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7 Attorneys for Plaintiff
Superior Communications, Inc.

9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA
11 WESTERN DIVISION

13 SUPERIOR COMMUNICATIONS,
14 INC.,

15 Plaintiff,

16 v.

17 WIZGEAR, also doing business as
18 WIXGEAR,

19 Defendant.

Case No. 2:21-cv-03718

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

22 Plaintiff Superior Communications, Inc. (“Superior Communications”)
23 asserts the following claims for patent infringement against Defendant WizGear,
24 also doing business as WixGear or Wixgear (individually and collectively,
25 “WizGear” or “Wizgear”) and alleges as follows.

26 **INTRODUCTION**

27 1. Superior Communications is an innovator in a number of areas
28 including cases for mobile devices such as smartphones.

1 iPhone 7/8 With Kick-Stand and Belt Clip – Black;² WizGear Shell Holster Combo
 2 Case with Kick-Stand and Belt Clip for Apple iPhone Se/5/5S;³ WizGear Shell
 3 Holster Combo Case for Apple iPhone 7/8 PLUS With Kick-Stand and Belt Clip –
 4 Black;⁴ WizGear Slim Shell Holster Combo Case for Apple iPhone X / iPhone 10
 5 With Kick-Stand and Swivel Belt Clip – Black;⁵ WixGear iPhone 11 Holster, Shell
 6 Holster Combo Case for Apple iPhone 11 with Kick-Stand and Belt Clip – Black;⁶
 7 WizGear Shell Holster Combo Case for Samsung Galaxy Note 5 with Kick-stand &
 8 Belt Clip - Fits At&t, Verizon, T-Mobile & Sprint – Black;⁷ WizGear™ Shell
 9 Holster Combo Case for Apple iPhone 6 PLUS 5.5 Inch Screen with Kick-Stand &
 10 Belt Clip - Fits At&t, Verizon, T-Mobile & Sprint – Black;⁸ WixGear iPhone 11
 11 Pro Holster, Shell Holster Combo Case for Apple iPhone 11 Pro with Kick-Stand
 12 and Belt Clip;⁹ WizGear Shell Holster Combo Swivel Slim Belt Case for Samsung
 13 Galaxy S8 With Kick-Stand and Belt Clip – Black;¹⁰ WizGear Shell Holster Combo
 14 Case for Samsung Galaxy S6 Edge with Kick-stand & Belt Clip - Fits At&t,
 15 Verizon, T-Mobile & Sprint – Black;¹¹ WixGear iPhone SE 2020 Pro Max Holster,
 16 Shell Holster Combo Case for Apple iPhone SE 2020 with Kick-Stand and Belt
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19 ² <https://www.wizgear.com/collections/cases/products/wizgear-shell-holster-combo-case-for-apple-iphone-7-with-kick-stand-and-belt-clip-black>

20 ³ <https://www.wizgear.com/collections/cases/products/iphone-6e-holster-wizgear-shell-holster-combo-case-for-apple-iphone-6e-with-kick-stand-and-belt-clip-black>

21 ⁴ <https://www.wizgear.com/collections/cases/products/wizgear-shell-holster-combo-case-for-apple-iphone-7-plus-with-kick-stand-and-belt-clip-black>

22 ⁵ <https://www.wizgear.com/collections/cases/products/wizgear-slim-shell-holster-combo-case-for-apple-iphone-x-iphone-10-with-kick-stand-and-swivel-belt-clip-black>

23 ⁶ <https://www.wizgear.com/collections/cases/products/wixgear-iphone-11-holster-shell-holster-combo-case-for-apple-iphone-11-with-kick-stand-and-belt-clip-black>

24 ⁷ <https://www.wizgear.com/collections/cases/products/wizgear-shell-holster-combo-case-for-samsung-galaxy-note-5-with-kick-stand-belt-clip-fits-at-t-verizon-t-mobile-sprint-black>

25 ⁸ <https://www.wizgear.com/collections/cases/products/wizgear-shell-holster-combo-case-for-apple-iphone-6-plus-5-5-inch-screen-with-kick-stand-belt-clip-fits-at-t-verizon-t-mobile-sprint-black>

