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15 Attorneys for Plaintiff
 16 BLACK HILLS MEDIA LLC
 (*Additional Counsel on Following Page*)

17 UNITED STATES DISTRICT COURT
 18
 19 CENTRAL DISTRICT OF CALIFORNIA
 20
 21 WESTERN DIVISION

21 BLACK HILLS MEDIA LLC, 22 Plaintiff, 23 v. 24 PIONEER CORPORATION et al., 25 Defendants. 26 27 _____ 28) Consolidated Case) No. 13-CV-5980-SJO (PJWx))) The Honorable S. James Otero) The Honorable Patrick J. Walsh)) SECOND AMENDED COMPLAINT) FOR PATENT INFRINGEMENT))
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Attorney for Plaintiff
BLACK HILLS MEDIA LLC

1 Plaintiff Black Hills Media, LLC (“Black Hills” or “Plaintiff”), for its Second
2 Amended Complaint against Pioneer Corporation and Pioneer Electronics (USA) Inc.
3 (“Defendants”), states and alleges as follows:
4

5 **THE PARTIES**

6 1. Plaintiff Black Hills Media, LLC, is a Delaware limited liability company
7 having its principal place of business at 1000 N. West St., Suite 1200, Wilmington,
8 Delaware 19801.
9

10 2. Upon information and belief, Defendant Pioneer Corporation is a Japanese
11 corporation with its principal place of business at 1-1 Shin-ogura, Saiwai-ku,
12 Kawasaki-shi, Kanagawa 212-0031, Japan.
13

14 3. Upon information and belief, Defendant Pioneer Electronics (USA) Inc. is
15 a Delaware corporation with its principal place of business at 2265 E. 220th Street, Long
16 Beach, California 90810.
17

18 **JURISDICTION AND VENUE**

19 4. This is an action for patent infringement under the patent laws of the
20 United States, Title 35, United States Code, specifically §§ 271 and 281-285. This
21 Court has subject matter jurisdiction under Title 28 United States Code §§ 1331 and
22 1338(a).
23

24 5. Venue is properly within the district under Title 28 United States Code §§
25 1391(b) and (c) and 1400(b). On information and belief, Defendants have purposely
26 transacted business involving their accused products in this judicial district, have
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1 committed acts of direct and/or indirect infringement in this judicial district and
2 continue to commit acts of infringement in this district.

3
4 **BACKGROUND**

5 6. Black Hills owns all of the rights and interests in United States Patent Nos.
6 8,045,952 (“the ‘952 Patent”); 8,050,652 (“the ‘652 Patent”); 6,985,694 (“the ‘694
7 Patent”); 6,108,686 (“the ‘686 Patent”); 8,230,099 (“the ‘099 Patent”); 8,214,873 (“the
8 ‘873 Patent”); and 8,458,356 (“the ‘356 Patent”) (collectively, the “Patents in Suit”).
9

10 7. The ‘952 Patent entitled “Method and Device for Obtaining Playlist
11 Content Over a Network” was duly and legally issued by the United States Patent and
12 Trademark Office on October 25, 2011, after full and fair examination. A copy of the
13 ‘952 Patent is attached as Exhibit A.
14
15

16 8. The ‘652 Patent entitled “Method and Device for an Internet Radio
17 Capable of Obtaining a Playlist Content From a Content Server” was duly and legally
18 issued by the United States Patent and Trademark Office on November 1, 2011, after
19 full and fair examination. A copy of the ‘652 Patent is attached as Exhibit B.
20

21 9. The ‘694 Patent entitled “Method and System for Providing an Audio
22 Element Cache in a Customized Personal Radio Broadcast” was duly and legally issued
23 by the United States Patent and Trademark Office on January 10, 2006, after full and
24 fair examination. A copy of the ‘694 Patent is attached as Exhibit C.
25

26 10. The ‘686 Patent entitled “Agent-Based On-Line Information Retrieval and
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28

1 Viewing System” was duly and legally issued by the United States Patent and
2 Trademark Office on August 22, 2000. A copy of the ‘686 Patent is attached as Exhibit
3
4 D.

