

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN**

SCA HYGIENE PRODUCTS AKTIEBOLAG
("AB") AND SCA TISSUE NORTH
AMERICA, LLC,

Plaintiffs,

vs.

TARZANA ENTERPRISES, LLC,

Defendant.

Case No. 3:16-cv-728

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs SCA Hygiene Products Aktiebolag, also known as SCA Hygiene Products AB, and SCA Tissue North America, LLC (collectively, "SCA"), for their complaint against Tarzana Enterprises, LLC ("Tarzana"), hereby allege as follows:

NATURE OF THE ACTION

1. This is an action for infringement of United States Patent 8,597,761 (the "'761 patent") and United States Patent 9,320,372 (the "'372 patent"). This action arises under the patent laws of the United States, Title 35, United States Code.

PARTIES

2. Plaintiff SCA Hygiene Products AB ("SCA Hygiene") is a corporation organized and existing under the laws of Sweden and has its principal place of business at Bäckstensgatan 5, Mölndal, Sweden and its registered address at SE 405 03 Göteborg, Sweden.

3. Plaintiff SCA Tissue North America, LLC ("SCA Tissue") is a limited liability company organized and existing under the laws of Delaware, United States of America and has

its principal place of business at Cira Centre, Suite 2600, 2929 Arch Street, Philadelphia, Pennsylvania 19104, United States of America.

4. SCA is a leader in the paper goods industry and provides paper-based commercial products for dining, kitchen, washroom, and cleaning applications in healthcare, hotel, office, and food service markets.

5. SCA Tissue is a leading company in Wisconsin, with its roots in the community extending back to its purchase of the Georgia-Pacific Away-From-Home tissue business in March of 2001. Today, SCA Tissue manufactures tissue, towel, and napkin products that are sold to distributors who service office buildings, food service companies, hospitality companies, healthcare institutions, janitorial/sanitary companies, and the automotive industry. One of the three largest producers of Away-From-Home tissue products in North America, SCA Tissue maintains its Service Excellence Center, a paper mill, a converting facility, and a distribution center in Wisconsin. Specifically, SCA Tissue develops, manufactures, markets, and distributes napkin products that directly compete with Tarzana's One Nap line of products.

6. On information and belief, Defendant Tarzana is a limited liability company organized and existing under the laws of the State of California and has its principal place of business at 5567 Reseda Boulevard, Suite 330, Tarzana, California 91356.

JURISDICTION AND VENUE

7. SCA incorporates the foregoing paragraphs of its Complaint by reference as though fully set forth herein.

8. This is an action for patent infringement under the patent laws of the United States, Title 35, United States Code.

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

10. This Court has personal jurisdiction over Tarzana based on, *inter alia*, the business that Tarzana conducts or causes to be conducted in the State of Wisconsin related to its One Nap line of products, which are embodiments described in the '761 patent and the '372 patent. On information and belief, the One Nap line of products were used or consumed within Wisconsin in the ordinary course of trade, or solicitation activities were carried on within Wisconsin by or on behalf of Tarzana. For example, at least one case of napkins from the One Nap line of products was ordered from and shipped into Wisconsin. *See* Exhibit 1 (showing a receipt for a case of napkins from the One Nap line of products shipped into Wisconsin).

11. Venue in this Court is proper under 28 U.S.C. §§ 1391(b) and 1400(b).

THE '761 PATENT

12. SCA incorporates the foregoing paragraphs of its Complaint by reference as though fully set forth herein.

13. The U.S. Patent and Trademark Office duly issued the '761 patent, entitled "Stack of interfolded absorbent sheet products," on December 3, 2013. A true and correct copy of the '761 patent is attached as Exhibit 2.

14. On September 7, 2011, SCA Hygiene was assigned all right, title, and interest in United States Patent Application No. 12/915,939, which issued as the '761 patent, and remains the legal owner of the '761 patent.

15. SCA Tissue is the exclusive licensee of the '761 patent.

THE '372 PATENT

16. SCA incorporates the foregoing paragraphs of its Complaint by reference as though fully set forth herein.

17. The U.S. Patent and Trademark Office duly issued the '372 patent, entitled "Stack of interfolded absorbent sheet products," on April 26, 2016. United States Patent Application No. 14/056,586, which issued as the '372 patent, claims priority to United States Patent Application No. 12/915,939, which issued as the '761 patent, as a continuation thereof. A true and correct copy of the '372 patent is attached as Exhibit 3.

18. On September 7, 2011, SCA Hygiene was assigned all right, title, and interest in United States Patent Application No. 12/915,939, which issued as the '761 patent. The assignment to SCA Hygiene included the assignment of all continuing applications to United States Patent Application No. 12/915,939, including United States Patent Application No. 14/056,586, which issued as the '372 patent. SCA Hygiene remains the legal owner of the '372 patent.

19. SCA Tissue is the exclusive licensee of the '372 patent.

COUNT 1: DIRECT INFRINGEMENT OF THE '761 PATENT

20. SCA incorporates the foregoing paragraphs of its Complaint by reference as through fully set forth herein.

21. Tarzana has infringed, and continues to infringe, claims of the '761 patent under 35 U.S.C. § 271(a), literally and/or under the doctrine of equivalents, by making, using, selling, offering to sell, and/or importing its One Nap line of products, which have product codes including COXN, COXNK, and COXNL.

