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10 INCASE DESIGNS, CORP.

11 UNITED STATES DISTRICT COURT  
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA

NC

13 INCASE DESIGNS, CORP.

14 Plaintiff,

15 v.

16 JWIN ELECTRONICS CORP. d/b/a/ ILUV  
17 CREATIVE TECHNOLOGIES

18 Defendant.

Case No.: **CV 13 3340**

**COMPLAINT FOR PATENT  
INFRINGEMENT AND BREACH OF  
CONTRACT**

**DEMAND FOR JURY TRIAL**

19 Plaintiff Incase Designs, Corp. ("Plaintiff" or "Incase") complains as follows:

20 **NATURE OF ACTION**

21 1. This action arises under the Patent Laws of the United States, 35 U.S.C. §§100, *et*  
22 *seq.*

23 **JURISDICTION AND VENUE**

24 2. The Court has subject matter jurisdiction of this action under 28 U.S.C. §§1331 and  
25 §1338(a) in that it arises under the United States Patent Laws.

26 3. Defendant jWIN Electronics Corporation d/b/a iLuv Creative Technologies  
27 ("Defendant" or "iLuv") is subject to this Court's specific and general personal jurisdiction  
28 because Defendants conducts extensive business in this Judicial District, has committed the acts

1 complained of in this Judicial District, and has caused injury to Plaintiff within this Judicial  
2 District by virtue of the acts of patent infringement that are described herein.

3 4. This Court also has supplemental jurisdiction over Incase's breach of contract  
4 claim pursuant to 28 U.S.C. § 1367.

5 5. Venue is proper in this Judicial District pursuant to 28 U.S.C. §1391(b), (c) and  
6 1400(b). Defendant is transacting, doing and/or soliciting business and committing acts of patent  
7 infringement in this Judicial District and elsewhere in the United States.

8 **THE PARTIES**

9 6. Incase is a global leader in the design, development, manufacture, and sale of  
10 carrying cases, bags, and covers for consumer electronics.

11 7. Upon information and belief, Defendant is a New York corporation with its  
12 principal place of business at 2 Harbor Park Drive, Port Washington, New York 11050.  
13 Defendant has been selling and offering to sell infringing tablet covers within the United States,  
14 and within this District, all without consent from Plaintiff. Defendant's infringing products  
15 include, but are not necessarily limited to, the Pangborn Art Collection, Snoopy Folio, Pocket  
16 View, Pocket Agent Pro, and Diary lines.

17 **FIRST CLAIM FOR RELIEF**

18 **(Infringement of the '991 Patent)**

19 8. Plaintiff incorporates by reference and realleges each of the allegations set forth  
20 above.

21 9. On November 20, 2012, U.S. Patent No. 8,312,991 B2 (the '991 Patent), entitled  
22 Case for Electronic Tablet, was issued for the invention of a novel case for consumer electronics  
23 and the methods for the manufacture of same. Plaintiff has owned this patent throughout the  
24 period of Defendants' infringing acts and still owns this patent.

25 10. On February 14, 2013, Plaintiff provided Defendant with actual notice of the '991  
26 Patent and its infringement of same. Defendant is aware of the '991 Patent, yet it knowingly and  
27 actively induces consumers to use its infringing Pangborn Art Collection and Snoopy Folio covers  
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1 within the United States. Thus, Defendant actively induces infringement of the '991 Patent in  
2 violation of 35 U.S.C. § 271(b).

3 11. Since February 14, 2013, if not earlier, Defendant's patent infringement has been  
4 committed willfully with full knowledge of the '991 Patent.

5 12. On April 22, 2013, the parties entered into a Settlement Agreement that settled  
6 Civil Action No. 3:13-cv-00610 (the "Prior Litigation"), a suit Incase initiated against Defendant  
7 for the same patents-in-suit asserted in this Complaint.

8 13. Defendant admitted that the '991 Patent is valid in the Settlement Agreement.

9 14. Defendant admitted that the Accused Products infringe the claims of the '991  
10 Patent in the Settlement Agreement.

11 15. The Settlement Agreement granted a limited royalty bearing license to sell 1,300  
12 units within 60 days of April 22, 2013. Any inventory not sold within the 60 days (the "License  
13 Term") was to be destroyed.

14 16. Defendant has infringed and is still infringing the '991 Patent by making, selling,  
15 and using tablet covers that embody the patented invention, and Defendant will continue to do so  
16 unless enjoined by this court.

17 **SECOND CLAIM FOR RELIEF**

18 **(Infringement of the '008 Patent)**

19 17. Plaintiff incorporates by reference and realleges each of the allegations set forth in  
20 paragraphs 1-7 above.

21 18. On December 11, 2012, U.S. Patent No. 8,328,008 (the '008 Patent), entitled Case  
22 for Electronic Tablet, was issued for the invention of a novel case for consumer electronics and the  
23 methods for the manufacture of same. Plaintiff has owned this patent throughout the period of  
24 Defendants' infringing acts and still owns this patent.

