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WEST VIEW RESEARCH, LLC

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

WEST VIEW RESEARCH, LLC, a
California corporation,

Plaintiff,

v.
TESLA MOTORS, INC., a Delaware
corporation,

Defendant.

CASE NO. '14CV2679 LAB WVG

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

This is an action for patent infringement in which Plaintiff West View Research, LLC (“West View Research” or “Plaintiff”) makes the following allegations against Defendant TESLA MOTORS, INC. (“TESLA” or “Defendant”) as follows:

THE PARTIES

1
2 1. Plaintiff West View Research is a limited liability company organized
3 under the laws of the State of California with a principal place of business at 16644
4 West Bernardo Drive, Suite 201-A, San Diego, California 92127.

5 2. Upon information and belief, Defendant TESLA is a corporation
6 organized under the laws of Delaware, with its principal place of business at 3500
7 Deer Creek Road, Palo Alto, California 94304 and a registered agent at CT
8 Corporation System, 818 West Seventh Street, Second Floor, Los Angeles, CA
9 90017.

10 **JURISDICTION AND VENUE**

11 3. This is an action for patent infringement arising under the patent laws
12 of the United States, 35 U.S.C. §1, *et seq.*, including 35 U.S.C. § 271. This Court
13 has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

14 4. This Court has personal jurisdiction over Defendant at least because
15 Defendant is present within or has ongoing and systematic contacts with the United
16 States, the State of California, and the Southern District of California. Defendant
17 has purposefully and regularly availed itself of the privileges of conducting
18 business in the State of California and in the Southern District of California.
19 Plaintiff's causes of action arise directly from Defendant's business contacts and
20 other activities in the State of California and in the Southern District of California.
21 Defendant has committed acts of patent infringement in this District, and has
22 harmed and continues to harm West View Research in this District, by, among
23 other things, using, selling, offering for sale, and/or importing infringing products
24 and/or services into this District.

25 **BACKGROUND**

26 5. West View Research owns all right, title and interest in U.S. Patent
27 No. 8,290,778 (the "'778 patent"), U.S. Patent No. 8,296,146 (the "'146 patent"),
28 U.S. Patent No. 8,682,673 (the "'673 patent"), U.S. Patent No. 8,706,504 (the "'504

1 patent”), U.S. Patent No. 8,719,037 (the “’037 patent”), U.S. Patent No. 8,781,839
2 (the “’839 patent”), U.S. Patent No. 8,712,777 (the “’777 patent”) and U.S. Patent
3 No. 8,719,038 (the “’038 patent”) (collectively, the “Patents-in-Suit”).

4 6. Each of the Patents-in-Suit are valid and enforceable.

5 7. West View Research is in compliance with the marking requirements
6 under 35 U.S.C. § 287 in that it has no duty to mark or to give notice in lieu thereof
7 because has no products to mark.

8 8. The ’778 patent, entitled “Computerized Information Presentation
9 Apparatus,” was duly and legally issued by the United States Patent and Trademark
10 Office on October 16, 2012, after a full and fair examination. A copy of the ’778
11 patent is attached hereto as Exhibit A.

12 9. The ’146 patent, entitled “Computerized Information Presentation
13 Apparatus,” was duly and legally issued by the United States Patent and Trademark
14 Office on October 23, 2012, after a full and fair examination. A copy of the ’146
15 patent is attached hereto as Exhibit B.

16 10. The ’673 patent, entitled “Computerized Information and Display
17 Apparatus,” was duly and legally issued by the United States Patent and Trademark
18 Office on March 25, 2014, after a full and fair examination. A copy of the ’673
19 patent is attached hereto as Exhibit C.

20 11. The ’504 patent, entitled “Computerized Information and Display
21 Apparatus,” was duly and legally issued by the United States Patent and Trademark
22 Office on April 22, 2014, after a full and fair examination. A copy of the ’504
23 patent is attached hereto as Exhibit D.

