

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. _____

ECO-PRODUCTS, INC.

Plaintiff,

vs.

WORLD CENTRIC,

Defendant.

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Eco-Products, Inc. (“Eco-Products”), by and through its undersigned counsel, brings this action against Defendant World Centric (“World Centric”) and alleges as follows:

THE PARTIES

1. Plaintiff Eco-Products is a corporation organized and existing under the laws of the state of Colorado with its principal place of business at 4577 Walnut Street, Boulder, Colorado, 80301.

2. Upon information and belief, Defendant World Centric is a business organized and existing under the laws of the state of California and has its principal place of business at 2121 Staunton Court, Palo Alto, California, 94306.

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, Title 35, United

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

4. Personal jurisdiction and venue are proper in this District pursuant to 28 U.S.C. § 1391(b)-(c) and 1400(b). World Centric conducts business in this District through catalog sales, the Internet, and/or distributors, and is subject to jurisdiction here. The acts of infringement which form the basis of this action occurred within this District, and because World Centric has harmed and continues to harm Eco-Products in this District.

GENERAL ALLEGATIONS

Eco-Products' Goods and Patents

5. Eco-Products, founded in 1990, is the nation's leading brand of single use foodservice products made from renewable and recycled resources, many of which are compostable. Eco-Products manufactures and sells a full line of products, including cups, food containers, plates, bowls, utensils, and lids.

6. Eco-Products has invested heavily to protect its intellectual property rights relating to its innovative food containers.

7. Eco-Products is the owner by assignment of all right, title, and interest in and to several valid and enforceable United States design patents, including U.S. Patent Nos. D688552 ("the D552 patent"), D684,050 ("the D050 patent"), D684,465 ("the D465 patent"), and D684859 ("the D859 patent") (collectively, "the Eco-Products Patents").

8. On August 27, 2013, the United States Patent and Trademark Office duly and lawfully issued the D552 patent, entitled "Food Container." A true and correct copy of the D552 patent is attached hereto as Exhibit A.

9. On June 11, 2013, the United States Patent and Trademark Office duly and lawfully issued the D050 patent, entitled "Food Container." A true and correct copy of the D050 patent is attached hereto as Exhibit B.

10. On June 18, 2013, the United States Patent and Trademark Office duly and lawfully issued the D465 patent, entitled "Food Container." A true and correct copy of the D465 patent is attached hereto as Exhibit C.

11. On June 25, 2013, the United States Patent and Trademark Office duly and lawfully issued the D859 patent, entitled "Food Container." A true and correct copy of the D859 patent is attached hereto as Exhibit D.

12. Duly issued by the United States Patent and Trademark Office, the D552 patent, the D050 patent, the D465 patent, and the D859 patent are presumed valid and enforceable, and grant Eco-Products the exclusive right to make, use and sell products covered by the Eco-Products Patents.

World Centric's Infringing Activities

13. World Centric is a direct competitor of Eco-Products in the business of foodservice products.

14. World Centric offers a variety of foodservice products including the "Fiber Compost-A-Pack."

15. In May of 2013, World Centric exhibited its products, including the "Fiber Compost-A-Pack" product, at the National Restaurant Association Show, an industry trade show held in Chicago, Illinois from May 18-22, 2013.

16. Eco-Products' representatives visited World Centric's booth at the National

Restaurant Association Show and observed World Centric’s promotion of and offer to sell the “Fiber Compost-A-Pack” product.

17. At the National Restaurant Association Show, Eco-Products’ representatives took photographs of, among other things, the “Fiber Compost-A-Pack” product. *See Exhibit E.*



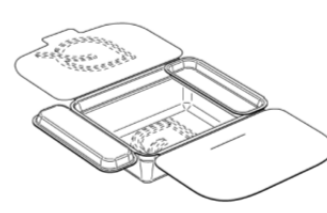



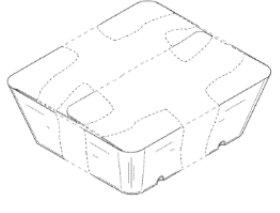
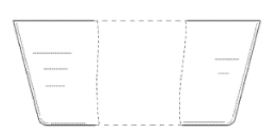
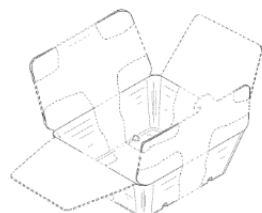
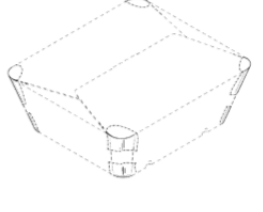