25 19. On February 14, 2013, Plaintiff provided Defendant with actual notice of the '008  
26 Patent and its infringement of same. Defendant is aware of the '008 Patent, yet it knowingly and  
27 actively induces consumers to use its infringing Pangborn Art Collection, Snoopy Folio, and  
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1 Pocket View, Pocket Agent Pro, and Diary covers within the United States. Thus, Defendant  
2 actively induces infringement of the '008 Patent in violation of 35 U.S.C. § 271(b).

3 20. Since February 14, 2013, if not earlier, Defendant's patent infringement has been  
4 committed willfully with full knowledge of the '008 Patent.

5 21. On April 22, 2013, the parties entered into a Settlement Agreement that settled the  
6 Prior Litigation, a suit Incase initiated against Defendant for the same patents-in-suit asserted in  
7 this Complaint.

8 22. Defendant has admitted that the '008 Patent is valid in the Settlement Agreement.

9 23. Defendant has admitted that the Accused Products infringe the claims of the '008  
10 Patent in the Settlement Agreement.

11 24. The Settlement Agreement granted a limited royalty bearing license to sell 1,300  
12 units within 60 days of April 22, 2013. Any inventory not sold within the License Term was to be  
13 destroyed.

14 25. Defendant has infringed and is still infringing the '008 Patent by making, selling,  
15 and using tablet covers that embody the patented invention, and Defendant will continue to do so  
16 unless enjoined by this court.

17 **THIRD CLAIM FOR RELIEF**

18 **(Breach of Contract)**

19 26. Plaintiff incorporates by reference and realleges each of the allegations set forth  
20 above.

21 27. On April 22, 2013 Incase and Defendant entered into a Settlement Agreement that  
22 Defendant has now breached.

23 28. In exchange for a limited royalty bearing license for 60 days or the sale of 1,300  
24 units, whichever occurs first, and dismissal of the Prior Litigation, Defendant agreed to stop  
25 infringing the patents-in-suit, among other terms for which they are now in breach.

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1 29. Defendant agreed to “not make, sell, or offer to sell Accused Products or any  
2 colorable variation” after the end of the License Term, yet Defendant continues to offer to sell  
3 Accused Products.

4 30. Defendant agreed to prepare and serve on Incase, within ten (10) days of the end of  
5 the License Term, a certified statement confirming compliance with the Settlement Agreement;  
6 however, Defendant has not provided any such certified statement.

7 31. On information and belief, Defendant’s representations and warranties were false,  
8 accordingly Defendant breached the Settlement Agreement and Plaintiff is entitled to \$25,000 in  
9 liquidated damages.

10 32. Plaintiff has suffered irreparable harm arising from Defendant’s breach, and would  
11 not have agreed to the Settlement Agreement but for the representation and warranties that  
12 Defendant previously made.

13 33. Defendant agreed to an assessment of \$25,000 in liquidated damages if it is in  
14 breach of the Settlement Agreement.

15 34. Defendant has breached and is still in breach the Settlement Agreement and  
16 making, selling, using tablet covers that embody the patented invention, and Defendant will  
17 continue to do so unless enjoined by this court.

18 **PRAYER FOR RELIEF**

19 Therefore, Plaintiff prays for judgment:

20 1. That Defendant has infringed the ‘991 Patent and the ‘008 Patent;

21 2. That Plaintiff be awarded damages from patent infringement according to proof and  
22 ordering that such damages be multiplied up to treble their amount;

23 3. Preliminarily and permanently enjoining Defendant and all others acting in concert  
24 with Defendant from making, using, selling, or offering to sell the infringing tablet covers or any  
25 other product that infringes the ‘991 Patent or the ‘008 Patent without permission or license from  
26 Plaintiff;  
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1 4. That Defendant be ordered to deliver up to Plaintiff all products infringing the '991  
2 Patent or the '008 Patent within its ownership, possession, or control for destruction by Plaintiff  
3 or, in the alternative, that the Court award a compulsory royalty for the current and future sale of  
4 such goods;

5 5. That the Court declare this to be an exceptional case pursuant to 35 U.S.C. §285,  
6 and award reasonable attorney's fees;

7 6. That the Court award attorney's fees and costs as per the Settlement Agreement §  
8 9.2.

9 7. That the Court increase damages up to three times the amount found or assessed by  
10 the Court in Plaintiff's favor and against Defendant for its willful and deliberate infringement of  
11 the '991 and '008 Patents.

12 8. That Plaintiff be awarded its costs of suit, attorneys' fees, and pre- and post-  
13 judgment interest on any money judgment;

14 9. That Plaintiff be awarded liquidated damages in the amount of \$25,000;

15 10. For such other relief as the Court deems proper.

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Dated: July 17, 2013

Respectfully submitted,

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**JURY DEMAND**

Plaintiff demands a jury trial on all claims as to which it has a right to a jury.

Dated: July 17, 2013

Respectfully submitted,

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