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**FILED**  
U.S. DISTRICT COURT  
INDIANAPOLIS DIVISION

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE SOUTHERN DISTRICT OF INDIANA**  
**INDIANAPOLIS DIVISION**

MAY 12 PM 1:00  
SOUTHERN DISTRICT  
OF INDIANA  
LAURA A. BRIGGS  
CLERK

NOVEMBAL USA, INC., a New Jersey  
corporation,

Plaintiff,

vs.

CLOSURE SYSTEMS  
INTERNATIONAL, INC., a Delaware  
corporation,

Defendant.

Civil Action No.

**COMPLAINT FOR PATENT  
INFRINGEMENT**

Demand for Jury Trial

**1:16-cv-1184 SEB-DKL**

Plaintiff Novembal USA, Inc. ("Novembal") files this Complaint for patent infringement pursuant to 35 U.S.C. §271 against Defendant Closure Systems International, Inc. ("CSI").

**I. THE PARTIES.**

1. Novembal USA, Inc. ("Novembal") is a corporation organized and existing under the laws of the State of New Jersey and has its principal place of business at 3 Greek Lane, Edison, NJ 08817.

2. Novembal is part of the Tetra Laval Group which comprises Tetra Pak, Sidel and DeLaval ("Tetra Laval Industry Groups"). Tetra Laval Industry



Groups is one of the world's leading industrial conglomerates for the development, production and sale of efficient production, processing, packaging, and distribution of food.

3. Novembal sells bottle cap products within the United States that are encompassed by the claims of U.S. Patent No. 9,199,769 ("the '769 Patent").

4. CSI is a corporation organized under the laws of the State of Delaware. CSI has its headquarters located at 7702 Woodland Drive, Suite 200, Indianapolis, IN 46278.

## **II. JURISDICTION AND VENUE.**

5. This is an action for infringement of a United States patent. Accordingly, this action arises under the patent laws of the United States 35 U.S.C. §1 *et seq.* and subject matter jurisdiction over this action is pursuant to 35 U.S.C. §271, 28 U.S.C. §1331 (federal question) and 28 U.S.C. §1338(a) (any Act of Congress relating to patents or trademarks).

6. This Court has personal jurisdiction over CSI because CSI has continuous, systematic and substantial presence within this judicial district including by selling and offering for sale infringing products in this judicial district, and by committing acts of patent infringement in this judicial district, in violation of 35 U.S.C. §271, including, but not limited to, selling infringing bottle



caps directly to bottling customers in this district and selling into the stream of commerce knowing such infringing products would be sold in Indiana and within this district, which acts form a substantial part of the events or omissions giving rise to this Complaint.

7. Venue is proper in this judicial district pursuant to 28 U.S.C. §§1391 and 1400(b).

### **GENERAL ALLEGATIONS**

8. Since their respective foundings, engineers and designers of the Tetra Laval Industry Groups have worked continuously to bring new technology and breakthrough designs to the market.

9. The Tetra Laval Industry Groups design, manufacture, and market systems for the processing, packaging, and distribution of food and accessories for diary production and animal husbandry.

10. For over 50 years, Novembal and its affiliated companies have been consistent innovators in closure systems for plastic bottled liquid food products that appeal to an expanding range of end users. Tetra Laval Industry Groups has secured numerous patents that cover its innovations for food packaging products.

11. On December 1, 2015, the '769 Patent titled "Cap For A Container Neck" was duly and legally issued. Novembal is the owner by assignment of all



right, title, and interest in and to the '769 Patent and a true and correct copy of the '769 Patent is attached as Exhibit A.

12. Pursuant to 35 U.S.C. §282, the '769 Patent is presumed valid.

13. Novembal makes, uses, sells and offers for sale closure systems for the liquid food packaging market such as those caps used for still drinks, Home and Office Delivery ("HOD"), carbonated soft drinks, dairy products and juices.

14. On information and belief, CSI makes, uses, sells, and offers for sale caps and plastic bottles to customers in the bottling industry ("Accused Products").

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**CSI Bottle and Cap**



**CSI Cap**



15. On information and belief, after the '769 Patent was issued, the Accused Products have been made, used, sold, offered for sale and/or imported into the United States by CSI.

16. On information and belief, by making, using, selling, offering for sale, and/or importing Accused Products, CSI has infringed and continues to infringe, has contributed to the infringement of, or induced infringement of at least claims 1, 3, 10, 11, 12, 14 and 16 of the '769 Patent either literally or under the doctrine of equivalents.

17. On information and belief, CSI's infringement of the '769 Patent has been willful.



18. CSI's infringing acts have caused Novembal to suffer irreparable injury to its business and will continue to do so until CSI's infringing acts are enjoined.

### **COUNT 1**

#### **Patent Infringement of U.S. Patent No. 9,199,769 Pursuant to 35 U.S.C. § 271**

19. Novembal restates, re-alleges and incorporates by reference the allegations of Paragraphs 1 - 18 set forth in this Complaint.

20. The '769 Patent discloses and claims an invention that encompasses a cap for a container neck.

21. Novembal currently offers for sale and sells their tall savalas cap system to customers that include caps covered by one or more claims of the '769 Patent.

