

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Nanodropper, Inc. Plaintiff, v. J4J, LLC Defendants.	Civil Action No. _____ COMPLAINT FOR PATENT INFRINGEMENT (JURY TRIAL DEMANDED)
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COMPLAINT

Plaintiff, Nanodropper, Inc. (“Nanodropper”) files this complaint against Defendant J4J, LLC (“J4J”) and states and alleges as follows:

THE PARTIES

1. Plaintiff Nanodropper is a Minnesota corporation with a principal place of business located at 442 51st Ave NW, Rochester, Minnesota 55901.
2. On information and belief, Defendant J4J is an Idaho limited liability company with a principal place of business located at 2146 Filer Ave. E, Twin Falls, Idaho 83301.

JURISDICTION, VENUE AND JOINDER

3. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action for infringement of a United States patent arises under the Patent Laws of the United States, 35 U.S.C. §§ 271 and 281-285.

4. This Court has personal jurisdiction over Defendant J4J for at least the reasons that J4J does transact business in Minnesota, has purposefully availed itself of the privileges of doing business in Minnesota, and has committed acts of patent infringement in Minnesota as alleged in this Complaint.

5. Defendant J4J has committed and continues to commit acts of patent infringement, including selling and offering to sell an infringing product and contributorily infringing and inducing infringement in Minnesota and this judicial district.

6. Venue is proper in the District of Minnesota pursuant to 28 U.S.C. §§ 1391 and 1400(b) because, among other reasons, Defendant J4J has committed and continues to commit acts of infringement in Minnesota by making, using, importing, offering for sale, and/or selling infringing products, and/or inducing others to make, use, sell, or offer for sale infringing products and processes in Minnesota.

7. Upon information and belief Defendant J4J's primary means of sale of infringing products is through online vendors and ship the infringing products to consumers in this judicial district and is a Defendant over which the Court has personal jurisdiction.

FACTUAL BACKGROUND

8. Upon information and belief, Nanodropper sells the only FDA-listed, volume-reducing adapter for eyedrop bottles.

9. Generally, eyedrop bottles are provided with a nozzle for ejecting drops of ophthalmic solutions having a volume in the range of 25 μ l to 75 μ l, with an average drop volume of about 40 μ l to 50 μ l.

10. The precorneal tear film of the human eye has a lower capacity, meaning that for some medications the optical drop volume may be much closer to about 10 μ l or less. A significant volume of ophthalmic solution is wasted with each drop and/or migrates to areas surrounding the eye and the solution may irritate the delicate skin near the eye.

11. Allisa Jungha Song and Elias Lee Baker are the inventors of United States Patent No. 10,695,216 entitled “Assembly and Method for Delivery of Micro-Volume Droplets From a Squeeze Bottle” (“the ’216 patent”). The ’216 patent was issued by the United States Patent and Trademark Office on June 30, 2020 from United States Patent Application No. Serial 16/255,152. A true and correct copy of the ’216 patent is attached as Exhibit A.

12. The inventions of the ’216 patent relate to an assembly for attaching to a container and a method of reducing a volume of a droplet of fluid ejected from a container.

13. Nanodropper sells at least one good embodying the inventions of the ’216 patent, including the NANODROPPER[®] product which is and has been properly marked with the ’216 patent number pursuant to 35 U.S.C. § 287.

14. Nanodropper is and has been at all relevant times the owner by assignment of the ’216 patent.

15. Nanodropper’s NANODROPPER[®] product can be secured to an existing eyedrop container without removal or modification of the existing nozzle. The product is an adapter that reduces the volume of a droplet of fluid ejected from the eyedrop container on a microliter scale. The NANODROPPER[®] is an assembly having a flexible and resilient tip for attaching to a squeeze type container and configured to reduce a volume of a droplet

of fluid ejected from the container on a microliter scale such as to a volume of less than about 15 μ l.

COUNT I – PATENT INFRINGEMENT U.S. PATENT NO. 10,695,216

16. Nanodropper repeats and realleges all allegations set forth above in paragraphs 1-15 as if they were stated in full and incorporated herein.

17. Nanodropper owns and holds all legal title, interest, and rights in the '216 patent.

18. Defendant J4J did not and does not have the authority to offer to sell and/or sell official NANODROPPER® products and processes.

19. Defendant J4J did not and does not have authority or permission to make, use, offer to sell, sell, or import into the United States the accused products and processes which incorporate the subject matter claimed in the '216 patent.

20. Defendant has had actual knowledge of the '216 patent at least by the time of the filing and service of the Complaint in this action.

21. Upon information and belief, Defendant J4J has had actual knowledge of the '216 patent at least by the time of the filing and service of the Complaint in this action as Nanodropper provided written notice of the '216 patent to Defendant J4J on August 18, 2023. A copy of the notice provided to Defendant J4J and associated correspondence including Defendant J4J's response thereto and Nanodropper's further reply, which has gone unanswered, is attached hereto as Exhibit B.

