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

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

20	BLACK HILLS MEDIA LLC,) Consolidated Case
21	Plaintiff,) No. 13-CV-6055-SJO (PJWx)
22)
23	v.) The Honorable S. James Otero
24	LOGITECH, INC.,) The Honorable Patrick J. Walsh
25	Defendant.)
26) SECOND AMENDED COMPLAINT
) FOR PATENT INFRINGEMENT
)

1 JONATHAN R. DEBLOIS (*Pro Hac Vice*)
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Attorneys for Plaintiff
BLACK HILLS MEDIA LLC

1 Plaintiff Black Hills Media, LLC (“Black Hills” or “Plaintiff”), for its Second
2 Amended Complaint against Logitech Inc (“Defendant”), states and alleges as follows:
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4 **THE PARTIES**

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

9 2. Upon information and belief, Defendant Logitech Inc. is a California
10 corporation with its principal place of business at 6505 Kaiser Drive, Fremont,
11 California 94555 and/or 7600 Gate Blvd., Newark, California 94560.
12

13 **JURISDICTION AND VENUE**

14 3. This is an action for patent infringement under the patent laws of the
15 United States, Title 35, United States Code, specifically §§ 271 and 281-285. This
16 Court has subject matter jurisdiction under Title 28 United States Code §§ 1331 and
17 1338(a).
18

19 4. Venue is properly within the district under Title 28 United States Code §§
20 1391(b) and (c) and 1400(b). On information and belief, Defendant has purposely
21 transacted business involving its accused products in this judicial district, has
22 committed acts of direct and/or indirect infringement in this judicial district, has
23 committed acts of direct and/or indirect infringement in this judicial district and
24 continues to commit acts of infringement in this district.
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BACKGROUND

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

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

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

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

9. The ‘686 Patent entitled “Agent-Based On-Line Information Retrieval and Viewing System” was duly and legally issued by the United States Patent and Trademark Office on August 22, 2000. A copy of the ‘686 Patent is attached as Exhibit D.

1 Patent literally, or under the doctrine of equivalents, by importing into the United
2 States, or making, using, selling, or offering for sale in the United States, including the
3 Central District of California, products embodying the patented inventions claimed in
4 the '952 Patent without authority, including but not limited to the products identified in
5 preceding paragraph 13, or by contributing to or inducing infringement of the '952
6 Patent by a third party.
7
8

9 16. Upon information and belief, after becoming aware of the '952 Patent and
10 its infringement thereof, Defendant has intended, and continues to intend, to induce
11 third party infringement of the '952 Patent and has knowledge that the inducing acts
12 would cause infringement or has been willfully blind to the possibility that its inducing
13 acts would cause infringement.
14
15

16 17. Black Hills filed its Original Complaint on May 22, 2012. Shortly
17 thereafter, Black Hills made Defendant aware of the '952 Patent through discussions
18 with Defendant's counsel. Additionally, upon information and belief, Defendant has
19 been aware of, and continues to be aware of, the '952 Patent since at least September
20 19, 2012, when Black Hills served on Defendant its First Amended Complaint alleging
21 Defendant infringes the '952 Patent. Furthermore, on January 11, 2013 Defendant filed
22 its Motion to Dismiss, or in the Alternative for a More Definite Statement Under Fed.
23 R. Civ. P. 12(e), evidencing its knowledge of the '952 Patent. On the same day
24 Defendant further confirmed its knowledge of the '952 Patent by filing its Motion to
25 Transfer to United States District Court for the Central District of California.
26
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28

1 Subsequently, on July 26, 2013, Defendant answered Black Hills' First Amended
2 Complaint. Finally, Defendant was provided a copy of Black Hills' proposed Second
3 Amended Complaint alleging infringement of *inter alia* the '952 Patent on July 25,
4 2013.
5

6 18. Defendant's inducement of infringement of the '952 Patent includes, but is
7 not limited to, actively encouraging and instructing third parties to use Defendant's
8 products in ways that infringe the '952 Patent. Defendant ships the accused products
9 with pre-loaded streaming services (including Internet music subscription services)
10 and/or provides advertising and detailed instructions (i.e., teaching) to third parties
11 (e.g., at the Defendant's website and/or in product manuals and supplements) on how to
12 obtain and use streaming services and other functions with the accused products. Users
13 of Defendant's products, therefore, will infringe the '952 Patent.
14
15
16

