

1 MATTHEW D. POWERS (Bar No. 104795)  
[matthew.powers@tensegritylawgroup.com](mailto:matthew.powers@tensegritylawgroup.com)  
2 STEVEN CHERENSKY (Bar No. 168275)  
[steven.cherensky@tensegritylawgroup.com](mailto:steven.cherensky@tensegritylawgroup.com)  
3 PAUL T. EHRLICH (Bar No. 228543)  
[paul.ehrlich@tensegritylawgroup.com](mailto:paul.ehrlich@tensegritylawgroup.com)  
4 WILLIAM P. NELSON (Bar No. 196091)  
[william.nelson@tensegritylawgroup.com](mailto:william.nelson@tensegritylawgroup.com)  
5 AZRA HADZIMEHMEDOVIC (Bar No. 239088)  
[azra@tensegritylawgroup.com](mailto:azra@tensegritylawgroup.com)  
6 ROBERT L. GERRITY (Bar No. 268084)  
[robert.gerrity@tensegritylawgroup.com](mailto:robert.gerrity@tensegritylawgroup.com)  
7 TENSEGRITY LAW GROUP, LLP  
555 Twin Dolphin Drive, Suite 360  
8 Redwood Shores, CA 94065  
Telephone: (650) 802-6000  
9 Fax: (650) 802-6001

10 *Attorneys for Plaintiff*  
11 IPLearn-Focus, LLC

12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA

14 IPLEARN-FOCUS, LLC

15 Plaintiff,

16 vs.

17 MICROSOFT CORP.

18 Defendant.  
19  
20  
21

) Case No.  
)  
) **COMPLAINT FOR PATENT**  
) **INFRINGEMENT**  
)  
) **DEMAND FOR JURY TRIAL**  
)  
)  
)  
)  
)

1 Plaintiff IPLearn-Focus LLC (“IPLearn-Focus” or “Plaintiff”), by and through its  
2 attorneys, for its Complaint for Patent Infringement against Defendant Microsoft Corporation  
3 (“Microsoft” or “Defendant”) on personal knowledge as to its own actions and on information  
4 and belief as to the actions of others, alleges as follows:

5 **THE NATURE OF THE ACTION**

6 1. This is a patent infringement action to end Microsoft’s unauthorized, willful, and  
7 infringing manufacture, use, sale, offering for sale, and/or importation of products and methods  
8 incorporating Plaintiff IPLearn-Focus’s patented inventions.

9 2. Plaintiff IPLearn-Focus holds all substantial rights and interest in the Asserted Patents  
10 described below, including the exclusive right to sue Defendant for infringement and recover  
11 damages.

12 3. Defendant makes, uses, sells, offers for sale, and imports infringing products and  
13 provides infringing services in violation of the Asserted Patents. Plaintiff IPLearn-Focus seeks  
14 monetary damages and prejudgment interest for Defendant’s infringement of the Asserted  
15 Patents.

16 4. This is an exceptional case, and IPLearn-Focus requests damages, enhanced damages,  
17 attorneys’ fees, costs, and expenses.

18 **PARTIES**

19 5. Plaintiff IPLearn-Focus is a California corporation with its principal place of business at  
20 1807 Limetree Lane, Mountain View, California 94040.

21 6. On information and belief, Defendant Microsoft Corporation is a corporation existing and  
22 organized under the laws of Washington and has its principal place of business in the State of  
23 Washington at One Microsoft Way, Redmond, Washington 98052. Microsoft Corporation is  
24 registered to do business in California, is doing business in the Northern District of California,  
25 and can be served through its registered agent for service, CSC – Lawyers Incorporating Service,  
26 located at 2710 Gateway Oaks Dr. Ste. 150N, Sacramento, California 95833.

**JURISDICTION AND VENUE**

1  
2 7. This civil action for patent infringement arises under the patent laws of the United States,  
3 Title 35 of the United States Code.

4 8. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5 9. Plaintiff IPLearn-Focus is a California corporation, is registered to do business in  
6 California, and is doing business in the Northern District of California. IPLearn-Focus has its  
7 principal place of business in the Northern District of California at 1807 Limetree Lane,  
8 Mountain View, California 94040.

9 10. Peter P. Tong, IPLearn-Focus’s President and a named inventor of each of the Asserted  
10 Patents identified below, resides in the Northern District of California.