22. In particular, claim 1 of the '761 patent reads as follows:

A stack of interfolded absorbent sheet products, comprising:

a plurality of absorbent sheets

wherein each sheet comprises a first fold that is offset from a line bisecting said sheet substantially parallel to said first fold, and an interfolding fold that is substantially perpendicular to said first fold,

wherein the first fold is unidirectionally peaked,

wherein panels defined by the first fold of each sheet directly contact each other, and

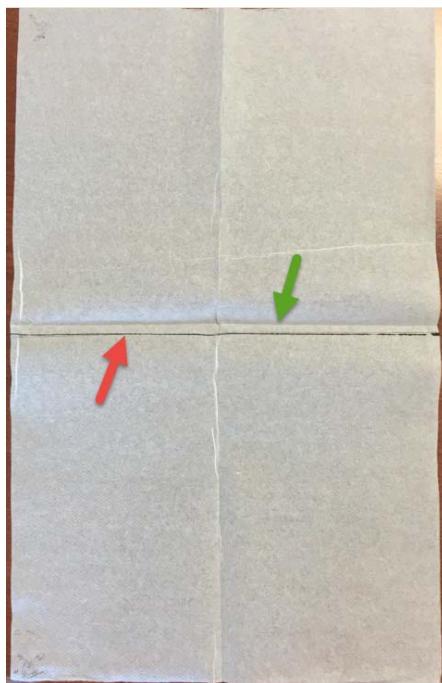
wherein at least one of the panels defined by the interfolding fold of each sheet is inserted between two panels defined by the interfolding fold of another sheet in the stack.

23. Tarzana’s One Nap line of products includes a stack of interfolded absorbent sheet products, including multiple absorbent sheets, as shown below from an excerpt of an advertising brochure featured prominently on Tarzana’s website. A true and accurate copy of the advertising brochure is attached as Exhibit 4.

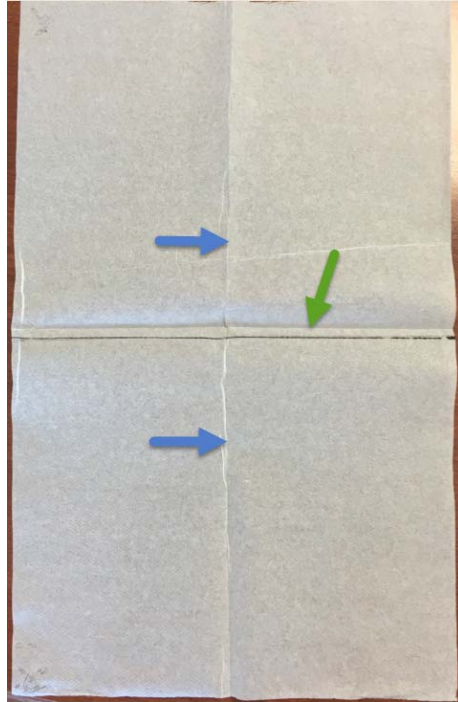


24. Each sheet of Tarzana’s One Nap line of products includes a first fold that is offset from a line bisecting said sheet substantially parallel to said first fold. In the photograph

of a sheet from Tarzana's One Nap line of products below, the drawn-on line indicated by the red arrow is a line bisecting the sheet, and the fold indicated by the green arrow is a first fold that is substantially parallel to but offset from the bisecting line.



25. Each sheet of Tarzana's One Nap line of products includes an interfolding fold that is substantially perpendicular to said first fold. In the photograph of a sheet from Tarzana's One Nap line of products below, the green arrow indicates the first fold, while the blue arrows indicate an interfolding fold that is substantially perpendicular to the first fold.