22. On information and belief, CSI infringes the '769 Patent by, *inter alia*, making, using, selling, and/or offering for sale within the United States, and/or importing into the United States the Accused Products and/or components covered by one or more claims of the '769 Patent. CSI has acted without authority or license from Novembal in violation of 35 U.S.C. § 271(a).

23. In addition, on information and belief, CSI induces others to infringe one or more claims of the '769 Patent in violation of 35 U.S.C. § 271(b). On



information and belief, CSI has knowingly or with willful blindness induced its customers and potential customers to infringe the '769 Patent with the specific intent to induce such infringement by, among other things, encouraging infringing use of its above-described cap for container necks through at least presentations and pilot runs of Accused Products in CSI's customers' bottling facilities.

24. On information and belief, CSI contributorily infringes one or more claims of the '769 Patent in violation of 35 U.S.C. § 271(c). CSI sells and offers to sell products or components knowing that they, alone or in combination with other components, infringe the '769 Patent and thereby contributes to others' infringement of the '769 Patent. On information and belief, CSI knows that its products and components are especially made or especially adapted for use with plastic bottles in a manner that infringes the '769 Patent. The Accused Products are not a staple item, article, or commodity of commerce suitable for substantial non-infringing use.

25. On information and belief, CSI infringes the '769 Patent by supplying or causing to be supplied in and from the United States all or a substantial portion of the components of caps for container necks, where such components are uncombined in whole or in part, in such a manner as to actively induce the combination of such components outside of the United States in a manner that would infringe the patent if such combination occurred inside the United States,



and/or by supplying or causing to be supplied in and from the United States one or more components that are especially made or especially adapted for use in infringing caps and that are not staple articles of commodities of commerce suitable for substantial non-infringing use, where such components are uncombined in whole or in part, knowing that such components are so made or adapted and intending that such components will be combined outside of the United States in a manner that would infringe the patent if such combination occurred inside the United States. CSI has acted without authority or license from Novembal, in violation of 35 U.S.C. § 271(f).

26. The Accused Products infringe the '769 Patent because they include, for example, all of the elements of **Claims 1, 3, 10, 11, 12, 14 and 16** of the '769 Patent.

#### **CLAIM 1**

27. **Claim 1** of the '769 Patent recites: A cap for a container neck, comprising:

a tubular skirt having a central axis and including:

a first skirt section extending along the central axis and having threads for removably fixing the first skirt section to an exterior surface of the container neck, and

a second skirt section including:



a first axial end having at least one abutment surface adapted to abut axially against an end of the container neck when the first skirt section is removably fixed to the container neck;

a second axial end opposite the first axial end and connected to an end wall of the cap; and

an intermediate section extending axially between the first and second axial ends,

wherein a plurality of ribs project radially from the intermediate section towards the central axis and extend lengthwise substantially parallel to the central axis, wherein the plurality of ribs are distributed around the central axis, and wherein a radial thickness of the intermediate section is less than a radial distance between an exterior cylindrical surface of the first skirt section and an interior radial end of the at least one abutment surface,

wherein each of the plurality of ribs includes:

an exterior radial end connected to an interior cylindrical surface of the intermediate section;


an interior radial end radially opposite the exterior radial end;

a first axial end connected to the end wall of the cap; and

a second axial end having a lower surface, wherein the at least one abutment surface corresponds to the lower surface of at least one of the plurality of ribs.


28. The Accused Products read on the claim elements of Claim 1 of the '769 Patent as follows:



'769 Patent	Accused Products
A cap for a container neck, comprising:	 <p data-bbox="1268 570 1323 604">Cap</p> <p data-bbox="1257 693 1384 761">Container Neck</p>

29. The Accused Products have “a tubular skirt” that has “a central axis” that reads on the claim elements of Claim 1 of the '769 Patent as follows:



'769 Patent	Accused Products
a tubular skirt having a central axis and including:	 <p>Central axis</p> <p>Tubular skirt</p>

30. The Accused Products have “a first skirt section extending along the central axis and having threads for removably fixing the first skirt section to an exterior surface of the container neck” that reads on the claim elements of Claim 1 of the '769 Patent as follows:

