

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

<b>MULTILAYER STRETCH CLING FILM</b>	)	
<b>HOLDINGS, INC.</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	<b>Civil Action No. 2:12-cv-02110</b>
<b>v.</b>	)	
	)	<b>JURY DEMAND</b>
<b>MALPACK LTD. and MALPACK USA,</b>	)	
<b>INC.</b>	)	
	)	
<b>Defendants.</b>	)	

**FIRST AMENDED COMPLAINT**

Plaintiff Multilayer Stretch Cling Film Holdings, Inc. (“Multilayer”), through its counsel of record, and for its First Amended Complaint against Defendants Malpack Ltd. (“Malpack”) and Malpack USA, Inc. (“Malpack USA”) (collectively, the “Defendants”), states as follows:

**PRELIMINARY STATEMENT**

1. This is an infringement action brought by Multilayer pursuant to the Patent Laws of the United States, United States Code, Title 35 for damages and to enjoin future infringement.

**JURISDICTION**

2. This Court has original jurisdiction to hear this matter pursuant to 28 U.S.C. §§ 1331 and 1338(a) because it arises under the Patent Laws of the United States, United States Code, Title 35.

**VENUE**

3. Venue is proper in this Court pursuant to 28 U.S.C. § 1400(b) because Defendants reside in this judicial district.

**PARTIES**

4. Multilayer is a corporation duly organized and existing under the laws of the State of Delaware with its principal place of business located at Via Vittor Pisani 22 Milan, Italy 20124.
5. Malpack is a corporation duly organized and existing under the laws of Canada with its principal place of business located at 510 Finley Avenue, Ajax, ON L1S 2E3, Canada.
6. Malpack USA purports to be a corporation organized and existing under the laws of Canada with its principal place of business located at 510 Finley Avenue, Ajax, ON L1S 2E3, Canada.
7. Malpack is in the business of designing, manufacturing, and selling flexible packaging films.
8. Malpack USA is in the business of selling Malpack flexible packaging films.
9. Defendants advertise, offer for sale, and sell flexible packaging films within the jurisdiction of the United States District Court for the Western District of Tennessee.

**U.S. PATENT NO. 6,265,055**

10. On July 24, 2001, U.S. Patent No. 6,265,055 (“the ‘055 patent”) for a “Multilayer Stretch Cling Film” was duly, properly and legally issued by the United States Patent and Trademark Office (the “PTO”) to inventors David Simpson and Terry Jones.
11. A true and correct copy of the ‘055 patent, which is incorporated herein by this reference, is attached to the First Amended Complaint as Exhibit A.
12. Multilayer is the owner of all right, title and interest in the ‘055 patent.

**COUNT I- INFRINGEMENT OF U.S. PATENT NO. 6,265,055**

13. Multilayer realleges and incorporates by reference the allegations of paragraphs 1-12.

14. Defendants' stretch films, including but not limited to their Platinum Max products, have infringed and continue to infringe at least claim 1 of the '055 patent.

15. Defendants' infringement of the '055 patent has been willful, wanton, egregious, and with disregard of Multilayer's patent rights and will continue unabated unless enjoined by this Court.

16. Unless the future occurrence of these actions is enjoined, Multilayer will suffer irreparable injury for which there is no adequate remedy at law.

### **PRAYER FOR RELIEF**

WHEREFORE, Multilayer prays for relief as follows:

- A. An Order requiring that Defendants and their officers, agents, servants, employees, attorneys, privies, and those persons in active concert or participation with them, be preliminarily and permanently enjoined from the continued infringement of U.S. Patent No. 6,265,055;
- B. An award to Multilayer pursuant to 35 U.S.C. § 284 of damages, not less than a reasonable royalty, adequate to compensate Multilayer for the infringement of its patent rights;
- C. An award to Multilayer of prejudgment interest on said sums;
- D. Trebling of said award pursuant to 35 U.S.C. § 284;
- E. An award to Multilayer pursuant to 35 U.S.C. § 285 of its reasonable attorneys' fees incurred in this case;
- F. An award to Multilayer of post judgment interest on said sums at the legal judgment rate from date of the judgment;

- G. An award to Multilayer of the costs of this action;
- H. Any further relief to which Multilayer may appear entitled; and
- I. Trial by jury on all issues so triable.

Dated: August 16, 2012

Respectfully submitted,

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Counsel for Plaintiff,  
Multilayer Stretch Cling Film Holdings, Inc.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and exact copy of the foregoing has been served via the Electronic Case Filing system of the United States District Court for the Western District of Tennessee, which will automatically send email notification of such filing to the following attorneys of record.

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