18. World Centric also offers for sale the “Fiber Compost-A-Pack” product through its 2013 catalog. *See Exhibit F.*

19. World Centric also offers what appears to be the same product for sale through its website at <http://worldcentric.org/biocompostables/clamshells/plantfiber-folding>, listing the product as “Unbleached Plant Fiber Folding Take Out Container.” *See Exhibit G.*

20. World Centric’s product is virtually identical in design to Eco-Products’ patented designs for food containers as shown below:

World-Centric Product			
Photographs from National Restaurant Association Show (See Exhibit E)			
Image from the World Centric 2013 Catalog (See Exhibit F)			

World-Centric Product	
Image from the World Centric Website (See Exhibit G)	Unbleached Plant Fiber Folding Take Out Container
	<div style="display: flex; align-items: center;">  <div style="margin-left: 20px;"> <p>Our compostable plant fiber containers are</p> <ul style="list-style-type: none"> • microwave and freezer safe, can be used for both hot and cold items • soak proof • have no plastic or wax lining • handle hot liquids up to 220 Fahrenheit (moisture forms at the bottom for hot food items) • fully compostable, sturdy and strong • meet ASTM D-6400 standard for compostability <p>Though these compostable containers are soak proof, hot items will cause the plates to "perspire" and some condensation will form at the bottom.</p> </div> </div>

Eco-Products' patented designs			
D552 Patent			
D465 Patent			
D050 patent			
D859 patent			

21. In the eye of an ordinary observer, the “Fiber Compost-A-Pack” and “Unbleached Plant Fiber Folding Take Out Container” product marketed and sold by World Centric is substantially the same as the patented Eco-Products designs.

22. At no time has Eco-Products given World Centric permission, license, or authorization to use the patented Eco-Products designs.

CLAIM FOR RELIEF
(Patent Infringement Under 35 U.S.C. § 271)

23. Eco-Products repeats the allegations in the preceding paragraphs as though fully set forth herein.

24. World Centric’s actions as described above, and specifically World Centric’s unauthorized manufacture, use, sales, offers to sell, and/or importing into the United States the “Fiber Compost-A-Pack” product, constitutes infringement of the D552, D050, D465, and D859 patents under 35 U.S.C. § 271(a).

25. World Centric’s continued actions of making, using, offering for sale, selling, and/or importing the “Fiber Compost-A-Pack” product has injured, is injuring, and will continue to cause irreparable injury to Eco-Products if not preliminarily and permanently enjoined.

26. Eco-Products is entitled to an injunction prohibiting World Centric from further making, using, offering for sale, selling, and/or importing the “Fiber Compost-A-Pack” product without permission or license from Eco-Products.

27. World Centric’s infringement of the Eco-Products Patents is causing Eco-Products injury, and Eco-Products is entitled to disgorgement of World Centric’s profits pursuant to 35 U.S.C. § 289.

JURY TRIAL DEMAND

Eco-Products demands a trial by jury on all claims and issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Eco-Products requests that the Court enter Judgment in its favor and against World Centric on all claims as follows:

- A. finding, declaring, and adjudging that Defendant World Centric has infringed one or more claims of the Eco-Products Patents;

- B. enjoining World Centric and its officers, directors, agents, servants, affiliates, employees, subsidiaries, parents, and all others acting in concert with World Centric from making, using, selling or offering to sell the “folding take-out container” identified herein or from otherwise infringing the Eco-Products Patents;

- C. awarding to Eco-Products the total profits of World Centric for all sales of products covered by the Eco-Products Patents pursuant to 35 U.S.C. § 289;

- D. finding this to be an exceptional case under 35 U.S.C. § 285, and awarding Eco-Products its costs (including expert witness fees), disbursements, and reasonable attorney’s fees incurred in this action and such other relief as may be appropriate; and

- E. awarding Eco-Products prejudgment and postjudgment interest as allowed by law.

DATED this 11th day of September, 2013.

Respectfully submitted,

/s/ Timothy P. Getzoff

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