26 ⁹ <https://www.wizgear.com/collections/cases/products/wixgear-iphone-11-pro-holster-shell-holster-combo-case-for-apple-iphone-iphone-11-pro-with-kick-stand-and-belt-clip>

27 ¹⁰ <https://www.wizgear.com/collections/cases/products/wizgear-shell-holster-combo-swivel-slim-belt-case-for-samsung-galaxy-s8-with-kick-stand-and-belt-clip-black>

28 ¹¹ <https://www.wizgear.com/collections/cases/products/copy-of-shell-holster-combo-case-for-iphone-5-5s-with-kick-stand-and-belt-clip>

1 Clip;¹² WixGear iPhone 11 Pro Max Holster, Shell Holster Combo Case for Apple
 2 iPhone 11 Pro Max with Kick-Stand and Belt Clip;¹³ WizGear Shell Holster Combo
 3 Swivel Slim Belt Case for Samsung Galaxy S8 Plus With Kick-Stand and Belt Clip
 4 – Black;¹⁴ WizGear iPhone XR Holster, Shell Holster Combo Case for Apple
 5 iPhone XR with Kick-Stand and Belt Clip – Black;¹⁵ WixGear Samsung Galaxy
 6 S20 Holster, Shell Holster Combo Case for Samsung Galaxy S20 Holster with
 7 Kick-Stand and Belt Clip;¹⁶ WizGear iPhone S10 Plus Holster, Shell Holster
 8 Combo Case for Apple iPhone S10 Plus Holster with Kick-Stand and Belt Clip –
 9 Black;¹⁷ WizGear iPhone S10 Holster, Shell Holster Combo Case for Apple iPhone
 10 S10 Holster with Kick-Stand and Belt Clip – Black;¹⁸ WizGear Google Pixel 3 XL
 11 Holster, Shell Holster Combo Case for Google Pixel 3 XL with Kick-Stand and
 12 Belt Clip;¹⁹ WixGear Samsung S20 Plus, Shell Holster Combo Case for Samsung
 13 S20 Plus with Kick-Stand and Belt Clip (Not for Samsung S20);²⁰ WizGear (TM)
 14 3-in-1 Combo Includes Protective Case and Belt Clip Holster with Integrated
 15 Viewing Stand for Galaxy S5 [Fits AT&T, Sprint, Verizon, T-Mobile](Black);²¹
 16 and Samsung Galaxy S10 Holster, WixGear Shell Holster Combo Case for

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 19 ¹² <https://www.wizgear.com/collections/cases/products/wizgear-iphone-se-2020-pro-max-holster-shell-holster-combo-case-for-apple-iphone-se-2020-with-kick-stand-and-belt-clip>

20 ¹³ <https://www.wizgear.com/collections/cases/products/wizgear-iphone-11-pro-max-holster-shell-holster-combo-case-for-apple-iphone-11-pro-max-with-kick-stand-and-belt-clip>

21 ¹⁴ <https://www.wizgear.com/collections/cases/products/wizgear-shell-holster-combo-swivel-slim-belt-case-for-samsung-galaxy-s8-plus-with-kick-stand-and-belt-clip-black>

22 ¹⁵ <https://www.wizgear.com/collections/cases/products/wizgear-iphone-xr-holster-shell-holster-combo-case-for-apple-iphone-xr-with-kick-stand-and-belt-clip-black>

23 ¹⁶ <https://www.wizgear.com/collections/cases/products/wizgear-samsung-galaxy-s20-holster-shell-holster-combo-case-for-samsung-galaxy-s20-holster-with-kick-stand-and-belt-clip>

24 ¹⁷ <https://www.wizgear.com/collections/cases/products/wizgear-iphone-s10-plus-holster-shell-holster-combo-case-for-apple-iphone-s10-plus-holster-with-kick-stand-and-belt-clip-black>

25 ¹⁸ <https://www.wizgear.com/collections/cases/products/wizgear-iphone-s10-holster-shell-holster-combo-case-for-apple-iphone-s10-holster-with-kick-stand-and-belt-clip-black>

26 ¹⁹ <https://www.wizgear.com/collections/cases/products/wizgear-google-pixel-3-xl-holster-shell-holster-combo-case-for-google-pixel-3-xl-with-kick-stand-and-belt-clip>

