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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DAE SUNG HI TECH CO., LTD., a South)
Korean Limited Liability Company; and) CASE NO.:
FIRST 2 MARKET PRODUCTS, LLC, an)
Ohio Limited Liability Company,) **COMPLAINT**
) **DEMAND FOR JURY TRIAL**
Plaintiffs,)
)
vs.)
)
D&B SALES, INC., a Nevada Based)
Corporation; DALE IRWIN, an individual)
resident of the State of Nevada; and BOBBI)
IRWIN, an individual resident of the State of)
Nevada,)
)
Defendants.)

Plaintiffs DAE SUNG HI TECH CO., LTD. (“Dae Sung”) and FIRST 2 MARKET PRODUCTS, LLC (“First2Market”) (Dae Sung and First2Market are collectively referred to as “Plaintiffs” herein), for the Complaint against Defendants D&B SALES, INC. (“D&B”), DALE IRWIN, and BOBBI IRWIN (collectively referred to as “Defendants” herein), state as follows:

THE PARTIES

1. Dae Sung is a Korean limited liability company having its principal place of business at #1010, Daecheon Dong, Dalseo-Gu, Daegu, Korea
2. First2Market is an Ohio limited liability company having its principal place of business at 1070 Commerce Drive, Bldg. 4, Perrysburg, Ohio.

3. Upon information and belief, D&B SALES, INC. operates throughout the United States and has a principal place of business at 150 South Hwy 160, suite 8-203, Pahrump, Nevada. Upon information and belief, D&B manufactures or has manufactured on its behalf, offers for sale, sells, and/or uses in the United States bag sealing devices.

4. Upon information and belief, DALE IRWIN owns, operates, manages, and/or is principal of D&B, and is a citizen of and resides at 330 China Street, Pahrump, Nevada.

5. Upon information and belief, BOBBI IRWIN owns, operates, manages, and/or is principal of D&B, and is a citizen of and resides at 330 China Street, Pahrump, Nevada.

JURISDICTION AND VENUE

6. This is an action for violation of the patent laws of the United States of America, 35 U.S.C. § 1, *et seq.*; and for violation of the Nevada deceptive trade practices laws, Nevada Revised Statutes (“NRS”) 598, *et seq.* and NRS 41.600(2)(e).

7. The Court has jurisdiction over the subject matter of this action pursuant to Section 39 of the Lanham Act, 15 U.S.C. § 1121, 28 U.S.C. §§ 1331, 1332, and 1338(a), 1338(b), and 1367(a).

8. This Court has jurisdiction over Defendants because, *inter alia*, they: (1) reside in this state; (2) transact business in this state; and (3) engage in infringing conduct in this state, and/or induce others to engage in infringing conduct in this state.

9. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1400(b) because Defendants do business in the State of Nevada, have committed acts of infringement in this State and in this District, have regular and established business in this District, and are subject to personal jurisdiction in this District.

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BACKGROUND FACTS

**Dae Sung's Use of the GRIPSTIC® Mark and
Distribution of Patented Bag Sealing Devices**

10. Dae Sung is a product design and distribution company founded in 1995.
11. Dae Sung is the assignee of a utility patent, U.S. Pat. No. 7,503,696 (“the ‘696 patent”).
12. First2Market is the exclusive distributor in the United States for devices covered by the ‘696 patent.
13. Since May, 2009, First2Market has been the exclusive distributor in the United States for sealing devices covered by the ‘696 patent.
14. On April 27, 2005, a non-provisional patent application was filed with the United States Patent and Trademark Office (“the USPTO”) for “PACK SEALING METHOD AND DEVICE,” named inventors Jae-Ho Ha and Seung-Taek Lee.
15. On March 17, 2009, the application was issued as U.S. Patent No. 7,503,696 also reflecting the assignment to Sehyang Industrial Co., Ltd. On March 7, 2011, Sehyang Industrial Co., Ltd. assigned the ‘696 patent to Dae Sung Hi Tech Co., Ltd. A copy of the ‘696 patent is attached as **Exhibit A**.
16. As the exclusive distributor of devices covered by the ‘696 patent, First2Market has the right and obligation to enforce the ‘696 patent in the United States, as provided in an Exclusive Distribution Agreement between First2Market and Dae Sung Hi Tech Co., Ltd., a redacted copy of which is provided as **Exhibit B**.
17. First2Market distributes sealing devices, including those covered by the ‘696 patent, specifically the GRIPSTIC®, throughout the United States. The devices are sold individually as MSRP of \$2.00 for a single bag sealing devices, \$5.00 for a package of three,

and \$20.00 for a package of twenty. Attached as **Exhibit C** are photos of the GRIPSTIC® packaging sold by First2Market.

18. Since May of 2009, First2Market has sold close to 7 million sealing devices via online market places (*e.g.* Amazon.com), through its own United State distributors, and at fairs, exhibitions, and the like.