11 11. Chi Fai Ho, the other named inventor of each of the Asserted Patents, also resides in the  
12 Northern District of California.

13 12. This Court has general and specific personal jurisdiction over Defendant Microsoft.  
14 Microsoft is registered to do business in California, and has identified CSC – Lawyers  
15 Incorporating Service, located at 2710 Gateway Oaks Dr. Ste. 150N, Sacramento, California  
16 95833 as its registered agent. Microsoft has substantial contacts with the forum as a  
17 consequence of conducting substantial business in the State of California and within this district.  
18 On information and belief, Microsoft, individually or through joint and concerted action through  
19 its operating subsidiaries: maintains retail store locations within California and this district;  
20 transacts business in California and/or in this district, including through the retail locations  
21 maintained within California and this district; offers for sale, sells, and advertises its products  
22 and services utilizing the claimed systems and methods with and for customers residing in  
23 California, including within this district; and provides products and services, including the Xbox  
24 360, Xbox 360 Kinect (a.k.a. Kinect 1), Xbox One, and Xbox One Kinect (a.k.a. Kinect 2)  
25 products and Xbox Live and Xbox Live Gold services (collectively, the “Kinect Products and  
26 Services”), directly to consumers in California, including within this district. As detailed below,  
27 Microsoft has committed and continues to commit acts of patent infringement in California and  
28 this district.

1 13. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and (c), and 1400(b) because  
2 a substantial part of the events giving rise to the claims against Microsoft occurred and are  
3 occurring in this district, and/or because Microsoft has regular and established practices of  
4 business in this district and has committed and is committing acts of infringement in this district.

5 **INTRADISTRICT ASSIGNMENT**

6 14. This is an Intellectual Property action and shall be assigned on a district-wide basis  
7 pursuant to Civil L.R. 3-2(c) and the Court's Assignment Plan.

8 **THE ASSERTED PATENTS**

9 15. On September 17, 2013, the United States Patent and Trademark Office duly and legally  
10 issued U.S. Patent No. 8,538,320 B2 ("the '320 Patent"), entitled "Learning Method and System  
11 Using Detached Sensor," to Chi Fai Ho and Peter P. Tong. A copy of the '320 Patent is attached  
12 to the Complaint as Exhibit A.

13 16. The '320 Patent is directed to systems that include one or more detached sensors  
14 configured to monitor a user and a processor configured to use measurements from the sensor(s)  
15 to determine whether to change what is presented by a display.

16 17. On September 17, 2013, the United States Patent and Trademark Office duly and legally  
17 issued U.S. Patent No. 8,538,321 B2 ("the '321 Patent"), entitled "Computing Method and  
18 System Using Detached Sensor," to Chi Fai Ho and Peter P. Tong. A copy of the '321 Patent is  
19 attached to the Complaint as Exhibit B.

20 18. The '321 Patent is directed to systems that include one or more detached sensors  
21 configured to monitor a user and a processor configured to use measurements from the sensor(s)  
22 to identify a speed of the user, to determine whether to change what is presented by a display,  
23 and/or to identify whether or not the user is paying attention to content presented by the display.

24 19. On July 2, 2013, the United States Patent and Trademark Office duly and legally issued  
25 U.S. Patent No. 8,475,174 B2 ("the '174 Patent"), entitled "Learning Method and System Using  
26 Detached Sensor," to Chi Fai Ho and Peter Tong. A copy of the '174 Patent is attached to the  
27 Complaint as Exhibit C.

1 20. The '174 Patent is directed to systems and methods that include or use one or more  
2 detached sensors configured to monitor a user and a processor configured to use measurements  
3 from the sensor(s) to help determine what materials to present to the user and/or to identify  
4 whether or not the user is paying attention to materials presented by a display.

5 21. IPLearn-Focus is the owner by assignment of all rights, title, and interest to and in  
6 the '320, '321, and '174 Patents (collectively, the "Asserted Patents"), including the exclusive  
7 right to sue Defendant for infringement and recover damages.

8 22. On November 1, 2013, IPLearn-Focus sent a letter to Defendant Microsoft's General  
9 Counsel Brad Smith notifying Microsoft of the Asserted Patents and Microsoft's infringement of  
10 the Asserted Patents, including by its Kinect Products and Services, and inviting Microsoft to  
11 discuss a licensing partnership. A copy of that letter is attached as Exhibit D.

