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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

11 DIANE ELLEN QUINTERO AND
OMAR ALBERTO
12 QUINTERO-CARMONA,

13 Plaintiffs,

No.

**COMPLAINT FOR PATENT
INFRINGEMENT
[JURY TRIAL DEMANDED]**

14 v.

15 WIGZI, LLC,

16 Defendant.
17 _____/

18 Plaintiffs DIANE ELLEN QUINTERO and OMAR ALBERTO QUINTERO-
19 CARMONA (“Quinteros”) file this Complaint for patent infringement against defendant
20 WIGZI, LLC (“Wigzi”).

21 **CLAIM FOR PATENT INFRINGEMENT**

22 **JURISDICTION**

23 1. Jurisdiction is pursuant to 28 U.S.C. § 1338, allowing original jurisdiction
24 in this court for patent cases.

25 **VENUE**

26 2. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(c) in
27 that defendant Wigzi is subject to personal jurisdiction in this district as defendant
28 transacts and has transacted business here, including activities infringing on Quinteros’

1 patent as set forth herein.

2 **INTRADISTRICT ASSIGNMENT**

3 3. Because this case is an Intellectual Property Action, it is not subject to
4 assignment to a particular location or division of the Court under Local Rule 3-2(c).

5 **NATURE OF THE ACTION**

6 4. This is an action brought against defendant Wigzi for its infringement of
7 the United States Patent No. 6,792,893 (“the ‘893 Patent”), Claims 1, 10, and 19,
8 inclusive (“Claims”), generally a device and methods for walking two animals
9 simultaneously.

10 5. On September 21, 2004, United States Patent No. 6,792,893 was duly
11 and legally issued to plaintiffs. A true and correct copy of the patent, as duly assigned,
12 is attached hereto as Exhibit 1 and is incorporated herein by reference. Said patent
13 pertains to a retractable leash as more extensively and precisely described in the
14 attached patent.

15 **FACTUAL BACKGROUND**

16 **I. THE ASSERTED ‘893 PATENT**

17 6. At all times relevant, Quinteros are and were the owners of the ‘893
18 Patent and have and had the rights thereunder. Plaintiffs’ patent was well known to
19 defendant at all times relevant hereto.

20 **II. WIGZI’S INFRINGEMENT OF THE ‘893 PATENT**

21 **A. THE WIGZI ACCUSED PRODUCTS**

22 7. Commencing within the last six years, Wigzi has tested, demonstrated,
23 provided instructions for, provided training for, marketed, made, used, offered to sell,
24 sold, and/or imported into the United States retractable leash devices (“Devices”) as
25 taught by the ‘893 Patent. The model name/numbers of the Wigzi devices include,
26 without limitation, the Dual Doggie retractable leash

27 **B. WIGZI’S DIRECT INFRINGEMENT OF THE ‘893 PATENT**

28 8. Commencing within the last six years, Wigzi directly has infringed, and

1 continues to infringe on one or more of the Claims of the '893 Patent under 35 U.S.C. §
2 271(a) because it has used, tested, demonstrated, manufactured, imported, promoted,
3 marketed, offered for sale, and/or sold the Wigzi Devices by using one or more of
4 plaintiffs' Claims. In order to have used, tested, demonstrated, and/or sold the Wigzi
5 Devices, Wigzi had to utilize one or more of plaintiff's Claims of the '893 Patent. Wigzi
6 could not have implemented its Devices without infringing the Claims of the '893 Patent.

7 **C. WIGZI'S INDUCED INFRINGEMENT OF THE '893 PATENT**

8 9. Commencing within the last six years, Wigzi is liable for indirect
9 infringement under 35 U.S.C. §271(b) because it has knowingly has induced and
10 continues to induce the direct infringement of one or more of the Claims of the '893
11 Patent by end-users and other third parties.

12 10. Commencing within the last six years, end-users and other third parties
13 directly have infringed one or more of the Claims of the '893 Patent by using the Wigzi
14 devices.

