

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN**

DISPLAY PACK, INC.,
a Michigan corporation,

Case No.

Plaintiff,

Hon.

v.

SUPERIOR COMMUNICATIONS, INC.,
a California corporation,

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

Defendant.

Douglas A. Dozeman (P35781)
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Attorneys for Plaintiff Display Pack, Inc.

Plaintiff Display Pack, Inc. states its Complaint against Defendant Superior Communications, Inc. as follows:

The Parties

1. Plaintiff Display Pack, Inc. (“Display Pack”) is a Michigan corporation having its principal place of business in Grand Rapids, Michigan. Display Pack is a manufacturer and seller of, among other things, clamshell packaging for a variety of products including cell phones and other consumer electronics.

2. Defendant Superior Communications, Inc. (“Superior”) is a California corporation with a principal place of business at 5027 Irwindale Avenue, Suite 900, Irwindale, California

91706. Superior is a distributor of, among other things, consumer electronics such as cell phones and accessories.

Jurisdiction and Venue

3. This is an action for patent infringement under the Patent Act, 35 U.S.C. § 101 *et seq.*

4. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a), as this action arises under the patent laws of the United States.

5. Upon information and belief, Superior makes, sells, and offers for sale consumer electronics and accessories throughout the United States and has systematic and continuous dealings within this District.

6. Venue is proper in this District under 28 U.S.C. §§ 1391 and 1400.

Allegations and Claim for Relief

7. For many years, Display Pack has continuously engaged in the development, manufacture, and sale of a wide variety of products used for packaging, including clamshell packaging. As a result, Display Pack has become one of the leading sources of clamshell packaging products.

8. Display Pack has taken steps over the years to protect its innovative products, including clamshell packaging. In particular, Display Pack is and has been the sole owner by assignment of all right, title, and interest to United States Patent 7,931,148 B2 titled “Double Hinge Display Package And Method of Use” issued April 26, 2011 (hereinafter referred to as “the ‘148 Patent”) (**Exhibit 1**).

9. Display Pack is entitled to sue for past, present, and future infringement of the ‘148 Patent.

10. Superior is in the business of offering to sell, selling or importing into the United States consumer electronics, such as cell phones and accessories.

11. Display Pack and Superior have had a business relationship since approximately 2009. During that time, Superior has purchased packaging products from Display Pack, including but not limited to packaging products which have incorporated claims described in the '148 Patent.

12. On or about December 20, 2012, Display Pack received from Superior a 2013 Packaging-Thermal Forming Request for Proposal ("RFP"), a copy of which is attached as **Exhibit 2**.

13. The RFP solicited proposals to supply Superior with packaging products, including clamshell packaging with specifications identical to clamshell packaging products previously supplied by Display Pack to Superior which are covered by the '148 Patent ("Packaging Products").

14. On information and belief, Superior sent the RFP to packaging suppliers other than Display Pack.

15. On or about January 30, 2013, Display Pack received correspondence from Superior stating that in response to Display Pack's proposal, Superior had decided to make Display Pack its "secondary supplier" for the Packaging Products.

16. By soliciting and accepting a proposal to supply Packaging Products which are covered by the '148 Patent from a supplier or suppliers other than Display Pack, without authority or license from Display Pack, Superior has induced said supplier or suppliers to infringe the '148 Patent.

COUNT I - Infringement of the '148 Patent

17. Display Pack incorporates by reference all preceding paragraphs.

18. Superior has actively induced an alternative supplier or suppliers to make, use, offer to sell, or sell packaging that infringes the '148 Patent in violation of 35 U.S.C. § 271(b).

19. Superior's continued inducement of an alternative supplier or suppliers to infringe the '148 Patent has damaged and will continue to damage Display Pack.

20. By reason of Superior's inducement of an alternative supplier or suppliers to infringe the '148 Patent, Display Pack has been irreparably harmed, and unless and until Superior is enjoined by this Court, Display Pack will continue to suffer irreparable damage and injury for which it has no adequate remedy at law.

WHEREFORE, Display Pack respectfully requests the following relief:

A. Judgment that Superior has actively induced others to infringe the '148 Patent;

B. A permanent injunction enjoining Superior, its officers, employees, agents, and all others acting in concert with it or participating with it from infringement and/or further inducement of infringement of the '148 Patent;

C. An award of damages adequate to compensate Display Pack for Superior's infringement and/or inducement of infringement of the '148 Patent, but in no event less than a reasonable royalty under 35 U.S.C. § 284;

D. Enter an order awarding Display Pack interest on the damages awarded and its costs pursuant to 35 U.S.C. § 284;

E. Enter an order finding that this is an exceptional case and award Display Pack its reasonable costs, expenses, and reasonable attorneys' fees pursuant to 35 U.S.C. § 285; and,

F. Award such other relief as the Court may deem appropriate and just under the circumstances.

DEMAND FOR JURY TRIAL

Display Pack demands a trial by jury.

Dated: February 5, 2013

/s/ Kevin G. Dougherty

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