12 23. Microsoft received IPLearn-Focus's letter, Exhibit D, on November 5, 2013.

13 24. IPLearn-Focus has not received any response from Microsoft regarding IPLearn-Focus's  
14 November 1 letter, Exhibit D.

15 25. At least by no later than the date of receipt of Exhibit D on November 5, 2013, Microsoft  
16 had actual notice of each of the Asserted Patents and actual notice that its actions constituted and  
17 continue to constitute infringement of at least one claim of each of the Asserted Patents.

18 **COUNT I: MICROSOFT'S INFRINGEMENT OF U.S. PATENT NO. 8,538,320**

19 26. IPLearn-Focus incorporates and realleges paragraphs 1 – 25 above as if fully set forth  
20 herein.

21 27. On information and belief, Microsoft has and continues to infringe one or more claims of  
22 the '320 Patent pursuant to 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by  
23 making, using, selling, and/or offering to sell in the United States without authority and/or  
24 importing into the United States without authority products, services, devices, systems, and/or  
25 components of systems that embody the patented invention, including, but not limited to, the  
26 Kinect Products and Services and hardware and software components of servers and other  
27 network infrastructure that enable and/or make use of these products and services.

1 28. On information and belief, Microsoft has induced and continues to induce infringement  
2 of the '320 Patent pursuant to 35 U.S.C. § 271(b) by encouraging its customers and other third  
3 parties to make and/or use the claimed system for monitoring a user via detached sensor(s).  
4 Such making and/or using of the claimed system for monitoring a user via detached sensor(s)  
5 constitutes infringement, literally or under the doctrine of equivalents, of one or more claims of  
6 the '320 Patent by such customers or third parties. Microsoft's acts of encouragement include:  
7 providing and intending its customers to use its Kinect Products and Services; purposefully and  
8 voluntarily placing infringing products and services including its Kinect Products and Services in  
9 the stream of commerce with the expectation that its products and services will be used by  
10 customers in the United States; providing maintenance for infringing products and services  
11 including its Kinect Products and Services; providing other components of the system that enable  
12 and/or make use of these products and services, including, *e.g.*, servers and other network  
13 infrastructure equipment; advertising infringing products and services including its Kinect  
14 Products and Services through its own and third-party websites; and providing instruction  
15 manuals, user guides, and information for infringing products including its Kinect Products and  
16 Services that promote and/or demonstrate use of the infringing products including its Kinect  
17 Products and Services in a manner that infringes one or more claims of the '320 Patent either  
18 literally or under the doctrine of equivalents. Furthermore, Microsoft has actual knowledge of  
19 how its accused products and services work, including how its accused products and services are  
20 used by its customers.

21 29. Microsoft has proceeded in this manner despite its actual knowledge of the '320 Patent  
22 and that the specific actions it actively induced on the part of its customers and other third parties  
23 constitute infringement of the '320 Patent. At the very least, because Microsoft has been and  
24 remains on notice of the '320 Patent and the accused infringement, it has been and remains  
25 willfully blind regarding the infringement it has induced and continues to induce.

26 30. On information and belief, Microsoft has contributed and continues to contribute to the  
27 infringement of the '320 Patent pursuant to 35 U.S.C. § 271(c) by, without authority, selling  
28 and/or offering to sell within the United States, importing, and/or supplying components of the

1 claimed system for monitoring a user via detached sensor(s), such as Defendant's Kinect  
2 Products and Services, including functional components of Defendant's Kinect Products and  
3 Services, and the combination of hardware and software components of servers and other  
4 network infrastructure that enable and/or make use of these products and services, wherein the  
5 system embodies the patented invention. When, for example, these products, services, and/or  
6 combined hardware and software components of servers and other network infrastructure  
7 equipment configured to monitor a user via detached sensor(s) and to determine whether to  
8 change what is presented by the display are combined with the required display, the claimed  
9 systems are made and/or used, thereby infringing, literally or under the doctrine of equivalents,  
10 one or more claims of the '320 Patent. These products, services, and combined hardware and  
11 software components of servers and other network infrastructure equipment supplied by  
12 Microsoft constitute material parts of the claimed inventions of the '320 Patent.