17 19. Examples of such advertising and detailed instructions can be found in the
18 following links to the Defendant's website and the attached Exhibit H:
19

- 20 • <http://www.logitech.com/en-us/70/6432?WT.ac=psE|5570>
- 21 • <http://ue.logitech.com/en-us/wireless-speakers>
- 22 • <http://itunes.apple.com/us/app/logitech-squeezebox->
23 [controller/id431302899?mt=8](http://itunes.apple.com/us/app/logitech-squeezebox-controller/id431302899?mt=8)
- 24 • <http://www.logitech.com/assets/45893/ue-smart-radio-quick-start-guide.pdf>.
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26

27 The links above show the Defendant encouraging and instructing its customers how to
28 add additional functionality to the purchased devices by obtaining and using

1 applications that make the user of the device a direct infringer of claims of the ‘952
2 Patent.

3
4 20. Defendant knew that its encouragement and instructions to third parties
5 results in infringement of the ‘952 Patent. Defendant is thus liable for inducing
6 infringement of the ‘952 Patent pursuant to 35 U.S.C. § 271(b).

7
8 21. The infringement by the Defendant of the ‘952 Patent has injured Black
9 Hills and will cause Black Hills added irreparable injury and damage in the future
10 unless Defendant is enjoined from infringing the ‘952 Patent.

11
12 **COUNT II**

13 **INFRINGEMENT OF THE ‘652 PATENT**

14
15 22. Plaintiff incorporates each of the preceding paragraphs 1 - 21 as if fully set
16 forth herein.

17
18 23. Defendant is directly or indirectly infringing at least claims 1, 21, 42, and
19 63 of the ‘652 Patent literally, or under the doctrine of equivalents, by importing into
20 the United States, and/or making, using, selling, or offering for sale in the United
21 States, including the Central District of California, products embodying the patented
22 inventions claimed in the ‘652 Patent without authority, including but not limited to the
23 products identified in preceding paragraph 13, or by contributing to or inducing
24 infringement of the ‘652 Patent by a third party.

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27 24. Upon information and belief, after becoming aware of the ‘652 Patent and
28 its infringement thereof, Defendant has intended, and continues to intend, to induce

1 third party infringement of the '652 Patent and has knowledge that the inducing acts
2 would cause infringement or has been willfully blind to the possibility that its inducing
3 acts would cause infringement.
4

5 25. Black Hills filed its Original Complaint on May 22, 2012. Shortly
6 thereafter, Black Hills made Defendant aware of the '652 Patent through discussions
7 with Defendant's counsel. Additionally, upon information and belief, Defendant has
8 been aware of, and continues to be aware of, the '652 Patent since at least September
9 19, 2012, when Black Hills served on Defendant its First Amended Complaint alleging
10 Defendant infringes the '652 Patent. Furthermore, on January 11, 2013 Defendant
11 filed its Motion to Dismiss, or in the Alternative for a More Definite Statement Under
12 Fed. R. Civ. P. 12(e), evidencing its knowledge of the '652 Patent. On the same day
13 Defendant further confirmed its knowledge of the '652 Patent by filing its Motion to
14 Transfer to United States District Court for the Central District of California.
15 Subsequently, on July 26, 2013, Defendant answered Black Hills' First Amended
16 Complaint. Finally, Defendant was provided a copy of Black Hills' proposed Second
17 Amended Complaint alleging infringement of *inter alia* the '652 Patent on July 25,
18 2013.
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24 26. Defendant's inducement of infringement of the '652 Patent includes, but is
25 not limited to, actively encouraging and instructing third parties to use Defendant's
26 products in ways that infringe the '652 Patent. Defendant ships the accused products
27 with pre-loaded streaming services (including Internet music subscription services)
28

1 and/or provide advertising and detailed instructions (i.e., teaching) to third parties (e.g.,
2 at the Defendant's website and/or in product manuals or supplements) on how to obtain
3 and use streaming services and other functions with the accused products. Users of
4 Defendant's products, therefore, will infringe the '652 Patent.
5

6 27. Examples of such advertising and detailed instructions can be found in the
7 following link to the Defendant's website and the attached Exhibit H:
8

