

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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**INNOVATIVE OFFICE PRODUCTS, INC.  
and ERGOTECT CORPORATION,**

**Plaintiffs,**

**v.**

**MASS ENGINEERED DESIGN, INC.  
and JERRY MOSCOVITCH,**

**Defendants.**

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**CIVIL ACTION NO. \_\_\_\_\_**

**JURY TRIAL DEMANDED**

**COMPLAINT FOR DECLARATORY JUDGMENT**

Plaintiffs, Innovative Office Products, Inc. and Ergotect Corporation (hereinafter collectively “Plaintiffs”), by and through its undersigned counsel, state as their complaint against defendants, Mass Engineered Design, Inc. and Jerry Moscovitch (hereinafter collectively “Defendants”), the following:

**THE PARTIES**

1. Plaintiff Innovative Office Products, Inc. (hereinafter “Innovative”) is a Pennsylvania corporation having a place of business at 100 Kuebler Road, Easton, Pennsylvania 18040.

2. Plaintiff Ergotect Corporation (hereinafter “Ergotect”) is a Texas corporation having a place of business at 5200 East Grand Avenue, Building 5, Suite 500, Dallas, Texas 75223.

3. On information and belief, Defendant Mass Engineered Design, Inc. (hereinafter “Mass”) is an Ontario, Canada corporation having a place of business at 474 Wellington Street West, Toronto, Ontario, Canada M5V 1E3.

4. On information and belief, Defendant Jerry Moscovitch (hereinafter “Moscovitch”) is an individual residing in Toronto, Ontario, Canada.

### **JURISDICTION AND VENUE**

5. This is a complaint for Declaratory Judgment that Moscovitch’s United States Patent No. RE 36,978 (hereinafter the “Patent-in-Suit”) is not infringed, is invalid, and/or is unenforceable.

6. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1338, and 2201.

7. This Court has personal jurisdiction over Plaintiffs as they are doing business in this judicial district.

8. Venue is proper in this District pursuant to 28 U.S.C. § 1400 because (i) Innovative resides in this District, (ii) Innovative has sold products within this District for which there is an actual controversy regarding whether infringement of the Patent-in-Suit has occurred, (iii) Innovative has a regular and established place of business in this District, and (iv) Ergotect has purchased from Innovative products for which there is an actual controversy regarding whether infringement of the Patent-in-Suit.

### **GENERAL ALLEGATIONS**

9. Moscovitch is the purported owner of the Patent-in-Suit, which is directed to a dual-display support device. Mass is the purported licensee of the Patent-in-Suit.

10. Innovative manufactures and sells various devices designed to support multiple electronic displays (hereinafter “IOP Multiple-Display Devices”). Examples of IOP Multiple-Display Devices include but are not limited to Innovative’s 9100 Series, 7500-Wing, Duopod™, Quadropod™, Dual Evo® Mount, Dual 7000 Mount and Arcview® series monitor arms.

11. Ergotect is a reseller of some of the IOP Multiple-Display Devices listed in paragraph 10.

12. Synnex Corporation, a Delaware corporation having a place of business at 44201 Nobel Drive, Fremont, California 94538, is a reseller of some of the IOP Multiple-Display Devices listed in paragraph 10. Synnex Corporation is not a party to this action.

13. On January 25, 2010, Defendants filed a first amended complaint against Plaintiffs and additional parties in the United States District Court for the Eastern District of Texas in a case entitled *Mass Engineered Design, Inc. et al. v. 9X Media, Inc. et al.*, Docket No. 2:09-cv-00358. This complaint alleged infringement of the Patent-in-Suit by Plaintiffs and Synnex Corporation.

14. Plaintiffs and Defendants have filed a stipulation of dismissal in the action referred to in paragraph 13, requesting an order of the court under Federal Rule of Civil Procedure 41 dismissing all claims and counterclaims without prejudice.

15. Plaintiffs continue to have reasonable apprehension of suit with respect to the Patent-in-Suit and the IOP Multiple-Display Devices.

16. An actual controversy exists between the parties as to whether Plaintiffs have infringed the Patent-in-Suit and whether the Patent-in-Suit is invalid and/or unenforceable.

**COUNT I**  
**DECLARATORY JUDGMENT OF NONINFRINGEMENT**

17. Plaintiffs reallege and incorporate herein as if set forth in full paragraphs 1-16.

18. None of the IOP Multiple-Display Devices infringe any claim of the Patent-in-Suit, either literally or under the Doctrine of Equivalents.

19. Plaintiffs have not directly infringed, induced the infringement of, or been a contributory infringer of any claim of the Patent-in-Suit in connection with the making, using, selling, offering for sale, or importing any of the IOP Multiple-Display Devices.

**COUNT II**  
**DECLARATORY JUDGMENT OF PATENT INVALIDITY**  
**AND/OR UNENFORCEABILITY**

20. Plaintiffs reallege and incorporate herein as if set forth in full paragraphs 1-19.

21. The Patent-in-Suit is invalid and/or unenforceable for failure to comply with the requirements of Part II of Title 35 of the United States Code, including but not limited to §§ 101, 102, 103 and 112 of Title 35.

22. The Patent-in-Suit is unenforceable against Plaintiffs under the doctrine of laches, estoppels and/or acquiescence.

WHEREFORE, Plaintiffs respectfully request that this Court enter an Order declaring that:

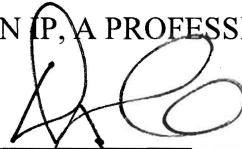
- a. The Patent-in-Suit is invalid and/or unenforceable;
- b. The Patent-in-Suit is not infringed by any of the IOP Multiple-Display Devices;
- c. Defendants, and all officers, employees, agents, representatives and counsel therefor, and all persons in active concert or participation with any of them, directly or indirectly, be enjoined from charging infringement or instituting any action for infringement of the Patent-in-Suit against Plaintiffs;
- d. This be declared an exceptional case pursuant to 35 U.S.C. § 285 and that the Court award Plaintiffs their reasonable attorneys fees, expenses, and costs in this action; and
- e. Plaintiffs be granted such other and further relief as justice may require.

**JURY DEMAND**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure and the 7<sup>th</sup> Amendment to the Constitution of the United States, Plaintiffs hereby demand a trial by jury of all issues triable as of right by jury in the above action.

Respectfully submitted,

DESIGN IP, A PROFESSIONAL CORPORATION



Date: August 2, 2012

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