13 31. On information and belief, Microsoft knows, for the reasons described in detail above,  
14 that these components are especially made and/or especially adapted for use in infringing  
15 the '320 Patent. Moreover, these components are not staple articles of commerce suitable for  
16 substantial noninfringing use at least because the components have no use apart from infringing  
17 the Asserted Patents, including the '320 Patent. For example, at least the Kinect 1 and Kinect 2  
18 products are used only in conjunction with or as part of the claimed systems for monitoring a  
19 user via detached sensor(s); all Xbox One products and certain Xbox 360 products are sold,  
20 offered for sale, imported, and/or supplied by Microsoft only as bundles including Kinect  
21 products that are used only in conjunction with or as part of the claimed systems for monitoring a  
22 user via detached sensor(s) and Xbox One and Xbox 360 products include functional hardware  
23 and/or software components that are used only in conjunction with Kinect products as part of the  
24 claimed systems for monitoring a user via detached sensor(s); and the combination of hardware  
25 and software components of servers and other network infrastructure equipment that enable  
26 Xbox Live and Xbox Live Gold services provided in association with Kinect products are used  
27 only in conjunction with or as part of the claimed systems for monitoring a user via detached  
28 sensor(s).

1 32. On information and belief, Microsoft has willfully infringed and continues to willfully  
2 infringe the '320 Patent by making, using, offering to sell, and/or selling the products, services,  
3 and other components of the claimed system in the United States without authority; by importing  
4 into the United States products and other components of the claimed system without authority;  
5 by actively inducing infringement of the '320 Patent; and by contributing to the infringement of  
6 the '320 Patent despite an objectively high likelihood that such actions constitute infringement  
7 and despite being on notice at least as of November 5, 2013 (when Microsoft received IPLearn-  
8 Focus's letter, Exhibit D) that its actions constitute infringement.

9 33. IPLearn-Focus has suffered and will suffer damages as a result of Microsoft's past and  
10 ongoing infringement of the '320 Patent.

11 **COUNT II: MICROSOFT'S INFRINGEMENT OF U.S. PATENT NO. 8,538,321**

12 34. IPLearn-Focus incorporates and realleges paragraphs 1 – 25 above as if fully set forth  
13 herein.

14 35. On information and belief, Microsoft has and continues to infringe one or more claims of  
15 the '321 Patent pursuant to 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by  
16 making, using, selling, and/or offering to sell in the United States without authority and/or  
17 importing into the United States without authority products, services, devices, systems, and/or  
18 components of systems that embody the patented invention, including, but not limited to, the  
19 Kinect Products and Services and hardware and software components of servers and other  
20 network infrastructure that enable and/or make use of these products and services.

21 36. On information and belief, Microsoft has induced and continues to induce infringement  
22 of the '321 Patent pursuant to 35 U.S.C. § 271(b) by encouraging its customers and other third  
23 parties to make and/or use the claimed system for monitoring a user via detached sensor(s).  
24 Such making and/or using of the claimed system for monitoring a user via detached sensor(s)  
25 constitutes infringement, literally or under the doctrine of equivalents, of one or more claims of  
26 the '321 Patent by such customers or third parties. Microsoft's acts of encouragement include:  
27 providing and intending its customers to use its Kinect Products and Services; purposefully and  
28 voluntarily placing infringing products and services including its Kinect Products and Services in

1 the stream of commerce with the expectation that its products and services will be used by  
2 customers in the United States; providing maintenance for infringing products and services  
3 including its Kinect Products and Services; providing other components of the system that enable  
4 and/or make use of these products and services, including, *e.g.*, servers and other network  
5 infrastructure equipment; advertising infringing products and services including its Kinect  
6 Products and Services through its own and third-party websites; and providing instruction  
7 manuals, user guides, and information for infringing products including its Kinect Products and  
8 Services that promote and/or demonstrate use of the infringing products including its Kinect  
9 Products and Services in a manner that infringes one or more claims of the '321 Patent either  
10 literally or under the doctrine of equivalents. Furthermore, Microsoft has actual knowledge of  
11 how its accused products and services work, including how its accused products and services are  
12 used by its customers.