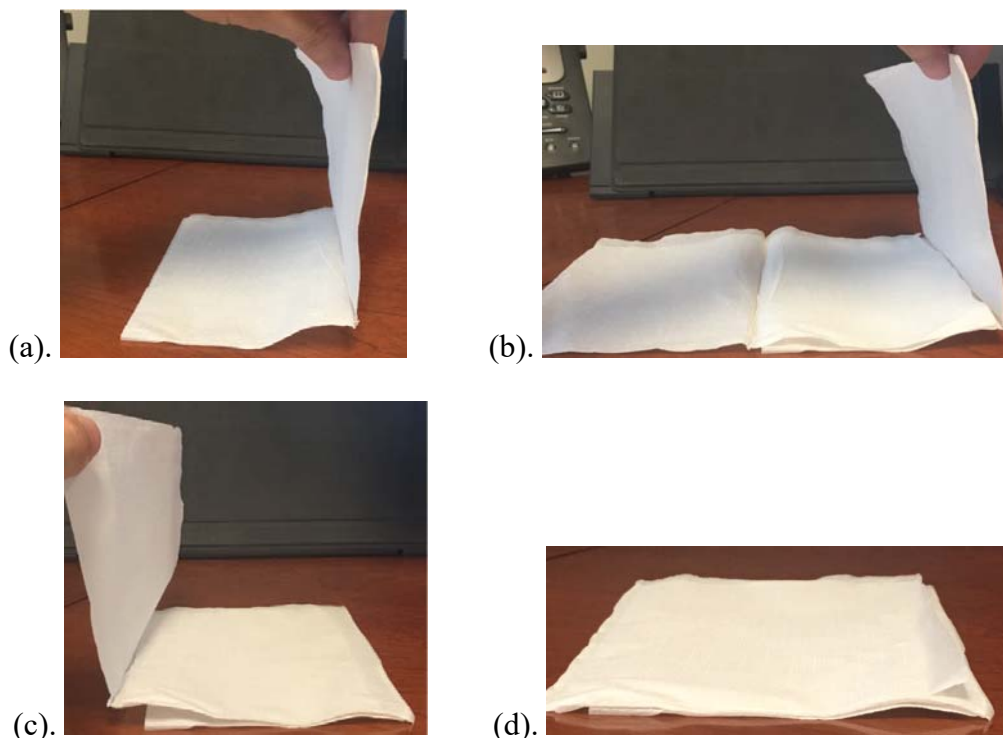


26. The first fold in each sheet of Tarzana's One Nap line of products is unidirectionally peaked. As can be seen in the pictures included in paragraphs 24 and 25, each panel along the first fold is inclined slightly upwardly from the first fold.

27. The panels defined by the first fold of each sheet of Tarzana's One Nap line of products directly contact each other. The first photograph below shows an unfolded sheet looking down the first fold, illustrating the panels defined by the first fold. The second photograph below shows the sheet folded along its first fold, illustrating that the panels defined by the first fold directly contact each other.



28. Tarzana's One Nap line of products includes a stack of interfolded absorbent sheet products, wherein at least one of the panels defined by the interfolding fold of each sheet is inserted between two panels defined by the interfolding fold of another sheet in the stack. Photographs (a) – (d). below depict two sheets and show how at least one of the panels defined by the interfolding fold is inserted between two panels defined by the interfolding fold of another sheet.



29. Accordingly, as shown in paragraphs 22-28, Tarzana's One Nap line of products is covered by at least claim 1 of the '761 patent.

30. Dependent claim 2 of the '761 patent reads as follows:

2. The stack of absorbent sheet products according to claim 1, wherein said first fold and said interfolding fold define four panels of equal width, two of said panels being of a first length and two of said panels being of a second length greater than said first length.

31. The first fold and interfolding fold of each sheet of Tarzana's One Nap line of products define four panels of equal width of about 4-1/16". Two of the panels have a first

length of about 6-1/8", and the other two panels have a second length of about 6-9/16".

Accordingly, Tarzana's One Nap line of products is covered by at least claim 2 of the '761 patent.

32. Dependent claim 3 of the '761 patent reads as follows:

3. The stack of absorbent sheet products according to claim 2, wherein adjacent sheets are interfolded so as to overlap in a direction of said equal width, such that each absorbent sheet within said stack overlaps each adjacent sheet by an approximately equal extent.

33. Paragraph 28 illustrates how adjacent sheets in Tarzana's One Nap line of products are interfolded to overlap in a direction of equal width such that each sheet within the stack overlaps each adjacent sheet by an approximately equal extent. Accordingly, Tarzana's One Nap line of products is covered by at least claim 3 of the '761 patent.

34. Dependent claim 4 of the '761 patent reads as follows:

4. The stack of absorbent sheet products according to claim 2, wherein the first fold is located such that the second length is at most about three times the first length and at least about 1.1 times the first length.

35. In a representative sample of sheets in Tarzana's One Nap line of products, the first length is about 6-1/8", and the second length is about 6-9/16". The second length is thus 1.07 times the first length, and thus is about 1.1 times the first length. Accordingly, Tarzana's One Nap line of products is covered by at least claim 4 of the '761 patent.

36. Dependent claim 6 of the '761 patent reads as follows:

6. The stack of absorbent sheet products according to claim 1, wherein each of said absorbent sheets has folded dimensions of approximately 4.25" by 6.5".

37. Dependent claim 6 of the '761 patent provides dimensions that define an area of 27.625 square inches. One sheet from Tarzana's One Nap line of products has folded dimensions of 6-11/16" by 4-1/16", defining an area of about 27.168 square inches. A second sheet from Tarzana's One Nap line of products has folded dimensions of 6-3/4" by 4-1/8",

defining an area of about 27.844 square inches. Accordingly, Tarzana's One Nap line of products is covered by at least claim 6 of the '761 patent.

38. Dependent claim 10 of the '761 patent reads as follows:

10. The stack of interfolded absorbent sheet products according to claim 1, wherein each of said absorbent sheets is a single ply paper napkin having a basis weight of from about 10 to 20 lb.

39. Representative sheets from Tarzana's One Nap line of products are single-ply paper napkins having a measured basis weight of 9.9 lbs, which is about 10 lbs. Accordingly, Tarzana's One Nap line of products is covered by at least claim 10 of the '761 patent.

40. Dependent claim 12 of the '761 patent reads as follows:

12. The stack of interfolded absorbent sheet products according to claim 1, wherein each absorbent sheet within said stack receives between two inwardly facing adjacent panels a pair of adjacent panels from each of two absorbent sheets disposed respectively above and below said absorbent sheet in said stack.