27 ²⁰ <https://www.wizgear.com/collections/cases/products/wizgear-samsung-s20-plus-shell-holster-combo-case-for-samsung-s20-plus-with-kick-stand-and-belt-clip-not-for-samsung-s20>

28 ²¹ <https://www.wizgear.com/collections/cases/products/wizgear-tm-3-in-1-combo-includes-protective-case-and-belt-clip-holster-with-integrated-viewing-stand-for-galaxy-s5-fits-at-t-sprint-verizon-t-mobileblack>

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1 Samsung Galaxy S10 Holster with Kick-Stand and Belt Clip (Not for S10 Plus)²²
2 (the “Accused Products”).

3 10. This list of Accused Products is non-limiting and based on information
4 currently available to Superior Communications.

5 11. Superior Communications reserves the right to modify the list of
6 Accused Products, including as new kickstand products are released during the
7 pendency of this case.

8 12. Superior Communications seeks injunctive relief and monetary
9 damages.

10 **THE PARTIES**

11 13. Superior Communications is a California corporation that has its
12 principal place of business at 5027 Irwindale Ave., Suite 900, Irwindale, California
13 91706.

14 14. Superior Communications is the legal owner by assignment of the ’954
15 patent, which was duly and legally issued by the United States Patent and
16 Trademark Office.

17 15. On information and belief, Wizgear is not incorporated or registered to
18 do business in any state in the United States.

19 16. On information and belief, Wizgear was incorporated on September 5,
20 2006 in Florida but its incorporation dissolved on September 14, 2007.

21 17. On information and belief, Wizgear was incorporated on August 9,
22 2006 in Nevada but its incorporation was revoked on September 1, 2013.

23 18. According to its website, Wizgear operates a P.O. Box, specifically for
24 returns of products at “WizGear, Po Box 601, Monroe NY 10949.”²³

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²² https://www.amazon.com/WizGear-Samsung-Galaxy-S10-Kick-Stand/dp/B07RRLMFYB/ref=sr_1_11?dchild=1&keywords=wizgear+case&qid=1619749736&sr=8-11

²³ <https://www.wizgear.com/pages/shipping-policy>

1 19. According to its website, Wizgear has a registered federal trademark
2 for “Wixgear,”²⁴ and according to trademark records in the U.S. Patent and
3 Trademark Office, that trademark’s registered owner is Jon Bargains Inc., a New
4 York corporation with an address at 11 Dinev Road, Unit 303, Monroe, New York
5 10950.

6 20. On information and belief, Wizgear markets, offers, sells, and
7 distributes the Accused Products throughout the United States, including in this
8 District.

9 21. On information and belief, Wizgear directly and/or indirectly
10 develops, designs, imports, manufactures, distributes, markets, offers to sell, and/or
11 sells the Accused Products in the United States, including in this District, and
12 otherwise purposefully directs infringing activities to this District in connection
13 with the Accused Products.

14 JURISDICTION AND VENUE

15 22. This is a civil action for patent infringement arising under the patent
16 laws of the United States, 35 U.S.C. § 1 *et seq.*

17 23. This Court has subject matter jurisdiction over the matters asserted in
18 this Complaint under 28 U.S.C. §§ 1331 and 1338(a) and 35 U.S.C. §§ 271 *et seq.*

19 24. This Court has personal jurisdiction over Wizgear because, on
20 information and belief, Wizgear has directly and indirectly committed acts of patent
21 infringement in connection with the Accused Products by directly or indirectly,
22 importing, making, using, offering for sale, and/or selling the Accused Products
23 throughout the United States, California and within this District. On information
24 and belief, Wizgear has regularly transacted and conducted business with residents
25 of California and this District, including advertising, promoting and selling the
26 Accused Products through its website www.wizgear.com and through the Amazon
27 sites, and caused the Accused Products to be shipped to residents of California and
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²⁴ <https://www.wizgear.com/>