13 37. Microsoft has proceeded in this manner despite its actual knowledge of the '321 Patent  
14 and that the specific actions it actively induced on the part of its customers and other third parties  
15 constitute infringement of the '321 Patent. At the very least, because Microsoft has been and  
16 remains on notice of the '321 Patent and the accused infringement, it has been and remains  
17 willfully blind regarding the infringement it has induced and continues to induce.

18 38. On information and belief, Microsoft has contributed and continues to contribute to the  
19 infringement of the '321 Patent pursuant to 35 U.S.C. § 271(c) by, without authority, selling  
20 and/or offering to sell within the United States, importing, and/or supplying components of the  
21 claimed system for monitoring a user via detached sensor(s), such as Defendant's Kinect  
22 Products and Services, including functional components of Defendant's Kinect Products and  
23 Services, and the combination of hardware and software components of servers and other  
24 network infrastructure that enable and/or make use of these products and services, wherein the  
25 system embodies the patented invention. When, for example, these products, services, and/or  
26 combined hardware and software components of servers and other network infrastructure  
27 equipment configured to monitor a user via detached sensor(s) and to identify a speed of the  
28 user; to determine whether to change what is presented by a display; and/or to identify whether

1 or not the user is paying attention to content presented by the display are combined with the  
2 required display, the claimed systems are made and/or used, thereby infringing, literally or under  
3 the doctrine of equivalents, one or more claims of the '321 Patent. These products, services, and  
4 combined hardware and software components of servers and other network infrastructure  
5 equipment supplied by Microsoft constitute material parts of the claimed inventions of the '321  
6 Patent.

7 39. On information and belief, Microsoft knows, for the reasons described in detail above,  
8 that these components are especially made and/or especially adapted for use in infringing  
9 the '321 Patent. Moreover, these components are not staple articles of commerce suitable for  
10 substantial noninfringing use at least because the components have no use apart from infringing  
11 the Asserted Patents, including the '321 Patent. For example, at least the Kinect 1 and Kinect 2  
12 products are used only in conjunction with or as part of the claimed systems for monitoring a  
13 user via detached sensor(s); all Xbox One products and certain Xbox 360 products are sold,  
14 offered for sale, imported, and/or supplied by Microsoft only as bundles including Kinect  
15 products that are used only in conjunction with or as part of the claimed systems for monitoring a  
16 user via detached sensor(s) and Xbox One and Xbox 360 products include functional hardware  
17 and/or software components that are used only in conjunction with Kinect products as part of the  
18 claimed systems for monitoring a user via detached sensor(s); and the combination of hardware  
19 and software components of servers and other network infrastructure equipment that enable  
20 Xbox Live and Xbox Live Gold services provided in association with Kinect products are used  
21 only in conjunction with or as part of the claimed systems for monitoring a user via detached  
22 sensor(s).

23 40. On information and belief, Microsoft has willfully infringed and continues to willfully  
24 infringe the '321 Patent by making, using, offering to sell, and/or selling the products, services,  
25 and other components of the claimed system in the United States without authority; by importing  
26 into the United States products and other components of the claimed system without authority;  
27 by actively inducing infringement of the '321 Patent; and by contributing to the infringement of  
28 the '321 Patent despite an objectively high likelihood that such actions constitute infringement

1 and despite being on notice at least as of November 5, 2013 (when Microsoft received IPLearn-  
2 Focus's letter, Exhibit D) that its actions constitute infringement.

3 41. IPLearn-Focus has suffered and will suffer damages as a result of Microsoft's past and  
4 ongoing infringement of the '321 Patent.

5 **COUNT III: MICROSOFT'S INFRINGEMENT OF U.S. PATENT NO. 8,475,174**

6 42. IPLearn-Focus incorporates and realleges paragraphs 1 – 25 above as if fully set forth  
7 herein.

8 43. On information and belief, Microsoft has and continues to infringe one or more claims of  
9 the '174 Patent pursuant to 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by  
10 making, using, selling, and/or offering to sell in the United States without authority; importing  
11 into the United States without authority; and by performing in the United States without  
12 authority every step of the patented invention by using products, services, devices, systems,  
13 and/or components of systems that embody the patented invention, including, but not limited to,  
14 the Kinect Products and Services and hardware and software components of servers and other  
15 network infrastructure that enable and/or make use of these products and services.