41. The photographs below illustrate a partially opened stack of absorbent sheets from the Tarzana One Nap line of products. Three sheets are given the numerical labels 1, 2, and 3. The photograph shows sheet 2, which has two inwardly facing adjacent panels, receiving a pair of panels, one pair of panels from sheet 1 and another pair of panels from sheet 3. Accordingly, Tarzana's One Nap line of products is covered by at least claim 12 of the '761 patent.



42. Dependent claim 13 of the '761 patent reads as follows:

13. The stack of interfolded absorbent sheet products according to claim 1, wherein each of said absorbent sheets is entirely detached from all other absorbent sheets within said stack.

43. The photograph below illustrates a partially disassembled stack of absorbent sheets from the Tarzana One Nap line of products. The sheets are off-centered to illustrate that the sheets are entirely detached from one another. Accordingly, Tarzana's One Nap line of products is covered by at least claim 13 of the '761 patent.



44. Dependent claim 15 of the '761 patent reads as follows:

15. The stack of interfolded absorbent sheet products according to claim 1, wherein each of said absorbent sheets bears an embossed surface relief applied by embossing rollers during a converting phase of manufacturing said absorbent sheet products.

45. The photograph below illustrates an embossed surface relief on a sheet of the Tarzana One Nap line of products. On information and belief, the embossed surface relief was applied by embossing rollers during a converting phase of manufacturing said absorbent sheet products. Accordingly, Tarzana's One Nap line of products is covered by at least claim 15 of the '761 patent.



46. Dependent claim 16 of the '761 patent reads as follows:

16. The stack of interfolded absorbent sheet products according to claim 1, wherein each of said absorbent sheets is through air dried tissue or structure or textured tissue, made using a process using pressure, vacuum, or air flow through the wet web, each of said absorbent sheets having an air side and a fabric side.

47. On information and belief, each absorbent sheet in the Tarzana One Nap line of products is through air dried tissue or structure or textured tissue, made using a process using pressure, vacuum, or air flow through the wet web, and having an air side and a fabric side.

Accordingly, Tarzana's One Nap line of products is covered by at least claim 16 of the '761 patent.

48. Dependent claim 17 of the '761 patent reads as follows:

17. The stack of interfolded absorbent sheet products according to claim 15, wherein said embossed surface relief is of a continuous pattern over an entire surface of said absorbent sheets.

49. SCA incorporates paragraphs 44-45 of its Complaint as though fully set forth herein. Each sheet from Tarzana's One Nap line of products includes an embossed surface relief that is of a continuous pattern over the entire surface of the sheets. Accordingly, Tarzana's One Nap line of products is covered by at least claim 17 of the '761 patent.

50. Dependent claim 19 of the '761 patent reads as follows:

19. The stack of interfolded absorbent sheet products according to claim 15, wherein said embossed surface relief pattern comprises relief elements that project from one side of each absorbent sheet and are recessed relative to an opposite side of each absorbent sheet, each absorbent sheet being folded such that

exterior panels of each absorbent sheet when folded comprise said relief elements that are recessed relative to said opposite side of each absorbent sheet.

51. SCA incorporates paragraphs 44-45 of its Complaint as through fully set forth herein. The relief elements on the exterior panels of each absorbent sheet from Tarzana's One Nap line of products, when folded, are recessed relative to the opposite side of each absorbent sheet. Accordingly, Tarzana's One Nap line of products is covered by at least claim 19 of the '761 patent.

52. Dependent claim 20 of the '761 patent reads as follows:

20. The stack of interfolded absorbent sheet products according to claim 16, wherein each absorbent sheet is folded such that exterior panels of each absorbent sheet when folded comprise said fabric side of each absorbent sheet.

53. SCA incorporates paragraphs 46-47 of its Complaint as through fully set forth herein. On information and belief, each absorbent sheet in the Tarzana One Nap line of products is folded such that exterior panels of each absorbent sheet, when folded, comprise the fabric side of each absorbent sheet. Accordingly, Tarzana's One Nap line of products is covered by at least claim 20 of the '761 patent.

54. Dependent claim 24 of the '761 patent reads as follows:

24. The stack of interfolded absorbent sheet products according to claim 1, wherein said sheet in the direction perpendicular to said first fold has a length b and a length c that define an offset ratio of $(b-c)$ to $(b+c)$ in a range of about 0.05 to 0.48.

55. SCA incorporates paragraphs 34-35 of its Complaint by reference as if fully set forth herein. A representative sheet from Tarzana's One Nap line of products has a length b of 6-9/16" and a length c of 6-1/8". These lengths result in an offset ratio of 0.034, which is about 0.05. Accordingly, Tarzana's One Nap line of products includes an offset ratio of $(b-c)$ to $(b+c)$ in a range of about 0.05 to 0.48 and is covered by at least claim 24 of the '761 patent.

56. Tarzana's acts of infringement have caused damage to SCA, and SCA is entitled to recover from Tarzana damages sustained as a result of Tarzana's infringement of the '761 patent.

