

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

**RUBBERMAID INCORPORATED d/b/a  
RUBBERMAID MEDICAL SOLUTIONS,**

**Plaintiff,**

**v.**

**CAPSA SOLUTIONS LLC,**

**Defendant.**

**Civil Action No. \_\_\_\_\_**

**Judge \_\_\_\_\_**

**JURY TRIAL DEMANDED**

**COMPLAINT**

Plaintiff Rubbermaid Incorporated d/b/a Rubbermaid Medical Solutions (“Rubbermaid Medical” or “Plaintiff”), for its complaint against Defendant Capsa Solutions LLC (“Capsa” or “Defendant”), seeking damages, injunctive relief and other relief for patent infringement, alleges as follows:

**NATURE OF ACTION**

1. This is an action for patent infringement arising under Title 35 of the United States Code, seeking monetary damages and injunctive relief against Capsa due to its violation of Rubbermaid Medical’s rights in U.S. Patent No. 7,594,668 and U.S. Patent No. 8,215,650.

**PARTIES**

2. Plaintiff Rubbermaid Medical is a corporation organized and existing under the laws of the State of Ohio, having a principal place of business at 8935 North Pointe Executive Park Drive, Huntersville, NC 28078.

3. On information and belief, Capsa is limited liability company organized and existing under the laws of the State of Delaware, having a principal place of business at 4800 Hilton Corporate Drive, Columbus, OH 43232.

#### **JURISDICTION AND VENUE**

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

5. This Court has personal jurisdiction over Defendant because, on information and belief, Defendant transacts business within this district, including, without limitation, the offer for sale of the infringing products described herein.

6. Upon information and belief, venue in this district is proper pursuant to 28 U.S.C §§ 1391(b) and (c) and 1400(b).

#### **PATENTS-IN-SUIT**

7. On August 18, 2009, a nonprovisional utility patent application entitled “Medical Cart, Medication Module, Height Adjustment Mechanism, and Method of Medication Transport” was filed in the United States Patent and Trademark Office, which application resulted in the granting of United States Patent No. 7,594,668, issued on September 29, 2009 (“the ’668 Patent”). A true and accurate copy of the ’668 Patent, which is valid and subsisting, is attached hereto as Exhibit A and incorporated herein by reference.

8. On July 20, 2011, a nonprovisional utility patent application entitled “Medical Cart, Medication Module, Height Adjustment Mechanism, and Method of Medication Transport” was filed with the United States Patent and Trademark Office, which application resulted in the granting of United States Patent No. 8,215,650, issued on July 10, 2012 (“the ’650 Patent”). A

true and accurate copy of the '650 Patent, which is valid and subsisting, is attached hereto as Exhibit B and incorporated herein by reference.

9. Rubbermaid Medical is the owner by assignment of all rights, title and interest in and to the '668 Patent and the '650 Patent and possesses all rights of recovery thereunder, including the right to sue for infringement and recover past damages.

**COUNT I**  
**(Infringement of U.S. Patent No. 7,594,668)**

10. Rubbermaid Medical hereby incorporates by reference the allegations contained in paragraphs 1 through 9 of this Complaint as if stated herein.

11. Defendant, without Rubbermaid Medical's authorization and in violation of 35 U.S.C. § 271, has infringed and continues to infringe the '668 Patent by making, using, offering to sell and/or selling carts of various dimensions, including, without limitation, the carts that Capsa identifies by the product names "MX35L" and "MX40" (the "Accused Products") which are covered by one or more claims of the '668 Patent, including, without limitation, claim 4.

12. To the extent that the facts learned in discovery show that Defendant's infringement of the '668 Patent is or has been willful, Rubbermaid Medical reserves the right to request such a finding at the time of trial.

13. Defendant's infringement of the '668 Patent has caused damage to Rubbermaid Medical, including deprivation of rights, remunerations and profits which would have otherwise come to Rubbermaid Medical but for the infringement, and Rubbermaid Medical is entitled to recover damages.

14. Defendant's continuing infringement of the '668 Patent will continue to damage Rubbermaid Medical, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by the Court.

15. As a result of Defendant's wrongful conduct, Rubbermaid Medical is entitled to injunctive relief.

**COUNT II**  
**(Infringement of U.S. Patent No. 8,215,650)**

16. Rubbermaid Medical hereby incorporates by reference the allegations contained in paragraphs 1 through 15 of this Complaint as if stated herein.

