



**CLAIM I**

**INFRINGEMENT OF UNITED STATES PATENT NO. 5,059,036**

6. Plaintiff restates the allegations set forth in paragraphs 1-5 and incorporates them herein by reference.

7. On October 22, 1991, United States Patent No. 5,059,036 (“the ‘036 patent”) entitled VENTED POUCH ARRANGEMENT AND METHOD was duly and legally issued to Kapak Corporation as assignee of the inventors, Cecil Richardson and Gary Bell. Kapak Corporation assigned all rights, title and interest in the ‘036 patent to Kapak Company LLC (“Kapak”). Kapak since that assignment has been, and still is, the owner of all right, title and interest in the ‘036 patent. A copy of the ‘036 patent is attached hereto as Exhibit A.

8. By virtue of its assignment of the ‘036 patent, Plaintiff has acquired and continues to maintain the right to sue on and the right to recover for infringement of the ‘036 patent.

9. On information and belief, Pack Plus Converting Inc. (“Pack Plus”) has directly infringed, contributed to the infringement of, and/or induced infringement of the ‘036 patent through the manufacture, use, sale, offer for sale of, and other actions assisting or encouraging customer to buy and use certain packaging products, including one or more of the Pack Plus Converting Poly Gusseted Bags with valve; Easy Peel Foil Gusseted Bags with valve; Quad-Seal Poly Gusseted Bag with valve; Aroma Patterned Bags with valve; and Stand Up Zip Pouches with valve.

10. Plaintiff has been damaged by Pack Plus’s infringement of the ‘036 patent and will continue to be damaged in the future unless Pack Plus is enjoined from infringing the patent, contributing to the infringement of that patent, and/or inducing the infringement of that patent by others.

11. Pack Plus had actual knowledge of the '036 patent and has actual knowledge that the use, manufacture, sale, and offer for sale of the above-identified products infringes that patent, contributes to the infringement of that patent and induces the infringement of that patent by others.

12. Upon information and belief, Pack Plus's infringement of the '036 patent is now and has been willful and will continue unless enjoined by the Court.

13. Plaintiff has placed the required statutory notice on products manufactured and sold by it under the '036 patent, and has given written notice to Pack Plus of its infringement.

## **CLAIM II**

### **INFRINGEMENT OF UNITED STATES PATENT NO. 5,147,272**

14. Plaintiff restates the allegations set forth in paragraphs 1-13 and incorporates them herein by reference.

15. On September 15, 1992, United States Patent No. 5,147,272 ("the '272 patent") entitled METHOD OF MAKING A VENTED POUCH was duly and legally issued to Kapak Corporation as assignee of the inventors, Cecil Richison and Gary Bell. Kapak Corporation assigned all rights, title and interest in the '272 patent to Kapak Company LLC ("Kapak"). Kapak since that assignment has been, and still is, the owner of all right, title and interest in the '272 patent. A copy of the '272 patent is attached hereto as Exhibit B.

16. By virtue of its assignment of the '272 patent, Plaintiff has acquired and continues to maintain the right to sue on and the right to recover for infringement of the '272 patent.

17. On information and belief, Pack Plus has directly infringed, contributed to the infringement of, and/or induced infringement of the '272 patent through the manufacture, use, sale, offer for sale of, and other actions assisting or encouraging customer to buy and use certain packaging products, including one or more of the Pack Plus Converting Poly Gusseted Bags with

valve; Easy Peel Foil Gusseted Bags with valve; Quad-Seal Poly Gusseted Bag with valve; Aroma Patterned Bags with valve; and Stand Up Zip Pouches with valve.

18. Plaintiff has been damaged by Pack Plus's infringement of the '272 patent and will continue to be damaged in the future unless Pack Plus is enjoined from infringing the patent, contributing to the infringement of that patent, and/or inducing the infringement of that patent by others.

19. Pack Plus has actual knowledge of the '272 patent and has actual knowledge that the use, manufacture, sale, and offer for sale of the above-identified products infringes that patent, contributes to the infringement of that patent and induces the infringement of that patent by others.

20. Upon information and belief, Pack Plus's infringement of the '272 patent is now and has been willful and will continue unless enjoined by the Court.

21. Plaintiff has placed the required statutory notice on products manufactured and sold by it under the '272 patent, and has given written notice to Pack Plus of its infringement.

### **CLAIM III**

#### **INFRINGEMENT OF UNITED STATES PATENT NO. 5,254,073**

22. Plaintiff restates the allegations set forth in paragraphs 1-21 and incorporates them herein by reference.

23. On October 19, 1993, United States Patent No. 5,254,073 ("the '073 patent") entitled METHOD OF MAKING A VENTED POUCH was duly and legally issued to Kapak Corporation as assignee of the inventors, Cecil Richison and Gary Bell. Kapak Corporation assigned all rights, title and interest in the '073 patent to Kapak Company LLC ("Kapak"). Kapak since that assignment has been, and still is, the owner of all right, title and interest in the '073 patent. A copy of the '073 patent is attached hereto as Exhibit C.

