

Tamara Fraizer (SBN 215942)  
FISH & RICHARDSON P.C.  
500 Arguello Street, Suite 500  
Redwood City, CA 94063  
fraizer@fr.com  
Tel: (650) 839-5070  
Fax: (650) 839-5071

Of Counsel: (applications for *Pro Hac Vice* to be filed)  
Ruffin B. Cordell  
Timothy W. Riffe  
Adam R. Shartzer  
FISH & RICHARDSON P.C.  
1425 K Street, N.W., 11<sup>th</sup> Floor  
Washington, DC 20005  
Tel: (202) 783-5070  
Fax: (202) 783-2331

Attorneys for Plaintiff  
SLING MEDIA, INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

SLING MEDIA, INC.,  
  
Plaintiff,

vs.

MONSOON MULTIMEDIA, INC.,  
PRABHAT JAIN,  
  
Defendants.

Case No. 4:13-cv-00074-YGR

**SECOND AMENDED COMPLAINT FOR  
PATENT INFRINGEMENT**

**DEMAND FOR JURY TRIAL**

Plaintiff Sling Media, Inc. hereby alleges as follows:

**THE PARTIES**

1. Sling Media, Inc. (hereinafter "Sling Media") is incorporated under the laws of the state of Delaware, and has a regular and established place of business at 1051 East Hillsdale Blvd, Suite 500, Foster City, CA 94404.

2. Upon information and belief, defendant Monsoon Multimedia, Inc. (hereinafter “Monsoon”) is incorporated under the laws of the state of Delaware, and has a regular and established place of business at 1730 South Amphlett Blvd., Suite 101, San Mateo, CA 94402.
3. Upon information and belief, defendant Prabhat Jain is the CEO of Monsoon and resides at 615 San Luis Rd, Berkeley, CA 94707-1725.
4. Defendant Monsoon and defendant Prabhat Jain will hereinafter be collectively referred to as “Defendants.”

### **JURISDICTION**

5. This action arises under the patent laws of the United States, Title 35 U.S.C. § 1 et seq. This court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).
6. Upon information and belief, this Court has personal jurisdiction over Monsoon because it is doing business and advertising in this judicial District. Moreover, Monsoon has its principal place of business in this judicial district.
7. Upon information and belief, this Court has personal jurisdiction over Prabhat Jain because he resides in this district.
8. Upon information and belief, venue is proper in this Court pursuant to 28 U.S.C. §§ 1391, 1400 and 1409 because the Defendants are subject to personal jurisdiction in this judicial District.

### **GENERAL ALLEGATIONS AND FACTS**

#### **SLING MEDIA**

9. Sling Media is the creator of award-winning video placeshifting products and services for consumers and television service providers. Sling Media’s products include its internationally-acclaimed and Emmy award-winning Slingbox®, including the Slingbox 500 Slingbox 350, and Sling Media’s Slingbox SOLO video placeshifting devices. Sling Media’s products may be used for consumption of media such as live or recorded

1 television programs on remote devices, such as mobile telephones, tablets, laptops, and  
 2 other computing devices.

3 10. Sling Media is the assignee and sole owner of all right, title, and interest in United States  
 4 Patent Nos.: 7,725,912, entitled “Method for Implementing a Remote Display System  
 5 with Transcoding,” (“the ’912 patent”) which was duly and legally issued on May 25,  
 6 2010; 7,877,776, entitled “Personal Media Broadcasting System,” (“the ’776 patent”) which  
 7 was duly and legally issued on January 25, 2011; 8,051,454, entitled “Personal  
 8 Media Broadcasting System with Output Buffer,” (“the ’454 patent”) which was duly and  
 9 legally issued on November 1, 2011; 8,060,909, entitled “Personal Media Broadcasting  
 10 System,” (“the ’909 patent”) which was duly and legally issued on November 15, 2011;  
 11 8,266,657, entitled “Method for Effectively Implementing a Multi-Room Television  
 12 System,” (“the ’657 patent”) which was duly and legally issued on September 11, 2012;  
 13 and 8,365,236, entitled “Personal Media Broadcasting System with Output Buffer,” (“the  
 14 ’236 patent”) which was duly and legally issued on January 29, 2013. A true and correct  
 15 copy of each of these patents is attached hereto as Exhibits A–F.

