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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BREVILLE USA, INC.,

Plaintiff,

vs.

SPECTRUM BRANDS HOLDING, INC.,
SPECTRUM BRANDS, INC., RUSSELL
HOBBS, INC.,

Defendants.

Case No. 3:16-cv-06718-SK

**FIRST AMENDED COMPLAINT FOR
PATENT INFRINGEMENT**

DEMAND FOR JURY TRIAL

Plaintiff Breville USA, Inc., (“Breville USA”) files this First Amended Complaint for patent infringement against Defendants Spectrum Brands Holding, Inc. (“SB Holding”), Spectrum Brands, Inc., (“Spectrum”), and Russell Hobbs, Inc. (“Russell Hobbs”) (together, “Defendants”), for infringement on U.S. Patent No. 9,016,196. A copy of the Patent-in-Suit is attached hereto as Exhibit A.

BACKGROUND

Breville's Leading Technology

8. Breville USA is a leading provider of luxury small electrical appliances in the consumer products industry.

9. The Breville® brand, owned by Breville USA's parent corporation, Breville Pty Limited, an Australian corporation, is recognized worldwide.

10. The Breville companies have invested millions of dollars in developing home goods sold under the Breville® brand, and Breville holds hundreds of patents for inventions and designs related to juicers. Breville USA is the exclusive licensee for all Breville®-branded products in the United States, including Breville® juicers and the Asserted Patent. That exclusive license, originally effective December 17, 2010, also includes: (1) the exclusive right to bring a lawsuit for infringement of the Asserted Patent (including the right to both past and future damages and injunctive relief); (2) the right to transfer, assign, or grant sub-licenses (for which Breville Pty Limited shall not unreasonably withhold its consent); and (3) any and all other substantial rights in the Asserted Patent necessary and sufficient under applicable law or precedent to confer standing and permit Breville USA to initiate any action on its own.

11. One of the juicers sold by Breville USA in the United States, the "Juice Fountain® Compact," Model BJE200XL, incorporates various aspects of Breville's patented juicer technologies, including those in the '196 Patent.

12. The '196 Patent is directed to a fruit and vegetable juicer and, more particularly, to a compact juicer with a full-size feed tube. Historically, a juicer with a good build quality, high juicing capacity, and a large feed tube would have a larger overall footprint.

13. The compact juicer disclosed in the '196 Patent, however, combines those desirable characteristics—good build quality, high juicing capacity, and a full-size feed tube—in a compact juicer primarily for domestic use that significantly reduces the overall size and footprint of the machine.

14. Breville USA marked its BJE200XL first with the serial or application number of the published application for the '196 Patent, and recently, after the '196 Patent issued, with the '196 Patent itself. Breville USA virtually marked the BJE200XL as shown below:



Defendants' Infringing Products

15. On information and belief, Defendants market and offer for sale a variety of products, including batteries, appliances, pet supplies, hardware, and auto care products, under a number of different brand names throughout the U.S.

16. One product marketed and offered for sale by Defendants, since at least 2015, is the Juiceman-brand "Power Plus Compact Juicer with Citrus Attachment," Model JM850. (See **EXHIBITS B and C.**)

17. On information and belief, Defendants and/or their predecessor(s)-in-interest have, since at least 2012, marketed and offered for sale a Juiceman-brand "2-in-1 Juice Extractor & Citrus Juicer," Model JM8000s. (See **EXHIBIT D.**)

18. Spectrum's 2015 Annual Report, accessible from Spectrum's website, www.spectrumbrands.com, lists the Breville®-brand as one of its competitors in the small appliances sector. (See **EXHIBIT E** at 15.)

1 19. On information and belief, the Juiceman-brand products, including at least the
2 JM850, are offered for sale through multiple U.S. retailers, both online and storefront, and
3 through the www.juiceman.com website. On information and belief, both the JM850 and
4 JM8000s (together, the “Accused Products”) have been sold in this district.

