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10 Attorneys for Plaintiff  
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.

AUSSIE ARMOR, LLC, a California  
limited liability company d/b/a/ EJIS, INC.;  
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 Aussie Armor, LLC,  
states and alleges as follows:

**PARTIES**

1. Plaintiff, 3 Pak Holdings, LLC or “Plaintiff,” is a limited liability  
company organized and existing under the laws of the State of California, and having

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1 a principal place of business at 1890 E. Miraloma Ave., Ste. E, Placentia, CA 92870.

2 2. Upon information and belief, Aussie Armor, LLC is a limited liability  
 3 company organized and existing under the laws of the State of California, having an  
 4 address of 1180 Filbert St., Apt. 303, San Francisco, CA 94109, and appearing to do  
 5 business as Ejis, Inc.

6 3. The true names and capacities of the Defendants named herein as DOES  
 7 1 through 10, whether individual, corporate, associate, or otherwise, are unknown to  
 8 Plaintiff, who therefore sues said Defendants by said fictitious names. Plaintiff is  
 9 informed and believes, and thereon alleges, that each of the Defendants designated  
 10 herein as DOE is legally responsible for the events and happenings hereinafter  
 11 alleged and legally caused injury and damages proximately thereby to Plaintiff as  
 12 herein alleged. Plaintiff will seek leave to amend the Complaint when the true names  
 13 and capacities of said DOE Defendants have been ascertained. Aussie Armor, LLC  
 14 and DOES 1 through 10 are hereinafter collectively referred to as "Defendants."

15 4. Plaintiff is informed and believes, and on that basis alleges, that each of  
 16 the Defendants participated in and is in some manner responsible for the acts  
 17 described in this Complaint and any damages resulting therefrom.

18 5. Plaintiff is informed and believes, and on that basis alleges, that each of  
 19 the Defendants has acted in concert and participation with each other concerning each  
 20 of the claims in this Complaint.

21 6. Plaintiff is informed and believes, and on that basis alleges, that each of  
 22 the Defendants were empowered to act as the agent, servant and/or employees of each  
 23 of the other Defendants, and that all the acts alleged to have been done by each of  
 24 them were authorized, approved and/or ratified by each of the other Defendants.

## 25 **JURISDICTION AND VENUE**

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

1 and (b).

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

4 **BACKGROUND OF THE CONTROVERSY**

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

7 10. Upon information and belief, Defendants have been making, selling,  
8 using, importing and/or offering for sale an anti-sweat undershirt product identified as  
9 “Micro Modal Sweat Proof Undershirts.” A copy of Defendants web page illustrating  
10 the Micro Modal Sweat Proof Undershirt product (hereinafter the “Accused Product”)  
11 is attached hereto as Exhibit 2. The Accused Product infringes one or more claims of  
12 Plaintiff’s U.S. Patent No. 8,898,812.

13 11. Upon information and belief, Defendants operate an internet website  
14 with the URL *www.ejisinc.com* wherein Defendants offer the Accused Product for  
15 sale, such website being accessible nationwide, including this judicial district. Upon  
16 further information and belief, the Accused Product has been sold to one or more  
17 entities within this judicial district.

18 **FIRST CLAIM FOR RELIEF**

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

20 12. Plaintiff realleges and repeats the allegations of paragraphs 1-11 above.

21 13. Plaintiff is the owner of all right, title and interest in and to United States  
22 Patent No. 8,898,812 entitled “Garment Having Integrated Perspiration Barriers”  
23 (hereinafter the “’812 patent”) attached hereto as Exhibit 1. The ‘812 patent was duly  
24 and lawfully issued on December 2, 2014 and is presently valid and in full effect.

25 14. Upon information and belief, Defendants are directly infringing the ‘812  
26 patent within this district and elsewhere in the United States by making, using,  
27 selling, importing, distributing and/or offering for sale products that infringe one or  
28 more of the claims of the ‘812 patent.

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

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

17. The Accused Product is a garment having integrated perspiration barriers. Photos of the Accused Product are provided in Exhibit 2. The Accused Product infringes, literally and under the doctrine of equivalents, at least Claim 15 of the '812 patent.

18. The preamble of Claim 15 of the '812 patent indicates that the claim is for "A garment having an internal surface adapted to contact a wearer's skin and an external surface."

19. Upon information and belief, the Accused Product includes, literally or under the doctrine of equivalents, the element of Claim 15 of the '812 patent of *a torso portion*. A photograph of the Accused Product taken directly from Defendants website demonstrating this element is shown to the right.



20. Upon information and belief, the Accused Product includes, literally or under the doctrine of equivalents, the element of Claim 15 of the '812 patent of *a pair of sleeve portions attached to and extending from the torso portion in opposed relation to each other*. A



1 photograph of the Accused Product taken directly from Defendants website  
2 demonstrating this element is shown to the right.

3 21. Upon information and belief, the Accused  
4 Product includes, literally or under the doctrine of  
5 equivalents, the element of Claim 15 of the '812 patent of a  
6 *pair of perspiration barriers, each of the perspiration*  
7 *barriers comprising: a first layer fabricated from a soft,*  
8 *pliable material adapted to permit the transmission of*  
9 *moisture therethrough; a second layer disposed adjacent the*  
10 *first layer and fabricated from a loosely woven material; a*  
11 *third layer disposed adjacent the second layer and*  
12 *fabricated from a hydrophilic breathable film; and a fourth*  
13 *layer disposed adjacent the third layer.* True and correct



14 photographs of the Accused Product demonstrating these elements are shown to the  
15 right.

16 22. Upon information and belief, the Accused  
17 Product includes, literally or under the doctrine of equivalents,  
18 the element of Claim 15 of the '812 patent of *the pair of*  
19 *perspiration barriers defining respectively barrier peripheral*  
20 *edge regions, each barrier peripheral edge region being*  
21 *coupled to and at least partially circumvented by a*  
22 *corresponding peripheral edge region collectively defined by*  
23 *the torso portion and a respective one of the sleeve portions*



24 *such that the external surface of an underarm area of the garment is collectively*  
25 *formed by each of the fourth layers of the perspiration barriers and the respective*  
26 *torso and sleeve portions.* A true and correct photograph of the Accused Product  
27 demonstrating this element is shown to the right.  
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1           23. Upon information and belief, by the acts of patent infringement herein  
2 complained of, the Defendants have made substantial profits to which they are not  
3 entitled.

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

6           25. Upon information and belief, Defendants continue to infringe Plaintiff's  
7 '812 patent, and will continue to infringe Plaintiff's '812 patent to Plaintiff's  
8 irreparable harm, unless enjoined by this Court.

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

#### 14 **PRAYER FOR RELIEF**

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

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

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

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

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

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

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

3 G. That Plaintiff have such other and further relief that the court may deem  
4 just and proper.  
5

6 Dated: November 11, 2016

STETINA BRUNDA GARRED & BRUCKER

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9 By: /s/Mark B. Garred

Mark B. Garred

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: November 11, 2016

STETINA BRUNDA GARRED & BRUCKER

By: /s/Mark B. Garred

Mark B. Garred

Attorneys for Plaintiff

3 Pak Holdings, LLC

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