1 this District, and has had at least minimum contacts with California and this District
2 that are substantial, systematic, continuous, and sufficient to warrant the Court's
3 exercise of personal jurisdiction over Wizgear. On information and belief, Wizgear
4 has infringed and continues to infringe the '954 patent in California and this
5 District by, among other things, engaging in infringing conduct within and directed
6 at California and this District and purposely and voluntarily placing the Accused
7 Products into the stream of commerce with the expectation that the Accused
8 Products will be used by residents in California and in this District, thus inducing
9 and contributing to infringement in California and in this District. On information
10 and belief, Wizgear has availed itself of the privilege of conducting and soliciting
11 business within California and this District, including engaging in at least some of
12 the infringing activities in California and this District in connection with the
13 Accused Products, such that it would be reasonable for this Court to exercise
14 personal jurisdiction consistent with principles underlying the U.S. Constitution,
15 and the exercise of personal jurisdiction by this Court would not offend traditional
16 notions of fair play and substantial justice. On information and belief, this patent
17 infringement cause of action arises directly from Wizgear's infringing conduct in
18 California and this District.

19 25. Alternatively, the Court has personal jurisdiction over Wizgear under
20 Federal Rule of Civil Procedure 4(k)(2) because the claim in this patent
21 infringement action arises under federal law, on information and belief Wizgear is
22 not subject to jurisdiction in any state's courts of general jurisdiction, and
23 exercising jurisdiction is consistent with the United States Constitution and laws.

24 26. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because,
25 on information and belief, Wizgear is not a not resident in the United States and
26 Wizgear is subject to the Court's personal jurisdiction, and thus Wizgear may be
27 sued in any judicial district pursuant to 28 U.S.C. § 1391.
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SUPERIOR COMMUNICATIONS’ INVENTIONS AND PRODUCTS

27. Superior Communications offers a number of products relating to or embodying the inventions of the ’954 patent including the Samsung Galaxy Note20 Ultra 5G SlimStik, Antimicrobial Kickstand Case – Soft Touch Black;²⁵ and Samsung Galaxy S21 5G SlimStick, Antimicrobial Kickstand Case – Soft Touch Black.²⁶

SUPERIOR COMMUNICATIONS’ ’954 PATENT

28. Superior Communications is the owner of all rights, title, and interest in and to the ’954 patent, with the full and exclusive right to file suit to enforce the ’954 patent, including the right to recover for past infringement.

29. The ’954 patent is valid and enforceable under United States patent laws.

WIZGEAR’S KNOWLEDGE OF THE ’954 PATENT

30. On September 11, 2020, Superior Communications wrote a letter (“the Letter”) to Wizgear’s President Yona Lebovitz, addressed to Wizgear’s customer service email address at the time, cs@wizgear.com, as well as the physical address 11 Dinev Road, Suite 303, Monroe, New York 10950.

31. Among other things, the Letter stated a “request that WizGear immediately cease and desist manufacturing and selling all WizGear Cases with Kick-Stand and all other products (“Infringing Products”) which infringe upon the ’954 patent” and requested a response by September 27, 2020.

32. On information and belief, Wizgear never responded to the Letter.

²⁵ <https://www.pure-gear.com/phone-cases/samsung-galaxy-note20-ultra-5g-slimstik-antimicrobial-kickstand-case-black-63389pg>

²⁶ <https://www.pure-gear.com/phone-cases/samsung-galaxy-s21-5g-slimstik-antimicrobial-kickstand-case-black-63461pg>

1 33. On information and belief, after the Letter was sent to Wizgear,
2 Wizgear’s website says it has changed its name to Wixgear and its customer service
3 email is now support@wixgear.com.²⁷

4 **COUNT I: INFRINGEMENT OF U.S. PATENT NO. 9,185,954**

5 34. Superior Communications incorporates by reference and re-alleges all
6 of the foregoing paragraphs of this Complaint as if fully set forth herein.

7 35. Wizgear has directly infringed, continues to infringe, and has induced
8 or contributed to the infringement of the ’954 patent by importing, making, using,
9 selling, and/or offering for sale, without authority or license the Accused Products
10 in violation of 35 U.S.C. § 271(a).