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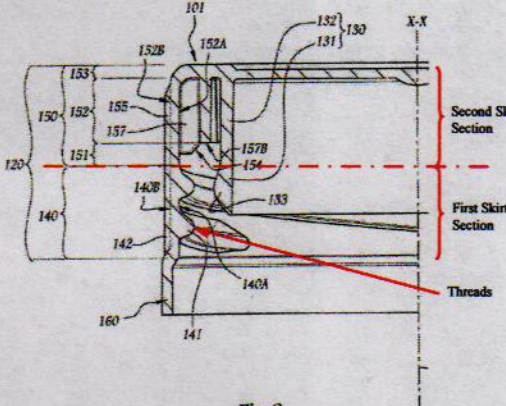
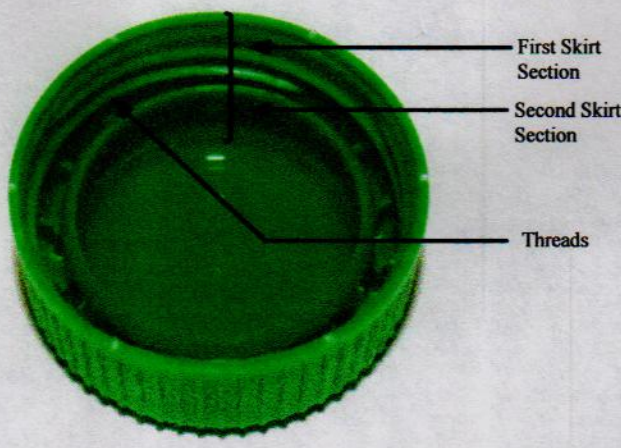
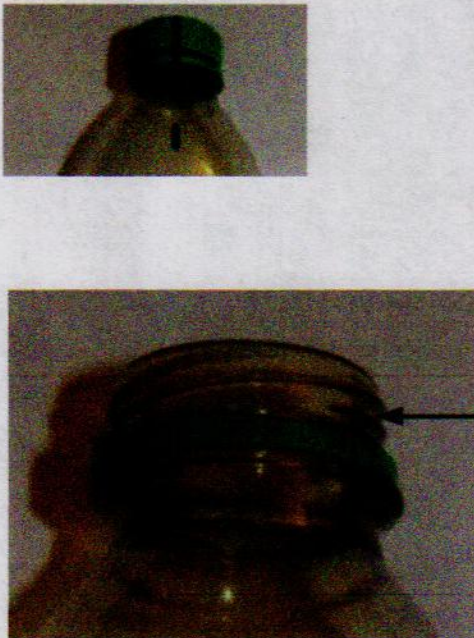
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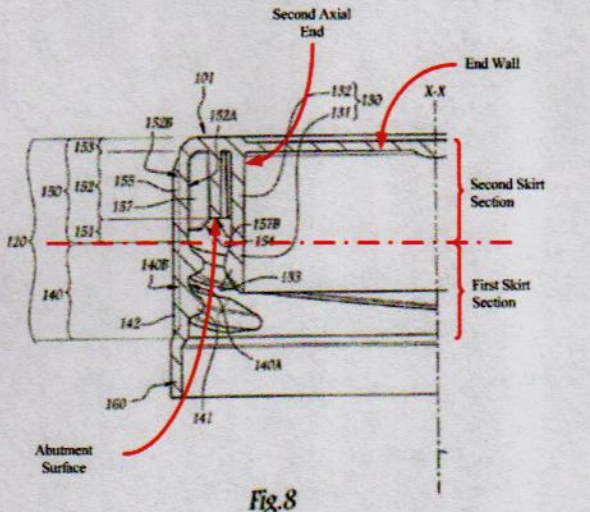
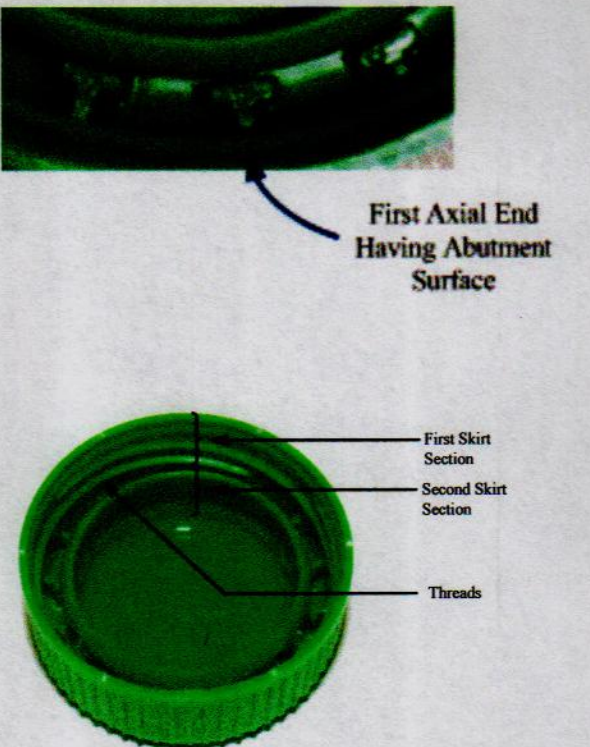


'769 Patent	Accused Products
<p>a first skirt section extending along the central axis and having threads for removably fixing the first skirt section to an exterior surface of the container neck, and</p>  <p>Fig. 8</p>	 <p>First Skirt Section</p> <p>Second Skirt Section</p> <p>Threads</p> <p>Central axis</p>  <p>External Surface of Container Nec</p>

31. The Accused Products have “a second skirt section” that includes “a first axial end having at least one abutment surface adapted to abut axially against an end of the container neck when the first skirt section is removably fixed to the



