

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

DELTA FAUCET COMPANY,	)	
	)	
Plaintiff,	)	
	)	CASE NO. 1:19-cv-00849
v.	)	
	)	DEMAND FOR JURY TRIAL
ALDI, INC.,	)	
	)	
Defendant.	)	

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff, Delta Faucet Company (“Delta Faucet”), for its Complaint for Patent Infringement against Defendant ALDI, Inc. (“Aldi”), alleges as follows:

**THE PARTIES**

1. Delta Faucet is a corporation organized and existing under the laws of the State of Indiana, having a principal place of business at 55 East 111<sup>th</sup> Street, Indianapolis, Indiana, 46280.
2. Aldi, upon information and belief, is a company organized and existing under the laws of the State of Illinois, with a principal place of business in Batavia, Illinois.

**JURISDICTION AND VENUE**

3. Delta Faucet realleges and incorporates by reference, as if fully set forth herein, the allegations in paragraphs 1-2, above.
4. This is an action for patent infringement arising under the laws of the United States, Title 35 of the United States Code, specifically relating to U.S. Patent No. 7,360,723 (the “723 Patent”). This Court has exclusive subject matter jurisdiction over this action pursuant to 28 U.S.C. § § 1331 and 1338(a).

5. This Court has personal jurisdiction over Aldi. On information and belief, Aldi has conducted, and does regularly conduct, business within the State of Indiana and the Southern District of Indiana. Aldi—directly and/or through intermediaries (including distributors, retailers, and others)—has made, used, offered to sell, sold, and/or imported into the United States, including to customers located within the State of Indiana and this district, products that infringe one or more claims of the '723 Patent. Aldi has purposefully and voluntarily placed infringing products into the stream of commerce with the awareness and/or intent that they will be purchased by consumers in the State of Indiana and in this District.

6. Venue is proper in this judicial district under 28 U.S.C. § § 1391 and 1400(b).

### **FACTUAL BACKGROUND**

7. Delta Faucet realleges and incorporates by reference, as if fully set forth herein, the allegations in paragraphs 1-6, above.

8. The '723 Patent, titled “Showerhead System With Integrated Handle,” was duly and legally issued by the United States Patent and Trademark Office (“PTO”) on April 22, 2008, to inventor Moty Lev. A true and accurate copy of the '723 Patent is attached hereto as Exhibit A.

9. Delta Faucet sells products that practice the inventions claimed in the '723 Patent. For example, Delta Faucet’s In2ition® showerheads are embodiments of the '723 Patent.

10. Aldi is infringing the '723 Patent directly, jointly, contributorily, and/or by inducement, by making, using, importing, selling, or offering for sale showerheads that embody claims in the '723 Patent, without Delta Faucet’s authority. Specifically, upon information and belief, Aldi offers for sale and sells its “Easy Home 2 in 1 Showerhead Kit,” including at least

product code 57671. This and any other similarly configured products (collectively the “Accused Products”) infringe at least one claim of the ’723 Patent.

11. The Accused Products are or were available, and are or were being offered for sale and sold at least at Aldi stores, including to customers located within Indiana and this District.

12. Aldi’s infringement has been, and continues to be, willful and deliberate.

13. On information and belief, Aldi had actual notice of the ’723 Patent.

14. With knowledge of the ’723 Patent and its infringing conduct, Aldi continues to willfully infringe the ’723 Patent by making, using, selling, offering to sell, and/or importing the Accused Products into the United States.

15. Delta Faucet has suffered and will continue to suffer damages from Aldi’s acts of infringement complained of herein.

**COUNT I: INFRINGEMENT OF U.S. PATENT NO. 7,360,723**

16. Delta Faucet realleges and incorporates by reference, as if fully set forth herein, the allegations in paragraphs 1-15, above.

17. The ’723 Patent is valid and enforceable.

18. Delta Faucet has an exclusive license to the ’723 Patent from Sidus Technologies, Inc. to make, have made, use, distribute, offer for sale, sell, and import products, and has the right to sue for any infringement thereof.

19. Aldi has directly infringed, either individually or as part of a joint enterprise, and/or has jointly, contributorily, and/or by inducement infringed, and is still infringing, at least claims 1-4 and 11-14 of the ’723 Patent, literally or by the doctrine of equivalents, by making, using, offering to sell and selling, and/or importing the Accused Products.