22. In violation of 35 U.S.C. § 271, on information and belief, Defendant have directly and/or indirectly infringed and continue to infringe one or more claims, including

at least claim 1, of the '216 patent, either literally or under the doctrine of equivalents, by making, using, offering to sell, selling an infringing product in the United States, and/or importing an infringing product into the United States.

23. On information and belief, infringing products made, used, offered for sale, sold, and/or imported into the United States by Defendants include, but are not limited to, the accused products and processes referred to by Defendant as the “PRECISION DROPPER,” and any same or similar products as those referred to on the packaging for the product as purchased from Defendant below (left) and in the image copied from www.precisiondropper.com (right):



24. As recited in claim 1 of the '216 patent, on information and belief, the accused product is an assembly having a flexible and resilient tip for attaching to a container and configured to reduce a volume of a droplet of fluid ejected from the container, wherein the assembly is removably securable to the container without removal of a

dispensing tip original to the container, wherein the container is a squeeze type container and wherein the volume of the droplet ejected from the container is reduced on a microliter scale as the assembly is configured to reduce the volume of the droplet ejected per squeeze to a volume less than about 15 μ l.

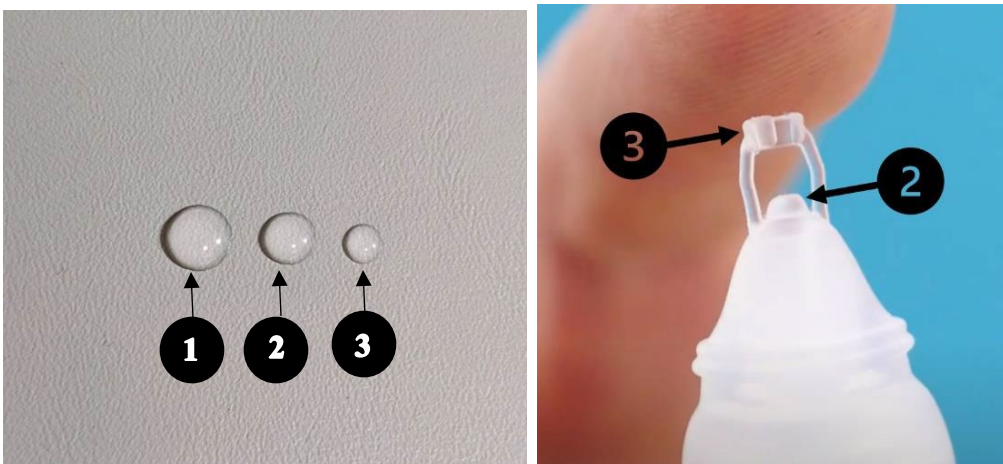
25. The accused product includes a universal eye drop attachment with a flexible tip.

26. The accused product is an attachment for a pre-existing squeeze type container of eyedrops.

27. The accused produce reduces the volume of a droplet ejected from the squeeze type container on a microliter scale to a volume less than about 15 μ l.

28. The accused products and processes are also sold by Defendant J4J in “bundles” with various squeeze type containers of eyedrop solution therewith.

29. Upon information and belief, the accused product offered for sale and sold by Defendant as pictured below reduces volume on a microliter scale:



the leftmost droplet identified as (1) being an original drop directly from the OEM bottle of Systane Hydration PF; the middle drop identified as (2) being the drop delivered from the first opening in the Precision Dropper, (the first opening indicated as 2 in the second image, annotated, above); and the rightmost droplet identified as (3) being a drop from the flexible nozzle tip of Precision Dropper (as indicated by 3 in the second image, annotated, above).

30. Upon information and belief, J4J owns and/or controls the domain name <precisiondropper.com> and the content displayed thereon for selling and offering to sell the PRECISION DROPPER product throughout the United States.

31. Defendant J4J has used the accused product's reduction in the volume of the droplet dispensed from the "universal eye drop attachment" in offering to sell and selling the accused products, as evidenced by screen shots from the <precisiondropper.com> website obtained by Nanodropper on or about August 2023, where true and correct copies are reproduced below:



Eye Drops last 3x longer!

Precision Dropper was engineered to dispense and hold the perfect-sized eye drop. By controlling the size and making the delivery so easy. Precision dropper users' eye drops are lasting 3-5x longer

Frequently Asked Questions

– Is the Precision Dropper safe?

Yes! The Precision Dropper actually makes using eye drops safer! The medical-grade silicone is similar to the soft contacts that people wear on their eyes. Because of the soft flexible tip, we have eliminated the risk of corneal scratches. Since drops cannot re-enter the bottle once they have been dispersed, the chances of bottle contamination are significantly reduced.

– Will the tip hurt my eye?

The tip is made to bend by the weight of 2 feathers. It's so soft, most users can't even feel it touch their eyes!

– How big are eye drops?

The human eye can hold 7-11 ul of fluid at a time. Most eye drops are 35-50 ul. This is why you may experience a mess during the application process. Because of our patented surface tension technology, Precision Dropper produces drops of 12-16 ul.

1/3rd the size!

32. On information and belief, Defendant is still selling and offering to sell eye drop attachments substantially as depicted in the PRECISION DROPPER in paragraph 23 above.