5 11. The ‘099 Patent entitled “System and Method for Sharing Playlists” was
6 duly and legally issued by the United States Patent and Trademark Office on July 24,
7
8 2012. A copy of the ‘099 Patent is attached as Exhibit E.

9 12. The ‘873 Patent entitled “Method, System, and Computer-Readable
10 Medium for Employing a First Device to Direct a Networked Audio Device to Render a
11
12 Playlist” was duly and legally issued by the United States Patent and Trademark Office
13 on July 3, 2012. A copy of the ‘873 Patent is attached as Exhibit F.

14 13. The ‘356 Patent entitled “System and Method for Sharing Playlists” was
15 duly and legally issued by the United States Patent and Trademark Office on June 4,
16
17 2013. A copy of the ‘356 Patent is attached as Exhibit G.

18 14. Defendants sell and distribute, including upon information and belief
19
20 within the Central District of California, at least the following AV receivers, AV
21 receivers-Elite line, networked Blu-ray players, and home theater systems: VSX-1122-
22
23 K, VSX-1121-K, VSX-1022-K, VSX-1021-K, VSX-822-K, VSX-920-K, VSX-921-K,
24 VSX-60, VSX-53, VSX-52, VSX-51, VSX-50, VSX-42, SC-68, SC-67, SC-65, SC-63,
25 SC-61, SC-57, SC-55, BDP-430, BDP-330, BDP-140, BDP-53FD, BDP-43FD, BDP-
26
27 33FD, BDP-52FD, BDP-41FD, BDP-31FD, BDP-150, SC-1222-K, SC-1522-K, HTZ-

1 BD32, and HTZ-BD51 (the “accused products”).

2 **COUNT I**

3 **INFRINGEMENT OF THE ‘952 PATENT**

4
5 15. Plaintiff incorporates each of the preceding paragraphs 1 - 14 as if fully set
6 forth herein.

7
8 16. Defendants are directly or indirectly infringing at least claim 9 of the ‘952
9 Patent literally, or under the doctrine of equivalents, by importing into the United
10 States, and/or making, using, selling, or offering for sale in the United States, including
11 the Central District of California, products embodying the patented inventions claimed
12 in the ‘952 Patent without authority, including but not limited to the products identified
13 in preceding paragraph 14, or by contributing to or inducing infringement of the ‘952
14 Patent by a third party.
15
16

17 17. Upon information and belief, after becoming aware of the ‘952 Patent and
18 their infringement thereof, Defendants have intended, and continue to intend, to induce
19 third party infringement of the ‘952 Patent and have knowledge that the inducing acts
20 would cause infringement or have been willfully blind to the possibility that their
21 inducing acts would cause infringement.
22
23

24 18. Black Hills filed its Original Complaint on May 22, 2012. Shortly
25 thereafter, Black Hills made Defendants aware of the ‘952 Patent through discussions
26 with Defendants’ counsel. Additionally, upon information and belief, Defendants have
27
28

1 been aware of, and continue to be aware of, the '952 Patent since at least September 12,
2 2012, and September 14, 2012 respectively, when Black Hills served on Defendants its
3 First Amended Complaint alleging Defendants infringe the '952 Patent. Furthermore,
4 on December 21, 2012 Defendants filed their Answer to Black Hills First Amended
5 Complaint, evidencing their knowledge of the '952 Patent. Subsequently, on August 2,
6 2013, Defendants filed their Motion for Judgment on the Pleadings acknowledging their
7 knowledge of the '952 Patent. Finally, Defendants were provided a copy of Black
8 Hills' proposed Second Amended Complaint alleging infringement of *inter alia* the
9 '952 Patent on October 10, 2013.
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13 19. Defendants' inducement of infringement of the '952 Patent includes, but is
14 not limited to, actively encouraging and instructing third parties to use Defendants'
15 products in ways that infringe the '952 Patent. Defendants ship the accused products
16 with pre-loaded streaming services (including Internet music subscription services)
17 and/or provides advertising and detailed instructions (i.e., teaching) to third parties
18 (e.g., at the Defendants' website and/or in product manuals and supplements) on how to
19 obtain and use streaming services and other functions with the accused products. Users
20 of Defendants' products, therefore, will infringe the '952 Patent.
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22
23

