

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN**

**SCA TISSUE NORTH AMERICA, LLC, )**

Plaintiff, )

v. )

**TARZANA ENTERPRISES, LLC, )**

Defendant. )

Civil Action No.: 11-cv-316

**Jury Trial Demanded**

**FIRST AMENDED COMPLAINT**

Plaintiff SCA Tissue North America, LLC, for its First Amended Complaint against Defendant Tarzana Enterprises, LLC, hereby alleges as follows:

**NATURE OF THE ACTION**

1. This is a civil action for patent infringement of United States Patent Number 7,611,765 (“the ‘765 patent”), entitled “Stack of Interfolded Absorbent Sheet Products” and United States Patent Number 7,939,159 (“the ‘159 patent”), entitled “Stack of Interfolded Absorbent Sheet Products.” This action arises under the patent laws of the United States, 35 U.S.C. § 271, *et. seq.*

**PARTIES**

2. Plaintiff SCA Tissue North America, LLC (“SCA”) is a limited liability company organized and existing under the laws of Delaware with its principal place of business located at 1451 McMahon Drive, Neenah, Wisconsin.

3. SCA is the owner of all rights, title, and interest in the ‘765 patent and the ‘159 patent.

4. SCA is a leading company in Neenah and Menasha, 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 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.

5. Defendant Tarzana Enterprises, LLC (“Defendant”) is a limited liability company organized and existing under the laws of California with its principal place of business located at 5567 Reseda Boulevard, Suite 330, Tarzana, California.

### **JURISDICTION AND VENUE**

6. This is an action for infringement of the ‘765 patent and the ‘159 patent, arising under the patent laws of the United States, specifically 35 U.S.C. § 271, *et seq.*

7. This Court has jurisdiction over this dispute pursuant to 28 U.S.C. §§ 1331 and 1338(a).

8. Venue is proper pursuant to 28 U.S.C. §§ 1391(b) and 1400(b) because Defendant has harmed, and continues to harm, SCA by performing acts in the Western District of Wisconsin that directly or indirectly infringe one or more claims of the ‘765 patent and the ‘159 patent, including making, using, offering for sale, selling, distributing, and/or shipping products that are covered by one or more claims of the ‘765 patent and the ‘159 patent.

9. This Court also has personal jurisdiction over Defendant. Defendant has engaged in substantial and/or continuous and systematic contacts with the State of Wisconsin that satisfy

due process and confer personal jurisdiction over Defendant. Defendant has committed and continues to commit acts of infringement in the State of Wisconsin and within the Western District of Wisconsin, has conducted business in the State of Wisconsin and within the Western District of Wisconsin, has offered to sell and/or sold products in the State of Wisconsin and within the Western District of Wisconsin, and has caused injury to SCA in the State of Wisconsin and within the Western District of Wisconsin.

### **FACTUAL BACKGROUND**

10. On November 3, 2009, the '765 patent entitled "Stack of Interfolded Absorbent Sheet Products" was duly and legally issued by the United States Patent and Trademark Office from United States Patent Application Number 12/055,334 filed on March 26, 2008, which is a continuation of United States Patent Application Number 10/660,694 filed on September 12, 2003, which is now abandoned. A true and correct copy of the '765 patent is attached hereto as Exhibit A.

11. The named-inventors of the '765 patent, Robert C. Hochtritt and Andrew M. Conger, assigned to SCA the entire right, title, and interest to the '765 patent, including the right to assert all causes of action arising under the '765 patent and the right to any remedies for infringement of said patent.

12. On May 10, 2011, the '159 patent entitled "Stack of Interfolded Absorbent Sheet Products" was duly and legally issued by the United States Patent and Trademark Office from United States Patent Application Number 12/577,988 filed on October 13, 2009, which is a continuation of United States Patent Application Number 12/055,334 filed on March 26, 2008, now the '765 patent, which is a continuation of United States Patent Application Number

10/660,694 filed on September 12, 2003, which is now abandoned. A true and correct copy of the '159 patent is attached hereto as Exhibit C.

13. The named inventors of the '159 patent, Robert C. Hochtritt and Andrew M. Conger, assigned to SCA the entire right, title, and interest to the '159 patent, including the right to assert all causes of action arising under the '159 patent and the right to any remedies for infringement of said patent.

14. Defendant manufactures and offers for sale in areas throughout the country, including the State of Wisconsin, single-ply four-fold napkin products, such as the ELEGANCE product. *See* Exhibit B.

15. The single-ply four-fold napkin products, such as the ELEGANCE product, are covered by one or more claims of the '765 patent and one or more claims of the '159 patent.

