

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION**

REYNOLDS PRESTO PRODUCTS INC., Plaintiff, v. ELPLAST AMERICA, INC., Defendant.	Case No.: _____ JURY TRIAL DEMANDED
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COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Reynolds Presto Products Inc. (“Plaintiff” or “Presto”), by and through its undersigned counsel, files this Complaint for Patent Infringement (“Complaint”) against Defendant Elplast America, Inc. (“Defendant” or “Elplast”) and alleges as follows:

NATURE OF THE ACTION

1. This is a patent infringement action for infringement of U.S. Patent No. 11,511,914 (the “’914 patent” or the “Asserted Patent”) under the patent laws of the United States, 35 U.S.C. 1 *et seq.*

PARTIES

2. Presto is organized and existing under the laws of the State of Delaware, and has its principal place of business at 1900 West Field Court, Lake Forest, Illinois 60045.

3. Based on information and belief, Elplast is a corporation duly organized and existing under the laws of the State of Iowa, and has its principal place of business at 795 Enterprise Drive, Marion, IA 52303.

JURISDICTION AND VENUE

4. This Court has jurisdiction over the subject matter of this claim under 28 U.S.C. §§ 1331 and 1338(a).

5. Upon information and belief, Defendant is subject to personal jurisdiction in this Court because Defendant maintains its principal place of business and therefore resides in this District and is currently doing and has done substantial business in this judicial district, and it is reasonable and fair to subject Elplast to the jurisdiction in this District. Elplast has committed acts of patent infringement within the United States and more particularly, within this District.

6. Venue in this judicial district is proper under 28 U.S.C. §§ 1391(b) and (c) and/or 1400(b). Elplast maintains its principal place of business in, and is incorporated under the laws of the State of Iowa, and therefore resides in this District. Additionally, Elplast has a regular and established place of business in this District and has committed acts of patent infringement within this District.

BACKGROUND

7. Presto is the owner, by assignment, of the entire right, title and interest in the '914 patent, entitled HIDDEN FLANGE CHILD RESISTANT CLOSURE FOR RECLOSEABLE POUCH AND METHODS, which issued on November 29, 2022. The '914 patent claims a hidden flange child resistant closure for a recloseable pouch having a unitary folded grasping flange and an attachment flange. A true and correct copy of the '914 patent is attached hereto as **Exhibit A** and is incorporated by reference herein.

8. Elplast makes, uses, offers to sell, and/or sells within the United States and/or imports into the United States a product under the name "EL-ZIP Child Safe Zipper" (the "Accused Product").

9. Upon information and belief, Elplast has directly infringed, and continues to directly infringe, one or more claims of the '914 patent in the United States, including at least claims 1 and 11, literally and/or under the doctrine of equivalents, by making, using, offering for sale, selling, and/or importing the Accused Product, that embodies the inventions of and is within the scope of one or more claims of the '914 patent. **Exhibit B** includes a claim chart illustrating how a recloseable package incorporating the Accused Product infringes claim 1 of the '914 patent.

10. As demonstrated in **Exhibit B**, the Accused Product is a material part of the infringing product and has no non-infringing use.

11. Upon information and belief, Elplast indirectly infringes, at least as of the date of filing this Complaint, one or more claims of the '914 patent in the United States, including at least claims 1 and 11, by, among other things, causing others to use, offer for sale, sell, and/or import the Accused Product, that embodies the inventions of and is within the scope of one or more claims of the '914 patent.

12. Upon information and belief, Elplast's customers who use the Accused Product in accordance with Elplast's instructions directly infringe one or more claims of the '914 patent in the United States, including at least claims 1 and 11 in violation of 35 U.S.C. § 271.

13. The acts of Elplast complained of herein constitute direct and indirect infringement of the '914 patent in violation of 35 U.S.C. § 271.

14. Elplast was aware by at least November 1, 2022 that the Accused Product would infringe the allowed claims of Presto's U.S. Patent Application No. 17/332,665 upon issuance as the '914 patent. Additionally, Elplast was aware that those allowed claims would issue as the '914 patent on November 29, 2022. By at least the filing of this Complaint, Elplast was aware of the

existence of the '914 patent and that at least some of Elplast's activities and/or the activities of its customers infringe the '914 patent.