24 20. Examples of such instructions can be found in the following link to the
25 Defendants' website and the attached Exhibit H:

- 26 • <http://www.pioneerelectronics.com/PUSA/Home/AV->
27
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1 into the United States, and/or making, using, selling, or offering for sale in the United
2 States, including the Central district of California, products embodying the patented
3 inventions claimed in the '652 Patent without authority, including but not limited to the
4 products identified in preceding paragraph 14, or by contributing to or inducing
5 infringement of the '652 Patent by a third party.
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8 25. Upon information and belief, after becoming aware of the '652 Patent and
9 their infringement thereof, Defendants have intended, and continue to intend, to induce
10 third party infringement of the '652 Patent and have knowledge that the inducing acts
11 would cause infringement or have been willfully blind to the possibility that their
12 inducing acts would cause infringement.
13

14 26. Black Hills filed its Original Complaint on May 22, 2012. Shortly
15 thereafter, Black Hills made Defendants aware of the '652 Patent through discussions
16 with Defendants' counsel. Additionally, upon information and belief, Defendants have
17 been aware of, and continue to be aware of, the '652 Patent since at least September 12,
18 2012, and September 14, 2012 respectively, when Black Hills served on Defendants its
19 First Amended Complaint alleging Defendants infringe the '652 Patent. Furthermore,
20 on December 21, 2012 Defendants filed their Answer to Black Hills' First Amended
21 Complaint, evidencing their knowledge of the '652 Patent. Subsequently, on August 2,
22 2013, Defendants filed their Motion for Judgment on the Pleadings acknowledging their
23 knowledge of the '652 Patent. Finally, Defendants were provided a copy of Black
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1 Hills' proposed Second Amended Complaint alleging infringement of *inter alia* the
2 '652 Patent on October 10, 2013.

3
4 27. Defendants' inducement of infringement of the '652 Patent includes, but is
5 not limited to, actively encouraging and instructing third parties to use Defendants'
6 products in ways that infringe the '652 Patent. Defendants ship the accused products
7 with pre-loaded streaming services (including Internet music subscription services)
8 and/or provide advertising and detailed instructions (i.e., teaching) to third parties (e.g.,
9 at the Defendants' website and/or in product manuals or supplements) on how to obtain
10 and use streaming services and other functions with the accused products. Users of
11 Defendants' products, therefore, will infringe the '652 Patent.

12
13 28. Examples of such instructions can be found in the following link to the
14 Defendants' website and the attached Exhibit H:

- 15
16
17 • <http://www.pioneerelectronics.com/PUSA/Home/AV->
18 [Receivers/Elite+Receivers/SC-57](http://www.pioneerelectronics.com/PUSA/Home/AV-). (See the "Overview" and "Specifications"
19 tabs. Under the "Specifications" tab, expand "Handheld and Internet.")
20
21 • <http://itunes.apple.com/us/app/iconcontrolav2/id418081365?mt=8>
22
23 • <http://itunes.apple.com/us/app/iconcontrolav2012/id499185618?mt=8>

24 The links above show the Defendants encouraging and instructing their customers how
25 to add additional functionality to the purchased devices by obtaining and using
26 applications that make the user of the device a direct infringer of claims of the '652
27

1 Patent.

2 29. Defendants knew that their encouragement and instructions to third parties
3 results in infringement of the '652 Patent. Defendants are thus liable for inducing
4 infringement of the '652 Patent pursuant to 35 U.S.C. 271(b).
5

