

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

-----	x	
EXPAND INTERNATIONAL OF	:	
AMERICA, INC.,	:	
	:	CV-04-3899
Plaintiff,	:	
	:	
-against-	:	AMENDED COMPLAINT AND DEMAND
	:	FOR JURY TRIAL
POP DISPLAYS, INC. and TADD	:	
DISPLAYS, INC.,	:	
	:	
Defendants.	:	
-----	x	JANUARY 28, 2005

AMENDED COMPLAINT

Plaintiff, Expand International of America, Inc., by its attorneys of record, as and for its complaint against defendants Pop Displays, Inc. and Tadd Displays, Inc. alleges and states as follows:

JURISDICTION AND VENUE

1. This action arises under the patent laws of the United States, Title 35 U.S.C. § 1 *et seq.* This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

2. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(a) - (b) and 1400(b). As more fully alleged below, certain of the acts and transactions constituting the violations of law complained of herein took place in this District and certain of plaintiff's claims arose in this District. Additionally, the defendants are found, have agents, transact their affairs and/or are doing or transacting business in this District.

THE PARTIES

3. The plaintiff, Expand International of America, Inc. ("Expand"), is a corporation organized and existing under the laws of Connecticut with its principal place of business in Stratford, Connecticut.

4. Upon information and belief, defendant Pop Displays, Inc. ("Pop") is a corporation organized and existing under the laws of British Columbia, Canada, with its principal place of business located at 15355 24th Avenue, South Surrey, British Columbia, Canada.

5. Upon information and belief, defendant Tadd Displays, Inc., d/b/a Tadd Displays & Exhibits ("Tadd"), is a corporation organized and existing under the laws of

New York, with its principal place of business located at 141 Verdi Street, Farmingdale, NY 11735.

BACKGROUND

6. On January 7, 2003, a design patent, United States Letters Patent No. D468,362 S (the “ ‘362 Patent”), entitled “Retractable Banner Unit,” was duly and legally issued by the United States Patent and Trademark Office (“PTO”) to the inventor, Christer Zarelius. A copy of the ‘362 Patent is appended hereto as Exhibit A and is hereby incorporated by reference and made a part hereof.

7. The plaintiff is the owner of all right, title and interest in and to the ‘362 Patent, by assignment duly recorded with the PTO.

8. The plaintiff is engaged in the development, marketing and sale of visual display devices, including retractable banner stands. Certain of plaintiff’s retractable banner stands, including its Quick Screen 3™ line of retractable banner stands, employ the unique, patented design of the ‘362 Patent. Such retractable banner stand products are covered and protected by the ‘362 Patent. The plaintiff’s retractable banner stands, including the Quick Screen 3™ line, are marked and patented under the ‘362 Patent.

9. Defendant Pop manufactures, markets, distributes and/or sells in the United States, including in this District, competing visual display devices, including retractable banner stands, that copy the unique, patented design of the '362 Patent. Upon information and belief, Pop markets its retractable banner stands under the trade name "Scroll."

10. Defendant Tadd markets and sells in the United States, including in this District, competing visual display devices, including retractable banner stands that copy the unique, patented design of the '362 Patent. Upon information and belief, Tadd has sold Pop's "Scroll" line of banner stands in this District.

11. On June 4, 2004, the plaintiff sent a letter to defendant Pop advising it that its retractable banner stands infringe the claims of the '362 Patent. A copy of said letter is attached as Exhibit B hereto and is incorporated by reference and made a part hereof. Defendant Pop denied infringement in dismissive fashion by letter, dated June 11, 2004, sent by its Canadian counsel who, upon information and belief, is not a patent lawyer. A copy of such letter is attached as Exhibit C hereto. In its response, Pop entirely ignored the claims of the '362 Patent.