16 11. Collectively, the above-identified patents are hereinafter referred to as the “Asserted  
 17 Patents.”

#### 18 MONSOON

19 12. On information and belief, Monsoon manufactures, uses, offers for sale, sells, or imports,  
 20 for example, the Vulkano Flow, Vulkano Flow LC, Vulkano Blast, Vulkano Lava, and  
 21 components of the Vulkano devices (collectively referred to hereinafter as the “Vulkano  
 22 Devices”), Titanium HD, Hava Titanium HD, Platinum HD, Hava Platinum HD,  
 23 Wireless HD, Hava Wireless HD, Titanium HD WIFI, Hava Titanium HD WIFI, and  
 24 components of the HAVA devices (collectively referred to hereinafter as the “Hava  
 25 Devices”).

26 13. Monsoon advertises on its product packaging that users can employ the Monsoon device  
 27 to “[r]ecord TV shows to Vulkano’s internal storage, for later viewing on TV,  
 28

Smartphones, iPad or Tablets.” Exhibit G. Monsoon further advertises on the same packaging that users can “[s]chedule TV records to Vulkano’s storage, then transfer them to your mobile from anywhere, to watch when convenient.” Exhibit G.

14. Monsoon includes a “Quick Start Guide” in its product packaging, for example, in the product packaging for the “Vulkano Lava” device. Exhibit H. The “Quick Start Guide” includes instructions for connecting the Vulkano device to a home network using Wi-Fi or Ethernet. The “Quick Start Guide” further highlights certain features of the Vulkano device, including the ability to “[w]atch live TV and schedule recordings on your Smartphone, Tablet, PC, Mac, or iPad.” Exhibit H.

15. Monsoon advertises on its website, at [http://www.myvulkano.com/products\\_volcano\\_lava.html](http://www.myvulkano.com/products_volcano_lava.html), that the Vulkano devices enable a user to view video at a remote location. For example, the website states that “[t]he RemoteTV feature offered on the Vulkano Lava and Blast, lets you watch your paid TV service on another TV (without service) anywhere in the world or in another room inside your home.” Exhibit I.

16. Monsoon provides its users with access to a User Guide for the Vulkano devices, such as the Vulkano Lava device located at <http://www.myvulkano.com/LavaBlastUserGuide.pdf>. The User Guide indicates that users “can use either a wired connection or a Wi-Fi connection to connect your Vulkano to your home network.” Exhibit J.

17. The Vulkano User Guide includes instructions for downloading the Vulkano Player software to remote or mobile devices such as a personal computer, iPhone, iPad, Android, and Blackberry devices. Exhibit J. This software enables Monsoon’s users to placeshift or remotely view videos from a number of different mobile or remote devices.

18. Upon information and belief, Monsoon and Monsoon’s users are employing the Monsoon Devices and software to perform “placeshifting” media consumption by, for example, watching live or recorded television on a mobile device at a remote location.

1 19. Monsoon is not licensed to the Asserted Patents.

2 20. On information and belief, Monsoon either knew of the Asserted Patents or was willfully  
3 blind in order to not become aware of the Asserted Patents.

4 21. At least as early as service of the Original Complaint, and likely prior to this date,  
5 Monsoon had knowledge that it induces its users to perform at least the acts noted above  
6 that constitute infringement of Sling Media's rights in the Asserted Patents.

7 22. At least as early as service of the Original Complaint, and likely prior to this date,  
8 Monsoon had knowledge that the Vulkano and Hava Devices are designed in a manner  
9 that is both claimed by the Asserted Patents and infringes those Asserted Patents when  
10 employed by Monsoon or Monsoon's users.

11 23. Monsoon specifically intends that its users perform acts that constitute infringement as  
12 evidenced, for example, by its offer for sale, sale, or importation of the Vulkano and  
13 Hava Devices, as well as the instructions provided to its users by Monsoon as to the use  
14 of the Vulkano and Hava Devices.