- 9 • <http://www.logitech.com/en-us/70/6432?WT.ac=psE|5570>
- 10 • <http://ue.logitech.com/en-us/wireless-speakers>
- 11 • <http://itunes.apple.com/us/app/logitech-squeezebox->
12 [controller/id431302899?mt=8](http://itunes.apple.com/us/app/logitech-squeezebox-controller/id431302899?mt=8)
- 13 • <http://www.logitech.com/assets/45893/ue-smart-radio-quick-start-guide.pdf>.
14
15

16 The links above show the Defendant encouraging and instructing its customers how to
17 add additional functionality to the purchased devices by obtaining and using
18 applications that make the user of the device a direct infringer of claims of the '652
19 Patent.
20

21 28. Defendant knew that its encouragement and instructions to third parties
22 results in infringement of the '652 Patent. Defendant is thus liable for inducing
23 infringement of the '652 Patent pursuant to 35 U.S.C. § 271(b).
24

25 29. The infringement by the Defendant of the '652 Patent has injured Black
26 Hills and will cause Black Hills added irreparable injury and damage in the future
27 unless Defendant is enjoined from infringing the '652 Patent.
28

1 **COUNT III**

2 **INFRINGEMENT OF THE '694 PATENT**

3
4 30. Plaintiff incorporates each of the preceding paragraphs 1 - 29 as if fully set
5 forth herein.

6 31. Defendant is directly or indirectly infringing at least claim 1 of the '694
7 Patent literally, or under the doctrine of equivalents, by importing into the United
8 States, and/or making, using, selling, or offering for sale in the United States, including
9 the Central District of California, products embodying the patented inventions claimed
10 in the '694 Patent without authority, including but not limited to the products identified
11 in preceding paragraph 13, or by contributing to or inducing infringement of the '694
12 Patent by a third party.
13
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16 32. Upon information and belief, after becoming aware of the '694 Patent and
17 its infringement thereof, Defendant has intended, and continues to intend, to induce
18 third party infringement of the '694 Patent and has knowledge that the inducing acts
19 would cause infringement or has been willfully blind to the possibility that its inducing
20 acts would cause infringement.
21

22 33. Black Hills filed its Original Complaint on May 22, 2012. Shortly
23 thereafter, Black Hills made Defendant aware of the '694 Patent through discussions
24 with Defendant's counsel. Additionally, upon information and belief, Defendant has
25 been aware of, and continues to be aware of, the '694 Patent since at least September
26 19, 2012, when Black Hills served on Defendant its First Amended Complaint alleging
27
28

1 Defendant infringes the ‘694 Patent. Furthermore, on January 11, 2013 Defendant
2 filed its Motion to Dismiss, or in the Alternative for a More Definite Statement Under
3 Fed. R. Civ. P. 12(e), evidencing its knowledge of the ‘694 Patent. On the same day
4 Defendant further confirmed its knowledge of the ‘694 Patent by filing its Motion to
5 Transfer to United States District Court for the Central District of California.
6
7 Subsequently, on July 26, 2013, Defendant answered Black Hills’ First Amended
8 Complaint. Finally, Defendant was provided a copy of Black Hills’ proposed Second
9 Amended Complaint alleging infringement of *inter alia* the ‘694 Patent on July 25,
10
11 2013.
12

13 34. Defendant’s inducement of infringement of the ‘694 Patent includes, but is
14 not limited to, actively encouraging and instructing third parties to use Defendant’s
15 products in ways that infringe the ‘694 Patent. Defendant ships 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 Defendant’s 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 Defendant’s products, therefore, will infringe the ‘694 Patent.
21
22

23
24 35. Examples of such advertising and detailed instructions can be found in the
25 following links to the Defendant’s website and the attached Exhibit H:

- 26 • <http://www.logitech.com/en-us/70/6432?WT.ac=psE|5570>
- 27 • <http://ue.logitech.com/en-us/wireless-speakers>
- 28

- 1 • [http://itunes.apple.com/us/app/logitech-squeezebox-](http://itunes.apple.com/us/app/logitech-squeezebox-controller/id431302899?mt=8)
- 2 [controller/id431302899?mt=8](http://itunes.apple.com/us/app/logitech-squeezebox-controller/id431302899?mt=8)
- 3
- 4 • <http://www.logitech.com/assets/45893/ue-smart-radio-quick-start-guide.pdf>.

