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5	1200 Third Avenue, Suite 1321 San Diego, California 92101	
6	Tel: 619.544.6400 Fax: 619.696.0323	
7	Attorneys for Plaintiff	
8	e.Digital Corporation	
10		
11	UNITED STATES I	DISTRICT COURT
12	SOUTHERN DISTRI	
13	e.Digital Corporation,	Case No. <u>'13CV2940 H DHB</u>
14	Plaintiff,	COMPLAINT FOR PATENT INFRINGEMENT
15		DEMAND FOR JURY TRIAL
16	TOPRAM Technology Inc., aka TOPRAM Inc.,	
17	Defendant.	
18	Plaintiff e.Digital Corporation ("e.I	Digital" or "Plaintiff"), by and through its
19 20	undersigned counsel, complains and	alleges against Defendant TOPRAM
20 21	Technology Inc., aka TOPRAM Inc., ("TOPRAM" or "Defendant") as follows:	
21	NATURE OF 7	THE ACTION
23	1. This is a civil action for in	fringement of a patent arising under the
24		ents, 35 U.S.C. § 101, et seq., including,
25		gital seeks a preliminary and permanent
26	injunction and monetary damages for t	he infringement of its U.S. Patent No.
27	5,839,108.	
28 HANDAL & ASSOCIATES	JURISDICTION AND VENUE	
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2. This court has subject matter jurisdiction over this case for patent infringement under 28 U.S.C. §§ 1331 and 1338(a) and pursuant to the patent laws of the United States of America, 35 U.S.C. § 101, *et seq*.

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Venue properly lies within the Southern District of California 3. 4 pursuant to the provisions of 28 U.S.C. §§ 1391(b), (c), and (d) and 1400(b). On 5 information and belief. Defendant conducts substantial business directly and/or 6 through third parties or agents in this judicial district by selling and/or offering to 7 sell the infringing products and/or by conducting other business in this judicial 8 district. Furthermore, Plaintiff e.Digital is headquartered and has its principal 9 place of business in this district, engages in business in this district, and has been 10 harmed by Defendant's conduct, business transactions and sales in this district. 11

12 4. This Court has personal jurisdiction over Defendant because, on information and belief, Defendant transacts continuous and systematic business 13 14 within the State of California and the Southern District of California. In addition, this Court has personal jurisdiction over the Defendant because, on information 15 and belief, this lawsuit arises out of Defendant's infringing activities, including, 16 17 without limitation, the making, using, selling and/or offering to sell infringing products in the State of California and the Southern District of California. Finally, 18 19 this Court has personal jurisdiction over Defendant because, on information and belief, Defendant has made, used, sold and/or offered for sale its infringing 20 products and placed such infringing products in the stream of interstate commerce 21 with the expectation that such infringing products would be made, used, sold 22 and/or offered for sale within the State of California and the Southern District of 23 California. 24

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PARTIES

5. Plaintiff e.Digital is a Delaware corporation with its headquarters and
principal place of business at 16870 West Bernardo Drive, Suite 120, San Diego,
California 92127.

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-2-COMPLAINT

G. Upon information and belief, Defendant TOPRAM Technology Inc.,
 aka TOPRAM Inc., is a corporation registered and lawfully existing under the laws
 of the State of California, with an office and principal place of business located at
 34420-A Fremont Blvd, #A, Fremont, CA 94555.

THE ASSERTED PATENT

7. On November 17, 1998, the United States Patent and Trademark
Office duly and legally issued United States Patent No. 5,839,108 ("the '108 patent") entitled "Flash Memory File System In A Handheld Record And Playback
Device," to its named inventors Norbert P. Daberko and Richard K. Davis.
Plaintiff e.Digital is the assignee and owner of the entire right, title and interest in
and to the '108 patent and has the right to bring this suit for damages and other
relief. A true and correct copy of the '108 patent is attached hereto as Exhibit A.

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COUNT ONE

INFRINGEMENT OF THE '108 PATENT BY DEFENDANT

15 8. Plaintiff re-alleges and incorporates by reference each of the16 allegations set forth in paragraphs 1 through 7 above.

9. Upon information and belief, Defendant, without authority, (a) has
induced and continues to induce infringement of one or more claims of the '108
patent in violation of 35 U.S.C. § 271(b); and, (b) has contributed and continue to
contribute to the infringement of one or more claims of the '108 patent in violation
of 35 U.S.C. § 271(c).

10. The accused products for purposes of the '108 patent include but are
not limited to the Defendant's memory card products for Flash Memory Storage
including but not limited to its USB, SSD, SD, microSD, and/or Compact Flash
products. The accused products include but are not limited to Defendant's
"SDSecure Digital Card" TRSD2G.

27 11. The accused product, alone or in combination with other products,
28 practice each of the limitations of independent claim 1 of the '108 patent.

-3-COMPLAINT

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

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

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

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

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

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

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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: <u>/s/ Pamela C. Chalk</u> Anton N. Handal	
21	Gabriel G. Hedrick Pamela C. Chalk	
22	Attorneys for Plaintiff e.Digital Corporation	
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28 NDAL & ASSOCIATES		
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HANDAL

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1	DEMAND FOR JURY TRIAL
2	Plaintiff hereby demands a trial by jury on all claims.
3	HANDAL & ASSOCIATES
4	Dated: December 6, 2013
5	By: <u>/s/ Pamela C. Chalk</u> Anton N. Handal
6	Gabriel G. Hedrick Pamela C. Chalk
7	Gabriel G. Hedrick Pamela C. Chalk Attorneys for Plaintiff e.Digital Corporation
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CERTIFICATE OF SERVICE

2	The undersigned hereby certifies that a true and correct copy of the	
3	foregoing document has been served on this date to all counsel of record, if any to	
4	date, who are deemed to have consented to electronic service via the Court's	
5	CM/ECF system per CivLR 5.4(d). Any other counsel of record will be served by	
6	electronic mail, facsimile and/or overnight delivery upon their appearance in this	
7	matter.	
8	I declare under penalty of perjury of the laws of the United States that the	
9	foregoing is true and correct. Executed this 6 th day of December, 2013 at San	
10	Diego, California.	
11		
12	HANDAL & ASSOCIATES	
13	Dated: December 6, 2013 By: /s/ Pamela C. Chalk	
14	Anton N. Handal Gabriel G. Hedrick	
15	Pamela C. Chalk Attorneys for Plaintiff	
16	e.Digital Corporation	
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