15 24. The Vulkano and Hava Devices, when operated as advertised or otherwise instructed, are  
16 at least components of the claims of the Asserted Patents or directly practice the Asserted  
17 Patents.

18 25. The Vulkano and Hava Devices, as evidenced by at least Monsoon's advertising and  
19 instructional materials, are not a staple article or commodity of commerce and do not  
20 have a substantial non-infringing use.

21 26. The use of the Vulkano and Hava Devices, according to the instructions provided by  
22 Monsoon, constitutes direct infringement of the Asserted Patents.

23 27. Monsoon thus actively encourages its users to employ the Vulkano and Hava Devices  
24 and software, including the placeshifting features, to use the apparatuses and methods  
25 claimed in the Asserted Patents.

26 28. Monsoon is also affirmatively intending to contribute to and actively induce the  
27 infringement of the Asserted Patents by marketing, providing equipment and software  
28

for, and supporting use of the Vulkano and Hava Devices to practice the Asserted Patents, knowing the Vulkano and Hava Devices to be especially made or especially adapted for infringement of the Asserted Patents, and the Vulkano and Hava Devices are not staple articles or commodities of commerce for a substantial noninfringing use, and Monsoon encourages users to do so without leave or licenses of Sling Media, in violation of Sling Media's rights.

PRABHAT JAIN

29. Upon information and belief, Prabhat Jain has exerted and/or continues to exert total domination and control over Monsoon at all times material to the claims asserted against Monsoon herein through Prabhat Jain's role either as an officer, director, individual shareholder, and/or owner of Monsoon. Upon information and belief, Prabhat Jain is the CEO of Monsoon and exclusively controls the operations of Monsoon.
30. At all times material to the claims alleged in this Complaint, Monsoon was and is a mere instrumentality and/or alter ego of Prabhat Jain, which he utilized to engage in wrongful conduct, including patent infringement.
31. Through his domination and control of Monsoon, Prabhat Jain has induced and continues to induce Monsoon and Monsoon's users to employ the Monsoon Devices and software to perform "placeshifting" media consumption by, for example, watching live or recorded television on a mobile device at a remote location.
32. The interests of justice require that Prabhat Jain be jointly and severally liable for the infringement of Monsoon because upon information and belief Prabhat Jain has transferred assets from Monsoon in order to insulate Monsoon from Sling Media's claims asserted in this Complaint after Sling Media filed its Original Complaint on January 7, 2013. For example, Monsoon has assigned its patents to related foreign entities in India. *See, e.g., Exhibits K and L.*
33. Prabhat Jain is not licensed to the Asserted Patents.

1 34. On information and belief, Prabhat Jain either knew of the Asserted Patents or was  
2 willfully blind in order to not become aware of the Asserted Patents.

3 35. At least as early as service of the Original Complaint, and likely prior to this date,  
4 Prabhat Jain had knowledge that he induces Monsoon and Monsoon's users to perform at  
5 least the acts noted above that constitute infringement of Sling Media's rights in the  
6 Asserted Patents.

7 36. At least as early as service of the Original Complaint, and likely prior to this date,  
8 Prabhat Jain had knowledge that the Vulkano and Hava Devices are designed in a manner  
9 that is both claimed by the Asserted Patents and infringes those Asserted Patents when  
10 employed by Monsoon or Monsoon's users.

11 37. Prabhat Jain specifically intends that Monsoon and Monsoon's users perform acts that  
12 constitute infringement as evidenced, for example, by Prabhat Jain's domination and  
13 control of Monsoon resulting in Monsoon's offer for sale, sale, or importation of the  
14 Vulkano and Hava Devices, as well as the instructions provided to its users by Monsoon  
15 as to the use of the Vulkano and Hava Devices.

16 38. On information and belief, Prabhat Jain has communicated with and/or continues to  
17 communicate with users of Monsoon's Vulkano and Hava Devices in support of the  
18 users' continued infringement of the Asserted Patents.