16 44. On information and belief, Microsoft has induced and continues to induce infringement  
17 of the '174 Patent pursuant to 35 U.S.C. § 271(b) by encouraging its customers and other third  
18 parties to make and/or use the claimed system, and to perform the claimed methods, for  
19 monitoring a user via detached sensor(s). Such making and/or using of the claimed system and  
20 performance of the claimed method for monitoring a user via detached sensor(s) constitutes  
21 infringement, literally or under the doctrine of equivalents, of one or more claims of the '174  
22 Patent by such customers or third parties. Microsoft's acts of encouragement include: providing  
23 and intending its customers to use its Kinect Products and Services; purposefully and voluntarily  
24 placing infringing products and services including its Kinect Products and Services in the stream  
25 of commerce with the expectation that its products and services will be used by customers in the  
26 United States; providing maintenance for infringing products and services including its Kinect  
27 Products and Services; providing other components of the system that enable and/or make use of  
28 these products and services, including, *e.g.*, servers and other network infrastructure equipment;

1 advertising infringing products and services including its Kinect Products and Services through  
2 its own and third-party websites; and providing instruction manuals, user guides, and information  
3 for infringing products including its Kinect Products and Services that promote and/or  
4 demonstrate use of the infringing products including its Kinect Products and Services in a  
5 manner that infringes one or more claims of the '174 Patent either literally or under the doctrine  
6 of equivalents. Furthermore, Microsoft has actual knowledge of how its accused products and  
7 services work, including how its accused products and services are used by its customers.

8 45. Microsoft has proceeded in this manner despite its actual knowledge of the '174 Patent  
9 and that the specific actions it actively induced on the part of its customers and other third parties  
10 constitute infringement of the '174 Patent. At the very least, because Microsoft has been and  
11 remains on notice of the '174 Patent and the accused infringement, it has been and remains  
12 willfully blind regarding the infringement it has induced and continues to induce.

13 46. On information and belief, Microsoft has contributed and continues to contribute to the  
14 infringement of the '174 Patent pursuant to 35 U.S.C. § 271(c) by, without authority, selling  
15 and/or offering to sell within the United States, importing, and/or supplying components of the  
16 claimed system for monitoring a user via detached sensor(s), such as Defendant's Kinect  
17 Products and Services, including functional components of Defendant's Kinect Products and  
18 Services, and the combination of hardware and software components of servers and other  
19 network infrastructure that enable and/or make use of these products and services, wherein the  
20 system embodies the patented invention and wherein use of these components constitutes  
21 performance of the claimed methods. When, for example, these products, services, and/or  
22 combined hardware and software components of servers and other network infrastructure  
23 equipment are configured and/or used to monitor a user via detached sensor(s) and to help  
24 determine what materials to present to the user the claimed systems are made and/or used and the  
25 claimed methods are performed, thereby infringing, literally or under the doctrine of equivalents,  
26 one or more claims of the '174 Patent. Additionally, when, for example, these products,  
27 services, and/or combined hardware and software components of servers and other network  
28 infrastructure equipment are combined or used with the required display and are configured

1 and/or used to monitor a user via detached sensor(s) to identify whether or not the user is paying  
2 attention to materials presented by the required display the claimed systems are made and/or  
3 used and the claimed methods are performed, thereby infringing, literally or under the doctrine of  
4 equivalents, one or more claims of the '174 Patent. These products, services, and combined  
5 hardware and software components of servers and other network infrastructure equipment  
6 supplied by Microsoft constitute material parts of the claimed inventions of the '174 Patent.

7 47. On information and belief, Microsoft knows, for the reasons described in detail above,  
8 that these components are especially made and/or especially adapted for use in infringing  
9 the '174 Patent. Moreover, these components are not staple articles of commerce suitable for  
10 substantial noninfringing use at least because the components have no use apart from infringing  
11 the Asserted Patents, including the '174 Patent. For example, at least the Kinect 1 and Kinect 2  
12 products are used only in conjunction with or as part of the claimed systems, and are used only in  
13 performing the claimed methods, for monitoring a user via detached sensor(s); all Xbox One  
14 products and certain Xbox 360 products are sold, offered for sale, imported, and/or supplied by  
15 Microsoft only as bundles including Kinect products that are used only in conjunction with or as  
16 part of the claimed systems, and are used only in performing the claimed methods, for  
17 monitoring a user via detached sensor(s) and Xbox One and Xbox 360 products include  
18 functional hardware and/or software components that are used only in conjunction with Kinect  
19 products as part of the claimed systems, and in performing the claimed methods, for monitoring  
20 a user via detached sensor(s); and the combination of hardware and software components of  
21 servers and other network infrastructure equipment that enable Xbox Live and Xbox Live Gold  
22 services provided in association with Kinect products are used only in conjunction with or as part  
23 of the claimed systems, and are used only in performing the claimed methods, for monitoring a  
24 user via detached sensor(s).