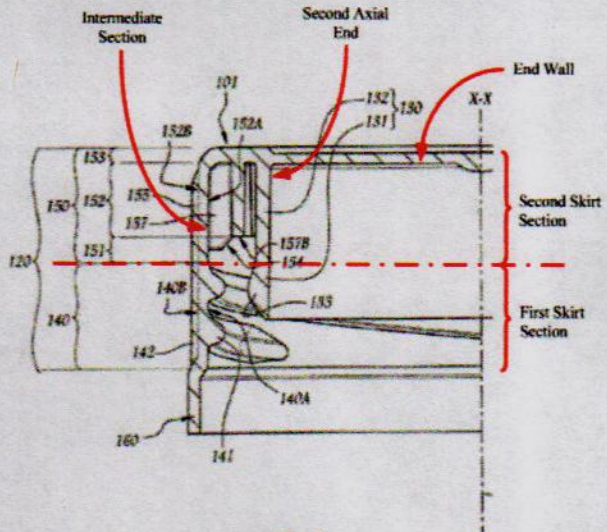
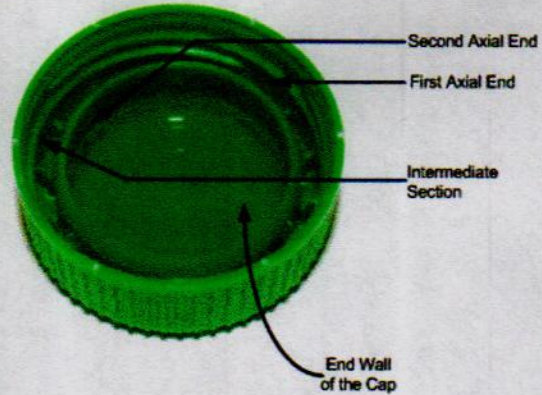
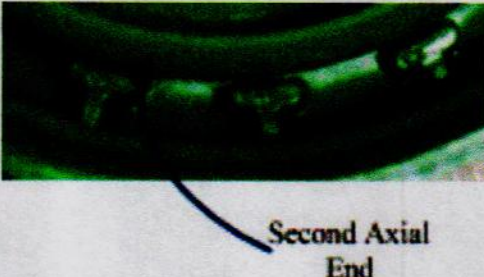
container neck” that reads on the claim elements of Claim 1 of the ’769 Patent as follows:

'769 Patent	Accused Products
<p>a second skirt section including:</p> <p>a first axial end having at least one abutment surface adapted to abut axially against an end of the container neck when the first skirt section is removably fixed to the container neck;</p>  <p>Fig. 8</p>	 <p>First Axial End Having Abutment Surface</p> <p>First Skirt Section</p> <p>Second Skirt Section</p> <p>Threads</p>

32. The Accused Products have “a second axial end opposite the first axial end and connected to an end wall of the cap” and “an intermediate section extending axially between the first and second axial ends” that reads on the claim elements of Claim 1 of the ’769 Patent as follows:

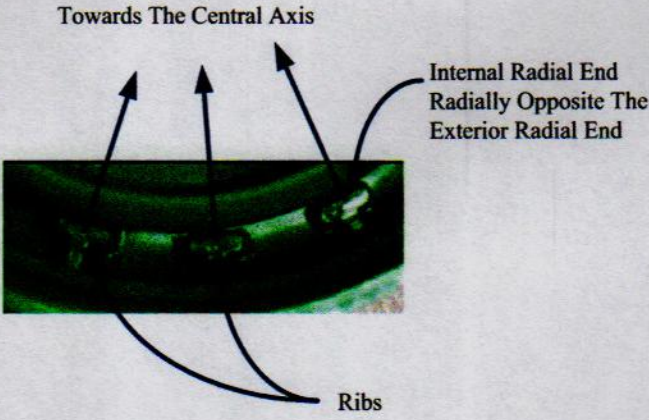
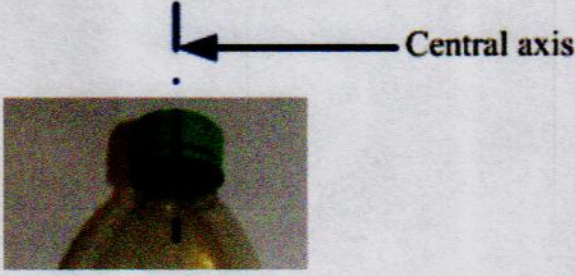
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'769 Patent	Accused Products
<p>a second axial end opposite the first axial end and connected to an end wall of the cap; and</p> <p>an intermediate section extending axially between the first and second axial ends,</p>  <p><i>Fig. 8</i></p>	 

33. The Accused Products have “wherein a plurality of ribs project radially from the intermediate section towards the central axis and extend lengthwise substantially parallel to the central axis, wherein the plurality of ribs are distributed around the central axis, and” that reads on the claim elements of Claim 1 of the '769 Patent as follows:

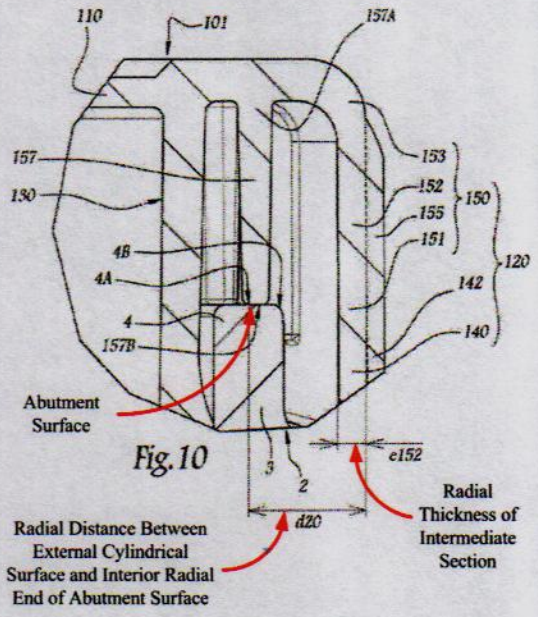
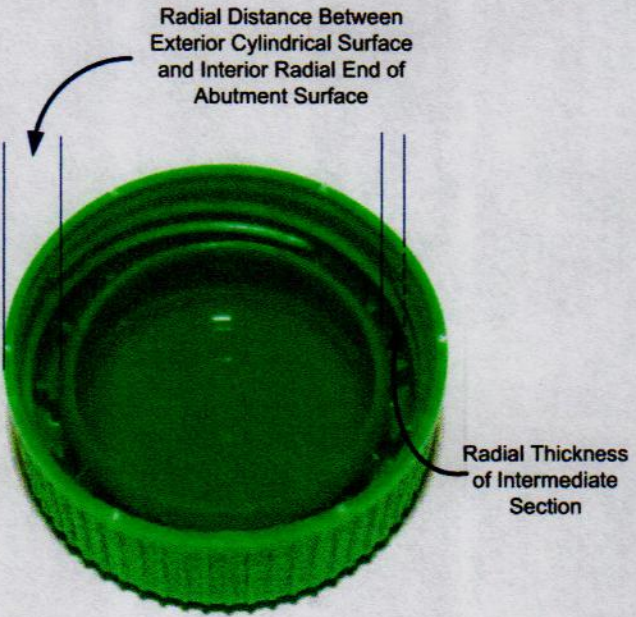


'769 Patent	Accused Products
<p>wherein a plurality of ribs project radially from the intermediate section towards the central axis and extend lengthwise substantially parallel to the central axis, wherein the plurality of ribs are distributed around the central axis,</p>	<div data-bbox="769 442 1412 861">  </div> <div data-bbox="769 968 1339 1244">  </div> <p>The central axis is perpendicular to the image plane, e.g. the height of the ribs perpendicular to the image plane corresponds to the lengthwise extension.</p>

34. The Accused Products have “wherein a radial thickness of the intermediate section is less than a radial distance between an exterior cylindrical surface of the first skirt section and an interior radial end of the at least one




abutment surface,” that reads on the claim elements of Claim 1 of the ’769 Patent as follows:

'769 Patent	Accused Products
<p>wherein a radial thickness of the intermediate section is less than a radial distance between an exterior cylindrical surface of the first skirt section and an interior radial end of the at least one abutment surface,</p>  <p><b>Fig. 10</b></p> <p>Radial Distance Between External Cylindrical Surface and Interior Radial End of Abutment Surface</p> <p>Radial Thickness of Intermediate Section</p>	 <p>Radial Distance Between Exterior Cylindrical Surface and Interior Radial End of Abutment Surface</p> <p>Radial Thickness of Intermediate Section</p>

35. The Accused Products have “wherein each of the plurality of ribs” and “an exterior radial end connected to an interior cylindrical surface of the intermediate section” and “an interior radial end radially opposite the exterior radial end” and “a first axial end connected to the end wall of the cap” and “a



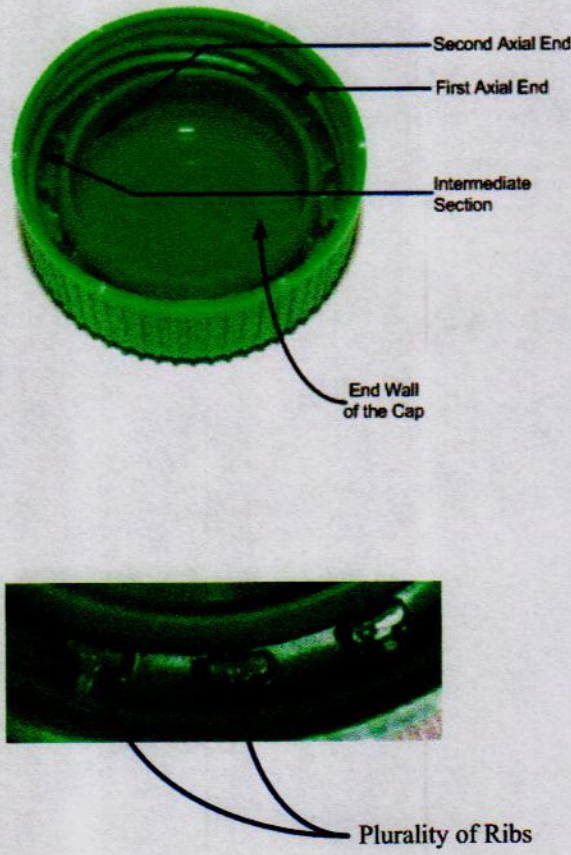
second axial end having a lower surface, wherein the at least one abutment surface corresponds to the lower surface of at least one of the plurality of ribs” that reads on the claim elements of Claim 1 of the ’769 Patent as follows:

'769 Patent	Accused Products
<p>wherein each of the plurality of ribs includes:</p> <p>an exterior radial end connected to an interior cylindrical surface of the intermediate section;</p> <p>an interior radial end radially opposite the exterior radial end;</p>	<p>Internal Radial End Radially Opposite the Exterior Radial End</p> <p>Towards The Central Axis</p>  <p>Plurality of Ribs in a Plane Perpendicular to the Central Axis</p> <p>External Radial End Connected to an Interior Cylindrical Surface of the Intermediate Section</p>

36. The Accused Products include “a first axial end connected to the end wall of the cap” and “a second axial end having a lower surface, wherein the at



least one abutment surface corresponds to the lower surface of at least one of the plurality of ribs” that reads on the claim elements of Claim 1 of the ’769 Patent as follows:

'769 Patent	Accused Products
<p>a first axial end connected to the end wall of the cap; and</p> <p>a second axial end having a lower surface, wherein the at least one abutment surface corresponds to the lower surface of at least one of the plurality of ribs.</p>	 <p>The diagram shows a top-down view of a green plastic cap. Labels with leader lines point to various parts: 'Second Axial End' points to the outer rim, 'First Axial End' points to the inner rim, 'Intermediate Section' points to the central flat area, 'End Wall of the Cap' points to the vertical side wall, and 'Plurality of Ribs' points to the bottom surface. An inset image at the bottom shows a close-up of the ribs on the bottom surface.</p>

### CLAIM 3


37. The Accused Products also read on **Claim 3** of the ’769 Patent which is recited as follows:

3. The cap according to claim 1, further comprising: an annular sealing lip coaxial with and inside the tubular skirt, wherein the

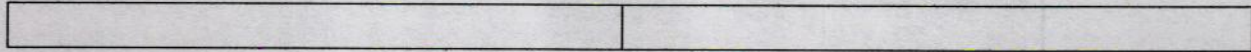


sealing lip projects axially from the end wall of the cap at a first radial distance from an interior cylindrical surface of the first skirt section, and an interior cylindrical surface of the second skirt section.

38. The Accused Products have “an annular sealing lip coaxial with and inside the tubular skirt, wherein the sealing lip projects axially from the end wall of the cap at a first radial distance from an interior cylindrical surface of the first skirt section, and an interior cylindrical surface of the second skirt section” that reads on the claim elements of Claim 3 of the '769 Patent as follows:

'769 Patent	Accused Products
<p>3. The cap according to claim 1, further comprising: an annular sealing lip coaxial with and inside the tubular skirt, wherein the sealing lip projects axially from the end wall of the cap at a first radial distance from an interior cylindrical surface of the first skirt section, and an interior cylindrical surface of the second skirt section.</p>	<div data-bbox="839 1019 1296 1811"> <p>An Annular Sealing Lip Coaxial with and Inside the Tubular Skirt</p> <p>First Radial Distance From an Interior Cylindrical Surface of the First Skirt Section</p>  <p>Sealing Lip Projects Axially From the End Wall of the Cap</p> </div>





**CLAIM 10**


39. The Accused Products also read on **Claim 10** of the '769 Patent which is recited as follows:

10. The cap according to claim 1, wherein the interior cylindrical surface of the intermediate section and an exterior cylindrical surface of the intermediate section are axially aligned with an interior cylindrical surface of the first skirt section and an exterior cylindrical surface of the first skirt section, and wherein the plurality of ribs project from the interior cylindrical surface of the intermediate section of the second skirt section and extend axially to the first end of the second skirt section such that each rib has a respective abutment surface configured to abut axially the end of the container neck when the first skirt section is removably fixed to the container neck.

40. The Accused Products include “the interior cylindrical surface of the intermediate section and an exterior cylindrical surface of the intermediate section are axially aligned with an interior cylindrical surface of the first skirt section and an exterior cylindrical surface of the first skirt section, and wherein the plurality of ribs project from the interior cylindrical surface of the intermediate section of the second skirt section and extend axially to the first end of the second skirt section such that each rib has a respective abutment surface configured to abut axially the end of the container neck when the first skirt section is removably fixed to the



container neck” that reads on the claim elements of Claim 10 of the ’769 Patent as follows:

'769 Patent	Accused Products
<p>10. The cap according to claim 1, wherein the interior cylindrical surface of the intermediate section and an exterior cylindrical surface of the intermediate section are axially aligned with an interior cylindrical surface of the first skirt section and an exterior cylindrical surface of the first skirt section, and wherein the plurality of ribs project from the interior cylindrical surface of the intermediate section of the second skirt section and extend axially to the first end of the second skirt section such that each rib has a respective abutment surface configured to abut axially the end of the container neck when the first skirt section is removably fixed to the container neck.</p>	<p>Abutment Surface on Ribs configured to abut axially the end of the container neck when the first skirt section is removably fixed to the container neck</p>  <p>An Exterior Cylindrical Surface of the Intermediate Section are Axially Aligned with an Interior Cylindrical Surface of the First Skirt Section and an Exterior Cylindrical Surface of the First Skirt Section</p>



**CLAIM 11**

41. The Accused Products also read on **Claim 11** of the '769 Patent which is recited as follows:

11. The cap according to claim 10, wherein the plurality of ribs is a first plurality of ribs, and a second plurality of ribs each project from the exterior cylindrical surface of the intermediate section of the second skirt section and extend in the direction of the central axis in line with an associated rib projecting from the exterior cylindrical surface of the first skirt section.