24. By virtue of its assignment of the '073 patent, Plaintiff has acquired and continues to maintain the right to sue on and the right to recover for infringement of the '073 patent.

25. On information and belief, Pack Plus has directly infringed, contributed to the infringement of, and/or induced infringement of the '073 patent through the manufacture, use, sale, offer for sale of, and other actions assisting or encouraging customer to buy and use certain packaging products, including one or more of the Pack Plus Converting Poly Gusseted Bags with valve; Easy Peel Foil Gusseted Bags with valve; Quad-Seal Poly Gusseted Bag with valve; Aroma Patterned Bags with valve; and Stand Up Zip Pouches with valve.

26. Plaintiff has been damaged by Pack Plus's infringement of the '073 patent and will continue to be damaged in the future unless Pack Plus is enjoined from infringing the patent, contributing to the infringement of that patent, and/or inducing the infringement of that patent by others.

27. Pack Plus has actual knowledge of the '073 patent and has actual knowledge that the use, manufacture, sale, and offer for sale of the above-identified products infringes that patent, contributes to the infringement of that patent and induces the infringement of that patent by others.

28. Upon information and belief, Pack Plus's infringement of the '073 patent is now and has been willful and will continue unless enjoined by the Court.

29. Plaintiff has placed the required statutory notice on products manufactured and sold by it under the '073 patent, and has given written notice to Pack Plus of its infringement.

#### **CLAIM IV**

#### **INFRINGEMENT OF UNITED STATES PATENT NO. 5,542,902**

30. Plaintiff restates the allegations set forth in paragraphs 1-29 and incorporates them herein by reference.

31. On August 6, 1996, United States Patent No. 5,542,902 (“the ‘902 patent”) entitled VENTED POUCH ARRANGEMENT AND METHOD was duly and legally issued to Kapak Corporation as assignee of the inventors, Cecil Richison and Gary Bell. Kapak Corporation assigned all rights, title and interest in the ‘902 patent to Kapak Company LLC (“Kapak”). Kapak since that assignment has been, and still is, the owner of all right, title and interest in the ‘902 patent. A copy of the ‘902 patent is attached hereto as Exhibit D.

32. By virtue of its assignment of the ‘902 patent, Plaintiff has acquired and continues to maintain the right to sue on and the right to recover for infringement of the ‘902 patent.

33. On information and belief, Pack Plus has directly infringed, contributed to the infringement of, and/or induced infringement of the ‘902 patent through the manufacture, use, sale, offer for sale of, and other actions assisting or encouraging customer to buy and use certain packaging products, including one or more of the Pack Plus Converting Poly Gusseted Bags with valve; Easy Peel Foil Gusseted Bags with valve; Quad-Seal Poly Gusseted Bag with valve; Aroma Patterned Bags with valve; and Stand Up Zip Pouches with valve.

34. Plaintiff has been damaged by Pack Plus’s infringement of the ‘902 patent and will continue to be damaged in the future unless Pack Plus is enjoined from infringing the patent, contributing to the infringement of that patent, and/or inducing the infringement of that patent by others.

35. Pack Plus has actual knowledge of the ‘902 patent and has actual knowledge that the use, manufacture, sale, and offer for sale of the above-identified products infringes that patent, contributes to the infringement of that patent and induces the infringement of that patent by others.

36. Upon information and belief, Pack Plus’s infringement of the ‘902 patent is now and has been willful and will continue unless enjoined by the Court.

37. Plaintiff has placed the required statutory notice on products manufactured and sold by it under the '902 patent, and has given written notice to Pack Plus of its infringement.

**CLAIM V**

**INFRINGEMENT OF UNITED STATES PATENT NO. 6,021,624**

38. Plaintiff restates the allegations set forth in paragraphs 1-37 and incorporates them herein by reference.

39. On February 8, 2000, United States Patent No. 6,021,624 ("the '624 patent") entitled VENTED POUCH ARRANGEMENT AND METHOD was duly and legally issued to Kapak Corporation as assignee of the inventors, Cecil Richison and Gary Bell. Kapak Corporation assigned all rights, title and interest in the '624 patent to Kapak Company LLC ("Kapak"). Kapak since that assignment has been, and still is, the owner of all right, title and interest in the '624 patent. A copy of the '624 patent is attached hereto as Exhibit E.

40. By virtue of its assignment of the '624 patent, Plaintiff has acquired and continues to maintain the right to sue on and the right to recover for infringement of the '624 patent.