25 48. On information and belief, Microsoft has willfully infringed and continues to willfully  
26 infringe the '174 Patent by making, using, offering to sell, and/or selling the products, services,  
27 and other components of the claimed system in the United States without authority; by importing  
28 into the United States products and other components of the claimed system without authority;

1 by performing in the United States without authority every step of the claimed invention; by  
2 actively inducing infringement of the '174 Patent; and by contributing to the infringement of  
3 the '174 Patent despite an objectively high likelihood that such actions constitute infringement  
4 and despite being on notice at least as of November 5, 2013 (when Microsoft received IPLearn-  
5 Focus's letter, Exhibit D) that its actions constitute infringement.

6 49. IPLearn-Focus has suffered and will suffer damages as a result of Microsoft's past and  
7 ongoing infringement of the '174 Patent.

8 **DEMAND FOR JURY TRIAL**

9 50. Pursuant to Federal Rules and Civil Procedure 38(b), IPLearn-Focus demands a trial by  
10 jury.

11 **PRAYER FOR RELIEF**

12 51. IPLearn-Focus respectfully prays for relief as follows:

13 a) A judgment that Microsoft has infringed and continues to infringe one or more  
14 claims of the Asserted Patents;

15 b) A judgment that Microsoft has willfully infringed one or more claims of the  
16 Asserted Patents;

17 c) A judgment awarding IPLearn-Focus all damages adequate to compensate for  
18 Microsoft's infringement, and in no event less than a reasonable royalty for Microsoft's acts of  
19 infringement, including all pre-judgment and post-judgment interest at the maximum rate  
20 allowed by law;

21 d) A judgment awarding IPLearn-Focus treble damages pursuant to 35 U.S.C. § 284  
22 as a result of Microsoft's willful conduct;

23 e) A judgment declaring this to be an exceptional case and awarding IPLearn-Focus  
24 its attorneys' fees, costs, and expenses pursuant to 35 U.S.C. § 285; and

25 f) A judgment awarding IPLearn-Focus such other relief as the Court may deem just  
26 and equitable.

1 Dated: January 10, 2014

Respectfully submitted

2 /s/ Matthew D. Powers

3 Matthew D. Powers (Bar No. 104795)  
4 Steven S. Cherensky (Bar No. 168275)  
5 Paul T. Ehrlich (Bar No. 228543)  
6 William P. Nelson (Bar No. 196091)  
7 Azra M. Hadzimehmedovic (Bar No. 239088)  
8 Robert L. Gerrity (Bar No. 268084)  
9 TENSEGRITY LAW GROUP, LLP  
10 555 Twin Dolphin Drive, Suite 360  
11 Redwood Shores, CA 94065  
12 Telephone: (650) 802-6000  
13 Facsimile: (650) 802-6001  
14 Email:  
15 [matthew.powers@tensegritylawgroup.com](mailto:matthew.powers@tensegritylawgroup.com)  
16 [steven.cherensky@tensegritylawgroup.com](mailto:steven.cherensky@tensegritylawgroup.com)  
17 [paul.ehrlich@tensegritylawgroup.com](mailto:paul.ehrlich@tensegritylawgroup.com)  
18 [william.nelson@tensegritylawgroup.com](mailto:william.nelson@tensegritylawgroup.com)  
19 [azra@tensegritylawgroup.com](mailto:azra@tensegritylawgroup.com)  
20 [robert.gerrity@tensegritylawgroup.com](mailto:robert.gerrity@tensegritylawgroup.com)

21 *Attorneys for Plaintiff,*  
22 *IPLearn-Focus*