5 20. Each of the Accused Products infringes at least one claim of the ’196 Patent, as
6 shown in the chart attached hereto as Exhibit F.

7 21. Upon information and belief, through their actions, Defendants also have induced
8 third parties to directly infringe at least one claim of each of the Asserted Patents and/or
9 contributed to the direct infringement of at least one claim of each of the Asserted Patents by third
10 parties in that those third parties have at least used, offered for sale, and/or sold the Accused
11 Products in the United States. Spectrum advertises itself as a “supplier” on its website, and, on
12 information and belief, supplies the Accused Products to retailers such as Amazon.com, Best
13 Buy, Office Depot, Wayfair, Jet.com, Walmart, Staples, and many others, who in turn have
14 offered for sale and/or sold the Accused Products to consumers.

15 **COUNT I: INFRINGEMENT OF U.S. PATENT NO. 9,016,196**

16 22. Breville repeats and incorporates by reference the allegations in Paragraphs 1-21
17 as if fully set forth herein.

18 23. On April 28, 2015, U.S. Patent No. 9,016,196, entitled “Compact Juicer,” was
19 duly and legally issued.

20 24. The ’196 Patent discloses, *inter alia*, a fruit and vegetable juicer that has a motor
21 above which is a filter basket that is surrounded by a collection chamber. A feed tube is
22 supported above the filter basket and is integral with a lid to the collection chamber.

23 25. Breville Pty Limited is the owner of the ’196 Patent by virtue of assignments that
24 have been duly and properly recorded with the U.S. Patent and Trademark Office on or about
25 January 21, 2008.

26 26. Breville Pty Limited granted Breville USA the exclusive license to practice the
27 ’196 Patent within the United States. The exclusive license grants to Breville USA substantially
28

1 all of the rights in the '196 Patent, including the right to bring suit for infringement of the '196
2 Patent.

3 27. Upon information and belief, Defendants have manufactured, made, marketed,
4 sold, imported, and/or used the Accused Products, comprising all of the elements and limitations
5 of one or more of the claims of the '196 Patent, and therefore Defendants have directly infringed
6 one or more of the claims of the '196 Patent, and/or have induced and/or contributed to the
7 infringement of one or more of the claims of the '196 Patent by others.

8 28. Consequently, Defendants have infringed and currently infringe the '196 Patent,
9 literally and/or under the doctrine of equivalents by making, using, selling, offering for sale,
10 and/or importing the Accused Products without permission or license from Breville USA.

11 29. Breville USA is entitled to recover damages as a result of Defendants' infringing
12 conduct, as well as interest and costs as fixed by this Court pursuant to 35 U.S.C. § 284.

13 30. Upon information and belief, Defendants will continue their infringement of one
14 or more claims of the '196 Patent unless enjoined by the Court. Defendants' infringing conduct is
15 causing Breville USA irreparable harm and will continue to cause such harm without the issuance
16 of an injunction.

17 **DEMAND FOR JURY TRIAL**

18 Breville USA hereby requests a jury trial of all issues so triable.

19
20 **PRAYER FOR RELIEF**

21 WHEREFORE, Breville USA prays for judgment that:

- 22 i. One or more claims of United States Patent No. 9,016,196 has been infringed,
23 either literally and/or under the doctrine of equivalents, by Defendants and/or by
24 others to whose infringement Defendants have contributed and/or by others whose
infringement has been induced by Defendants;
- 25 ii. Defendants, Defendants' respective officers, agents, servants, employees,
26 contractors, and attorneys, and all those in active concert and participation with the
27 foregoing persons and entities be enjoined permanently from further infringement
28 of the Asserted Patents;

- NIXON PEABODY LLP

*Attorneys for Plaintiff BREVILLE USA,
INC.*

CERTIFICATE OF SERVICE

I hereby certify that a copy of this First Amended Complaint was served by electronic filing on April 10, 2017, on all counsel of record, through this Court's CM/ECF system.

/s/ Bruce E. Copeland