6 30. The infringement by the Defendants of the '652 Patent has injured Black
7 Hills and will cause Black Hills added irreparable injury and damage in the future
8 unless Defendants are enjoined from infringing the '652 Patent.
9

10 **COUNT III**

11 **INFRINGEMENT OF THE '694 PATENT**

12 31. Plaintiff incorporates each of the preceding paragraphs 1 - 30 as if fully set
13 forth herein.
14

15 32. Defendants are directly or indirectly infringing at least claim 1 of the '694
16 Patent literally, or under the doctrine of equivalents, by importing into the United
17 States, and/or making, using, selling, or offering for sale in the United States, including
18 the Central District of California, products embodying the patented inventions claimed
19 in the '694 Patent without authority, including but not limited to the products identified
20 in preceding paragraph 14, or by contributing to or inducing infringement of the '694
21 Patent by a third party.
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25 33. Upon information and belief, after becoming aware of the '694 Patent and
26 their infringement thereof, Defendants have intended, and continue to intend, to induce
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1 third party infringement of the '694 Patent and have knowledge that the inducing acts
2 would cause infringement or have been willfully blind to the possibility that their
3 inducing acts would cause infringement.
4

5 34. Black Hills filed its Original Complaint on May 22, 2012. Shortly
6 thereafter, Black Hills made Defendants aware of the '694 Patent through discussions
7 with Defendants' counsel. Additionally, upon information and belief, Defendants have
8 been aware of, and continue to be aware of, the '694 Patent since at least September 12,
9 2012, and September 14, 2012 respectively, when Black Hills served on Defendants its
10 First Amended Complaint alleging Defendants infringe the '694 Patent. Furthermore,
11 on December 21, 2012 Defendants filed their Answer to Black Hills' First Amended
12 Complaint, evidencing their knowledge of the '694 Patent. Subsequently, on August 2,
13 2013, Defendants filed their Motion for Judgment on the Pleadings acknowledging their
14 knowledge of the '694 Patent. Finally, Defendants were provided a copy of Black
15 Hills' proposed Second Amended Complaint alleging infringement of *inter alia* the
16 '694 Patent on October 10, 2013.
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21 35. Defendants' inducement of infringement of the '694 Patent includes, but is
22 not limited to, actively encouraging and instructing third parties to use Defendants'
23 products in ways that infringe the '694 Patent. Defendants ship the accused products
24 with pre-loaded streaming services (including Internet music subscription services)
25 and/or provides advertising and detailed instructions (i.e., teaching) to third parties
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1 (e.g., at the Defendant’s website and/or in product manuals and supplements) on how to
2 obtain and use streaming services and other functions with the accused products. Users
3 of Defendants’ products, therefore, will infringe the ‘694 Patent.
4

5 36. Examples of such instructions can be found in the following link to the
6 Defendants’ website and the attached Exhibit H:
7

- 8 • [http://itunes.apple.com/us/app/icontrlav2/id418081365?mt=8](http://www.pioneerelectronics.com/PUSA/Home/AV-
9 <u>Receivers/Elite+Receivers/SC-57</u>. (See the “Overview” and “Specifications”
10 tabs. Under the “Specifications” tab, expand “Handheld and Internet.”)
1112 • <a href=)
- 13 • <http://itunes.apple.com/us/app/icontrlav2012/id499185618?mt=8>
14

15 The links above show the Defendants encouraging and instructing their customers how
16 to add additional functionality to the purchased devices by obtaining and using
17 applications that make the user of the device a direct infringer of claims of the ‘694
18 Patent.
19

20 37. Defendants knew that their encouragement and instructions to third parties
21 results in infringement of the ‘694 Patent. Defendants are thus liable for inducing
22 infringement of the ‘694 Patent pursuant to 35 U.S.C. 271(b).
23

24 38. The infringement by the Defendants of the ‘694 Patent has injured Black
25 Hills and will cause Black Hills added irreparable injury and damage in the future
26 unless Defendants are enjoined from infringing the ‘694 Patent.
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COUNT IV

INFRINGEMENT OF THE '686 PATENT

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4 39. Plaintiff incorporates each of the preceding paragraphs 1 - 38 as if fully set
5 forth herein.