11 36. By way of example only, the Accused Products, literally and/or under
12 the doctrine of equivalents, meet all the limitations of at least claim 1 of the ’954
13 patent, which recites: A case (1) for a mobile device comprising: a body (2)
14 configured to cover the mobile device (3) and having a length and a width, the
15 length being greater than the width, the body having a top side (4) extending along
16 the width of the body, a bottom side (5) extending along the width of the body, a
17 left side extending along the length of the body, a right side extending along the
18 length of the body, and a back side, the back side having a back surface defining a
19 stand receiving portion (6); a pair of parallel tracks (7) defined by the stand
20 receiving portion and each extending in a direction from the bottom side of the
21 body towards the top side of the body; a stopper (8) on the stand receiving portion;
22 and a stand (9) configured to hold the mobile device at a viewing angle when the
23 stand is in an open position and configured to retract into the stand receiving
24 portion when the stand is in a closed position, the stand including: a sliding plate
25 (10) having a first end and a second end at the portion of the sliding plate that is
26 most distal to the first end of the sliding plate, the sliding plate configured to fit
27 within the stand receiving portion in the closed position, the first end configured to

28 ²⁷ <https://www.wizgear.com/>

1 slide within the pair of parallel tracks between the closed position and the open
2 position, the sliding plate locked into the open position by the stopper; and a
3 pivoting plate (11) having a first end and a second end at the portion of the pivoting
4 plate that is most distal to the first end of the pivoting plate, the pivoting plate
5 configured to fit within the stand receiving portion in the closed position, the first
6 end of the pivoting plate connected to the second end of the sliding plate at a hinge
7 (12), the second end of the pivoting plate connected to the body and configured to
8 pivot relative to the body; wherein the bottom side of the body and the hinge are
9 contact points for holding the mobile device at the viewing angle in a portrait-style
10 orientation, and the left side or the right side of the body and the hinge are contact
11 points for holding the mobile device at the viewing angle in a landscape-style
12 orientation.

13 37. The Accused Products are, or comprise, “a case for a mobile device
14 comprising” a number of elements.

15 38. The Accused Products comprise “a body (2) configured to cover the
16 mobile device (3).”

17 39. The Accused Products comprise “[the body (2)] having a length and a
18 width, the length being greater than the width.”

19 40. The Accused Products comprise “the body having a top side (4)
20 extending along the width of the body.”

21 41. The Accused Products comprise “[the body having] a bottom side (5)
22 extending along the width of the body.”

23 42. The Accused Products comprise “[the body having] a left side
24 extending along the length of the body.”

25 43. The Accused Products comprise “[the body having] a right side
26 extending along the length of the body.”

27 44. The Accused Products comprise “[the body having] a back side, the
28 back side having a back surface defining a stand receiving portion (6).”

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1 45. The Accused Products comprise “a pair of parallel tracks (7) defined
2 by the stand receiving portion and each extending in a direction from the bottom
3 side of the body towards the top side of the body.”

4 46. The Accused Products comprise “a stopper (8) on the stand receiving
5 portion.”

6 47. The Accused Products comprise “a stand (9) configured to hold the
7 mobile device at a viewing angle when the stand is in an open position.”

8 48. The Accused Products comprise “[a stand that is] configured to retract
9 into the stand receiving portion when the stand is in a closed position.”

10 49. The Accused Products comprise “the stand including: a sliding plate
11 (10) having a first end and a second end at the portion of the sliding plate that is
12 most distal to the first end of the sliding plate.”

13 50. The Accused Products comprise “the sliding plate configured to fit
14 within the stand receiving portion in the closed position.”

15 51. The Accused Products comprise “the first end configured to slide
16 within the pair of parallel tracks between the closed position and the open position.”

17 52. The Accused Products comprise “the sliding plate locked into the open
18 position by the stopper.”

19 53. The Accused Products comprise “a pivoting plate (11) having a first
20 end and a second end at the portion of the pivoting plate that is most distal to the
21 first end of the pivoting plate.”

22 54. The Accused Products comprise “the pivoting plate [being] configured
23 to fit within the stand receiving portion in the closed position.”

24 55. The Accused Products comprise “the first end of the pivoting plate
25 [being] connected to the second end of the sliding plate at a hinge (12).”

26 56. The Accused Products comprise “the second end of the pivoting plate
27 [being] connected to the body and configured to pivot relative to the body.”
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1 57. The Accused Products comprise “the bottom side of the body and the
2 hinge [being] contact points for holding the mobile device at the viewing angle in a
3 portrait-style orientation.”