5 The links above show the Defendant encouraging and instructing its customers how to
6 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 ‘694
8 Patent.
9

10 36. Defendant knew that its encouragement and instructions to third parties
11 results in infringement of the ‘694 Patent. Defendant is thus liable for inducing
12 infringement of the ‘694 Patent pursuant to 35 U.S.C. § 271(b).
13

14 37. The infringement by the Defendant of the ‘694 Patent has injured Black
15 Hills and will cause Black Hills added irreparable injury and damage in the future
16 unless Defendant is enjoined from infringing the ‘694 Patent.
17

18 **COUNT IV**

19 **INFRINGEMENT OF THE ‘686 PATENT**

20 38. Plaintiff incorporates each of the preceding paragraphs 1 - 37 as if fully set
21 forth herein.
22

23 39. Defendant is directly or indirectly infringing at least claims 1, 20, and 29
24 of the ‘686 Patent literally, or under the doctrine of equivalents, by importing into the
25 United States, and/or making, using, selling, or offering for sale in the United States,
26 including the Central District of California, products embodying the patented
27
28

1 inventions claimed in the '686 Patent without authority, including but not limited to the
2 products identified in preceding paragraph 13, or by contributing to or inducing
3 infringement of the '686 Patent by a third party.
4

5 40. Upon information and belief, after becoming aware of the '686 Patent and
6 its infringement thereof, Defendant has intended, and continued to intend, to induce
7 third party infringement of the '686 Patent and has knowledge that the inducing acts
8 would cause infringement or has been willfully blind to the possibility that its inducing
9 acts would cause infringement.
10
11

12 41. Upon information and belief, Defendant has been aware of, and continues
13 to be aware of, the '686 Patent since at least September 19, 2012, when Black Hills
14 served on Defendant its First Amended Complaint alleging Defendant infringes the
15 '686 Patent. In addition, on January 11, 2013 Defendant filed its Motion to Dismiss, or
16 in the Alternative for a More Definite Statement Under Fed. R. Civ. P. 12(e),
17 evidencing its knowledge of the '686 Patent. On the same day Defendant further
18 confirmed its knowledge of the '686 Patent by filing its Motion to Transfer to United
19 States District Court for the Central District of California. Subsequently, on July 26,
20 2013, Defendant answered Black Hills' First Amended Complaint. Finally, Defendant
21 was provided a copy of Black Hills' proposed Second Amended Complaint alleging
22 infringement of *inter alia* the '686 Patent on July 25, 2013.
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27 42. Defendant's inducement of infringement of the '686 Patent includes, but is
28 not limited to, actively encouraging and instructing third parties to use Defendant's

1 products in ways that infringe the ‘686 Patent. Defendant ships the accused products
2 with pre-loaded streaming services (including Internet music subscription services)
3 and/or provides advertising and detailed instructions (i.e., teaching) to third parties
4 (e.g., at the Defendant’s website and/or in product manuals and supplements) on how to
5 obtain and use streaming services and other functions with the accused products. Users
6 of Defendant’s products, therefore, will infringe the ‘686 Patent.
7

9 43. Examples of such advertising and detailed instructions can be found in the
10 following links to the Defendant’s website and the attached Exhibit H:
11

- 12 • <http://www.logitech.com/en-us/70/6432?WT.ac=psE|5570>
- 13 • <http://ue.logitech.com/en-us/wireless-speakers>
- 14 • <http://itunes.apple.com/us/app/logitech-squeezebox->
15 [controller/id431302899?mt=8](http://itunes.apple.com/us/app/logitech-squeezebox-controller/id431302899?mt=8)
- 16 • <http://www.logitech.com/assets/45893/ue-smart-radio-quick-start-guide.pdf>.
17

18 The links above show the Defendant encouraging and instructing its customers how to
19 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 ‘686
21 Patent.
22

24 44. Defendant knew that its encouragement and instructions to third parties
25 results in infringement of the ‘686 Patent. Defendant is thus liable for inducing
26 infringement of the ‘686 Patent pursuant to 35 U.S.C. § 271(b).
27

28 45. The infringement by the Defendant of the ‘686 Patent has injured Black

1 Hills and will cause Black Hills added irreparable injury and damage in the future
2 unless Defendant is enjoined from infringing the '686 Patent.
3