19 39. The Vulkano and Hava Devices, when operated as advertised or otherwise instructed, are  
20 at least components of the claims of the Asserted Patents or directly practice the  
21 Asserted Patents.

22 40. The Vulkano and Hava Devices, as evidenced by at least Monsoon's advertising and  
23 instructional materials, are not a staple article or commodity of commerce and do not  
24 have a substantial non-infringing use.

25 41. The use of the Vulkano and Hava Devices, according to the instructions provided by  
26 Monsoon under the control of Prabhat Jain, constitutes direct infringement of the  
27 Asserted Patents.

42. Prabhat Jain thus actively encourages Monsoon and its users to employ the Vulkano and Hava Devices and software, including the placeshifting features, to use the apparatuses and methods claimed in the Asserted Patents.

43. Prabhat Jain is also affirmatively intending to contribute to and actively induce the infringement of the Asserted Patents by Prabhat Jain's domination and control of Monsoon resulting in Monsoon's marketing, providing equipment and software for, and supporting use of the Vulkano and Hava Devices to practice the Asserted Patents, knowing the Vulkano and Hava Devices to be especially made or especially adapted for infringement of the Asserted Patents, and the Vulkano and Hava Devices are not staple articles or commodities of commerce for a substantial noninfringing use, and Prabhat Jain via Monsoon encourages users to do so without leave or licenses of Sling Media, in violation of Sling Media's rights.

### **FIRST CAUSE OF ACTION**

#### **INFRINGEMENT OF U.S. PATENT NO. 7,725,912**

44. The allegations of paragraphs 1-43 are incorporated for this First Cause of Action as though fully set forth herein.

45. Sling Media is the assignee and sole owner of all right, title, and interest in United States Patent No. 7,725,912, entitled "Method for Implementing a Remote Display System with Transcoding," which was duly and legally issued on May 25, 2010. A true and correct copy of the '912 patent is attached hereto as Exhibit A.

46. Upon information and belief, Monsoon has been and is now infringing, inducing infringement, and contributing to the infringement of the '912 patent in this District and elsewhere by making, using, selling, offering to sell, and importing devices into the United States, including, for example, the Vulkano and HAVA families of devices, covered by one or more claims of the '912 patent, all to the injury of Sling Media.

47. Upon information and belief, Prabhat Jain has been and is now inducing infringement and contributing to the infringement of the '912 patent in this District and elsewhere by



Prabhat Jain's domination and control of Monsoon resulting in Monsoon's making, using, selling, offering to sell, and importing devices into the United States, including, for example, the Vulkano and HAVA families of devices, covered by one or more claims of the '912 patent, all to the injury of Sling Media.

48. Defendants' acts of infringement have injured and damaged Sling Media.

49. Defendants' infringement has caused irreparable injury to Sling Media and will continue to cause irreparable injury until Defendants are enjoined from further infringement by this Court.

## **SECOND CAUSE OF ACTION**

### INFRINGEMENT OF U.S. PATENT NO. 7,877,776

50. The allegations of paragraphs 1-49 are incorporated for this Second Cause of Action as though fully set forth herein.

51. Sling Media is the assignee and sole owner of all right, title, and interest in United States Patent No. 7,877,776, entitled "Personal Media Broadcasting System," which was duly and legally issued on January 25, 2011. A true and correct copy of the '776 patent is attached hereto as Exhibit B.

52. Upon information and belief, Monsoon has been and is now infringing, inducing infringement, and contributing to the infringement of the '776 patent in this District and elsewhere by making, using, selling, offering to sell, and importing devices into the United States, including, for example, the Vulkano and HAVA families of devices, covered by one or more claims of the '776 patent, all to the injury of Sling Media.

53. Upon information and belief, Prabhat Jain has been and is now inducing infringement and contributing to the infringement of the '776 patent in this District and elsewhere by Prabhat Jain's domination and control of Monsoon resulting in Monsoon's making, using, selling, offering to sell, and importing devices into the United States, including, for example, the Vulkano and HAVA families of devices, covered by one or more claims of the '776 patent, all to the injury of Sling Media.