6 40. Defendants are directly or indirectly infringing at least claims 1, 20, and 29
7 of the '686 Patent literally, or under the doctrine of equivalents, by importing into the
8 United States, and/or making, using, selling, or offering for sale in the United States,
9 including the Central District of California, products embodying the patented
10 inventions claimed in the '686 Patent without authority, including but not limited to the
11 products identified in preceding paragraph 14, or by contributing to or inducing
12 infringement of the '686 Patent by a third party.
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16 41. Upon information and belief, after becoming aware of the '686 Patent and
17 its infringement thereof, Defendants have intended, and continued to intend, to induce
18 third party infringement of the '686 Patent and have knowledge that the inducing acts
19 would cause infringement or have been willfully blind to the possibility that their
20 inducing acts would cause infringement.
21

22 42. Upon information and belief, Defendants have been aware of, and continue
23 to be aware of, the '686 Patent since at least September 12, 2012, and September 14,
24 2012 respectively, when Black Hills served on Defendants its First Amended
25 Complaint alleging Defendants infringe the '686 Patent. In addition, on December 21,
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28

1 2012 Defendants filed their Answer to Black Hills' First Amended Complaint,
2 evidencing their knowledge of the '686 Patent. Subsequently, on August 2, 2013,
3 Defendants filed their Motion for Judgment on the Pleadings acknowledging their
4 knowledge of the '686 Patent. Finally, Defendants were provided a copy of Black
5 Hills' proposed Second Amended Complaint alleging infringement of *inter alia* the
6 '686 Patent on October 10, 2013.
7

9 43. Defendants' inducement of infringement of the '686 Patent includes, but is
10 not limited to, actively encouraging and instructing third parties to use Defendants'
11 products in ways that infringe the '686 Patent. Defendants ship the accused products
12 with pre-loaded streaming services (including Internet music subscription services)
13 and/or provide advertising and detailed instructions (i.e., teaching) to third parties (e.g.,
14 at the Defendants' website and/or in product manuals and supplements) on how to
15 obtain and use streaming services and other functions with the accused products. Users
16 of Defendants' products, therefore, will infringe the '686 Patent.
17
18

20 44. Examples of such instructions can be found in the following link to the
21 Defendants' website and the attached Exhibit H:
22

- 23 • [http://www.pioneerelectronics.com/PUSA/Home/AV-
25 Receivers/Elite+Receivers/SC-57](http://www.pioneerelectronics.com/PUSA/Home/AV-
24 Receivers/Elite+Receivers/SC-57). (See the "Overview" and "Specifications"
26 tabs. Under the "Specifications" tab, expand "Handheld and Internet.")
- 27 • <http://itunes.apple.com/us/app/icontrlav2/id418081365?mt=8>

- <http://itunes.apple.com/us/app/iconcontrolav2012/id499185618?mt=8>

The links above show the Defendants encouraging and instructing their customers how to add additional functionality to the purchased devices by obtaining and using applications that make the user of the device a direct infringer of claims of the '686 Patent.

45. Defendants knew that their encouragement and instructions to third parties results in infringement of the '686 Patent. Defendants are thus liable for inducing infringement of the '686 Patent pursuant to 35 U.S.C. § 271(b).

46. The infringement by the Defendants of the '686 Patent has injured Black Hills and will cause Black Hills added irreparable injury and damage in the future unless Defendants are enjoined from infringing the '686 Patent.