4 58. The Accused Products comprise “the left side or the right side of the
5 body and the hinge [being] contact points for holding the mobile device at the
6 viewing angle in a landscape-style orientation.”

7 59. One example of the Accused Products is shown below with
8 corresponding reference numbers added to claim 1 as recited above and in the
9 figure below:



16 20 21 22 23 24 25 26 27 28
60. Wizgear actively, knowingly, and intentionally induces infringement of one or more claims of the '954 patent under 35 U.S.C. § 271(b) by actively encouraging others to import, make, use, sell, and/or offer to sell in the United States, the Accused Products through its website www.wizgear.com and the Amazon sites.

61. For example, Wizgear provides information and/or other materials that encourage and facilitate infringing use by others.

62. Wizgear has sold and is selling the Accused Products with the knowledge and intent that customers who buy the products will use the products for

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1 their infringing use and therefore that customers have been and are directly
2 infringing the '954 patent.

3 63. Wizgear contributes to the infringement of one or more claims of the
4 '954 patent under 35 U.S.C. § 271(c) by importing, making, using, offering to sell
5 and/or selling a component of the Accused Products that constitutes a material part
6 of the inventions, knowing the same to be especially made or especially adapted for
7 use in an infringement of the '954 patent, and is not a staple article or commodity of
8 commerce suitable for substantial noninfringing use.

9 64. On information and belief, Wizgear was aware of the '954 patent at
10 least from September 11, 2020.

11 65. On information and belief, Wizgear was aware of the '954 patent at
12 least from the date of this Complaint.

13 66. On information and belief, at least from September 11, 2020 Wizgear
14 knew that the Accused Products infringe the '954 patent and Wizgear willfully
15 infringed the '954 patent.

16 67. On information and belief, at a minimum, at least from September 11,
17 2020, Wizgear believed there was a high probability that the Accused Products
18 were covered by and infringed Superior Communications' patents including the
19 '954 patent, but willfully blinded itself to Superior Communications' patents
20 including the '954 patent and the infringing nature of the Accused Products.

21 68. The foregoing allegations are based on publicly available information
22 and a reasonable investigation of the structure and operation of the Accused
23 Products.

24 69. The infringement details provided for claim 1 of the '954 patent are
25 exemplary, and Superior Communications' intends to assert additional claims of the
26 '954 patent beyond claim 1.

27 70. Wizgear's infringement has damaged and continues to damage
28 Superior Communications in an amount yet to be determined, of at least a

1 reasonable royalty and the lost profits that Superior Communications would have
2 made but for Wizgear’s acts of infringement.

3 71. This is an exceptional case. Superior Communications is entitled to
4 attorneys’ fees and costs under 35 U.S.C. § 285 as a result of the infringement of
5 the ’954 patent by Wizgear.

6 72. Superior Communications requests a jury trial of all issues in this
7 action so triable.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Superior Communications respectfully requests:

10 A. That Judgment be entered that Wizgear has infringed one or more
11 claims of the ’954 patent, directly and indirectly, literally and/or under the doctrine
12 of equivalents;

13 B. That, in accordance with 35 U.S.C. § 283, Wizgear and all its
14 affiliates, employees, agents, officers, directors, attorneys, successors, and assigns
15 and all those acting on behalf of or in active concert or participation with any of
16 them, be preliminarily and permanently enjoined from (1) infringing the ’954 patent
17 and (2) importing, making, using, selling, and/or offering for sale the Accused
18 Products;

19 C. An award of damages sufficient to compensate Superior
20 Communications for Wizgear’s infringement under 35 U.S.C. § 284, including an
21 enhancement of damages on account of Wizgear’s egregious willful infringement;

22 D. That the case be found exceptional under 35 U.S.C. § 285 and that
23 Superior Communications be awarded its reasonable attorneys’ fees;

24 E. Costs and expenses in this action;

25 F. An award of prejudgment and post-judgment interest; and

26 G. Such other and further relief as the Court may deem just and proper.
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Dated: April 30, 2021

SNELL & WILMER L.L.P.

By: /s/ Christopher D. Bright
Christopher D. Bright
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