4 **COUNT V**

5 **INFRINGEMENT OF THE '099 PATENT**

6 46. Plaintiff incorporates each of the preceding paragraphs 1 - 45 as if fully set
7 forth herein.
8

9 47. Defendant is directly or indirectly infringing at least claims 11 and 12 of
10 the '099 Patent literally, or under the doctrine of equivalents, by importing into the
11 United States, and/or making, using, selling, or offering for sale in the United States,
12 including the Central District of California, products embodying the patented
13 inventions claimed in the '099 Patent without authority, including but not limited to the
14 products identified in preceding paragraph 13, or by contributing to or inducing
15 infringement of the '099 Patent by a third party.
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18 48. Upon information and belief, after becoming aware of the '099 Patent and
19 its infringement thereof, Defendant has intended, and continues to intend, to induce
20 third party infringement of the '099 Patent and has 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 49. Upon information and belief, Defendant has been aware of, and continues
26 to be aware of, the '099 Patent since at least September 19, 2012, when Black Hills
27 served its First Amended Complaint alleging Defendant infringes the '099 Patent. In
28

1 addition, on January 11, 2013 Defendant filed its Motion to Dismiss, or in the
2 Alternative for a More Definite Statement Under Fed. R. Civ. P. 12(e), evidencing its
3 knowledge of the '099 Patent. On the same day Defendant further confirmed its
4 knowledge of the '099 Patent by filing its Motion to Transfer to United States District
5 Court for the Central District of California. Subsequently, on July 26, 2013, Defendant
6 answered Black Hills' First Amended Complaint. Finally, Defendant was provided a
7 copy of Black Hills' proposed Second Amended Complaint alleging infringement of
8 *inter alia* the '099 Patent on July 25, 2013.
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10
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12 50. Defendant's inducement of infringement of the '099 Patent includes, but is
13 not limited to, actively encouraging and instructing third parties to use Defendant's
14 products in ways that infringe the '099 Patent. Defendant ships the accused products
15 with pre-loaded software and services (including Internet music subscription services)
16 and/or provides advertising and detailed instructions (i.e., teaching) to third parties
17 (e.g., at the Defendant's 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 Defendant's products, therefore, will infringe the '099 Patent.
20
21

22 51. Examples of such advertising and detailed instructions can be found in the
23 following links to the Defendant's website and the attached Exhibit H:
24

- 25 • <http://www.logitech.com/en-us/70/6432?WT.ac=psE|5570>
- 26 • <http://ue.logitech.com/en-us/wireless-speakers>
- 27 • <http://itunes.apple.com/us/app/logitech-squeezebox->
- 28

1 [controller/id431302899?mt=8](http://www.logitech.com/assets/45893/ue-smart-radio-quick-start-guide.pdf)

- 2
- 3 • <http://www.logitech.com/assets/45893/ue-smart-radio-quick-start-guide.pdf>.

4 The links above show the Defendant encouraging and instructing its customers how to
5 add additional functionality to the purchased devices by obtaining and using
6 applications that make the user of the device a direct infringer of claims of the '099
7 Patent.
8

9 52. Defendant knew that its encouragement and instructions to third parties
10 results in infringement of the '099 Patent. Defendant is thus liable for inducing
11 infringement of the '099 Patent pursuant to 35 U.S.C. § 271(b).
12

13 53. The infringement by the Defendant of the '099 Patent has injured Black
14 Hills and will cause Black Hills added irreparable injury and damage in the future
15 unless Defendant is enjoined from infringing the '099 Patent.
16

17 **COUNT VI**

18 **INFRINGEMENT OF THE '873 PATENT**

19

20 54. Plaintiff incorporates each of the preceding paragraphs 1 - 53 as if fully set
21 forth herein.