41. On information and belief, Pack Plus has directly infringed, contributed to the infringement of, and/or induced infringement of the '624 patent through the manufacture, use, sale, offer for sale of, and other actions assisting or encouraging customer to buy and use certain packaging products, including one or more of the Pack Plus Converting Poly Gusseted Bags with valve; Easy Peel Foil Gusseted Bags with valve; Quad-Seal Poly Gusseted Bag with valve; Aroma Patterned Bags with valve; and Stand Up Zip Pouches with valve.

42. Plaintiff has been damaged by Pack Plus's infringement of the '624 patent and will continue to be damaged in the future unless Pack Plus is enjoined from infringing the patent, contributing to the infringement of that patent, and/or inducing the infringement of that patent by others.

43. Pack Plus has actual knowledge of the '624 patent and has actual knowledge that the use, manufacture, sale, and offer for sale of the above-identified products infringes that patent, contributes to the infringement of that patent and induces the infringement of that patent by others.

44. Upon information and belief, Pack Plus's infringement of the '624 patent is now and has been willful and will continue unless enjoined by the Court.

45. Plaintiff has placed the required statutory notice on products manufactured and sold by it under the '624 patent, and has given written notice to Pack Plus of its infringement.

#### **CLAIM VI**

#### **INFRINGEMENT OF UNITED STATES PATENT NO. 6,023,914**

46. Plaintiff restates the allegations set forth in paragraphs 1-45 and incorporates them herein by reference.

47. On February 15, 2000, United States Patent No. 6,023,914 ("the '914 patent") entitled VENTED POUCH ARRANGEMENT AND METHOD was duly and legally issued to Kapak Corporation as assignee of the inventors, Cecil Richison and Gary Bell. Kapak Corporation assigned all rights, title and interest in the '914 patent to Kapak Company LLC ("Kapak"). Kapak since that assignment has been, and still is, the owner of all right, title and interest in the '914 patent. A copy of the '914 patent is attached hereto as Exhibit F.

48. By virtue of its assignment of the '914 patent, Plaintiff has acquired and continues to maintain the right to sue on and the right to recover for infringement of the '914 patent.

49. On information and belief, Pack Plus has directly infringed, contributed to the infringement of, and/or induced infringement of the '914 patent through the manufacture, use, sale, offer for sale of, and other actions assisting or encouraging customer to buy and use certain packaging products, including one or more of the Pack Plus Converting Poly Gusseted Bags with

valve; Easy Peel Foil Gusseted Bags with valve; Quad-Seal Poly Gusseted Bag with valve; Aroma Patterned Bags with valve; and Stand Up Zip Pouches with valve.

50. Plaintiff has been damaged by Pack Plus's infringement of the '914 patent and will continue to be damaged in the future unless Pack Plus is enjoined from infringing the patent, contributing to the infringement of that patent, and/or inducing the infringement of that patent by others.

51. Pack Plus has actual knowledge of the '914 patent and has actual knowledge that the use, manufacture, sale, and offer for sale of the above-identified products infringes that patent, contributes to the infringement of that patent and induces the infringement of that patent by others.

52. Upon information and belief, Pack Plus's infringement of the '914 patent is now and has been willful and will continue unless enjoined by the Court.

53. Plaintiff has placed the required statutory notice on products manufactured and sold by it under the '914 patent, and has given written notice to Pack Plus of its infringement.

## **CLAIM VII**

### **INFRINGEMENT OF UNITED STATES PATENT NO. 6,274,181 B1**

54. Plaintiff restates the allegations set forth in paragraphs 1-53 and incorporates them herein by reference.

55. On August 14, 2001, United States Patent No. 6,274,181 B1 ("the '181 patent") entitled VENTED POUCH ARRANGEMENT AND METHOD was duly and legally issued to Kapak Corporation as assignee of the inventors, Cecil Richison and Gary Bell. Kapak Corporation assigned all rights, title and interest in the '181 patent to Kapak Company LLC ("Kapak"). Kapak since that assignment has been, and still is, the owner of all right, title and interest in the '181 patent. A copy of the '181 patent is attached hereto as Exhibit G.

56. By virtue of its assignment of the '181 patent, Plaintiff has acquired and continues to maintain the right to sue on and the right to recover for infringement of the '181 patent.

57. On information and belief, Pack Plus has directly infringed, contributed to the infringement of, and/or induced infringement of the '181 patent through the manufacture, use, sale, offer for sale of, and other actions assisting or encouraging customer to buy and use certain packaging products, including one or more of the Pack Plus Converting Poly Gusseted Bags with valve; Easy Peel Foil Gusseted Bags with valve; Quad-Seal Poly Gusseted Bag with valve; Aroma Patterned Bags with valve; and Stand Up Zip Pouches with valve.