12. Plaintiff again wrote to Pop on July 2, 2004. A copy of said letter is attached as Exhibit D hereto. Pop failed to even respond to such letter. Upon information and belief, defendant Pop continues to market and sell its infringing retractable banner stands in the face of plaintiff's demand to cease and desist from further such marketing. Accordingly, defendant Pop's infringement is deliberate and willful.

FIRST COUNT
(Infringement of the '362 Patent)

13. Paragraphs 1 through 12 above are hereby incorporated by reference, repeated and realleged as if fully set forth and realleged herein as paragraphs 1-12 of the First Count.

14. The defendants' use, offers for sale and sales of their retractable banner stands constitute infringement of the claims of the '362 Patent.

15. The infringement complained of herein has been and is without the consent of the plaintiff and is continuing in willful disregard of plaintiff's patent rights.

16. Defendants are on actual notice of their infringement of the '362 Patent.

17. As a proximate and direct result of the foregoing patent infringement, plaintiff has suffered damage and financial injury, including monetary damages, in an amount to be determined upon a full trial on the merits.

WHEREFORE, the plaintiff demands judgment in its favor as follows:

1. Pursuant to the First Count, an award of damages amounting to lost profits, a reasonable royalty and interest thereon;
2. An award of plaintiff's costs, expenses and reasonable attorneys' fees;
3. To the extent of plaintiff's entitlement thereto under applicable law, an award of treble or punitive damages by reason of the deliberate and willful nature of the infringement; and
4. Such other and further relief as the Court may deem appropriate.

**PLAINTIFF HEREBY DEMANDS A
JURY TRIAL AS TO ALL ISSUES RAISED
HEREIN THAT ARE TRIABLE TO A JURY**

Dated: January 28, 2005

PLAINTIFF EXPAND INTERNATIONAL
OF AMERICA, INC.

By: 

Brian E. Moran, Esq. (BM 8573)
Christopher J. Major, Esq. (CM 7218)
ROBINSON & COLE LLP
885 Third Avenue
Suite 2800
New York, NY 10022-4834
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ITS ATTORNEYS

Exhibit
A



US00D468362S

(12) **United States Design Patent**
Zarelius

(10) Patent No.: **US D468,362 S**
(45) Date of Patent: **** Jan. 7, 2003**

- (54) **RETRACTABLE BANNER UNIT**
- (75) Inventor: **Christer Zarelius, Stockholm (SE)**
- (73) Assignee: **Expand International Of America, Inc., Fairfield, CT (US)**
- (**) Term: **14 Years**
- (21) Appl. No.: **29/137,693**
- (22) Filed: **Feb. 26, 2001**
- (30) Foreign Application Priority Data
 - Aug. 31, 2000 (SE) 00-1575
- (51) LOC (7) Cl. **20-02**
- (52) U.S. Cl. **D20/99**
- (58) Field of Search D20/10, 21, 40,
D20/41, 99; 40/1, 116, 514, 515, 516, 517,
520, 642, 643, 644

