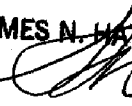


**ORIGINAL**

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

**FILED IN CLERK'S OFFICE  
U.S.D.C. Atlanta**

**DEC 17 2008**

**JAMES N. HATTEN, Clerk**  
By:  **Deputy Clerk**

DATA:)COMM ELECTRONICS, INC.  
a Georgia Corporation,

Plaintiff,

v.

SKYWALKER COMMUNICATIONS, INC.  
a Missouri Corporation

Defendant.

Civil Action File

**JEC**

No.

**1:08-CV-3811**

**JURY TRIAL  
DEMANDED**

**COMPLAINT**

Plaintiff Data:)Comm Electronics, Inc. ("Data:)Comm") states its Complaint against Defendant, Skywalker Communications, Inc. ("Defendant"), as follows:

**JURISDICTION AND VENUE**

1. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code.
2. This Court has subject matter jurisdiction over all causes of action set forth herein pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.*

3. Venue is proper in this judicial district and division pursuant to 28 U.S.C. §§1391(b) and (c) and 1400(b) in that the Defendant has done business in this District, has committed acts of infringement in this District, and continues to commit acts of infringement in this District, entitling Data:)Comm to relief.

### **PARTIES**

4. Data:)Comm is a Georgia Corporation with a principle place of business at 6349 Peachtree Street, Norcross, GA 30071-1725.

5. Upon information and belief, Defendant is a Missouri corporation with its principle place of business at 9390 Veterans Memorial Parkway, O'Fallon, MO 63366.

6. On information and belief, Defendant sells and has sold products into the State of Georgia directly and/or via one or more of Defendant's retailers.

7. Upon information and belief, the Court has personal jurisdiction over Defendant.

### **THE CONTROVERSY**

8. Data:)Comm holds all rights and interests in United States Patent No. 7,390,964 to Gorin et al., issued June 24, 2008, entitled "Wall plate having internal nose for electrical cable," which is hereinafter referred to as "the '964 patent."

9. A copy of the '964 patent is attached herewith as Exhibit "A."

10. Data:)Comm also holds all rights and interests in United States Design Patent No. D554,475 to Gorin, *et al.*, issued November 6, 2007, entitled "Wall Plate Having Internal Nose for Electrical Cable," which is hereinafter referred to as "the '475 patent."

11. A copy of the '475 patent is attached herewith as Exhibit "B."

12. Upon information and belief, Defendant sells and/or offers for sale a product that may be referred to as: Inverted Dual Gang Bundled Wall Plate (Model SKY05087).

13. Upon information and belief, Defendant sells and/or offers for sale a product that may be referred to as: Inverted Single Gang Bundled Wall Plate (Model SKY05065).

14. Defendant's Inverted Dual Gang Bundled Wall Plate; Inverted Single Gang Bundled Wall Plate; and all similar products of Defendant are collectively referred to as "Defendant's Inverted Wall Plates."

15. Select images of Defendant's Inverted Wall Plates are attached as Exhibit "C."

**COUNT ONE:**  
**INFRINGEMENT OF U.S. PATENT NO. 7,390,964**

16. Data:)Comm realleges and incorporates herein the allegations of paragraphs 1 through 15 of this Complaint as if fully set forth herein.

17. Upon information and belief, Defendant has infringed directly and/or indirectly and continues to infringe directly and/or indirectly the '964 patent.

18. Defendant's infringing acts include, but are not limited to, the manufacture, use, sale, importation, and/or offer for sale of Defendant's Inverted Wall Plates.

19. The acts of infringement of the '964 patent by Defendant have caused and will continue to cause damage to Data:)Comm.

20. Upon information and belief, Defendant's acts of infringement are willful.

21. Data:)Comm is entitled to recover from Defendant the damages sustained by Data:)Comm as a result of Defendant's wrongful acts in an amount subject to proof at trial.

22. The infringement of Data:)Comm's exclusive rights under the '964 patent by Defendant will continue to damage Data:)Comm, causing irreparable harm, for which there is no adequate remedy at law, unless enjoined by this Court.

**COUNT TWO:**  
**INFRINGEMENT OF U.S. PATENT NO. D554,475**

23. Data:)Comm realleges and incorporates herein the allegations of paragraphs 1 through 22 of this Complaint as if fully set forth herein.

24. Upon information and belief, Defendant has infringed directly and/or indirectly and continues to infringe directly and/or indirectly the '475 patent.

25. Defendant's infringing acts include, but are not limited to, the manufacture, use, sale, importation, and/or offer for sale of Defendant's Inverted Wall Plates.

26. The acts of infringement of the '475 patent by Defendant have caused and will continue to cause damage to Data:)Comm.

27. Upon information and belief, Defendant's infringing acts are willful.

28. Data:)Comm is entitled to recover from Defendant the damages sustained by Data:)Comm as a result of Defendant's wrongful acts in an amount subject to proof at trial.

29. The infringement of Data:)Comm's exclusive rights under the '475 patent by Defendant will continue to damage Data:)Comm, causing irreparable harm, for which there is no adequate remedy at law, unless enjoined by this Court.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Data:)Comm prays for the following relief from the Court and against Defendant Skywalker Communications, Inc.:

A. Entry of judgment of patent infringement against Defendant;

B. That Defendant be ordered to pay damages adequate to compensate Data:)Comm for Defendant's acts of infringement and treble damages, both pursuant to 35 U.S.C. § 284;

C. That this case is exceptional and that Data:)Comm be awarded its reasonable attorneys' fees pursuant to 35 U.S.C. § 285.

D. That Defendant and its officers, agents, employees, and those acting in privity with Defendant, be permanently enjoined from further infringement, contributory infringement, and/or inducing infringement pursuant to 35 U.S.C. § 283;

E. That Defendant be ordered to pay prejudgment and post-judgment interest;

F. That Defendant be ordered to pay all costs and interest associated with this action; and

G. That Data:)Comm be granted such other and additional relief as the Court deems just, equitable, and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff Data:)Comm Electronics, Inc. demands a trial by jury of all issues triable of right by a jury.

This 17th day of December, 2008.



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