33. On information and belief, in conjunction with the sale of the accused products, Defendant acts with a specific intent to actively induce their customers to directly infringe, either literally or under the doctrine of equivalents, at least one claim of the '216 patent.

34. Upon information and belief, Defendant intentionally and actively induces customers to directly infringe claims of the '216 patent by advertising the PRECISION DROPPER as a universal eye drop attachment where “eye drops last 3x longer” and selling the product in bundles with squeeze containers of ophthalmic solution for use with the attachment as shown below in the screenshot taken from <https://precisiondropper.com/collections/eye-drop-bundles> obtained January 12, 2024:

Eye Drop Bundles

Filter

Elevate your eye care routine and save money by pairing Precision Dropper with your favorite eye drops!



SAVE \$8.05

BUNDLE TheraTears Dry Eye Therapy Eye Drops with Precision Dropper Adapter
~~\$41.00~~ \$32.95



SAVE \$9.05

BUNDLE Systane Complete PF (2-Pack) with Precision Dropper Adapter
~~\$52.00~~ \$42.95



SAVE \$7.05

BUNDLE Refresh Tears (2-Pack) with Precision Dropper Adapter
~~\$46.00~~ \$38.95



SAVE \$7.05

BUNDLE Lumify Eye Drops With Precision Dropper Adapter
~~\$46.00~~ \$38.95



SAVE \$8.05

BUNDLE Biotrue Hydration Boost Eye Drops and Precision Dropper Adapter
~~\$41.00~~ \$32.95

35. On information and belief, similar to Plaintiff's product which incorporates the inventions of the '216 patent, Defendant sells the accused product and process that comprises a flexible and resilient tip for attaching to the squeeze container and configured to reduce the volume of a droplet ejected from the container on a microliter scale.

36. On information and belief, the accused product is a material part of the patented '216 invention. For example, the attachment (adapter) is a material part of the invention claimed in at least claim 1 of the '216 patent, as set forth above.

37. On information and belief, Defendants have had knowledge of the '216 patent, and knew the accused products were especially made or adapted as claimed in the '216 patent, at least by the time of the filing and service of the Complaint in this action.

38. The accused products, including the universal eye drop attachment are not staples or commodities of commerce and the universal eye drop attachment has no substantial use that does not infringe one or more claims of the '216 patent.

39. On information and belief, Defendant's infringement of the '216 patent is willful because Defendant had knowledge of the '216 patent, and has known that the accused products infringe the '216 patent, at least by the time of the filing and service of the Complaint in this action.

40. On information and belief, Defendant has continued to make, use, offer to sell, sell, and/or import into the United States their infringing eye drop attachment, directly infringe or indirectly infringe, by actively inducing its dealers and/or customers to infringe the '216 patent and/or by contributorily infringing the '216 patent, in objective and

subjective reckless disregard of the '216 patent and the rights conferred by the '216 patent to Nanodropper.

41. Nanodropper has been injured and suffered significant financial damage as a direct and proximate result of Defendant's infringement of the '216 patent.

42. Defendants' infringement of the '216 patent has and will continue to cause irreparable injury and damage to Nanodropper unless and until the Court enjoins Defendants from committing further infringing acts.

43. Nanodropper is entitled to recover damages from Defendants as a result of Defendants' wrongful acts of infringement in an amount subject to proof at trial.

REQUEST FOR RELIEF

Nanodropper respectfully requests the following relief:

A. A judgment that Defendant has infringed and is infringing one or more claims of the '216 patent, and are liable to Nanodropper for damages caused by such infringement;

B. An award of damages, including lost profits, or in the alternative, not less than a reasonable royalty, including pre-judgment and post-judgment interest and costs, in an amount adequate to compensate Nanodropper for Defendant's infringement of the '216 patent;

C. A judgment that Defendants' infringement of the '216 patent is willful and that damages shall be increased under 35 U.S.C. § 284 to three times the amount found or measured;

D. An order permanently enjoining Defendants from infringing the '216 6 patent;

E. If a permanent injunction is not granted, a judicial determination of the conditions for future infringement such as an ongoing royalty;

F. A post-judgment equitable accounting of damages owed by Defendants for the period of infringement of the '216 patent following the period of damages established at trial;

G. A finding that this case is “exceptional” and an award of attorneys’ fees, expenses, and costs incurred in this action, pursuant to 35 U.S.C. § 285;

H. Any other and further relief at law or in equity as the Court deems just and proper.

JURY TRIAL DEMAND

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure and the Seventh Amendment to the Constitution of the United States, Plaintiffs hereby demand a trial by jury of all issues triable in the above action.

Dated: April 22, 2024

Respectfully Submitted,

By: s/Amanda Prose

Amanda Prose (MN # 392,688)
WESTMAN, CHAMPLIN & KOEHLER, P.A.
121 South 8th Street
Suite 11400
Minneapolis, Minnesota 55402
Telephone: 612-334-3222
Fax: 612-334-3312
E-mail: aprose@wck.com

**ATTORNEYS FOR PLAINTIFF
NANODROPPER, INC.**