57. Tarzana's acts of infringement have caused, and will continue to cause, irreparable harm to SCA. Tarzana and SCA directly compete in the market for paper-based, commercial products. Both companies lease or loan related equipment, including, e.g., dispensers. *See* Exhibit 4 (advertising a dispenser compatible with the infringing One Nap products). Not only is SCA being forced to compete against products that infringe its own patented inventions, but SCA is losing out, and will continue to lose out, on its investment in related products such as dispensers and on sales of paper products that can be dispensed from the dispensers. For example, customers of SCA confused the One Nap line of products with one or more SCA products, including because the One Nap line of products is sized to fit within SCA's XPRESSNAP® dispensers, and lost sales due to the One Nap line of products, translating directly into lost sales for SCA. SCA's losses are further difficult to quantify, rendering legal damages inadequate. Because Tarzana's infringement has cost SCA market share and downstream sales and has forced SCA to compete against embodiments of its own patented invention, any hardship that an injunction would cause Tarzana pales in comparison to the hardships SCA will continue to suffer as a result of Tarzana's infringement. The public interest also favors an injunction to protect SCA's investment-based risk that resulted in patented innovation, namely the '761 patent, and to enforce the Patent Act's statutory right to exclude. Accordingly, the circumstances of Tarzana's infringement warrant an injunction barring Tarzana from further infringement of the '761 patent.

58. Tarzana's infringing activities have been, are, and will likely continue to be egregious and willful, entitling SCA to treble damages. For example, between April 29, 2011 and April 13, 2012, Tarzana and SCA Tissue were engaged in patent litigation where Tarzana napkins were accused of infringing SCA Tissue patents. Accordingly, Tarzana had knowledge that SCA had patents in the commercial paper goods market and, at the very least, should have known of the '761 patent. *See* Exhibit 5 (providing a notice of settlement of the prior litigation on Tarzana's website). Additionally, SCA notified customers of Tarzana that the One Nap line of products infringed at least the '761 patent. Accordingly, Tarzana knew, or at the very least should have known, of the applicability of the '761 patent to the One Nap line of products. *See* Exhibit 6 (evidencing that the Carolina Paper Company, a distributor of the One Nap line of products, knew of the '761 patent by at least November 2014).

59. Tarzana's infringement warrants a finding that this is an exceptional case, entitling SCA to recover its attorney fees and expenses.

COUNT II: DIRECT INFRINGEMENT OF THE '372 PATENT

60. SCA incorporates the foregoing paragraphs of its Complaint by reference as through fully set forth herein.

61. Tarzana has infringed, and continues to infringe, claims of the '372 patent under 35 U.S.C. § 271(a), literally and/or under the doctrine of equivalents, by making, using, selling, offering to sell, and/or importing its One Nap line of products, which have product codes including COXN, COXNK, and COXNL.

62. In particular, claim 1 of the '372 patent reads as follows:

1. A stack of interfolded absorbent sheet products, comprising:
 - a plurality of absorbent sheets,
 - wherein each sheet comprises a first fold that is offset from a line

bisecting said sheet substantially parallel to said first fold, and an interfolding fold intersecting said first fold;

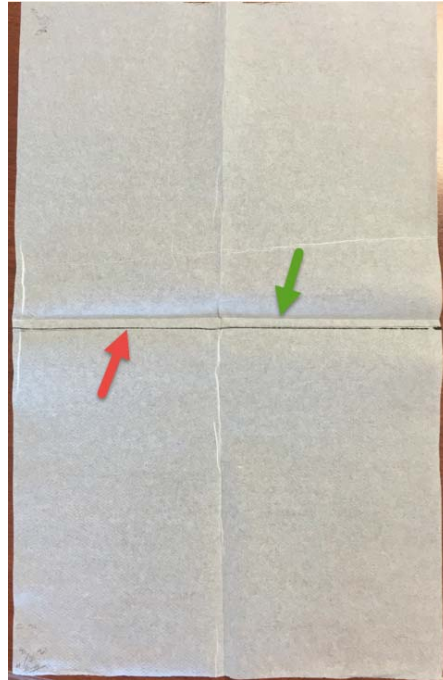
wherein said first fold, said interfolding fold, and outer edges of each of the absorbent sheets define boundaries for four panels, with the panels on opposing sides of the first fold having different lengths and contacting each other within the stack, and

wherein each of said absorbent sheets within said stack comprises at least one pair of panels sandwiched between a pair of adjacent panels of another of said absorbent sheets within said stack.

63. Tarzana’s One Nap line of products includes a stack of interfolded absorbent sheet products, including multiple absorbent sheets, as shown below from an excerpt of an advertising brochure featured prominently on Tarzana’s website. *See* Exhibit 4.



64. Each sheet of Tarzana’s One Nap line of products includes a first fold that is offset from a line bisecting said sheet substantially parallel to said first fold. In the photograph of a sheet from Tarzana’s One Nap line of products below, the drawn-on line indicated by the red arrow is a line bisecting the sheet, and the fold indicated by the green arrow is a first fold that is substantially parallel to but offset from the bisecting line.



65. The first fold, interfolding fold, and outer edges of each sheet of Tarzana's One Nap line of products define four panels. The panels on one side of the first fold have a length of about 6-1/8", and the panels on the other side of the first fold have a length of about 6-9/16". The panels defined by the first fold of each sheet of Tarzana's One Nap line of products directly contact each other. The first photograph below shows an unfolded sheet looking down the first fold, illustrating the panels defined by the first fold. The second photograph below shows the sheet folded along its first fold, illustrating that the panels defined by the first fold directly contact each other.