COUNT V

INFRINGEMENT OF THE '099 PATENT

47. Plaintiff incorporates each of the preceding paragraphs 1 - 46 as if fully set forth herein.

48. Defendants are directly or indirectly infringing at least claims 11 and 12 of the '099 Patent literally, or under the doctrine of equivalents, by importing into the United States, and/or making, using, selling, or offering for sale in the United States, including the Central District of California, products embodying the patented inventions claimed in the '099 Patent without authority, including but not limited to the

1 products identified in preceding paragraph 14, or by contributing to or inducing
2 infringement of the '099 Patent by a third party.
3

4 49. Upon information and belief, after becoming aware of the '099 Patent and
5 its infringement thereof, Defendants have intended, and continue to intend, to induce
6 third party infringement of the '099 Patent and have knowledge that the inducing acts
7 would cause infringement or has been willfully blind to the possibility that their
8 inducing acts would cause infringement.
9

10 50. Upon information and belief, Defendants have been aware of, and continue
11 to be aware of, the '099 Patent since at least September 12, 2012, and September 14,
12 2012 respectively, when Black Hills served on Defendants its First Amended
13 Complaint alleging Defendants infringe the '099 Patent. In addition, on December 21,
14 2012 Defendants filed their Answer to Black Hills' First Amended Complaint,
15 evidencing their knowledge of the '099 Patent. Subsequently, on August 2, 2013,
16 Defendants filed their Motion for Judgment on the Pleadings acknowledging their
17 knowledge of the '099 Patent. Finally, Defendants were provided a copy of Black
18 Hills' proposed Second Amended Complaint alleging infringement of *inter alia* the
19 '099 Patent on October 10, 2013.
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24 51. Defendants' inducement of infringement of the '099 Patent includes, but is
25 not limited to, actively encouraging and instructing third parties to use Defendants'
26 products in ways that infringe the '099 Patent. Defendants ship the accused products
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1 with pre-loaded software and services (including Internet music subscription services)
2 and/or provides advertising and detailed instructions (i.e., teaching) to third parties
3 (e.g., at the Defendants’ website and/or in product manuals and supplements) on how to
4 obtain and use streaming services and other functions with the accused products. Users
5 of Defendants’ products, therefore, will infringe the ‘099 Patent.
6
7

8 52. Examples of such instructions can be found in the following link to the
9 Defendants’ website and the attached Exhibit H:

- 10 • <http://www.pioneerelectronics.com/PUSA/Home/AV->
11 [Receivers/Elite+Receivers/SC-57](http://www.pioneerelectronics.com/PUSA/Home/AV-). (See the “Overview” and “Specifications”
12 tabs. Under the “Specifications” tab, expand “Handheld and Internet.”)
13
- 14 • <http://itunes.apple.com/us/app/icontrlav2/id418081365?mt=8>
15
- 16 • <http://itunes.apple.com/us/app/icontrlav2012/id499185618?mt=8>
17

18 The links above show the Defendants encouraging and instructing their customers how
19 to add additional functionality to the purchased devices by obtaining and using
20 applications that make the user of the device a direct infringer of claims of the ‘099
21 Patent.
22

23 53. Defendants knew that their encouragement and instructions to third parties
24 results in infringement of the ‘099 Patent. Defendants are thus liable for inducing
25 infringement of the ‘099 Patent pursuant to 35 U.S.C. § 271(b).
26

27 54. The infringement by the Defendants of the ‘099 Patent has injured Black
28

1 Hills and will cause Black Hills added irreparable injury and damage in the future
2 unless Defendants are enjoined from infringing the '099 Patent.
3

4 **COUNT VI**

5 **INFRINGEMENT OF THE '873 PATENT**

6 55. Plaintiff incorporates each of the preceding paragraphs 1 - 54 as if fully set
7 forth herein.
8