20. More specifically, the Accused Products are showerhead systems that have “a fixed fluid dispensing unit supported at a location. . . comprising at least one nozzle in fluid communication with the fluid supply,” and have “a removable fluid dispensing unit releasably secured to a receptacle established with said fixed dispensing unit forming an integral dispensing face with said fixed dispensing unit and. . . at least one additional nozzle being connected to a hose in fluid communication with the fluid supply when said removable fluid dispensing unit is dissociated from said fixed fluid dispensing unit;” and “the fluid supply adapted to being in selective communication with at least one of said fixed and said removable fluid dispensing unit.”

21. The Accused Products have “a plurality of nozzles associated with said fixed fluid dispensing unit.”

22. The Accused Products have “a plurality of nozzles associated with said removable fluid dispensing unit.”

23. The Accused Products’ “plurality of nozzles associated with said fixed fluid dispensing unit are located contiguous to one another.”

24. The Accused Products have “a fluid inlet associated with said fixed dispensing unit, a fluid diverter element fluidly communicating said fluid supply with said at least one said fixed and removable dispensing units.”

25. The Accused Products have “a conduit communicating said fluid diverter with said removable fluid dispensing unit.”

26. The Accused Products have “an articulating joint intermediate between said at least one nozzle of said fixed dispensing unit and the fluid supply.”

27. The Accused Products' "removable dispensing unit has a plurality of spray function modes."

28. Upon information and belief, Aldi will continue to infringe the '723 Patent, causing immediate and irreparable harm to Delta Faucet, unless this Court enjoins and restrains Aldi's activities.

29. Aldi's acts of infringement have deprived, and will continue to deprive, Delta Faucet of sales, profits, and other related revenue that Delta Faucet would have made or would enjoy in the future; has injured Delta Faucet in other respects; and will continue to cause Delta Faucet added injury and damage unless and until the Court enters an injunction prohibiting further infringement, and specifically enjoins further manufacture, use, offers for sale, sale, and importation of the Accused Products.

30. Delta Faucet is entitled to recover damages adequate to compensate it for Aldi's infringement, including, but not limited to, lost profits, a reasonable royalty, including a reasonable royalty pursuant to 35 U.S.C. § 154(d), treble damages, pre- and post-judgment interest at the maximum allowable rate, costs, attorneys' fees, and other such relief this Court deems proper.

31. On information and belief, Aldi's infringement of the '723 Patent is willful and justifies a trebling of damages pursuant to 35 U.S.C. § 284. Further, this is an exceptional case supporting an award of reasonable attorneys' fees pursuant to 35 U.S.C. § 285.

### **REQUEST FOR RELIEF**

WHEREFORE, Delta Faucet respectfully requests that the Court enter judgment in its favor and against Aldi, and provide Delta Faucet the following relief:

- A. Order, adjudge, and decree that U.S. Patent 7,360,723 is valid, enforceable, and infringed by Aldi;

- B. Enter a permanent injunction against Aldi enjoining it, its directors, officers, agents, employees, successors, subsidiaries, assigns, and all persons acting in privity or in concert or participation with Aldi from making, using, selling, or offering for sale in the United States, or importing into the United States, any and all products and/or services embodying the patented inventions claimed in the '723 Patent;
- C. Award Delta Faucet its damages for patent infringement pursuant to 35 U.S.C. § 284, and pre- and post-judgment interest as allowed by law;
- D. Order, adjudge, and decree that Aldi's infringement of the '723 Patent has been deliberate and willful, and award Delta Faucet treble damages under 35 U.S.C. § 284;
- E. Find that this case is "exceptional" under 35 U.S.C. § 285, and award Delta Faucet its costs and reasonable attorney's fees as provided in 35 U.S.C. § 285; and
- F. Award Delta Faucet such other and further relief as the Court deems just and proper.

**REQUEST FOR TRIAL BY JURY**

Plaintiff Delta Faucet Company respectfully requests a trial by jury on all issues so triable.

Dated: February 27, 2019

Respectfully submitted,

/s/ R. Trevor Carter

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