66. Tarzana's One Nap line of products includes a stack of interfolded absorbent sheet products, wherein at least one pair of panels is sandwiched between a pair of adjacent panels of another of the absorbent sheets within the stack. The photograph below shows two pairs of panels from sheet 2, each pair being sandwiched between a pair of adjacent panels of another of the absorbent sheets.



67. Accordingly, as shown in paragraphs 62-66, Tarzana's One Nap line of products is covered by at least claim 1 of the '372 patent.

68. Dependent claim 2 of the '372 patent reads as follows:

2. The stack of absorbent sheet products according to claim 1, wherein said first and second folds define four panels of equal width, two of said panels being of a first length and two of said panels being of a second length greater than said first length.

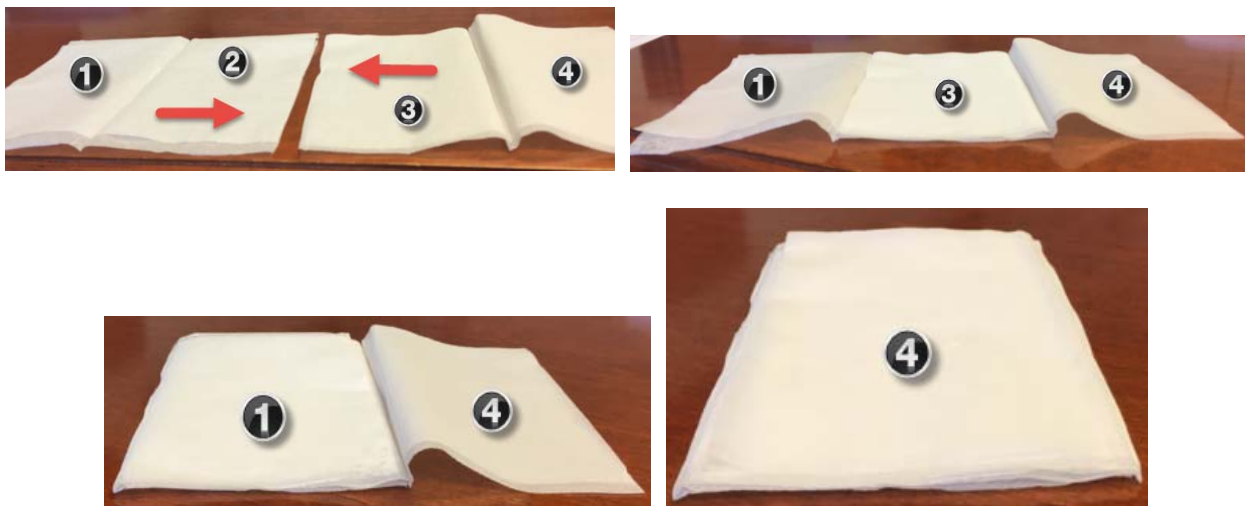
69. The first and second folds of each sheet of Tarzana's One Nap line of products define four panels of equal width. Two of the panels have a first length of about 6-1/8", and the other two panels have a second length of about 6-9/16". Accordingly, Tarzana's One Nap line of products is covered by at least claim 2 of the '372 patent.

70. Dependent claim 3 of the '372 patent reads as follows:

3. The stack of absorbent sheet products according to claim 2, wherein adjacent sheets are interfolded so as to overlap in a direction of said equal width, such that

each absorbent sheet with said stack overlaps each adjacent sheet by an approximately equal extent.

71. SCA incorporates paragraphs 68-69 of its Complaint as through fully set forth herein. The photographs below illustrate how adjacent sheets in Tarzana's One Nap line of products are interfolded to overlap in a direction of equal width such that each sheet within the stack overlaps each adjacent sheet by an approximately equal extent. Accordingly, Tarzana's One Nap line of products is covered by at least claim 3 of the '372 patent.



72. Dependent claim 4 of the '372 patent reads as follows:

4. The stack of absorbent sheet products according to claim 2, wherein the first fold is located such that the second length is at most about three times the first length and at least about 1.1 times the first length.

73. SCA incorporates paragraphs 68-69 of its Complaint as through fully set forth herein. In a representative sample of sheets in Tarzana's One Nap line of products, the first length is about 6-1/8", and the second length is about 6-9/16". The second length is thus 1.07 times the first length, and thus is about 1.1 times the first length. Accordingly, Tarzana's One Nap line of products is covered by at least claim 4 of the '372 patent.

74. Dependent claim 6 of the '372 patent reads as follows:

6. The stack of absorbent sheet products according to claim 1, wherein each of said absorbent sheets has folded dimensions of approximately 4.25" by 6.5".

75. Dependent claim 6 of the '372 patent provides dimensions that define an area of 27.625 square inches. One sheet from Tarzana's One Nap line of products has folded dimensions of 6-11/16" by 4-1/16", defining an area of about 27.168 square inches. A second sheet from Tarzana's One Nap line of products has folded dimensions of 6-3/4" by 4-1/8", defining an area of about 27.844 square inches. Accordingly, Tarzana's One Nap line of products is covered by at least claim 6 of the '372 patent.