1 54. Defendants' acts of infringement have injured and damaged Sling Media

2 55. Defendants' infringement has caused irreparable injury to Sling Media and will continue  
3 to cause irreparable injury until Defendants are enjoined from further infringement by  
4 this Court.

5 **THIRD CAUSE OF ACTION**

6 INFRINGEMENT OF U.S. PATENT NO. 8,051,454

7 56. The allegations of paragraphs 1-55 are incorporated for this Third Cause of Action as  
8 though fully set forth herein.

9 57. Sling Media is the assignee and sole owner of all right, title, and interest in United States  
10 Patent No. 8,051,454, entitled "Personal Media Broadcasting System with Output  
11 Buffer," which was duly and legally issued on November 1, 2011. A true and correct  
12 copy of the '454 patent is attached hereto as Exhibit C.

13 58. Upon information and belief, Monsoon has been and is now infringing, inducing  
14 infringement, and contributing to the infringement of the '454 patent in this District and  
15 elsewhere by making, using, selling, offering to sell, and importing devices into the  
16 United States, including, for example, the Vulkano and HAVA families of devices,  
17 covered by one or more claims of the '454 patent, all to the injury of Sling Media.

18 59. Upon information and belief, Prabhat Jain has been and is now inducing infringement and  
19 contributing to the infringement of the '454 patent in this District and elsewhere by  
20 Prabhat Jain's domination and control of Monsoon resulting in Monsoon's making,  
21 using, selling, offering to sell, and importing devices into the United States, including, for  
22 example, the Vulkano and HAVA families of devices, covered by one or more claims of  
23 the '454 patent, all to the injury of Sling Media.

24 60. Defendants' acts of infringement have injured and damaged Sling Media.

25 61. Defendants' infringement has caused irreparable injury to Sling Media and will continue  
26 to cause irreparable injury until Defendants are enjoined from further infringement by  
27 this Court.

**FOURTH CAUSE OF ACTION**

INFRINGEMENT OF U.S. PATENT NO. 8,060,909

62. The allegations of paragraphs 1-61 are incorporated for this Fourth Cause of Action as though fully set forth herein.

63. Sling Media is the assignee and sole owner of all right, title, and interest in United States Patent No. 8,060,909, entitled "Personal Media Broadcasting System," which was duly and legally issued on November 15, 2011. A true and correct copy of the '909 patent is attached hereto as Exhibit D.

64. Upon information and belief, Monsoon has been and is now infringing, inducing infringement, and contributing to the infringement of the '909 patent in this District and elsewhere by making, using, selling, offering to sell, and importing devices into the United States, including, for example, the Vulkano and HAVA families of devices, covered by one or more claims of the '909 patent, all to the injury of Sling Media.

65. Upon information and belief, Prabhat Jain has been and is now inducing infringement and contributing to the infringement of the '909 patent in this District and elsewhere by Prabhat Jain's domination and control of Monsoon resulting in Monsoon's making, using, selling, offering to sell, and importing devices into the United States, including, for example, the Vulkano and HAVA families of devices, covered by one or more claims of the '909 patent, all to the injury of Sling Media.

66. Defendants' acts of infringement have injured and damaged Sling Media.

67. Defendants' infringement has caused irreparable injury to Sling Media and will continue to cause irreparable injury until Defendants are enjoined from further infringement by this Court.

**FIFTH CAUSE OF ACTION**

INFRINGEMENT OF U.S. PATENT NO. 8,266,657

68. The allegations of paragraphs 1-67 are incorporated for this Fifth Cause of Action as though fully set forth herein.

69. Sling Media is the assignee and sole owner of all right, title, and interest in United States Patent No. 8,266,657, entitled "Method for Effectively Implementing a Multi-Room Television System," which was duly and legally issued on September 11, 2012. A true and correct copy of the '657 patent is attached hereto as Exhibit E.

70. Upon information and belief, Monsoon has been and is now infringing, inducing infringement, and contributing to the infringement of the '657 patent in this District and elsewhere by making, using, selling, offering to sell, and importing devices into the United States, including, for example, the Vulkano and HAVA families of devices, covered by one or more claims of the '657 patent, all to the injury of Sling Media.

