

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS**

NEWTONOID TECHNOLOGIES, L.L.C.,	)	
WINDGO, INC., and VERISTIK, INC.,	)	
	)	
Plaintiffs,	)	Case No. 1:23-cv-02532
	)	
v.	)	JURY TRIAL DEMANDED
	)	
ABBOTT LABORATORIES,	)	
	)	
Defendant.	)	

**COMPLAINT**

Newtonoid Technologies, L.L.C. (“Newtonoid”), Windgo, Inc. (“Windgo”) and Veristik, Inc. (“Veristik”) (collectively, “Plaintiffs”), by and through their attorneys, for their Complaint against Defendant Abbott Laboratories (“Abbott”), allege as follows.

**PRELIMINARY STATEMENT**

1. This is an action for infringement of Plaintiffs’ United States Patent No. 11,392,818 (“the ‘818 Patent”) based on Abbott’s manufacture, use, importation, offer for sale, and sale of a product that infringes the ‘818 patent, the BinaxNOW rapid COVID-test (“the Infringing Product”).

**JURISDICTION AND VENUE**

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

3. This Court has specific and general personal jurisdiction over Abbott in this district because of Abbott’s presence in this judicial district. Abbott has availed itself of the laws of Illinois. Abbott has derived substantial revenue from the sales of the infringing product in the State of Illinois and it has systematic and continuous business contacts with the State of Illinois.

Plaintiffs' claims arise out of and relate to, in part, out of Abbott's contacts with the State of Illinois, including the import and sale of the Infringing Product within the state of Illinois. Abbott conducts business within the State of Illinois and has a registered agent in Illinois.

4. Venue is proper in the district pursuant to 28 U.S.C. § 1400(b) because the Defendant resides here, has committed acts of infringement here, and has a regular and established place of business here.

### **PARTIES**

5. Newtonoid is a Missouri Limited Liability Company with its principal place of business in the State of Missouri with its principal place of business at 1113 Aspen Drive, Liberty, Missouri 64068.

6. Windgo is a Missouri corporation with its principal place of business in the State of Missouri with its principal place of business at 130 South Missouri Street, Liberty, Missouri 64068.

7. Veristik is a Missouri corporation with its principal place of business in the State of Missouri with its principal place of business at 130 South Missouri Street, Liberty, Missouri 64068.

8. Abbott is an Illinois Corporation incorporated in the State of Illinois with its principal place of business at 100 Abbott Park Road, Abbott Park, Illinois 60064.

### **FACTS**

#### **A. The '818 Patent**

9. The '818 Patent is entitled "graphically encoded icons having intrinsic attributes embedded therein and systems and methods for using the same," was duly and legally issued on July 19, 2022, and named Fielding B. Staton and David Strumpf as the inventors. Attached as Exhibit 1 is a true and accurate copy of the '818 Patent.

10. Newtonoid is the assignee of the entire right, title, and interest in the '818 Patent. Newtonoid has licensed certain patent rights to Windgo, which has sublicensed certain rights to Veristik.

11. The '818 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

**B. Defendant's Infringing Activities and Products**

12. Abbott has and continues to infringe the '818 Patent by making, using, selling, and offering for sale the Infringing Product in the United States, including this judicial district, and importing into the United States the Infringing Product that is sold in this judicial district.

13. The Infringing Product is the BinaxNOW COVID-19 Antigen Self Test shown below.



**COUNT I**  
**(INFRINGEMENT OF THE '818 PATENT)**

14. Newtonoid repeats and realleges each of the preceding paragraphs as though fully set forth herein.

15. Abbott has infringed and is infringing at least Claim 8 of the '818 Patent by making, using, selling, or offering for sale in the United States, or importing into the United States, including within this judicial district, the Infringing Product in violation of 35 U.S.C. § 271(a).

16. Abbott's acts of infringement of the '818 Patent have caused and will continue to cause Newtonoid damages for which Newtonoid is entitled compensation pursuant to 35 U.S.C. § 284.

17. Abbott's acts of infringement of the '818 Patent have caused and will continue to cause immediate and irreparable harm unless such infringing activities are enjoined by this Court pursuant to 25 U.S.C. § 283. Newtonoid has no adequate remedy at law.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs Newtonoid Technologies, L.L.C., Windgo, Inc. and Veristik, Inc. respectfully request that this Court enter judgment against Abbott Laboratories, as follows:

A. Adjudging that Abbott has infringed the '818 Patent, in violation of 35 U.S.C. § 271 (a);

B. Granting an injunction permanently enjoining Abbott, its employees, agents, officers, directors, attorneys, successors, affiliates, subsidiaries, and assignees, and all those in active concert and participation with any of the foregoing persons or entities from infringing, contributing to the infringement of, or inducing infringement of the '818 Patent absent a license to Abbott by Newtonoid.

C. Ordering Abbott to account and pay damages adequate to compensate Newtonoid for Abbott's infringement of the '818 Patent, including pre-judgment and post-judgment interests and costs, pursuant to 35 U.S.C. § 284;

D. Ordering an accounting for any infringing sales not presented at trial and an award by the court of additional damages for any such infringing sales;

E. If Discovery and Evidence in this matter so warrants, declaring this case exceptional and awarding Newtonoid its reasonable attorney fees, pursuant to 35 U.S.C. § 285; and

F. Awarding such other and further relief as this Court deems just and proper.

**DEMAND FOR JURY TRIAL**

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

Dated: April 21, 2023

Respectfully submitted,

/s/ William W. Flachsbart

William W. Flachsbart, 6237069

Robert P. Greenspoon, 6229357

**DUNLAP BENNETT & LUDWIG PLLC**

333 N. Michigan Avenue; Suite 2700

Chicago, IL 60601

Phone: (312) 551-9500

wflachsbart@dbllawyers.com

rgreenspoon@dbllawyers.com

Anthony G. Simon, IL 6209056

Paul J. Tahan, IL 6340477

**THE SIMON LAW FIRM, P.C.**

800 Market Street, Suite 1700

St. Louis, Missouri 63101

Phone: (314) 241-2929

Fax: (314) 241-2029

asimon@simonlawpc.com

ptahan@simonlawpc.com

*Attorneys for Plaintiff*