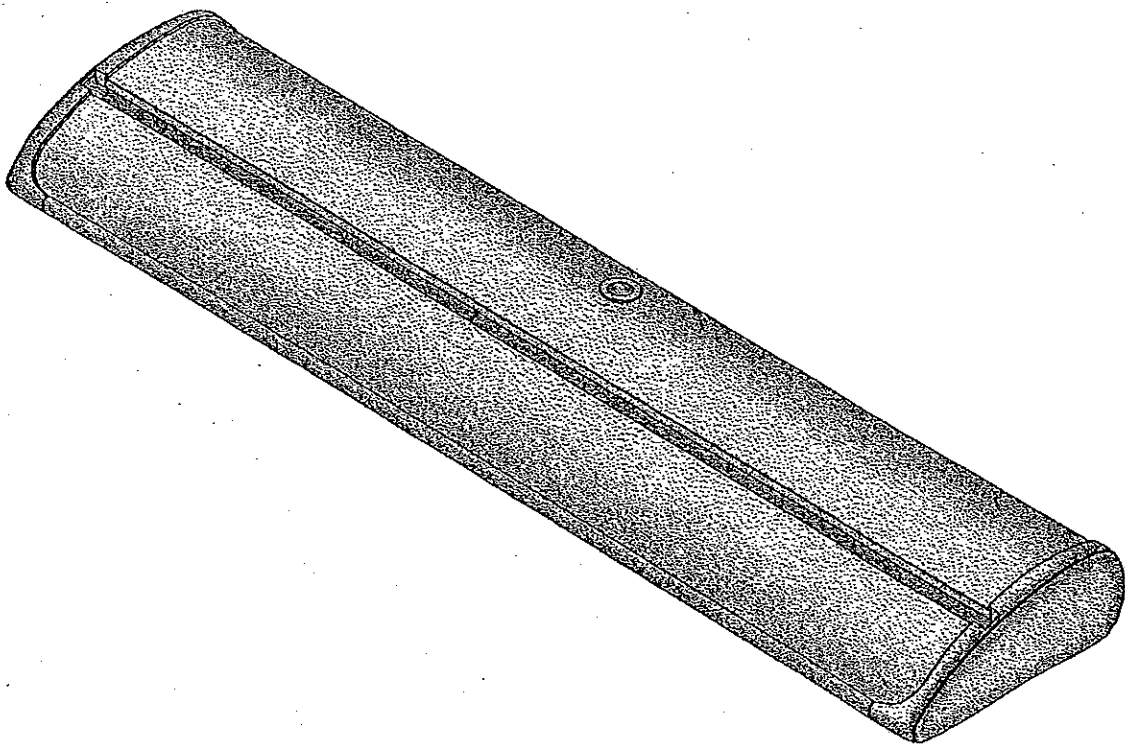
- (56) **References Cited**
U.S. PATENT DOCUMENTS
 - 2,828,563 A * 4/1958 Guess D20/21
 - 3,513,577 A * 5/1970 Kleinman D20/21

D339,168 S * 9/1993 Gerhart et al. D20/21
 * cited by examiner
Primary Examiner—Marcus A. Jackson
 (74) *Attorney, Agent, or Firm*—Ohlandt, Greeley, Ruggiero & Perle, LLP

(57) **CLAIM**
 The ornamental design for a retractable banner unit, as shown and described.

DESCRIPTION
 FIG. 1 is a perspective view of a retractable banner unit according to the present invention;
 FIG. 2 is a top view of a retractable banner unit of FIG. 1;
 FIG. 3 is bottom view of a first embodiment of a retractable banner unit of FIG. 1;
 FIG. 4 is a bottom view of a second embodiment of a retractable banner unit of FIG. 1;
 FIG. 5 is a first side view of the retractable banner unit of FIG. 1, the opposite side being identical thereto; and,
 FIG. 6 is a front view of the retractable banner unit of FIG. 1.