42. The Accused Products include “the plurality of ribs is a first plurality of ribs, and a second plurality of ribs each project from the exterior cylindrical surface of the intermediate section of the second skirt section and extend in the direction of the central axis in line with an associated rib projecting from the exterior cylindrical surface of the first skirt section” that reads on the claim elements of Claim 11 of the '769 Patent as follows:

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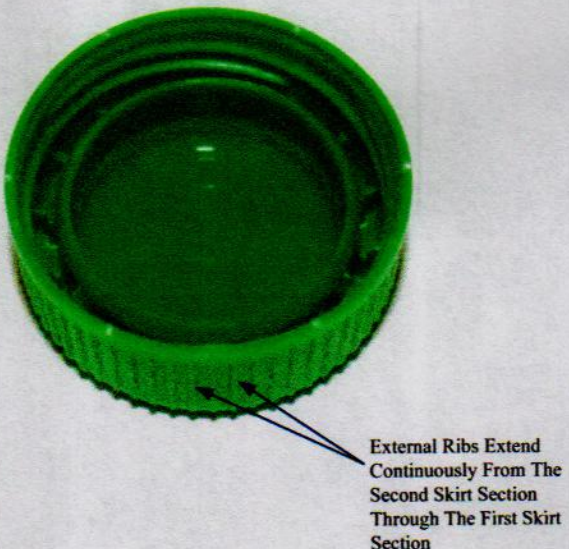
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'769 Patent	Accused Products
<p>11. The cap according to claim 10, wherein the plurality of ribs is a first plurality of ribs, and a second plurality of ribs each project from the exterior cylindrical surface of the intermediate section of the second skirt section and extend in the direction of the central axis in line with an associated rib projecting from the exterior cylindrical surface of the first skirt section.</p>	 <p>External Ribs Extend Continuously From The Second Skirt Section Through The First Skirt Section</p>

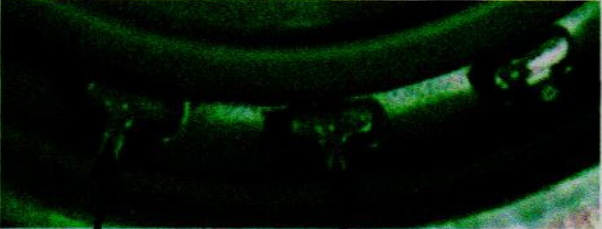
### CLAIM 12

43. The Accused Products also read on **Claim 12** of the '769 Patent which is recited as follows:

12. The cap according to claim 1, wherein the interior radial end of each of the plurality ribs includes a stiffening enlargement projecting from at least one of two faces of the corresponding rib.

44. The Accused Products include “the interior radial end of each of the plurality ribs includes a stiffening enlargement projecting from at least one of two faces of the corresponding rib” that reads on the claim elements of Claim 12 of the '769 Patent as follows:



'769 Patent	Accused Products
<p>12. The cap according to claim 1, wherein the interior radial end of each of the plurality ribs includes a stiffening enlargement projecting from at least one of two faces of the corresponding rib.</p>	 <p>Interior Radial End of Each of the Plurality Ribs Includes a Stiffening Enlargement Projecting From at Least One of Two Faces of the Corresponding Rib</p>

#### CLAIM 14

45. The Accused Products also read on **Claim 14** of the '769 Patent which is recited as follows:

14. The cap according to claim 1, wherein the plurality of ribs are spaced apart from one another around the central axis and wherein each of the plurality of ribs has, in a plane perpendicular to the central axis, an overall contour defining the spaced apart distribution of the plurality of ribs around the central axis.

46. The Accused Products include "the plurality of ribs are spaced apart from one another around the central axis and wherein each of the plurality of ribs



has, in a plane perpendicular to the central axis, an overall contour defining the spaced apart distribution of the plurality of ribs around the central axis” that reads on the claim elements of Claim 14 of the ’769 Patent as follows:

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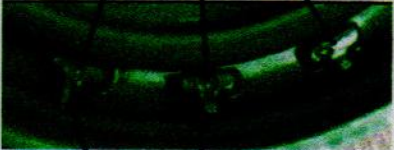

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'769 Patent	Accused Products
<p>14. The cap according to claim 1, wherein the plurality of ribs are spaced apart from one another around the central axis and wherein each of the plurality of ribs has, in a plane perpendicular to the central axis, an overall contour defining the spaced apart distribution of the plurality of ribs around the central axis.</p>	<p>Towards the Central Axis</p>  <p>Plurality of Ribs in a Plane Perpendicular to the Central Axis</p> <p>In a Plane Perpendicular to the Central Axis</p>  <p>An Overall Contour Defining the Spaced Apart Distribution of the Plurality of Ribs Around the Central Axis</p>

