

<b>Visiplex, Inc.</b>	)	<b>United States District Court</b>
<b>An Illinois Corporation,</b>	)	<b>Northern District of Illinois</b>
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. 10-cv-1475</b>
	)	
<b>Primex, Inc.,</b>	)	
<b>A Wisconsin Corporation,</b>	)	
	)	
<b>Defendants</b>	)	

### **COMPLAINT FOR DECLARATORY JUDGMENT**

The Plaintiff, Visiplex, Inc., complains of the Defendant, Primex, Inc. ("Primex"), as follows:

#### **Parties, Jurisdiction and Venue**

- 1) The Plaintiff, Visiplex, Inc., is an Illinois Corporation that has its principal place of business in Vernon Hills, Lake County, Illinois.
- 2) The Defendant, Primex is incorporated in the State of Wisconsin and has its principal place of business in Wisconsin.
- 3) The Defendant, Primex, does business in State of Illinois, including the County of Cook.
- 4) The Plaintiff, Visiplex, Inc., brings this Declaratory Judgment Action pursuant to 28 U.S.C. §§ 2201 and 2202.
- 5) This Court has jurisdiction pursuant to 28 U.S.C. § 1338.
- 6) Venue is proper under 28 U.S.C. §1391.

#### **Basis for the Bring the Declaratory Judgment Action**

- 7) The Defendant, Primex, is the owner of United States Letters Patent No. 6,873,573 (The '573 Patent'), entitled "WIRELESS SYNCHRONIZED TIME

SYSTEM”, issued on March 29, 2005, to inventors Michael J. Pikula, Robin W. Gollnick and Terrence J. O’Neill.

8) The Plaintiff, Visiplex, Inc., has been and is at present manufacturing and selling a wireless clock system through its offices in Vernon Hills, Illinois to customers within the United States.

9) The Plaintiff, Visiplex, Inc. has not infringed and is not now infringing any of the claims of the ‘573 Patent’

10) The Plaintiff, Visiplex, Inc., seeks a declaratory judgment as to whether its product line infringes the Defendants’, Primex’s, United States Patent No. 6,873,573 (The ‘573 Patent’).

11) On January 20, 2010, the Defendant’s Attorney, Thomas S. Reynolds, II, sent an email to the Plaintiff’s Attorney, Michael Lauzon, that stated the following:

“Visiplex, Inc., and Visiplex Time Systems, Inc., have infringed and continue to directly infringe, induce infringement and contributorily infringe Primex’s exclusive rights in at least claims 1, 12, 22 and 54 of the ‘573 Patent by manufacturing, importing, offering for sale, and/or selling products that embody the inventions of and are within the scope of the ‘573 Patent and by causing others to offer for sale, sell, and use the infringing products.”

(Exhibit “A” – Excerpts from the January 20, 2010 email.).

12) Mr. Reynolds’ January 20, 2010 also identified the following products to be examples of the infringing products:

- a. VS4200 Wireless Time, Bell & Voice Controller;
- b. VS 4800 Wireless Two-Way Voice & Data Paging Controller;
- c. TS-ADA-029 Wireless Synchronized Bell Controller; and
- d. VS1522 Wireless LED Display with PA Speaker;

13) Plaintiff, Visiplex, Inc., manufactures and sells the products identified in paragraph 12.

14) On February 2, 2010, the Plaintiff's Attorney, Mr. Lauzon, emailed a letter to the Defendant's Attorney, Mr. Reynolds, setting for certain reasons as to why the identified products did not infringe claims 1, 12, 22 and 54 of the '573 Patent'. (Exhibit "B" – The February 1, 2010 letter.).

15) On February 19, 2010, the Plaintiff's Attorney, Mr. Lauzon, emailed another letter to the Defendant's Attorney, Mr. Reynolds, asking for a retraction of the patent infringement charge made in the January 20, 2010 email. (Exhibit "C" – The February 19, 2010 letter.).

16) On February 24, 2010, another attorney for the Defendant, Mr. Jacob Miota, replied to Mr. Lauzon's February 19, 2010 letter and reasserted that the Plaintiff's products infringe the '573 Patent'. (Exhibit "D" – The February 24, 2010 letter.).

Count I – Declaratory Judgment – Non-Infringement

17) The Plaintiff, Visiplex, reasserts and realleges the allegations set forth in paragraphs 1 through 16.

18) By reason of the foregoing, an actual controversy has arisen and exists between the parties as to whether the Plaintiff's, Visiplex, Inc.'s, product line, including the products set forth in paragraph 12, do not infringe claims 1, 12, 22 and 54 of the '573 Patent'.

19) The Plaintiff's, Visiplex, product line, including the products set forth in paragraph 12, do not infringe any claims set forth in the '573 Patent'.

WHEREFORE, the Plaintiff, Visiplex, Inc., prays that this court to enter a judgment that:

- (a) Declares that the Plaintiff's, Visiplex, Inc.'s, product line does not infringe any claims set forth in the '573 Patent';
- (b) Declares that it is the right of the Plaintiff, Visiplex, Inc., to continue to make, use and sell its existing product line including, but not limited to, the specific products set forth in paragraph 12 without any threat or other interference whatsoever against the plaintiff by defendant based upon or arising out of the ownership of the '573 Patent" or any interest therein;
- (c) Defendant be enjoined, pending the final adjudication of this action, and permanently thereafter, from prosecuting or bringing or threatening to bring any action against any buyers, sellers, or users of the Plaintiff's, Visiplex, Inc., wireless clock systems for alleged infringement of the '573 Patent', by the sale or use of the said products; and
- (d) Such other legal and equitable relief that this Court deems just and proper.

Count II – Declaratory Judgment – Invalidity of Patent

20) The Plaintiff, Visiplex, Inc., reasserts and realleges the allegations set forth in paragraphs 1 through 16.

21) The '573 Patent' is invalid and void for the following reasons:

- a. Prior to the alleged inventions by the applicants, the alleged inventions had been known to or used by others in the United States;
- b. The differences between the subject matters sought to be patented and the prior art are such that the subject matters as a whole would have been obvious, at the time the alleged inventions were made, to a person having ordinary skill in the art to which such subject matters pertained, and such subject matters did not involve patentable inventions; and
- c. The claims set forth in the patent application are vague and indefinite and fail to particularly point out or distinctly claim the subject matter that the applicant regards as their invention.

WHEREFORE, the Plaintiff, Visiplex, Inc., prays that this court enter a judgment that declares that the '573 Patent" is invalid and void; and, provide such other legal and equitable relief that this Court deems just and proper.

Respectfully Submitted

s/ Michael L. Lauzon

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By one of the Attorneys for  
VISIPLEX, INC.

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