1 Claim, 3 Drawing Sheets



U.S. Patent

Jan. 7, 2003

Sheet 1 of 3

US D468,362 S

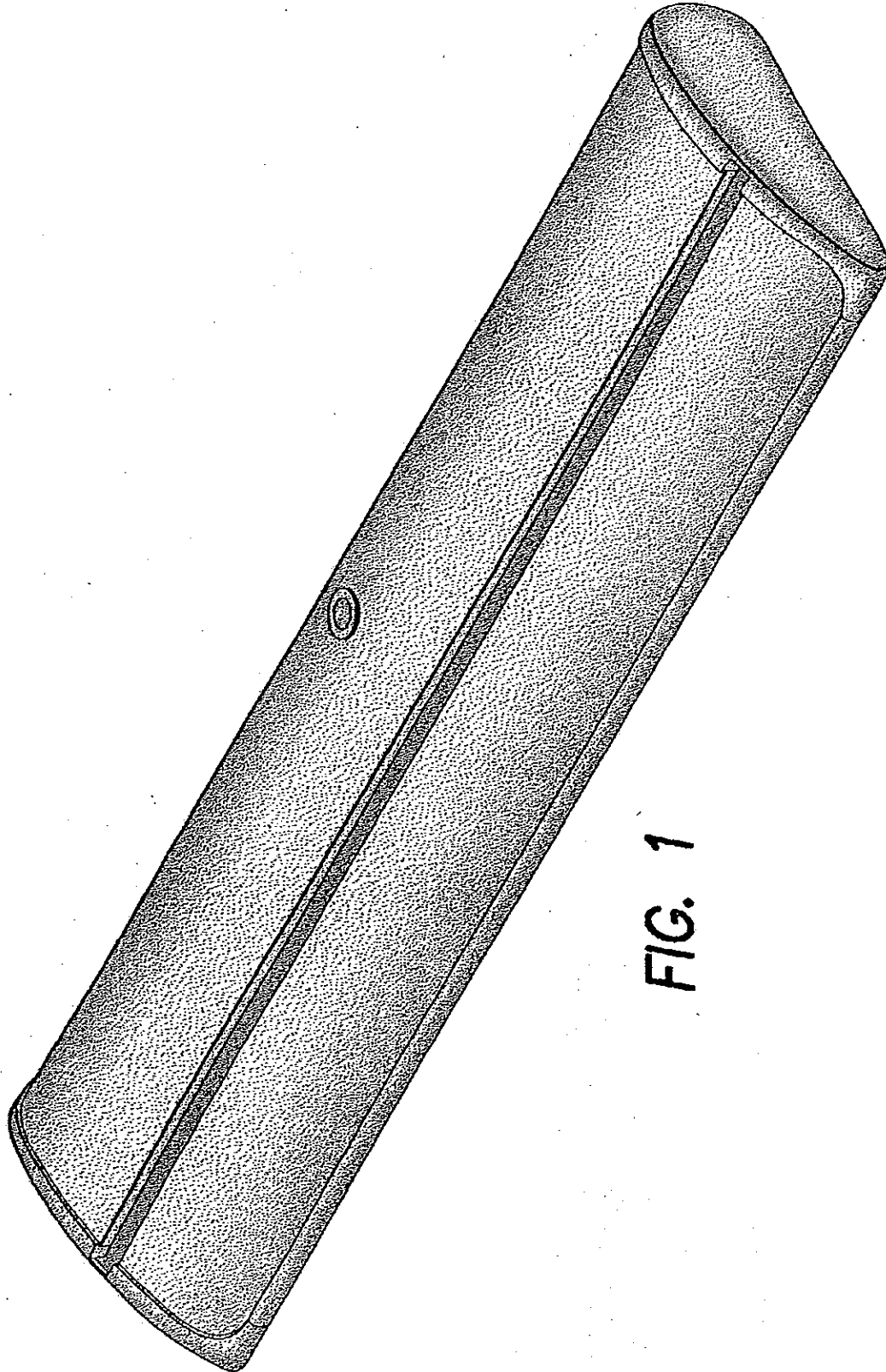


FIG. 1

U.S. Patent

Jan. 7, 2003

Sheet 3 of 3

US D468,362 S

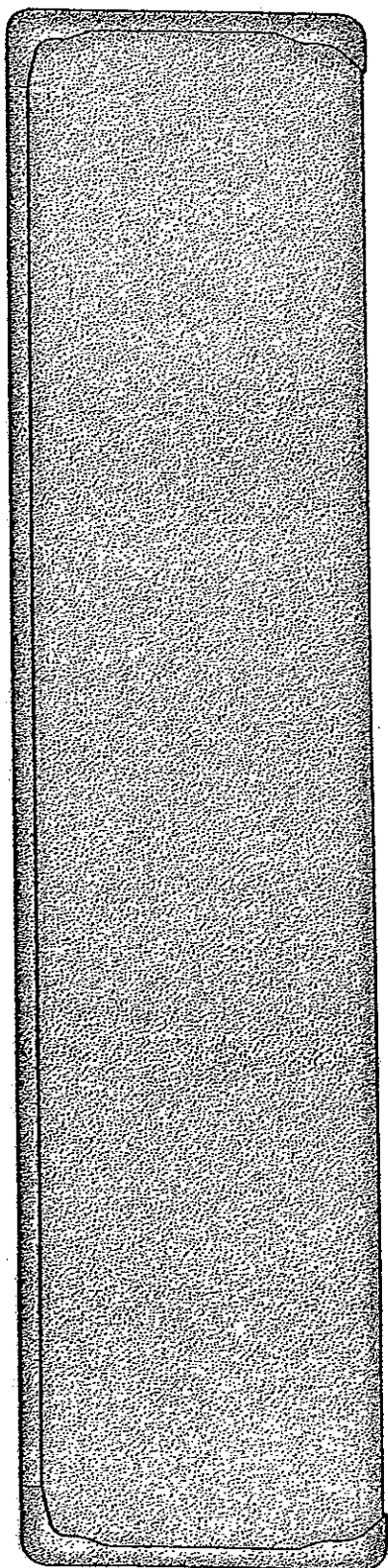


FIG. 4

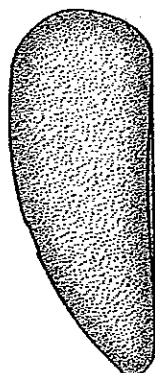


FIG. 5

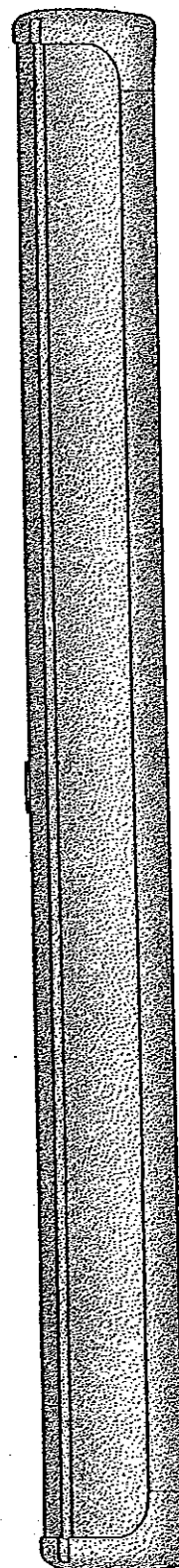


FIG. 6

Exhibit
B

OHLANDT, GREELEY, RUGGIERO & PERLE, L.L.P.
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J. Robert Dean*
Andrew Vlahos*
Andrew C. Gust*
Carrie Anne Colby*
Brian Young
Jean-Paul Cass*
Ned McMahon
Jamie T. Gallagher
Lea A. Nicholson*
Pamela L. Wingood*
*Not Admitted In CT

Vazken Alexanian, Ph.D. (Agent)

VIA FACSIMILE & FEDERAL EXPRESS
604 535 0758

June 4, 2004

Ken Murphy
President
POP Displays, Inc.
PMB-186, 1160 Yew Avenue
Blaine WA 98239

Re: US Patent Nos. US D468,362 and US 6,571,496

Dear Mr. Murphy:

This firm represents Expand International of America, Inc. ("Expand") in intellectual property matters. It has come to our attention that you have been selling the product "Scroll Space," a retractable banner stand manufactured by Space Services Limited.

As we believe you already know, Expand manufactures and sells the Expand QuickScreen® retractable banner stand, one of the most highly recognized and sought after display products on the market today. Expand recently released the Expand QuickScreen® 3, which features a cartridge that is removable in a highly stylized casing. These features are the subject of protection under US Patent Nos. US D468,362 and US 6,571,496. Copies of these patents are enclosed for your review. Also enclosed is a brochure for the "Scroll Space" product.