17. Defendant, without Rubbermaid Medical's authorization and in violation of 35 U.S.C. § 271, has infringed and continues to infringe the '650 Patent by making, using, offering to sell and/or selling carts of various dimensions, including, without limitation, the Accused Products, which are covered by one or more claims of the '650 Patent, including, without limitation, claim 1.

18. To the extent that the facts learned in discovery show that Defendant's infringement of the '650 Patent is or has been willful, Rubbermaid Medical reserves the right to request such a finding at the time of trial.

19. Defendant's infringement of the '650 Patent has caused damage to Rubbermaid Medical, including deprivation of rights, remunerations and profits which would have otherwise come to Rubbermaid Medical but for the infringement, and Rubbermaid Medical is entitled to recover damages.

20. Defendant's continuing infringement of the '668 Patent will continue to damage Rubbermaid Medical, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by the Court.

21. Rubbermaid Medical has no adequate remedy at law, and Defendant's conduct has caused and, if not enjoined, will continue to cause irreparable damage to Rubbermaid Medical.

22. As a result of Defendant's wrongful conduct, Rubbermaid Medical is entitled to injunctive relief.

### **RELIEF REQUESTED**

WHEREFORE, Rubbermaid Medical prays:

A. That this Court order, adjudge and decree that Defendant has infringed the claims of the '668 Patent and the '650 Patent in violation of 35 U.S.C. § 271.

B. That injunctions, preliminary and permanent, be issued out of this Court restraining Defendant, and its officers, agents, servants and employees, and all persons within Defendant's control, from directly or indirectly making or causing to be made, selling, or causing to be sold, or offering for sale, importing, or using or causing to be used in any way the inventions of the claims of the '668 Patent or the '650 Patent, or otherwise directly infringing, contributorily infringing or inducing infringement of the '668 Patent or the '650 Patent.

C. That this Court order Defendant, its officers, agents, servants and employees to deliver up to this Court for destruction all products infringing upon, directly or otherwise, any claim of the '668 Patent or the '650 Patent or the use of which would infringe, directly or otherwise, any claim of the '668 Patent or the '650 Patent.

D. That Defendant be ordered to account for and pay over all proceeds and profits made by it from its wrongful infringing acts, and to account for and pay to Rubbermaid Medical damages in a sum to be determined by the Court, but no less than a reasonable royalty.

E. That, if the evidence warrants, the damages awarded by the Court to Rubbermaid Medical be trebled in view of intentional copying of Rubbermaid Medical's patented inventions and willful and wanton violation of Rubbermaid Medical's patent rights.

F. That, if the evidence warrants, this Court find this to be an exceptional case under 35 U.S.C. § 285 and order Defendant to pay to Rubbermaid Medical reasonable attorneys' fees and all other costs which may be incurred by Rubbermaid Medical.

G. That this Court order Defendant to pay the costs of this action, pre-judgment interest and post-judgment interest.

H. That this Court grant to Rubbermaid Medical such other and further relief as may be deemed just and equitable.

### **JURY DEMAND**

Rubbermaid Medical hereby demands trial by jury on all issues so triable.

Dated: September 17, 2012

Respectfully submitted,

RUBBERMAID INCORPORATED D/B/A  
RUBBERMAID MEDICAL SOLUTIONS

By Counsel

/s/ R. Matthew Pearson

Robert A. Muckenfuss (NCSB No. 28218)

R. Matthew Pearson (NCSB No. 35494)

MCGUIREWOODS LLP

201 North Tyron Street

Suite 300

Charlotte, NC 28202

Telephone: (704) 343-2000

Facsimile: (704) 343-2300

rmuckenfuss@mcguirewoods.com

mpearson@mcguirewoods.com

Of Counsel:

David E. Finkelson

Derek H. Swanson

MCGUIREWOODS LLP

One James Center  
901 East Cary Street  
Richmond, VA 23219  
Telephone: (804) 775-1157  
Facsimile: (804) 225-5377  
dfinkelson@mcguirewoods.com  
dswanson@mcguirewoods.com

*Counsel for Plaintiff Rubbermaid Incorporated  
d/b/a Rubbermaid Medical Solutions*