9 56. Defendants are directly or indirectly infringing at least claim 1 of the '873
10 Patent literally, or under the doctrine of equivalents, by importing into the United
11 States, and/or making, using, selling, or offering for sale in the United States, including
12 the Central District of California, products embodying the patented inventions claimed
13 in the '873 Patent without authority, including but not limited to the products identified
14 in preceding paragraph 14, or by contributing to or inducing infringement of the '873
15 Patent by a third party.
16
17

18 57. Upon information and belief, after becoming aware of the '873 Patent and
19 their infringement thereof, Defendants have intended, and continues to intend, to induce
20 third party infringement of the '873 Patent and have knowledge that the inducing acts
21 would cause infringement or has been willfully blind to the possibility that its inducing
22 acts would cause infringement.
23
24

25 58. Upon information and belief, Defendants have been aware of, and continue
26 to be aware of, the '873 Patent since at least September 12, 2012, and September 14,
27
28

1 2012 respectively, when Black Hills served on Defendants its First Amended
2 Complaint alleging Defendants infringe the ‘873 Patent. In addition, on December 21,
3
4 2012 Defendants filed their Answer to Black Hills’ First Amended Complaint,
5 evidencing their knowledge of the ‘873 Patent. Subsequently, on August 2, 2013,
6 Defendants filed their Motion for Judgment on the Pleadings acknowledging their
7
8 knowledge of the ‘873 Patent. Finally, Defendants were provided a copy of Black
9 Hills’ proposed Second Amended Complaint alleging infringement of *inter alia* the
10 ‘873 Patent on October 10, 2013.
11

12 59. Defendants’ inducement of infringement of the ‘873 Patent includes, but is
13 not limited to, actively encouraging and instructing third parties to use Defendants’
14 products in ways that infringe the ‘873 Patent. Defendants ship the accused products
15 with pre-loaded software and services (including Internet music subscription services)
16 and/or provide advertising and detailed instructions (i.e., teaching) to third parties (e.g.,
17 at the Defendants’ website and/or in product manuals and supplements) on how to
18 obtain and use streaming services and other functions with the accused products. Users
19 of Defendants’ products, therefore, will infringe the ‘873 Patent.
20
21

22 60. Examples of such instructions can be found in the following link to the
23 Defendants’ website and the attached Exhibit H:
24

- 25 • [http://www.pioneerelectronics.com/PUSA/Home/AV-
27 Receivers/Elite+Receivers/SC-57](http://www.pioneerelectronics.com/PUSA/Home/AV-
26 Receivers/Elite+Receivers/SC-57). (See the “Overview” and “Specifications”
28

1 tabs. Under the “Specifications” tab, expand “Handheld and Internet.”)

- 2
- 3 • <http://itunes.apple.com/us/app/iconcontrolav2/id418081365?mt=8>
 - 4 • <http://itunes.apple.com/us/app/iconcontrolav2012/id499185618?mt=8>

5 The links above show the Defendants’ encouraging and instructing their customers how
6 to add additional functionality to the purchased devices by obtaining and using
7 applications that make the user of the device a direct infringer of claims of the ‘873
8 Patent.
9

10 61. Defendants knew that their encouragement and instructions to third parties
11 results in infringement of the ‘873 Patent. Defendants are thus liable for inducing
12 infringement of the ‘873 Patent pursuant to 35 U.S.C. 271(b).
13

14 62. The infringement by the Defendants of the ‘873 Patent has injured Black
15 Hills and will cause Black Hills added irreparable injury and damage in the future
16 unless Defendants are enjoined from infringing the ‘873 Patent.
17

18 **COUNT VII**

19 **INFRINGEMENT OF THE ‘356 PATENT**

20 63. Plaintiff incorporates each of the preceding paragraphs 1 - 62 as if fully set
21 forth herein.
22

23 64. Defendants are directly or indirectly infringing at least claim 1 of the ‘356
24 Patent literally, or under the doctrine of equivalents, by importing into the United
25 States, and/or making, using, selling, or offering for sale in the United States, including
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1 the Central District of California, products embodying the patented inventions claimed
2 in the '356 Patent without authority, including but not limited to the products identified
3 in preceding paragraph 14 or by contributing to or inducing infringement of the '356
4 Patent by a third party.
5

