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Attorneys for Plaintiff
ETAGZ, INC.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

ETAGZ, INC., an Indiana Corporation,

Plaintiff,

v.

FLAMBEAU, INC., a Wisconsin Corporation,
TV GUIDE MAGAZINE, LLC, a Delaware
Limited Liability Company, and FUTURE US,
INC., a California Corporation,

Defendants.

**PLAINTIFF'S SECOND AMENDED
COMPLAINT FOR PATENT
INFRINGEMENT**

JURY DEMANDED

Case No. 2:10-cv-00240-DN

Magistrate Judge David Nuffer

Plaintiff, Etagz, Inc. ("Etagz"), by and through its attorneys, asserts as its Second Amended Complaint against Defendants, Flambeau, Inc. ("Flambeau"), TV Guide Magazine, LLC, ("TV Guide") and Future US, Inc. ("Future"), collectively ("Defendants") as follows:

PARTIES, JURISDICTION AND VENUE

I. This is a claim for patent infringement that arises under the patent laws of the United States, including 35 U.S.C. § 281. This Court has exclusive subject matter jurisdiction under 28 U.S.C. § 1338.

2. Etagz is an Indiana corporation, with its principal place of business in Provo, Utah.

3. Etagz owns and has all right, title and interest, including standing to sue for past, present or future infringement, in United States Patent No. 6,298,332 (the "332 Patent"), (attached as Exhibit A), entitled "CD-Rom Product Label Apparatus and Method," and also United States Patent No. 7,703,686 (the "686 Patent") (attached as Exhibit B), entitled "Consumer-Computer-Readable Product Label Apparatus and Method" (collectively, the Patents in Suit).

4. Flambeau is a Wisconsin corporation with its principal place of business at 801 Lynne Avenue, Baraboo, Wisconsin 53913. Flambeau owns and operates a division titled Duncan Toys, located at 15981 Valplast Road, Middlefield, Ohio 44062.

5. TV Guide is a Delaware limited liability company, with its principal place of business at 11 West 42nd Street, 17th Floor, New York, New York 10036.

6. Future is a California Corporation with offices at 4000 Shoreline Court, Suite 400, South San Francisco, California 94080.

7. Etagz is informed and believes, and on the basis of that information and belief, alleges that Defendants have committed acts of infringement within this judicial district. Venue is proper in this district under 28 U.S.C. §§ 1391 and 1400.

PATENT INFRINGEMENT

8. Etagz incorporates by this reference as if fully set forth herein paragraphs 1 through 7, inclusive.

9. Etagz has complied with provisions of 35 U.S.C. § 287.

10. Defendant Flambeau has infringed at least claims 11 and 16 of the '332 Patent, and at least claims 9, 13, 14 and 15 of the '686 Patent, by at a minimum, selling Duncan Toys including but not limited to: Duncan Juggling Balls, Duncan Road Runner Sand-Filled Footbag, Duncan Spider Sand-Filled Footbag, Duncan Daredevil Pellet-Filled Footbag, Duncan Gyroscope XT, Duncan Juggling Rings, Duncan Juggling Scarves, Duncan Juggling Combo, Duncan Juggling Clubs and any other Flambeau/Duncan products sold with a label including a computer readable medium.

11. Defendant TV Guide has infringed at least claims 11 and 16 of the '332 Patent, and at least claims 9, 13, 14 and 15 of the '686 Patent, by selling magazines including but not limited to the following issues: August 2005 featuring *Lost*, July 2006 featuring the Fall Preview, August 2006 featuring *Lost*, December 2006 featuring Elvis Presley, August 2007 featuring *High School Musical II*, August 2008 featuring *Star Wars* and all other TV Guide issues sold with a label including a computer readable medium.

12. Defendant Future has willfully infringed at least claims 11 and 16 of the '332 Patent, and claims 9, 13, 14 and 15 of the '686 Patent, by selling magazines, including but not limited to "Guitar World," "PC Gamer Magazine," the November 2006

issue of "Future Snowboarding," the Winter 2010 "iPOD Handbook," the September 2006 issue of "MacAddict," the January 2007 issue of "Guitar One," the November 2006 issue of "Maximum PC," the Winter 2008 special issue "The Ultimate Guide to PC Gaming Hardware" and all other Future Magazines sold with a label including a computer readable medium. On November 29, 2006, Etagz sent a letter to Future informing Future of the '332 Patent and Future's infringement. Future did not respond, and has continued to willfully infringe the '332 Patent.

13. Defendants' infringement has injured Etagz, and Etagz is entitled to recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

14. Defendants' infringing activities have injured and will continue to injure Etagz unless and until this Court enters an injunction prohibiting further infringement and, specifically, enjoining further infringement of the Patents in Suit.

WHEREFORE, Plaintiff Etagz respectfully requests this Court to enter judgment against Defendants, and their subsidiaries and affiliates and all persons in active concert or participation with them, as follows:

- A. An entry of final judgment in favor of Etagz and against Defendants;
- B. An award of damages adequate to compensate Etagz for the infringement that has occurred, but in no event less than a reasonable royalty as permitted by 35 U.S.C. § 284, together with prejudgment interest from the date the infringement began, and regarding Defendant Future, increased damages as permitted under 35 U.S.C §284 for willful infringement;
- C. An injunction permanently prohibiting Defendants and all persons in active concert or participation with either of them from further acts of infringement of the Patents in Suit; and
- D. Such other further relief that Etagz is entitled to under the law, and any

other and further relief that this Court or a jury may deem just and proper.

TRIAL BY JURY DEMANDED

Etagz demands a trial by jury on all issues presented in this Complaint.

RESPECTFULLY SUBMITTED this 4th day of June, 2010.

/s/ Tahiti Arsulowicz

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CERTIFICATION OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **PLAINTIFF'S SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT** was electronically filed with the Clerk of Court using CM/ECF system, which will send notification by electronic mail to the following:

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Counsel for Defendant TV Guide Magazine, LLC

on this 4th day of June, 2010.

/s/ Tahiti Arsulowicz