15. As of at least the date of issuance of the '914 patent, and by no later than the filing date of this Complaint, Elplast has marketed and continues to market the Accused Products with the intent and direction that customers use the Accused Products to make a recloseable package that infringes at least one claim of the '914 patent, knowing that recloseable packages infringe at least one claim of the '914 patent.

16. Elplast's continued actions actively induce and contribute to the infringement of one or more claims of the '914 patent in the United States, including at least claims 1 and 11.

17. Elplast's infringement of the '914 patent has injured and will continue to injure Presto and Presto is entitled to recover damages adequate to compensate it for such infringement.

18. As a direct and proximate consequence of the aforesaid infringement, Presto has suffered irreparable harm, and Presto will continue to suffer irreparable harm in the future unless Elplast is enjoined from infringing the '914 Patent.

19. Elplast's infringement of the '914 patent has injured and will continue to injure Presto unless and until this Court enters an injunction prohibiting further infringement and enjoining further manufacture, use, importation, offers for sale, and sale of Elplast's infringing products that fall within the scope of any of the claims of the '914 patent.

20. Elplast's acts of infringement have been knowing and willful and with actual knowledge of the '914 patent and its infringement thereof. Upon information and belief, Elplast's continued infringement of the '914 patent is willful.

COUNT I – DIRECT INFRINGEMENT

21. Presto incorporates paragraphs 1 through 20 above as if fully recited herein.

22. Elplast makes, uses, sells and/or offers for sale products, including products that incorporate Elplast's EL-ZIP Child Safe Zipper, that directly infringe at least claims 1, 3, 5, 10, 11 of the '914 patent under 35 U.S.C. § 271(a).

23. Elplast's direct infringement has been and continues to be willful.

COUNT II – INDUCED INFRINGEMENT

24. Presto incorporates paragraphs 1 through 23 above as if fully recited herein.

25. Elplast makes, uses, sells and/or offers for sale the Accused Products to and for customers with the intent and direction that customers use the Accused Products to make a recloseable package that directly infringe at least claims 1, 3, 5, 10, 11 of the '914 patent.

26. Elplast's affirmative acts as described above were and continue to be made with knowledge that its customers' incorporation of the Accused Products into recloseable packages constitute infringement of the '914 patent.

27. Elplast's actions have and continue to constitute active inducement of infringement of the '914 patent under 35 U.S.C. § 271(b).

28. Elplast's acts of induced infringement have been and continue to be willful.

COUNT III – CONTRIBUTORY INFRINGEMENT

29. Presto incorporates paragraphs 1 through 28 above as if fully recited herein.

30. Elplast makes, uses, sells and/or offers for sale the Accused Products to and for customers knowing that the Accused Products are especially made or especially adapted for use in a recloseable package that directly infringe at least claims 1, 3, 5, 10, 11 of the '914 patent.

31. The Accused Products are a material part of the infringing product, and are not a staple article or commodity suitable for any non-infringing use.

32. Elplast's actions have and continue to constitute contributory infringement of the '914 patent under 35 U.S.C. § 271(c).

33. Elplast's acts of contributory infringement have been and continue to be willful

JURY DEMAND

Presto hereby demands a jury trial on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Presto prays that this Court:

- (a) adjudge and decree that Elplast has infringed, induced others to infringe, and/or contributed to the infringement of the '914 patent;
- (b) adjudge and decree that Elplast's direct and indirect infringement of the '914 patent was willful;
- (c) award damages to Presto under 35 U.S.C. § 284 along with interest (including both pre- and post-judgment interest) and costs for Elplast's infringement of the '914 patent;
- (d) find that this case is an exceptional case under 35 U.S.C. § 285 and award all remedies available thereunder including treble damages under 35 U.S.C. § 284 and Presto's attorney fees;
- (e) preliminarily and permanently enjoin, by reason of the acts of infringement and pursuant to 35 U.S.C. § 283, Elplast, its representatives, officers, directors, agents, servants, employees, and any and all persons in active concert with them, from directly or indirectly making or causing to be made, offering for sale, selling or causing to be sold, or using or causing to be used any product in accordance with or embodying any invention(s) set forth and claimed in the '914 patent including but not limited to the EL-ZIP Child Safe Zipper;

- (f) award to Presto such other and further relief, in law or equity, as this Court or a jury deems just and equitable.

Dated: December 1, 2022

Respectfully submitted,

/s/ Jeffrey D. Harty

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