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11 3 PAK HOLDINGS, LLC
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IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

3 PAK HOLDINGS, LLC, a California
limited liability company

Plaintiff

vs.

DANIEL CLARK; KEVIN CLARK; AND
SUSAN CLARK; and DOES 1-10,
inclusive

Defendants

Case No.

**COMPLAINT FOR PATENT
INFRINGEMENT OF U.S.
PATENT NO. 8,898,812**

DEMAND FOR JURY TRIAL

COMPLAINT

Plaintiff, 3 Pak Holdings, LLC, for its Complaint against Daniel Clark, Kevin Clark, and Susan Clark, states and alleges as follows:

PARTIES

1. Plaintiff, 3 Pak Holdings, LLC or “Plaintiff” is a corporation organized and existing under the laws of the State of California, and having a principal place of

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1 business at 1800 E. Miraloma Ave., Ste. D, Placentia, CA 92870.

2 2. Upon information and belief, Daniel Clark is an individual having an
3 address of 301 Race Street, Apt. 520, Philadelphia, PA 19106-1854.

4 3. Upon information and belief, Kevin Clark is an individual having an
5 address of 140 E. 17th Street, Apt. 1C, New York, New York, 10003-3419.

6 4. Upon information and belief, Susan Clark is an individual having an
7 address of 13 Tanglewood Road, Farmington, CT 06032-1116.

8 5. Upon information and belief, Daniel Clark, Kevin Clark and Susan Clark
9 are collectively doing business as SweatyMan having an address of 301 Race Street,
10 Apt. 520, Philadelphia, PA 19106-1854.

11 6. The true names and capacities of the Defendants named herein as DOES
12 1 through 10, whether individual, corporate, associate, or otherwise, are unknown to
13 Plaintiff, who therefore sues said Defendants by said fictitious names. Plaintiff is
14 informed and believes, and thereon alleges, that each of the Defendants designated
15 herein as DOE is legally responsible for the events and happenings hereinafter
16 alleged and legally caused injury and damages proximately thereby to Plaintiff as
17 herein alleged. Plaintiff will seek leave to amend the Complaint when the true names
18 and capacities of said DOE Defendants have been ascertained. Daniel Clark, Kevin
19 Clark and Susan Clark and DOES 1 through 10 are hereinafter collectively referred to
20 as "Defendants."

21 7. Plaintiff is informed and believes, and on that basis alleges, that each of
22 the Defendants participated in and is in some manner responsible for the acts
23 described in this Complaint and any damages resulting therefrom.

24 8. Plaintiff is informed and believes, and on that basis alleges, that each of
25 the Defendants has acted in concert and participation with each other concerning each
26 of the claims in this Complaint.

27 9. Plaintiff is informed and believes, and on that basis alleges, that each of
28 the Defendants were empowered to act as the agent, servant and/or employees of each

1 of the other Defendants, and that all the acts alleged to have been done by each of
2 them were authorized, approved and/or ratified by each of the other Defendants.

3 **JURISDICTION AND VENUE**

4 10. This action, as hereinafter more fully appears, arises under the patent
5 laws of the United States of America (35 U.S.C. §§1 *et seq.*), and is for patent
6 infringement. Jurisdiction for all counts is based upon 28 U.S.C. §§1331, 1338(a)
7 and (b).

8 11. Venue is proper under 28 U.S.C. §§1391(b) and (c) as Defendants have
9 committed acts of infringement in this judicial district.

10 **BACKGROUND OF THE CONTROVERSY**

11 12. Plaintiff is the owner of United States Patent No. 8,898,812. A copy of
12 this patent is attached hereto as Exhibit 1.

13 13. Upon information and belief, Defendants have been making, selling,
14 using, importing and/or offering for sale an anti-sweat undershirt product identified as
15 “SweatyMan.” A copy of Defendants web page advertisement illustrating the
16 SweatyMan product (hereinafter “the Accused Product”) is attached hereto as Exhibit
17 2. The Accused Product infringes one or more claims of Plaintiff’s U.S. Patent No.
18 8,898,812.