16. On April 14, 2011, counsel for SCA notified Defendant that its single-ply four-fold napkin products, such as the ELEGANCE product, infringe one or more claims of the '765 patent, and on April 29, 2011, SCA notified Defendant that their products will infringe one or more claims of the then-soon-to-issue '159 patent.

17. Defendant has continued to manufacture and offer for sale its single-ply four-fold napkin products, including the ELEGANCE product.

#### **COUNT I: INFRINGEMENT OF THE '765 PATENT**

18. SCA incorporates each of the preceding paragraphs as if fully set forth herein.

19. Defendant has been infringing the '765 patent, and contributing to and actively inducing the infringement of the '765 patent by others in the United States, by making, using, selling, offering for sale, and/or importing into the United States, including within the State of

Wisconsin, single-ply four-fold napkin products, such as the ELEGANCE product, that embody the inventions claimed in the '765 patent without license or authorization. Such acts constitute infringement under at least 35 U.S.C. §§ 271 (a), (b), and (c).

20. Defendant has continued to infringe the '765 patent despite being aware of that patent and its infringement of the '765 patent.

21. Defendant has derived and received, and will continue to derive and receive, gains, profits, advantages, and market share from its infringement of the '765 patent in amounts not presently known to SCA.

22. SCA has been damaged by Defendant's infringing activities.

23. Defendant's acts of infringement as set out in the previous paragraphs have been deliberate and willful, and in reckless disregard of SCA's patent rights.

24. Defendant will continue to directly or indirectly infringe the '765 patent, and thus continue to harm SCA, unless enjoined by this Court. SCA has no adequate remedy at law.

## **COUNT II: INFRINGEMENT OF THE '159 PATENT**

25. SCA incorporates each of the preceding paragraphs as if fully set forth herein.

26. Defendant has been infringing the '159 patent, and contributing to and actively inducing the infringement of the '159 patent by others in the United States, by making, using, selling, offering for sale, and/or importing into the United States, including within the State of Wisconsin, single-ply four-fold napkin products, such as the ELEGANCE product, that embody the inventions claimed in the '159 patent without license or authorization. Such acts constitute infringement under at least 35 U.S.C. §§ 271 (a), (b), and (c).

27. Defendant has continued to infringe the '159 patent despite being aware of that

patent and its infringement of the '159 patent.

28. Defendant has derived and received, and will continue to derive and receive, gains, profits, advantages, and market share from its infringement of the '159 patent in amounts not presently known to SCA.

29. SCA has been damaged by Defendant's infringing activities.

30. Defendant's acts of infringement as set out in the previous paragraphs have been deliberate and willful, and in reckless disregard of SCA's patent rights.

31. Defendant will continue to directly or indirectly infringe the '159 patent, and thus continue to harm SCA, unless enjoined by this Court. SCA has no adequate remedy at law.

### **JURY DEMAND**

Pursuant to Fed. R. Civ. P. 38, SCA hereby demands a jury trial on all issues raised in this Complaint so triable.

### **RELIEF SOUGHT**

**WHEREFORE**, SCA respectfully demands judgment for itself and against Defendant as follows:

a. That this Court adjudge that Defendant has infringed one or more of the claims of the '765 patent and one or more claims of the '159 patent;

b. That this Court issue an injunction against further direct or indirect infringement of the '765 patent and the '159 patent by Defendant, its officers, agents, servants, employees, privies, and all persons in active concert or participation with Defendant or controlled by Defendant;

c. That this Court ascertain and award SCA actual and treble damages from the infringement of one or more claims of the '765 patent and the '159 patent, together with prejudgment and postjudgment interest, pursuant to 35 U.S.C. § 284;

d. That this Court find this case to be exceptional and award reasonable attorney fees, costs, and expenses in this action to SCA, pursuant to 35 U.S.C. § 285; and

e. That this Court award SCA all such other relief as the Court may deem just and equitable.

Respectfully submitted,

Dated: May 27, 2011

/s/ Martha Jahn Snyder  
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**CERTIFICATE OF SERVICE**

I hereby certify that on May 27, 2011, I electronically filed the foregoing First Amended Complaint and Exhibits A-C with the Clerk of Court using the CM/ECF System, which will send notification of such filing to:

Rudolph A. Telsher  
Kara R. Fussner  
Douglas A. Robinson

I further certify that the following were also served with the First Amended Complaint and attached Exhibits A-C via email on May 27, 2011:

Rudolph A. Telsher (rtelsher@hdp.com)  
Kara R. Fussner (kfussner@hdp.com)  
Douglas A. Robinson (drobinson@hdp.com)

Dated: May 27, 2011

/s/ Martha Jahn Snyder  
Martha Jahn Snyder