We have compared the Expand QuickScreen® 3 product and the "Scroll Space" product. As you can see just from reviewing the "Scroll Space" brochure, we believe that the "Scroll Space" product directly reads on the claims of the enclosed patents. Accordingly, we believe that your sale of the "Scroll Space" product constitutes an infringement of Expand's intellectual property rights. Thus, we must hereby demand that you cease and desist from any further sale of the "Scroll Space" product. You must also provide us with an accounting of all units sold to date and the number of units remaining in your inventory, with the understanding that such remaining units must be destroyed or shipped directly to us.

Ref: 2142.034USL
Dept:

Date: 04JUN04 SHIPPING \$18.85
Wgt: 1 LBS SPECIAL \$1.13
HANDLING \$0.00

TOTAL \$19.98

K. Murphy

SERVICE: PRIORITY OVERNIGHT
TRACK: 6522 5000 1055

Ken Murphy
POP Displays, Inc.
Page Two
June 4, 2004

Please contact the undersigned as soon as possible, but not later than June 7, 2004, to confirm that you will stop selling the "Scroll Space" product and otherwise comply with the requests in this letter. If we do not hear from you by the referenced date, we will recommend that our client take any and all action as deemed appropriate to protect Expand's valuable intellectual property rights.

We thank you in advance for your cooperation in this matter and look forward to your prompt response.

Very truly yours,

Charles N.J. Ruggiero

CNR/by
Encl.
cc: Expand International of America, Inc. (w/o Encl.)

Exhibit

C

MARJORIE E. MOONEY
BARRISTER & SOLICITOR

#300 - 1676 MARTIN DRIVE
SURREY, BRITISH COLUMBIA V4A 6E7

TELEPHONE: 604-531-2992
FACSIMILE: 604-531-8402

DATE: June 11, 2004
OUR FILE NO.: 11432.000

Attention: Charles N. J. Ruggiero
Ohlandt, Greeley, Ruggiero & Perle, LLP
Attorneys at Law
One Landmark Square, 10th Floor
Stamford, Connecticut, USA
06901-2682

Dear Sirs:

Re: Expand International of America, Inc. ("Expand") and P.O.P. Displays Inc.

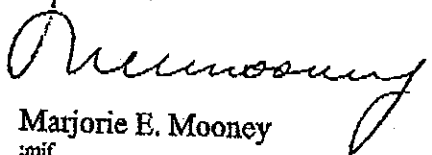
I am the solicitor for P.O.P. Displays Inc. and have been provided with a copy of your correspondence dated June 4, 2004, with enclosures.

My client advises that the product sold by it, that is, the "Scroll Space" system, is not in any way similar to the "Expand QuickScreen" product to which you refer in your letter. The "Scroll Space" system does not have a removeable cartridge and has no interchangeable cassette.

The sale of the "Scroll Space" does not infringe upon Expand's intellectual property rights with respect to the patents referred to in your letter.

We trust that this clarifies the matter.

Yours truly



Marjorie E. Mooney
:mjf

Cc POP Displays Inc.
E:T&Mltr to ruggiero

Exhibit
D

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David N. Koffsky (1936-2000)

Sender's E-mail: cruggiero@ogrp.com

Senior Counsel
E. Gabriel Perle
John F. Ohlandt*

VIA FACSIMILE
604 531 8402

July 2, 2004

REMINDER
Date: 8/2/04

Marjorie E. Mooney
#300 - 1676 Martin Drive
Surrey, British Columbia V4A 6E7

Vazken Alexanian, Ph.D. (Agent)

Re: Expand International of America, Inc. / POP Displays, Inc.