DEFENDANTS' INFRINGING CONDUCT

19. On information and belief, Defendants have entered into contracts or relationships with certain third-parties to make and/or sell infringing bag sealing devices, and such contracts or relationships have resulted in the lost sales of plaintiffs' sealing devices.

20. On information and belief, Defendants have entered into such contracts or relationships to manufacture and/or sell infringing bag sealing devices knowingly, willingly, and intentionally in violation of plaintiffs' rights.

21. On information and belief, Defendants are making or having made, and are selling a bag sealing device that infringes the '696 patent. Photographs of Defendants' infringing bag sealing devices are shown in Exhibit D.

COUNT I: INFRINGEMENT OF THE '696 PATENT

22. Plaintiffs reallege and incorporate by reference the allegations set forth in the preceding paragraphs of this Complaint as if fully set forth herein.

23. On March 17, 2009, the '696 patent was duly and lawfully issued.

24. Since May, 2009, First2Market has been the exclusive distributor in the United States for bag sealing devices covered by the '696 patent.

25. Upon information and belief, in violation of 35 U.S.C. § 271, Defendants are and have been infringing, contributing to infringement, and/or offering to sell in the United States, including without limitation at state and/or county fairs in Iowa, Kentucky, Indiana, Nevada, and

Ohio, or are importing into the United States, products that practice the invention claimed in the '696 patent.

26. As a result of Defendants' unlawful infringement of the '696 patent, plaintiffs have and will continue to suffer damages. Plaintiffs are entitled to recover from Defendants the damages suffered as a result of Defendants' unlawful acts.

27. On information and belief, Defendants intend to continue the unlawful infringing activities, and as a result, plaintiffs continue to and will continue to suffer irreparable harm – for which there is no adequate remedy at law – due to Defendants' unlawful infringing activities unless this Court enjoins Defendants from further infringing activities.

COUNT II: STATE DECEPTIVE TRADE PRACTICES

28. Plaintiffs reallege and incorporate by reference the allegations set forth in the preceding paragraphs of this Complaint as if fully set forth herein.

29. Defendants are each a "person" within the meaning of NRS 598, *et seq.*

30. The acts of each Defendant constitute deceptive trade in violation of Nevada's deceptive trade practices laws, NRS 598, *et seq.* and NRS 41.600(2)(e).

31. As a result of Defendants' deceptive trade practices, plaintiffs have suffered damages and are entitled to the recovery of damages and attorneys' fees pursuant to NRS 598.0999.

32. Unless Defendants' infringing conduct is enjoined, plaintiffs will continue to suffer irreparable harm due to the difficulty of measuring the amount of damages inflicted by Defendants. Plaintiffs have and will suffer harm that cannot be easily quantified nor fully compensated for, such as harm to goodwill, future lost sales, and loss of value, in addition to the monetary harm suffered by plaintiffs that may be calculable.

33. Plaintiffs have no adequate remedy at law to compensate them for the irreparable harm suffered if the conduct of Defendants is allowed to continue.

PRAYER FOR RELIEF

WHEREFORE, Dae Sung and First2Market pray for the following relief against the Defendants, jointly and severally:

- A. That Defendants be declared to have infringed, induced others to infringe, and/or committed acts of contributory infringement with respect to the claims of the patent-in-suit as alleged above;
- B. That Defendants and all officers, agents, servants, employees, representatives, and all those persons acting or attempting to act in concert or in participation with any one of them or acting on their behalf be immediately, preliminarily, and permanently enjoined from further infringement of the patent-in-suit;
- C. That Defendants be ordered to account for and pay to Dae Sung and First2Market all damages caused by Defendants by reason of Defendants' infringement of the patent-in-suit pursuant to 35 U.S.C. § 289, or, in the alternative, that Defendants be ordered to pay to Dae Sung and First2Market a reasonable royalty by reason of Defendants' infringement of the patent-in-suit pursuant to 35 U.S.C. § 289;
- D. That Defendants be ordered to pay treble damages for willful infringement of the patent-in-suit pursuant to 35 U.S.C. § 284;
- E. That this case be declared exceptional under 35 U.S.C. § 285 and that Dae Sung and First2Market be awarded its attorneys' fees, expenses, and costs incurred in this action;
- F. A permanent injunction restraining Defendants, their agents, servants, employees, representatives, successors and assigns, and all others in concert and privity with them:
 - 1. From selling sealing devices that infringe the '696 patent; and
 - 2. From otherwise unfairly competing with Dae Sung and First2Market.
- G. An Order requiring Defendants to file with the Court and to account to Dae Sung and First2Market for Defendants' sales and profits realized by Defendants through the sale of its infringing sealing devices;
- H. That Dae Sung and First2Market be granted pre-judgment and post-judgment interest on the damages caused by reason of Defendants' infringement of the patent-in-suit;

- I. That Defendants be ordered to pay all costs associated with this action; and
- J. That Dae Sung and First2Market be granted such other and additional relief as the Court deems just and proper.


JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Dae Sung and First2Market hereby demand a trial by jury as to all issues so triable.

DATED this 5 day of January, 2022

Respectfully submitted,

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