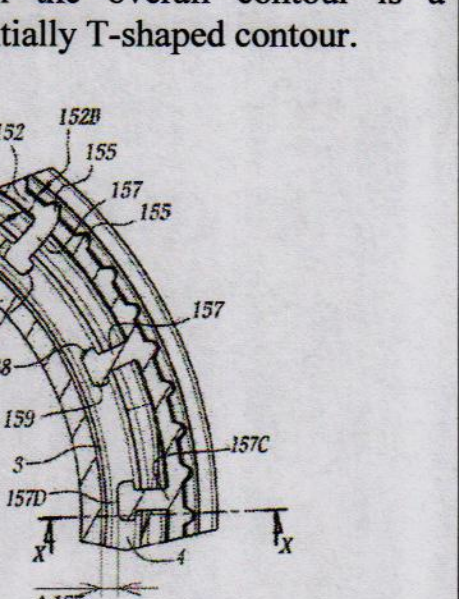
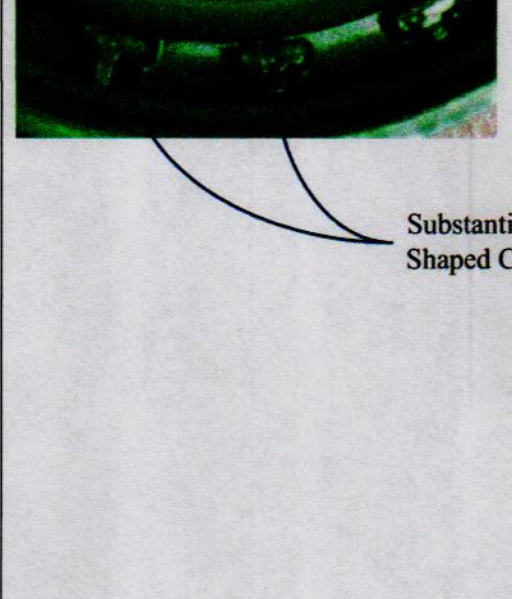


### CLAIM 16

47. The Accused Products also read on **Claim 16** of the '769 Patent which is recited as follows:

16. The cap according to claim 14, wherein the overall contour is a substantially T-shaped contour.

48. The Accused Products include “the overall contour is a substantially T-shaped contour” that reads on the claim elements of Claim 16 of the ’769 Patent as follows:

<p><b>'769 Patent</b></p>	<p><b>Accused Products</b></p>
<p>16. The cap according to claim 14, wherein the overall contour is a substantially T-shaped contour.</p>  <p><b>Fig. 9</b></p>	 <p>Substantially T-Shaped Contour</p>



49. On information and belief, CSI, through its agents, employees, and servants has, and continues to, knowingly, intentionally, and willfully directly infringe the '769 Patent by making, using, selling, offering for sale the Accused Products.

50. On information and belief, CSI's infringement, inducement of infringement, and contributory infringement is literal infringement or, in the alternative, infringement under the doctrine of equivalents.

51. On information and belief, CSI makes or has made, uses, offers to sell and/or sells infringing caps that infringes one and/or more claims of the '769 Patent in violation of 35 U.S.C. §271.

52. On information and belief, CSI will continue to infringe, induce others to infringe, and/or engage in contributory infringement of the '769 Patent unless enjoined by the Court.

53. CSI's acts of infringement have caused and, unless enjoined by this Court, will continue to cause Novembal to sustain irreparable harm and damage, loss and injury for which Novembal has no adequate remedy in law.

54. CSI will continue to derive and receive advantages, gains and profits from its infringement in an amount that is not presently known to Novembal.

55. Accordingly, CSI's acts of infringement of the '769 Patent, as alleged above, has injured Novembal and thus, Novembal are entitled to recover damages



adequate to compensate them for CSI's acts of infringement, beginning as early as December 1, 2015, the date that the '769 Patent was issued, which in no event can be less than a reasonable royalty.

### **REQUEST FOR RELIEF**

Novemba respectfully demands judgment against CSI and its subsidiaries and affiliates as follows:

A. An award of damages adequate to compensate Novemba for the infringement that has occurred, together with prejudgment interest from the date of infringement began through the life of the '769 Patent;

B. Pursuant to 35 U.S.C. §283, permanently enjoining and restraining CSI and its officers, agents, servants, employees, and those persons in active concert or participation with them, from further acts of infringement of the '769 Patent;

C. Pursuant to 35 U.S.C. §284, awarding to Novemba damages, including lost profits, together with prejudgment interest, post-judgment interest, and costs, adequate to compensate Novemba for CSI's acts of infringement of the '769 Patent;

D. Finding that this case is exceptional and declaring that CSI's infringement has been willful pursuant to 35 U.S.C. § 285 and awarding Novemba



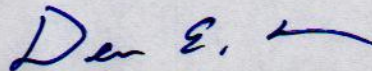
treble damages and reasonable attorneys' fees for CSI's infringement of the '769 Patent; and

E. Awarding any other relief as the Court or jury deems just and proper.

**DEMAND FOR JURY TRIAL**

Novembal hereby demands a jury trial on all claims and issues.

Respectfully submitted,



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