15 11. During said time period, Wigzi knowingly took active steps to induce end-
16 users and other third parties in the United States to engage in direct infringement of the
17 Claims of the '893 Patent. For example, Wigzi provided, sold, or promoted the Wigzi
18 Devices to end-users or other third parties along with specific instructions or training
19 regarding the use of those devices, which instructions or training actively induced said
20 end-users and other third parties to practice the '893 Patent Claims and said
21 instructions or training caused direct infringement of the '893 Patent Claims.

22 12. During said time period, Wigzi possessed the specific intent to induce
23 infringement of the Claims of the '893 Patent by end-users and other third parties which
24 intent was manifested, inter alia, by its instructions or training for using the Wigzi
25 devices.

26 13. During said time period, Wigzi had knowledge of the '893 Patent and
27 knowledge that the use of the Wigzi Devices per its instructions and/or training infringed
28 the Claims of the '893 Patent. In addition, during said time period, Wigzi knew or

1 should have known that its actions would and did induce infringement of the Claims by
2 end-users and other third party users. Wigzi had actual knowledge of the '893 Patent
3 inter alia due to (1) its active participation and competition in the leash market, (2)
4 Wigzi's leash market research, (3) Wigzi's research and development of the Wigzi
5 Devices, (4) Wigzi's exercise of due diligence pertaining to intellectual property affecting
6 its Devices, and (5) Wigzi's receipt and acknowledgment of receipt correspondence
7 from plaintiffs advising Wigzi of its infringement on plaintiffs' patent.

8 14. During said time period, Wigzi knew or should have known that testing,
9 demonstrating, marketing, making, using, offering to sell, selling, and/or importing into
10 the United States the Wigzi Devices constituted infringement of the Claims of the '893
11 Patent, based on, among other things, the reasons alleged in the foregoing paragraph.

12 15. During said time period, Wigzi has knowingly taken active steps to induce
13 end-users and other third parties to engage in direct infringement of the Claims of the
14 '893 Patent and has done so with an affirmative intent to cause such direct infringement
15 and/or with purposeful, culpable expression and conduct to encourage such direct
16 infringement. Wigzi's specific intent to induce infringement is evidenced by, among
17 other things, Wigzi's providing of specific instructions and/or training to end-users
18 and/or other third parties knowing that its acts would induce end-users and other third
19 parties to use its Devices and by so doing to directly infringe the Claims of the '893
20 Patent.

21 16. As a result of Wigzi's infringement of plaintiffs' '893 Patent as set forth
22 above, plaintiffs are entitled to damages in an amount according to proof and because
23 Wigzi's infringement of the '893 Patent was and continues to be wilful and deliberate
24 and without a reasonable basis for believing that its conduct was or is lawful, plaintiffs
25 are entitled to treble damages under 35 U.S.C. § 284 and to attorney's fees and costs
26 incurred in prosecuting this action under 35 U.S.C. § 285.

27 **WHEREFORE** plaintiffs demand judgment as follows:

28 1. That defendant render an accounting for all profits defendant received by

1 infringing said patent;

2 2. For damages against defendant sufficient to compensate plaintiff pursuant
3 to 35 U.S.C. § 284, in an amount according to proof.

4 3. For treble damages;

5 4. For costs and reasonable attorney fees of the subject litigation and
6 interest as allowable by law; and

7 5. For such other and further relief as the court may deem just and proper.

8 DATED: October 15, 2014

9 /s/ Frear Stephen Schmid
10 Frear Stephen Schmid, Attorney for
11 Plaintiffs DIANE ELLEN QUINTERO
12 and OMAR ALBERTO
13 QUINTERO-CARMONA

14 **DEMAND FOR JURY TRIAL**

15 Plaintiffs hereby demand a jury trial pursuant to Federal Rules of Civil
16 Procedure 38.

17 DATED: October 15, 2014

18 /s/ Frear Stephen Schmid
19 Frear Stephen Schmid, Attorney for
20 Plaintiffs DIANE ELLEN QUINTERO
21 and OMAR ALBERTO
22 QUINTERO-CARMONA
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