22

23 55. Defendant is directly or indirectly infringing at least claim 1 of the '873
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
26 the Central District of California, products embodying the patented inventions claimed
27 in the '873 Patent without authority, including but not limited to the products identified
28

1 in preceding paragraph 13, or by contributing to or inducing infringement of the ‘873
2 Patent by a third party.
3

4 56. Upon information and belief, after becoming aware of the ‘873 Patent and
5 its infringement thereof, Defendant has intended, and continues to intend, to induce
6 third party infringement of the ‘873 Patent and has knowledge that the inducing acts
7 would cause infringement or has been willfully blind to the possibility that its inducing
8 acts would cause infringement.
9

10 57. Upon information and belief, Defendant has been aware of, and continues
11 to be aware of, the ‘873 Patent since at least September 19, 2012, when Black Hills
12 served on Defendant its First Amended Complaint alleging Defendant infringes the
13 ‘873 Patent. In addition, on January 11, 2013 Defendant filed its Motion to Dismiss, or
14 in the Alternative for a More Definite Statement Under Fed. R. Civ. P. 12(e),
15 evidencing its knowledge of the ‘873 Patent. On the same day Defendant further
16 confirmed its knowledge of the ‘873 Patent by filing its Motion to Transfer to United
17 States District Court for the Central District of California. Subsequently, on July 26,
18 2013, Defendant answered Black Hills’ First Amended Complaint. Finally, Defendant
19 was provided a copy of Black Hills’ proposed Second Amended Complaint alleging
20 infringement of *inter alia* the ‘873 Patent on July 25, 2013.
21
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25 58. Defendant’s inducement of infringement of the ‘873 Patent includes, but is
26 not limited to, actively encouraging and instructing third parties to use Defendant’s
27 products in ways that infringe the ‘873 Patent. Defendant ships the accused products
28

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
4 (e.g., at the Defendant's website and/or in product manuals and supplements) on how to
5 obtain and use streaming services and other functions with the accused products. Users
6 of Defendant's products, therefore, will infringe the '873 Patent.
7

8 59. Examples of such advertising and detailed instructions can be found in the
9 following links to the Defendant's website and the attached Exhibit H:

- 10 • <http://www.logitech.com/en-us/70/6432?WT.ac=psE|5570>
- 11
- 12 • <http://ue.logitech.com/en-us/wireless-speakers>
- 13
- 14 • [http://itunes.apple.com/us/app/logitech-squeezebox-](http://itunes.apple.com/us/app/logitech-squeezebox-controller/id431302899?mt=8)
15 [controller/id431302899?mt=8\](http://itunes.apple.com/us/app/logitech-squeezebox-controller/id431302899?mt=8)
- 16 • <http://www.logitech.com/assets/45893/ue-smart-radio-quick-start-guide.pdf>.

17 The links above show the Defendant's encouraging and instructing its customers how to
18 add additional functionality to the purchased devices by obtaining and using
19 applications that make the user of the device a direct infringer of claims of the '873
20 Patent.
21

22 60. Defendant knew that its encouragement and instructions to third parties
23 results in infringement of the '873 Patent. Defendant is thus liable for inducing
24 infringement of the '873 Patent pursuant to 35 U.S.C. § 271(b).
25

26 61. The infringement by the Defendant of the '873 Patent has injured Black
27 Hills and will cause Black Hills added irreparable injury and damage in the future
28

1 unless Defendant is enjoined from infringing the ‘873 Patent.

2 **COUNT VII**

3 **INFRINGEMENT OF THE ‘356 PATENT**

4
5 62. Plaintiff incorporates each of the preceding paragraphs 1 - 61 as if fully set
6 forth herein.

7
8 63. Defendant is directly or indirectly infringing at least claim 1 of the ‘356
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 ‘356 Patent without authority, including but not limited to the products identified
13 in preceding paragraph 13 or by contributing to or inducing infringement of the ‘356
14 Patent by a third party.
15
16

17 64. Upon information and belief, after becoming aware of the ‘356 Patent and
18 its infringement thereof, Defendant has intended, and continues to intend, to induce
19 third party infringement of the ‘356 Patent and has knowledge that the inducing acts
20 would cause infringement or has been willfully blind to the possibility that its inducing
21 acts would cause infringement.
22
23

24 65. Upon information and belief, Defendant has been aware of, and continues
25 to be aware of, the ‘356 Patent since at least July 25, 2013, when Black Hills provided
26 Defendant a draft of this Second Amended Complaint. Additionally, the ‘356 Patent is
27 related to the ‘873 Patent. Defendant was sued for patent infringement of the ‘873
28