58. Plaintiff has been damaged by Pack Plus's infringement of the '181 patent and will continue to be damaged in the future unless Pack Plus is enjoined from infringing the patent, contributing to the infringement of that patent, and/or inducing the infringement of that patent by others.

59. Upon information and belief, Pack Plus had actual knowledge of the '181 patent and, on information and belief, have had actual knowledge that the use, manufacture, sale, and offer for sale of the above-identified products infringes that patent, contributes to the infringement of that patent and induces the infringement of that patent by others.

60. Upon information and belief, Pack Plus's infringement of the '181 patent is now and has been willful and will continue unless enjoined by the Court.

61. Plaintiff has placed the required statutory notice on products manufactured and sold by it under the '181 patent, and has given written notice to Pack Plus of its infringement.

### **CLAIM VIII**

#### **INFRINGEMENT OF UNITED STATES PATENT NO. 6,423,356 B2**

62. Plaintiff restates the allegations set forth in paragraphs 1-61 and incorporates them herein by reference.

63. On July 23, 2002, United States Patent No. 6,423,356 B2 (“the ‘356 patent”) entitled VENTED POUCH ARRANGEMENT AND METHOD was duly and legally issued to Kapak Corporation as assignee of the inventors, Cecil Richison and Gary Bell. Kapak Corporation assigned all rights, title and interest in the ‘356 patent to Kapak Company LLC (“Kapak”). Kapak since that assignment has been, and still is, the owner of all right, title and interest in the ‘356 patent. A copy of the ‘356 patent is attached hereto as Exhibit H.

64. By virtue of its assignment of the ‘356 patent, Plaintiff has acquired and continues to maintain the right to sue on and the right to recover for infringement of the ‘356 patent.

65. On information and belief, Pack Plus has directly infringed, contributed to the infringement of, and/or induced infringement of the ‘356 patent through the manufacture, use, sale, offer for sale of, and other actions assisting or encouraging customer to buy and use certain packaging products, including one or more of the Pack Plus Converting Poly Gusseted Bags with valve; Easy Peel Foil Gusseted Bags with valve; Quad-Seal Poly Gusseted Bag with valve; Aroma Patterned Bags with valve; and Stand Up Zip Pouches with valve.

66. Plaintiff has been damaged by Pack Plus’s infringement of the ‘356 patent and will continue to be damaged in the future unless Pack Plus is enjoined from infringing the patent, contributing to the infringement of that patent, and/or inducing the infringement of that patent by others.

67. Upon information and belief, Pack Plus had actual knowledge of the ‘356 patent and, on information and belief, have had actual knowledge that the use, manufacture, sale, and offer for sale of the above-identified products infringes that patent, contributes to the infringement of that patent and induces the infringement of that patent by others.

68. Upon information and belief, Pack Plus’s infringement of the ‘356 patent is now and has been willful and will continue unless enjoined by the Court.

69. Plaintiff has placed the required statutory notice on products manufactured and sold by it under the '356 patent.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment that:

A. Pack Plus has directly infringed, contributorily infringed, and/or induced infringement of one or more claims of United States Patent Nos. 5,059,036; 5,147,272; 5,254,073; 5,542,902; 6,021,624; 6,023,914; 6,274,181; and 6,423,356;

B. Pack Plus's infringement of one or more claims of United States Patent Nos. 5,059,036; 5,147,272; 5,254,073; 5,542,902; 6,021,624; 6,023,914; 6,274,181; and 6,423,356 was willful;

C. Pack Plus, its officers, agents, servants and employees, and those persons in active concert or participation with any of them be enjoined from further infringing, contributing to the infringement, or inducing the infringement of the United States Patent Nos. 5,059,036; 5,147,272; 5,254,073; 5,542,902; 6,021,624; 6,023,914; 6,274,181; and 6,423,356;

D. An accounting be had and that Plaintiff be awarded damages arising out of Pack Plus's infringement of United States Patent No. 5,059,036; 5,147,272; 5,254,073; 5,542,902; 6,021,624; 6,023,914; 6,274,181; and 6,423,356, including treble damages for willful infringement as provided by 35 U.S.C. § 284, with interest;

E. Pack Plus be enjoined from continued use, importation, offer for sale, or sale of the Pack Plus products at issue;

F. This case be adjudged and decreed exceptional pursuant to 35 U.S.C. § 285 and the Plaintiff be awarded its costs and attorney's fees in pursuing this action; and

G. Plaintiff be awarded such other and further relief as this Court may deem necessary and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury of all issues so triable.

Dated: November 20, 2006

By: /s/ Daniel W. McDonald

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