Dear Ms. Mooney:

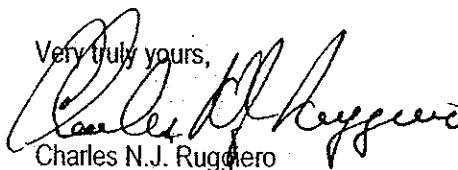
We acknowledge receipt of your letter dated June 11, 2004 regarding the referenced matter. It is our understanding that you are not a duly licensed attorney in the US, much less a US patent attorney. We are therefore surprised that you would choose to render an opinion concerning the nature of your client's infringement of US Patent Nos. D468,362 and 6,571,496. Further, your letter acknowledges that you have not compared your client's "Scroll Space" product with our client's patent rights, but have, instead, relied on your client's own representation of non-infringement. We assume your client is not a US patent attorney. Accordingly, your opinion cannot be given any weight.

Also, your letter failed to address the design rights afforded our client by US Patent No. D468,362. In analyzing the "Scroll Space" product, we believe that your client's product also directly reads on this patent. What is more, on a June 4th telephone call with one of POP's representatives, he admitted to us that the "Scroll Space" product and the Expand QuickScreen®3 product "look alike."

We strongly disagree with the conclusion reached by you and your client concerning US Patent No. 6,571,496. In analyzing your client's product, we have determined that the "Scroll Space" cartridge is, in fact, removable. Thus, we believe that your client's product directly reads on US Patent No. 6,571,496.

As you have given no justifiable reasons for why your client's product does not infringe upon US Patent Nos. D468,362 and 6,571,496, we must reiterate our demand that your client immediately cease all sales activity involving the "Scroll Space" product and that your client comply with the demands set forth in our letter dated June 4, 2004. If we do not receive your prompt response, we will recommend that our client take such action(s) as it deems necessary.

Very truly yours,



Charles N.J. Ruggiero

CNR/by
cc: Expand International of America, Inc.

OHLANDT, GREELEY, RUGGIERO & PERLE, L.L.P.
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Facsimile Cover Sheet

Attention: Marjorie E. Mooney

Facsimile Equipment Phone Number: 604 531 8402

Date: August 2, 2004

Pages: 2 (including cover sheet)

From: Charles N.J. Ruggiero / Brian Young
cruggiero@ogrp.com; byoung@ogrp.com

Re: Expand International of America, Inc. / POP Displays, Inc.

MESSAGE:

Please provide us with your response to our letter dated July 2, 2004, a copy of which is enclosed.

NOTICE OF CONFIDENTIALITY

The information contained in and transmitted with this facsimile is:

1. **SUBJECT TO THE ATTORNEY-CLIENT-PRIVILEGE;**
2. **ATTORNEY WORK PRODUCT; OR**
3. **CONFIDENTIAL.**

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TIME : 08/02/2004 15:11
NAME : OHLANDT GREELEY
FAX : 2033276401
TEL : 2033274500
SER.# : BROK3J752670

DATE, TIME	08/02 15:10
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DURATION	00:01:04
PAGE(S)	02
RESULT	OK
MODE	STANDARD ECM

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Facsimile Cover Sheet

Attention: Marjorie E. Mooney

Facsimile Equipment Phone Number: 604 531 8402

Date: August 2, 2004

Pages: 2 (including cover sheet)

From: Charles N.J. Ruggiero / Brian Young
cruggiero@ogrp.com; byoung@ogrp.com

Re: Expand International of America, Inc. / POP Displays, Inc.

MESSAGE:

Please provide us with your response to our letter dated July 2, 2004, a copy of which is enclosed.

TRANSMISSION VERIFICATION REPORT

TIME : 07/02/2004 13:38
NAME : OHLANDT GREELEY
FAX : 2033276401
TEL : 2033274500
SER.# : BROK3J752670

DATE, TIME	07/02 13:37
FAX NO./NAME	16045318402
DURATION	00:01:03
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RESULT	OK
MODE	STANDARD ECM

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Facsimile Cover Sheet

Attention: Marjorie E. Mooney

Facsimile Equipment Phone Number: 604 531 8402

Date: July 2, 2004

Pages: 2 (including cover sheet)

From: Charles N.J. Ruggiero / Brian Young
cruggiero@ogrp.com; byoung@ogrp.com

MESSAGE:

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