

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS

EIGHT ONE TWO, LLC,  <i>Plaintiff,</i>  v.  PURDUE PHARMA L.P. AND PURDUE PHARMACEUTICALS L.P.,  <i>Defendants.</i>	}	C.A. No. _____
		<b>JURY TRIAL DEMANDED</b>

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Eight One Two, LLC (“Eight One Two”) files this Complaint for patent infringement against Defendants Purdue Pharma L.P. and Purdue Pharmaceuticals L.P. (collectively referred to as “Purdue” or “Defendant”) and alleges as follows:

**PARTIES**

1. Plaintiff Eight One Two is a Texas limited liability company having its principal place of business at 1 Paigebrooke, Westlake, Texas 76262.
2. On information and belief, Purdue Pharma L.P. is a limited partnership organized under the laws of the State of Delaware and has a principal place of business at 1 Stamford Forum, Stamford, Connecticut 06901-3516. Purdue Pharma L.P.’s registered agent for service of process is The Prentice-Hall Corporation System, Inc., 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808.
3. On information and belief, Purdue Pharmaceuticals L.P. is a limited partnership organized under the laws of the State of Delaware and has a principal place of business at 4701 Purdue Drive, Wilson, North Carolina 27893. Purdue Pharmaceuticals L.P.’s registered agent

for service of process is Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808.

### **JURISDICTION AND VENUE**

4. This civil action for patent infringement arises under the Patent Laws of the United States, 35 U.S.C. §§ 1 *et seq.* This Court has jurisdiction over the claims presented herein pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. On information and belief, Purdue makes, imports, sells, and/or offers for sale the methods and systems within the United States, including this District, that infringe one or more claims of United States Patent No. 6,697,812 entitled “METHOD AND SYSTEM FOR ELIMINATING ERROR WHEN PACKING OR PACKAGING SETS OF SERIALIZED PRODUCTS OR OTHERWISE IDENTIFIABLE PRODUCTS” (the “812 Patent”). The '812 Patent was duly and legally issued by the United States Patent and Trademark Office on February 24, 2004. A true and correct copy of the '812 Patent is attached hereto as Exhibit 1.

6. On information and belief, Defendant Purdue is engaged in the business of development, production and sales of prescription and non-prescription medicines and hospital products and manufacturing, packaging and distributing those products within the United States. On information and belief, Purdue markets and sells its products in the United States, including within this District.

7. On information and belief, Purdue directly and/or indirectly imports, manufactures, uses, offers for sale, and/or sells the methods and systems within the United States, including this District, that infringe one or more claims of the '812 Patent.

8. Venue is proper in this District pursuant to 28 U.S.C. §§ 1400(b) and 1391(c).

## **GENERAL ALLEGATIONS**

9. Eight One Two is the owner by assignment of all rights, title, and interest in the '812 Patent and is entitled to sue for past and future infringement thereof.

10. On information and belief, Purdue is engaged in the business of manufacturing, packaging and distributing its products utilizing the methods and systems described in one or more claims of the '812 Patent within the United States.

### **FIRST CLAIM FOR RELIEF** (Infringement of the '812 Patent)

11. Eight One Two incorporates paragraphs 1 through 10 as though fully set forth herein.

12. Upon information and belief, Defendant Purdue has been and now is directly and/or indirectly infringing one or more claims of the '812 Patent by (1) making, importing, using, offering for sale, and/or selling the patented inventions, (2) by actively inducing others to use the patented inventions, or (3) by contributing to the use of the patented inventions in the United States.

13. More particularly, without limitation, Purdue is now directly infringing one or more claims of the '812 Patent by making, importing, using, offering for sale, and/or selling the methods and systems covered by one or more claims of the '812 Patent, all in violation of 35 U.S.C. § 271(a).

14. In addition and/or in the alternative, Purdue has been and/or now is indirectly infringing one or more claims of the '812 Patent by (1) inducing customers or affiliates to use the methods and systems to directly infringe one or more claims of the '812 Patent in violation of 35 U.S.C. § 271(b), and/or by (2) contributing to customers' or its affiliates' direct infringement of one or more claims of the '812 Patent by their use of the methods and systems in violation of 35

U.S.C. § 271(c). On information and belief, Purdue has intended, and continues to intend, to induce patent infringement by its customers and has had knowledge that the inducing acts would cause infringement or has been willfully blind to the possibility that its inducing acts would cause infringement.