71. Upon information and belief, Prabhat Jain has been and is now inducing infringement and contributing to the infringement of the '657 patent in this District and elsewhere by Prabhat Jain's domination and control of Monsoon resulting in Monsoon's making, using, selling, offering to sell, and importing devices into the United States, including, for example, the Vulkano and HAVA families of devices, covered by one or more claims of the '657 patent, all to the injury of Sling Media.

72. Defendants' acts of infringement have injured and damaged Sling Media.

73. Defendants' infringement has caused irreparable injury to Sling Media and will continue to cause irreparable injury until Defendants are enjoined from further infringement by this Court.

#### **SIXTH CAUSE OF ACTION**

##### **INFRINGEMENT OF U.S. PATENT NO. 8,365,236**

74. The allegations of paragraphs 1-73 are incorporated for this Sixth Cause of Action as though fully set forth herein.

75. Sling Media is the assignee and sole owner of all right, title, and interest in United States Patent No. 8,365,236, entitled "Personal Media Broadcasting System with Output Buffer," which was duly and legally issued on January 29, 2013. A true and correct copy of the '236 patent is attached hereto as Exhibit F.

1 76. Upon information and belief, Monsoon has been and is now infringing, inducing  
 2 infringement, and contributing to the infringement of the '236 patent in this District and  
 3 elsewhere by making, using, selling, offering to sell, and importing devices into the  
 4 United States, including, for example, the Vulkano and HAVA families of devices,  
 5 covered by one or more claims of the '236 patent, all to the injury of Sling Media.

6 77. Upon information and belief, Prabhat Jain has been and is now inducing infringement and  
 7 contributing to the infringement of the '236 patent in this District and elsewhere by  
 8 Prabhat Jain's domination and control of Monsoon resulting in Monsoon's making,  
 9 using, selling, offering to sell, and importing devices into the United States, including, for  
 10 example, the Vulkano and HAVA families of devices, covered by one or more claims of  
 11 the '236 patent, all to the injury of Sling Media.

12 78. Defendants' acts of infringement have injured and damaged Sling Media.

13 79. Defendants' infringement has caused irreparable injury to Sling Media and will continue  
 14 to cause irreparable injury until Defendants are enjoined from further infringement by  
 15 this Court.

### 16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff requests the following relief:

18 (a) a permanent injunction preventing Defendants and their officers, directors, agents,  
 19 servants, employees, attorneys, licensees, successors, assigns, users, and customers, and those in  
 20 active concert or participation with any of them, from making, using, or selling any devices that  
 21 infringe any claim of the Asserted Patents;

22 (b) damages in an amount to be determined at trial;

23 (c) costs and reasonable attorney fees incurred in connection with this action pursuant  
 24 to 35 U.S.C. § 285;

25 (d) that the Court pierce the corporate veil as to Monsoon and hold Prabhat Jain  
 26 jointly and severally liable on all claims in this action asserted against Monsoon; and

27 (e) such other and further relief as the Court deems appropriate.  
 28

**DEMAND FOR JURY TRIAL**

Plaintiff demands a trial by jury to the extent permitted by applicable law.

Dated: July 7, 2014

FISH & RICHARDSON P.C.

By: /s/ Tamara Fraizer

Tamara Fraizer

Tamara Fraizer (SBN 215942)  
Fish & Richardson P.C.  
500 Arguello Street, Suite 500  
Redwood City, CA 94063  
Tel: (650) 839-5070  
Fax: (650) 839-5071

*Of Counsel: (pro hac vice to be filed)*

Ruffin B. Cordell  
Timothy W. Riffe  
Adam R. Shartzter  
Fish & Richardson P.C.  
1425 K Street, N.W., 11<sup>th</sup> Floor  
Washington, DC 20005  
Tel: 202-783-5070  
Fax: 202-783-2331

*Counsel for Plaintiff*  
*SLING MEDIA, INC.*