6 65. Upon information and belief, after becoming aware of the '356 Patent and
7 their infringement thereof, Defendants have intended, and continue to intend, to induce
8 third party infringement of the '356 Patent and have knowledge that the inducing acts
9 would cause infringement or have been willfully blind to the possibility that its
10 inducing acts would cause infringement.
11
12

13 66. Upon information and belief, Defendants are aware of the '356 Patent
14 since at the earliest, June 4, 2013, and at the latest October 10, 2013. Defendants were
15 sued for patent infringement of the '873 Patent on May 22, 2012, and served with such
16 Complaint on September 12, 2012 and September 14, 2012 respectively. The '356
17 Patent is related to the '873 Patent. Thus, upon information and belief, Defendants
18 would have been aware of the '356 Patent after it issued on June 4, 2013.
19 Alternatively, Defendants received a copy of this Complaint on October 10, 2013 via
20 email, therefore, have been aware of the '356 Patent since at the latest that date.
21 Additionally, on October 10, 2013 Defendants received a copy of this Complaint via
22 the Central District of California's Electronic Court Filing system.
23
24
25

26 67. Defendants' inducement of infringement of the '356 Patent includes, but is
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28

1 not limited to, actively encouraging and instructing third parties to use Defendants’
2 products in ways that infringe the ‘356 Patent. Defendants ship the accused products
3 with pre-loaded software and services (including Internet music subscription services)
4 and/or provide advertising and detailed instructions (i.e., teaching) to third parties (e.g.,
5 at the Defendants’ website and/or in product manuals and supplements) on how to
6 obtain and use streaming services and other functions with the accused products. Users
7 of Defendants’ products, therefore, will infringe the ‘356 Patent.
8
9

10 68. Examples of such advertising and detailed instructions can be found in the
11 following links to the Defendants’ website and the attached Exhibit H:
12

- 13 • <http://www.pioneerelectronics.com/PUSA/Home/AV->
14 [Receivers/Elite+Receivers/SC-57](http://www.pioneerelectronics.com/PUSA/Home/AV-). (See the “Overview” and “Specifications”
15 tabs. Under the “Specifications” tab, expand “Handheld and Internet.”)
16
- 17 • <http://itunes.apple.com/us/app/iconcontrolav2/id418081365?mt=8>
18
- 19 • <http://itunes.apple.com/us/app/iconcontrolav2012/id499185618?mt=8>
20

21 The links above show the Defendants encouraging and instructing their customers how
22 to add additional functionality to the purchased devices by obtaining and using
23 applications that make the user of the device a direct infringer of claims of the ‘356
24 Patent.

25 69. Defendant knew that its encouragement and instructions to third parties
26 results in infringement of the ‘356 Patent. Defendants are thus liable for inducing
27

1 awarded;

2 f. That Black Hills be awarded its costs and attorneys' fees; and

3 g. That Black Hills be awarded such other and further relief as the Court may
4
5 deem just and equitable.

6 **DEMAND FOR TRIAL BY JURY**

7
8 Black Hills respectfully demands a trial by jury pursuant to Rule 38 of the
9 Federal Rules of Civil Procedure on any and all issues so triable.

10 Respectfully submitted,

11
12 Dated: October 10, 2013

HAYES MESSINA GILMAN & HAYES, LLC

13 By: /s/Robert R. Gilman
14 Robert R. Gilman

15
16 Pursuant to C.D. Cal. L.R. 5-4.3.4, I hereby certify that the signatory listed
17 above, Robert R. Gilman, on whose behalf this is submitted, authorized me to affix his
18 signature to this pleading.

19
20 Dated: October 10, 2013

LAPPLE IP LAW, P.C.
21 /s/Ha Tran Lapple
22 Ha Tran Lapple