19 14. Upon information and belief, Defendants operate an internet website
20 with the URL *www.sweatyman.com* wherein Defendants offer the Accused Product
21 for sale, such website being accessible nationwide, including this judicial district.
22 Upon further information and belief, the Accused Product has been sold to one or
23 entities within this judicial district.

24 **FIRST CLAIM FOR RELIEF**

25 **(Patent Infringement of U.S. Patent No. 8,898,812)**

26 15. Plaintiff realleges and repeats the allegations of paragraphs 1-14 above.

27 16. Plaintiff is the owner of all right, title and interest in and to United States
28 Patent No. 8,898,812 entitled “Garment Having Integrated Perspiration Barriers”

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1 (hereinafter the “’812 patent”) attached hereto as Exhibit 1. The ‘812 patent was duly
2 and lawfully issued on December 2, 2014 and is presently valid and in full effect.

3 17. Upon information and belief, Defendants are directly infringing the ‘812
4 patent within this district and elsewhere in the United States by making, using,
5 selling, importing, distributing and/or offering for sale products that infringe one or
6 more of the claims of the ‘812 patent.

7 18. Upon information and belief, Defendants are contributorily infringing
8 the ‘812 patent within this district and elsewhere in the United States by making,
9 using, selling, importing, distributing or offering for sale in the United States
10 materials and/or apparatus for use in practicing the inventions set forth in the ‘812
11 patent, that they know to be especially made or especially adapted for use in
12 infringement of the invention embodied in the ‘812 patent. Upon information and
13 belief, these materials and/or apparatus have no substantial non-infringing use in
14 commerce.

15 19. Upon information and belief, Defendants are inducing infringement of
16 the ‘812 patent within this district and elsewhere in the United States by instructing in
17 the use of materials and/or apparatus that infringe one or more of the claims of the
18 ‘812 patent.

19 20. Upon information and belief, by the acts of patent infringement herein
20 complained of, the Defendants have made substantial profits to which they are not
21 entitled.

22 21. By reason of the aforementioned acts of the Defendants, the Plaintiff has
23 suffered great damage in an amount which cannot be ascertained at this time.

24 22. Upon information and belief, Defendants continue to infringe Plaintiff’s
25 ‘812 patent, and will continue to infringe Plaintiff’s ‘812 patent to Plaintiff’s
26 irreparable harm, unless enjoined by this Court.

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23. Upon information and belief, Defendants are aware of the '812 patent and nonetheless continue to knowingly infringe the claims of the '812 patent and such knowing infringement constitutes willful infringement. Any continuing infringement of the '812 patent by Defendants after receiving notice of the '812 patent will be willful, entitling Plaintiff to enhanced damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against the Defendants as follows:

A. A judgment that Defendants have infringed, contributorily infringed, and/or induced infringement of the '812 patent.

B. A judgment that Defendants' infringement of the '812 patent has been willful.

C. A preliminary and permanent injunction, pursuant to 35 U.S.C. §283, enjoining Defendants, and all persons in active concert or participation with them, from any further acts of infringement, contributory infringement or inducement of infringement of the '812 patent.

D. An order, pursuant to 35 U.S.C. §284, awarding Plaintiff damages adequate to compensate Plaintiff for Defendants' infringement of the '812 patent, in an amount to be determined at trial, but in no event less than a reasonable royalty.

E. An order, pursuant to 35 U.S.C. §284, trebling all damages awarded to Plaintiff based on Defendants' willful infringement of the '812 patent.

F. An order, pursuant to 35 U.S.C. §285, finding that this is an exceptional case and awarding to Plaintiff its reasonable attorneys' fees incurred in this action.

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1 G. That Plaintiff have such other and further relief that the court may deem
2 just and proper.

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4 Dated: March 30, 2015

STETINA BRUNDA GARRED & BRUCKER

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7 By: /s/Mark B. Garred
8 Mark B. Garred
9 Attorneys for Plaintiff
3 Pak Holdings, LLC

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DEMAND FOR JURY TRIAL

Plaintiff, 3 Pak Holdings, LLC hereby demands a jury trial in this action.

Dated: March 30, 2015

STETINA BRUNDA GARRED & BRUCKER

By: /s/Mark B. Garred
Mark B. Garred
Attorneys for Plaintiff
3 Pak Holdings, LLC

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