76. Dependent claim 10 of the '372 patent reads as follows:

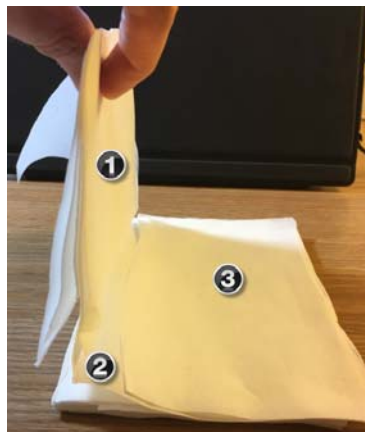
10. The stack of interfolded absorbent sheet products according to claim 1, wherein each of said absorbent sheets is a single ply paper napkin having a basis weight of from about 10 to 20 lb.

77. Representative sheets from Tarzana's One Nap line of products are single-ply paper napkins having a measured basis weight of 9.9 lbs, which is about 10 lbs. Accordingly, Tarzana's One Nap line of products is covered by at least claim 10 of the '372 patent.

78. Dependent claim 12 of the '372 patent reads as follows:

12. The stack of interfolded absorbent sheet products according to claim 1, wherein each napkin within said stack receives between two inwardly facing adjacent panels a pair of adjacent panels from each of two napkins disposed respectively above and below said napkin in said stack.

79. The photograph below illustrates a partially opened stack of napkins from the Tarzana One Nap line of products. Three sheets are given the numerical labels 1, 2, and 3. The photograph shows napkin 2, which has two inwardly facing adjacent panels, receiving a pair of panels, one pair of panels from napkin 1 and another pair of panels from napkin 3. Accordingly, Tarzana's One Nap line of products is covered by at least claim 12 of the '372 patent.



80. Dependent claim 13 of the '372 patent reads as follows:

13. The stack of interfolded absorbent sheet products according to claim 1, wherein each of said absorbent sheets is entirely detached from all other absorbent sheets within said stack.

81. The photograph below illustrates a partially disassembled stack of absorbent sheets from the Tarzana One Nap line of products. The sheets are off-centered to illustrate that the sheets are entirely detached from one another. Accordingly, Tarzana's One Nap line of products is covered by at least claim 13 of the '372 patent.



82. Dependent claim 15 of the '372 patent reads as follows:

15. The stack of interfolded absorbent sheet products according to claim 1, wherein each of said absorbent sheets bears an embossed surface relief applied by embossing rollers during a converting phase of manufacturing said absorbent sheet products.

83. The photograph below illustrates an embossed surface relief on a sheet of the Tarzana One Nap line of products. On information and belief, the embossed surface relief was

applied by embossing rollers during a converting phase of manufacturing said absorbent sheet products. Accordingly, Tarzana's One Nap line of products is covered by at least claim 15 of the '372 patent.



84. Dependent claim 16 of the '372 patent reads as follows:

16. The stack of interfolded absorbent sheet products according to claim 1, wherein each of said absorbent sheets is through air dried (TAD) tissue or structure or textured tissue, made using a process using pressure, vacuum, or air flow through the wet web, each of said absorbent sheets having an air side and a fabric side.

85. On information and belief, each absorbent sheet in the Tarzana One Nap line of products is through air dried tissue or structure or textured tissue, made using a process using pressure, vacuum, or air flow through the wet web, and having an air side and a fabric side. Accordingly, Tarzana's One Nap line of products is covered by at least claim 16 of the '372 patent.

86. Dependent claim 17 of the '372 patent reads as follows:

17. The stack of interfolded absorbent sheet products according to claim 15, wherein said embossed surface relief is of a continuous pattern over an entire surface of said absorbent sheets.

87. SCA incorporates paragraphs 82-83 of its Complaint as though fully set forth herein. Each sheet from Tarzana's One Nap line of products includes an embossed surface relief that is of a continuous pattern over the entire surface of the sheets. Accordingly, Tarzana's One Nap line of products is covered by at least claim 17 of the '372 patent.

88. Dependent claim 19 of the '372 patent reads as follows:

19. The stack of interfolded absorbent sheet products according to claim 15, wherein said embossed surface relief pattern comprises relief elements that project from one side of each absorbent sheet and are recessed relative to an opposite side of each absorbent sheet, each absorbent sheet being folded such that exterior panels of each absorbent sheet when folded comprise said relief elements that are recessed relative to said opposite side of each absorbent sheet.

89. SCA incorporates paragraphs 82-83 of its Complaint as through fully set forth herein. The relief elements on the exterior panels of each absorbent sheet from Tarzana's One Nap line of products, when folded, are recessed relative to the opposite side of each absorbent sheet. Accordingly, Tarzana's One Nap line of products is covered by at least claim 19 of the '372 patent.

90. Dependent claim 20 of the '372 patent reads as follows:

20. The stack of interfolded absorbent sheet products according to claim 16, wherein each absorbent sheet is folded such that exterior panels of each absorbent sheet when folded comprise said fabric side of each absorbent sheet.

