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e.Digital Corporation

10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**

13 e.Digital Corporation,

14 Plaintiff,

15 v.

16 TOPRAM Technology Inc., aka
TOPRAM Inc.,

17 Defendant.

Case No. '13CV2940 H DHB

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

18 Plaintiff e.Digital Corporation (“e.Digital” or “Plaintiff”), by and through its
19 undersigned counsel, complains and alleges against Defendant TOPRAM
20 Technology Inc., aka TOPRAM Inc., (“TOPRAM” or “Defendant”) as follows:

21 **NATURE OF THE ACTION**

22 1. This is a civil action for infringement of a patent arising under the
23 laws of the United States relating to patents, 35 U.S.C. § 101, *et seq.*, including,
24 without limitation, § 281. Plaintiff e.Digital seeks a preliminary and permanent
25 injunction and monetary damages for the infringement of its U.S. Patent No.
26 5,839,108.

27 **JURISDICTION AND VENUE**

1 12. Upon information and belief, Defendant, without authority, has
2 actively induced infringement and continues to actively induce infringement of the
3 '108 patent in violation of 35 U.S.C. § 271(b) by causing others to directly infringe
4 the claims of the '108 patent and/or by intentionally instructing others how to use
5 the accused products in a manner that infringes the claims of the '108 patent. On
6 information and belief, Defendant has induced and continues to induce
7 infringement by instructing customers to operate the product in an infringing
8 manner and/or when Defendant tests or otherwise operates the accused products in
9 the United States.

10 13. Upon information and belief, Defendant, without authority, has
11 contributed and continues to contribute to the infringement of the '108 patent in
12 violation of 35 U.S.C. § 271(c) by importing into the United States, selling and/or
13 offering to sell within the United States accused products that (1) embody and
14 constitute a material part of the invention of the '108 patent, (2) Defendant knows
15 to be especially adapted for use in infringing the '108 patent, and (3) are not staple
16 articles of commerce suitable for substantial non-infringing use with respect to the
17 '108 patent.

18 14. Upon information and belief, certain of the products manufactured by
19 Defendant have been and/or are currently sold and/or offered for sale at, among
20 other places, the Amazon.com online store website located at
21 <http://www.amazon.com> to consumers including, but not limited to, consumers
22 located within the State of California.

23 15. Based on information and belief, Plaintiff alleges that Defendant sells,
24 ships, or otherwise delivers the accused product with all the features required to
25 infringe the asserted claims of the '108 patent. On information and belief, these
26 products are designed to practice the infringing features.

27 16. Defendant had knowledge of infringement of the '108 patent since at
28 least the filing of this complaint. On information and belief, Defendant has

1 continued to sell products that practice the '108 patent after acquiring knowledge
2 of infringement.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff prays for relief and judgment as follows:

- 5 1. That Defendant be declared to have infringed the Patent-in-Suit;
- 6 2. That Defendant, Defendant's officers, agents, servants, employees,
7 and attorneys, and those persons in active concert or participation with them, be
8 preliminarily and permanently enjoined from infringement of the Patent-in-Suit,
9 including but not limited to any making, using, offering for sale, selling, or
10 importing of unlicensed infringing products within and without the United States;
- 11 3. Compensation for all damages caused by Defendant's infringement of
12 the Patent-in-Suit to be determined at trial;
- 13 4. Enhancing Plaintiff's damages up to three (3) times their amount
14 pursuant to 35 U.S.C. § 284;
- 15 5. Granting Plaintiff pre-and post-judgment interest on its damages,
16 together with all costs and expenses; and,
- 17 6. Awarding such other relief as this Court may deem just and proper.

18 **HANDAL & ASSOCIATES**

19 Dated: December 6, 2013

20 By: /s/ Pamela C. Chalk
21 Anton N. Handal
22 Gabriel G. Hedrick
23 Pamela C. Chalk
24 Attorneys for Plaintiff
25 e.Digital Corporation
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27
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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all claims.

HANDAL & ASSOCIATES

Dated: December 6, 2013

By: /s/ Pamela C. Chalk
Anton N. Handal
Gabriel G. Hedrick
Pamela C. Chalk
Attorneys for Plaintiff
e.Digital Corporation

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document has been served on this date to all counsel of record, if any to date, who are deemed to have consented to electronic service via the Court’s CM/ECF system per CivLR 5.4(d). Any other counsel of record will be served by electronic mail, facsimile and/or overnight delivery upon their appearance in this matter.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct. Executed this 6th day of December, 2013 at San Diego, California.

HANDAL & ASSOCIATES

Dated: December 6, 2013

By: /s/ Pamela C. Chalk
Anton N. Handal
Gabriel G. Hedrick
Pamela C. Chalk
Attorneys for Plaintiff
e.Digital Corporation