15. More specifically, and only as an example, Purdue uses, and/or induces or contributes to others', including its affiliates' and distributors', use of an item level tagging and packaging systems that eliminates errors in the packing and shipment of serialized products. Purdue's system:

- (a) Performs case-level tagging and aggregation to ease warehouse order processing but tagging bottles of product with an RFID serial number that is a concatenation of the UPC (or FDA equivalent or both) and a serialized tag,
- (b) Shrink wraps tagged bottles into packages or multiple bottles, which packages are then manually loaded into a case of multiple packages, wherein the case is sealed and an RFID shipper label programmed with the case-level product EPC number is generated and applied to a master carton,
- (c) Reads the RFID tags to match identifier coding expected by the system,
- (d) Aggregates and associates case tags in parent/child relationships, and
- (e) Palletizes the cases of product for shipment.

Purdue engages in such activities knowingly and, at least from the time of receipt of the present Complaint, has done so with the knowledge that such activities induce customers to directly infringe the '812 Patent. In addition, or in the alternative, Purdue engages in such activities knowingly, and, at least from the time of receipt of the present Complaint, has sold or distributed the infringing products knowing that such products are especially made or adapted for

use by its customers in an infringing use of one or more claims of the '812 Patent. On information and belief, the infringing products do not have any substantial non-infringing uses.

16. Eight One Two has been damaged by the infringing activities of Purdue, and will be irreparably harmed unless those infringing activities are preliminarily and permanently enjoined by this Court. Eight One Two does not have an adequate remedy at law.

17. At least by the filing of this action and by correspondence, Purdue has been given actual notice of the existence of the '812 Patent and has known that its acts constitute infringement of the '812 Patent. Despite such notice, Purdue continues in acts of infringement without regard to the '812 Patent, and will likely continue to do so unless otherwise enjoined by this Court. Eight One Two is not seeking damages against Purdue for indirect infringement for the period prior to its knowledge of the '812 Patent and of its infringement.

#### **REQUEST FOR RELIEF**

WHEREFORE, Eight One Two requests the following relief:

(a) A judgment in favor of Eight One Two that Purdue has directly infringed, and/or has indirectly infringed by way of inducement and/or contributory infringement, one or more claims of the '812 Patent;

(b) A judgment that Eight One Two has been irreparably harmed by the infringing activities of Purdue and is likely to continue to be irreparably harmed by Purdue's continued infringement;

(c) Preliminary and permanent injunctions prohibiting Purdue and its officers, agents, servants, employees and those persons in active concert or participation with any of them, as well as all successors or assignees of the interests or assets related to the accused methods and systems, from further infringement, direct and indirect, of the '812 Patent;

(d) A judgment and order requiring Purdue to pay Eight One Two damages adequate to compensate for infringement under 35 U.S.C. § 284, which damages may include lost profits but in no event shall be less than a reasonable royalty for the use made of the inventions of the '812 Patent, including pre- and post-judgment interest and costs, including expenses and disbursements; and

(e) Any and all such further necessary or proper relief as this Court may deem just.

**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Eight One Two hereby demands a trial by jury of all issues so triable.

Dated: July 31, 2013

Respectfully submitted,

**BUETHER JOE & CARPENTER, LLC**

By: /s/ Christopher M. Joe

Christopher M. Joe (*Lead Counsel*)

State Bar No. 0078770

Chris.Joe@BJCIPLaw.com

Brian A. Carpenter

State Bar No. 03840600

Brian.Carpenter@BJCIPLaw.com

Eric W. Buether

State Bar No. 03316880

Eric.Buether@BJCIPLaw.com

Mark D. Perantie

State Bar No. 24053647

Mark.Perantie@BJCIPLaw.com

1700 Pacific Avenue

Suite 4750

Dallas, Texas 75201

Phone: (214) 446-1272

Fax: (214) 635-1828

*Attorneys for Plaintiff Eight One Two, LLC*