91. SCA incorporates paragraphs 84-85 of its Complaint as through fully set forth herein. On information and belief, each absorbent sheet in the Tarzana One Nap line of products is folded such that exterior panels of each absorbent sheet, when folded, comprise the fabric side of each absorbent sheet. Accordingly, Tarzana's One Nap line of products is covered by at least claim 20 of the '372 patent.

92. Tarzana's acts of infringement have caused damage to SCA, and SCA is entitled to recover from Tarzana damages sustained as a result of Tarzana's infringement of the '372 patent.

93. Tarzana's acts of infringement have caused, and will continue to cause, irreparable harm to SCA. Tarzana and SCA directly compete in the market for paper-based, commercial products. Both companies lease or loan related equipment, including, e.g.,

dispensers. *See* Exhibit 4 (advertising a dispenser compatible with the infringing One Nap products). Not only is SCA being forced to compete against products that infringe its own patented inventions, but SCA is losing out, and will continue to lose out, on its investment in related products such as dispensers and on sales of paper products that can be dispensed from the dispensers. For example, customers of SCA confused the One Nap line of products with one or more SCA products, including because the One Nap line of products is sized to fit within SCA's XPRESSNAP® dispensers, and lost sales due to the One Nap line of products, translating directly into lost sales for SCA. SCA's losses are further difficult to quantify, rendering legal damages inadequate. Because Tarzana's infringement has cost SCA market share and downstream sales and has forced SCA to compete against embodiments of its own patented invention, any hardship that an injunction would cause Tarzana pales in comparison to the hardships SCA will continue to suffer as a result of Tarzana's infringement. The public interest also favors an injunction to protect SCA's investment-based risk that resulted in patented innovation, namely the '372 patent, and to enforce the Patent Act's statutory right to exclude. Accordingly, the circumstances of Tarzana's infringement warrant an injunction barring Tarzana from further infringement of the '372 patent.

94. Tarzana's infringing activities have been, are, and will likely continue to be egregious and willful, entitling SCA to treble damages. For example, between April 29, 2011 and April 13, 2012, Tarzana and SCA Tissue were engaged in patent litigation where Tarzana napkins were accused of infringing SCA Tissue patents. Accordingly, Tarzana had knowledge that SCA had patents in the commercial paper goods market and, at the very least, should have known of the '372 patent. *See* Exhibit 5 (providing a notice of settlement of the prior litigation on Tarzana's website). Additionally, SCA notified customers of Tarzana that the One Nap line

of products infringed at least the '761 patent. The '372 patent issued from an application that claimed priority to the application from which the '761 patent issued. The '761 patent and the '372 patent thus have a parent-child relationship. The disclosures of the '761 patent and the '372 patent are substantially the same, and information is publicly available on the U.S. Patent and Trademark Office's online database concerning this parent-child relationship between the patents. Accordingly, Tarzana knew, or at the very least should have known, of the applicability of the '372 patent to the One Nap line of products at least because it knew or should have known of the applicability of the parent '761 patent to the One Nap line of products. *See* Exhibit 6 (evidencing that the Carolina Paper Company, a distributor of the One Nap line of products, knew of the '761 patent by at least November 2014).

95. Tarzana's infringement warrants a finding that this is an exceptional case, entitling SCA to recover its attorney fees and expenses.

PRAYER FOR RELIEF

WHEREFORE, SCA respectfully requests that the Court enter judgment in its favor, granting the following relief:

A. Entry of a judgment that Tarzana has infringed the '761 patent under 35 U.S.C. § 271(a);

B. Entry of a judgment that Tarzana has infringed the '372 patent under 35 U.S.C. § 271(a);

C. Entry of a permanent injunction enjoining Tarzana and its officers, directors, employees, agents, consultants, contractors, suppliers, distributors, and all others acting in privity with Tarzana from further infringement of the '761 patent;

D. Entry of a permanent injunction enjoining Tarzana and its officers, directors, employees, agents, consultants, contractors, suppliers, distributors, and all others acting in privity with Tarzana from further infringement of the '372 patent;

E. Entry of a judgment that Tarzana's infringement of the '761 patent has been and continues to be egregious and willful;

F. Entry of a judgment that Tarzana's infringement of the '372 patent has been and continues to be egregious and willful;

G. Entry of an award to SCA of damages adequate to compensate it for the infringement of the '761 patent by Tarzana, in an amount to be proven at trial, together with pre-judgment and post-judgment interest and costs, as fixed by the Court;

H. Entry of an award to SCA of damages adequate to compensate it for the infringement of the '372 patent by Tarzana, in an amount to be proven at trial, together with pre-judgment and post-judgment interest and costs, as fixed by the Court;

I. Trebling the damages due to Tarzana's egregious and willful infringement under 35 U.S.C. § 284;

J. Entry of a finding that, with respect to Tarzana, this case has been exceptional and awarding to SCA its reasonable costs and attorney fees under 35 U.S.C. § 285;

K. Entry of an order for Tarzana to account to SCA for, and disgorge to SCA, all profits it has derived as a result of the unlawful acts complained of above;

L. Entry of judgment against Tarzana on all counts of this Complaint;

M. Entry of an award to SCA of its costs in this action; and

N. A grant to SCA of other and further relief that the Court sees as just.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, SCA demands trial by jury in this action of all issues so triable.

Respectfully submitted this 3rd day of November, 2016.

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