing

conduct. Defendant's continuing infringing activities in the United States are thus purposeful, intentional and willful with express knowledge of the '959 Patent and its infringement.

12. Defendant's continuing acts of infringement have caused and will continue to cause damage to Plaintiff, and Plaintiff is entitled to recover from Defendant the damages sustained as a result of Defendant's wrongful acts in an amount subject to proof at trial, including lost profits, but in no event less than a reasonable royalty.

13. Due to Defendant's continuing acts of willful infringement, Plaintiff is entitled to recover up to treble damages pursuant to 35 U.S.C. § 284, and an award of attorneys' fees pursuant to 35 U.S.C. § 285, as such conduct by Defendant renders this case exceptional.

**SECOND CAUSE OF ACTION**  
**(Preliminary and Permanent Injunction)**

14. Plaintiff re-alleges and reasserts the allegations in the preceding paragraphs as if repeated verbatim.

15. Further, Plaintiff incorporates by reference the contents of its Motion for Preliminary Injunction ("Motion") and accompanying Memorandum in Support of its Motion for Preliminary Injunction ("Memo").

16. As set forth in the Motion and Memo, Plaintiff is entitled to a preliminary and permanent injunction to enjoin Defendant from infringing the '959 Patent.

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

- (a) For a jury trial on all issues so triable;
- (b) An entry of final judgment in favor of Plaintiff and against Defendant;
- (c) An award of damages adequate to compensate Plaintiff for the infringement of the '959 Patent that has occurred, but in no event less than a reasonable royalty as permitted

by 35 U.S.C. § 284, together with prejudgment interest from the date the infringement began;

(d) A preliminary injunction and permanent injunction prohibiting Defendant and all persons in active concert or participation with any of them from further acts of infringement of the '959 Patent;

(e) Treble damages as provided for under 35 U.S.C § 284 in view of the knowing, willful, and intentional nature of Defendant's acts;

(f) Awarding Plaintiff its costs and expenses of this litigation, including reasonable attorneys' fees and disbursements, pursuant to 35 U.S.C. § 285 on the basis that this case is exceptional due to the conduct of Defendant;

(g) Awarding Plaintiff pre-judgment and post-judgment interest to the extent allowed by law; and

(h) Plaintiff have such other and further relief as the Court deems just and proper under the circumstances.

*[signature block to follow]*

Respectfully submitted,

**BURR & FORMAN LLP**

*s/ James K. Gilliam* \_\_\_\_\_

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March 14, 2023