1 Patent on September 12, 2012, and served with such Complaint on September 19, 2012.
2 Thus, upon information and belief, Defendant would have been aware of the ‘356
3 Patent after it issued on June 4, 2013. Alternatively, upon information and belief,
4 Defendant has been aware of the ‘356 Patent since at least August 1, 2013, when Black
5 Hills filed its Motion for Leave to File Second Amended Complaint, which included as
6 Exhibit 1, a copy of Black Hills’ proposed Second Amended Complaint alleging
7 infringement of the ‘356 Patent. In addition, Defendant was notified by this Court’s
8 Electronic Court Filing system on September 24, 2013 when Judge S. James Otero
9 denied without prejudice Black Hills’ Motion for Leave to Amend its Complaint,
10 further evidencing Defendants knowledge of the ‘356 Patent.
11
12
13

14 66. Defendant’s inducement of infringement of the ‘356 Patent includes, but is
15 not limited to, actively encouraging and instructing third parties to use Defendant’s
16 products in ways that infringe the ‘356 Patent. Defendant ships the accused products
17 with pre-loaded software and services (including Internet music subscription services)
18 and/or provides advertising and detailed instructions (i.e., teaching) to third parties
19 (e.g., at the Defendant’s website and/or in product manuals and supplements) on how to
20 obtain and use streaming services and other functions with the accused products. Users
21 of Defendant’s products, therefore, will infringe the ‘356 Patent.
22
23
24

25 67. Examples of such advertising and detailed instructions can be found in the
26 following links to the Defendant’s website and the attached Exhibit H:
27

- 28 • <http://www.logitech.com/en-us/70/6432?WT.ac=psE|5570>

- 1 • <http://ue.logitech.com/en-us/wireless-speakers>
- 2 • <http://itunes.apple.com/us/app/logitech-squeezebox->
- 3 [controller/id431302899?mt=8](http://itunes.apple.com/us/app/logitech-squeezebox-controller/id431302899?mt=8)
- 4
- 5 • <http://www.logitech.com/assets/45893/ue-smart-radio-quick-start-guide.pdf>.
- 6

7 The links above show the Defendant encouraging and instructing its customers how to
8 add additional functionality to the purchased devices by obtaining and using
9 applications that make the user of the device a direct infringer of claims of the ‘356
10 Patent.
11

12 68. Defendant knew that its encouragement and instructions to third parties
13 results in infringement of the ‘356 Patent. Defendant is thus liable for inducing
14 infringement of the ‘356 Patent pursuant to 35 U.S.C. § 271(b).
15

16 69. The infringement by the Defendant of the ‘356 Patent has injured Black
17 Hills and will cause Black Hills added irreparable injury and damage in the future
18 unless Defendant is enjoined from infringing the ‘356 Patent.
19

20 **DEMANDS FOR RELIEF**

21 WHEREFORE, Black Hills respectfully requests that judgment be entered in its
22 favor and against Defendant as follows:
23

24 a. That Defendant has directly and/or indirectly infringed the ‘952, ‘652,
25 ‘694, ‘686, ‘099, ‘873 and ‘356 Patents;
26

27 b. That Defendant and its respective agents, servants, officers, directors,
28 employees, and all persons acting in concert with it, directly or indirectly, be

1 temporarily and permanently enjoined from infringement of the '952, '652, '694, '686,
2 '099, '873 and '356 Patents;

3
4 c. That Defendant be ordered to account for and pay to Black Hills the
5 damages to which Black Hills is entitled as a consequence of the infringement of the
6 '952, '652, '694, '686, '099, '873 and '356 Patents, together with pre-judgment interest
7 and costs;

8
9 d. That a post-judgment equitable accounting of damages be ordered for the
10 period of infringement of the '952, '652, '694, '686, '099, '873 and '356 Patents;

11
12 e. That all other damages permitted by Title 35 United States Code § 284 be
13 awarded;

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

15
16 g. That Black Hills be awarded such other and further relief as the Court may
17 deem just and equitable.

18
19 **DEMAND FOR TRIAL BY JURY**

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

22
23 Respectfully submitted,

24 Dated: October 10, 2013

HAYES MESSINA GILMAN & HAYES, LLC

25 By: /s/Robert R. Gilman
26 Robert R. Gilman

1 Pursuant to C.D. Cal. L.R. 5-4.3.4, I hereby certify that the signatory listed
2 above, Robert R. Gilman, on whose behalf this filing is submitted, authorized me to
3 affix his signature to this pleading.
4

5 Dated: October 10, 2013

LAPPLE IP LAW, P.C.

/s/Ha Tran Lapple

Ha Tran Lapple

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