24 12. The ’037 patent, entitled “Transport Apparatus with Computerized
25 Information and Display Apparatus,” was duly and legally issued by the United
26 States Patent and Trademark Office on May 6, 2014, after a full and fair
27 examination. A copy of the ’037 patent is attached hereto as Exhibit E.

28 13. The ’839 patent, entitled “Computerized Information and Display

1 Apparatus,” was duly and legally issued by the United States Patent and Trademark
2 Office on July 15, 2014, after a full and fair examination. A copy of the ’839 patent
3 is attached hereto as Exhibit F.

4 14. The ’777 patent, entitled “Computerized Information and Display
5 Methods,” was duly and legally issued by the United States Patent and Trademark
6 Office on April 29, 2014, after a full and fair examination. A copy of the ’777
7 patent is attached hereto as Exhibit G.

8 15. The ’038 patent, entitled “Computerized Information and Display
9 Apparatus,” was duly and legally issued by the United States Patent and Trademark
10 Office on May 6, 2014, after a full and fair examination. A copy of the ’038 patent
11 is attached hereto as Exhibit H.

12 **COUNT I**

13 **INFRINGEMENT OF THE ’778 PATENT**

14 16. West View Research incorporates paragraphs 1 through 15 by
15 reference as if fully stated herein.

16 17. Defendant has been and is directly infringing literally and/or under the
17 doctrine of equivalents, at least claims 1, 2, 8, 9, 10, 11, 17, 21, 22, 23, 24, 25, 26,
18 28 and 30 of the ’778 patent.

19 18. Defendant has directly infringed, and continues to directly infringe,
20 either literally and/or under the doctrine of equivalents, in violation of 35 U.S.C. §
21 271(a), by making, using, selling, offering for sale, and/or importing in or into the
22 United States, without authority products that infringe at least claims 1, 2, 8, 9, 10,
23 11, 17, 21, 22, 23, 24, 25, 26, 28 and 30 of the ’778 patent, including but not
24 limited to Model S (including all “D” and non-D variants) and, based on
25 information and belief, Model X vehicles, sold or offered for sale on or after
26 October 16, 2012.

27 19. West View Research has no adequate remedy at law against these acts
28 of patent infringement. Defendant’s actions complained of herein are causing

1 irreparable harm and damages to West View Research and will continue to do so
2 unless and until Defendant is permanently enjoined by the Court.

3 20. As a direct and proximate result of the acts of patent infringement by
4 Defendant, West View Research has been damaged and continues to be damaged in
5 an amount not presently known.

6 21. West View Research has incurred and will incur attorneys' fees, costs,
7 and expenses in the prosecution of this action. The circumstances of this dispute
8 create an exceptional case within the meaning of 35 U.S.C. § 285, and West View
9 Research is entitled to recover its reasonable and necessary fees and expenses.

10 **COUNT II**

11 **INFRINGEMENT OF THE '146 PATENT**

12 22. West View Research incorporates paragraphs 1 through 21 by
13 reference as if fully stated herein.

14 23. Defendant has been and is directly infringing literally and/or under the
15 doctrine of equivalents, at least claims 1, 2, 3, 4, 5, 7, 8, 10, 11, 12, 15, 16, 19, 20,
16 21, 27, 28, 29, 31 and 32 of the '146 patent.

17 24. Defendant has directly infringed, and continues to directly infringe,
18 either literally and/or under the doctrine of equivalents, in violation of 35 U.S.C. §
19 271(a), by making, using, selling, offering for sale, and/or importing in or into the
20 United States, without authority products that infringe at least claims 1, 2, 3, 4, 5, 7,
21 8, 10, 11, 12, 15, 16, 19, 20, 21, 27, 28, 29, 31 and 32 of the '146 patent, including
22 but not limited to Model S (including all "D" and non-D variants) and, based on
23 information and belief, Model X vehicles, sold on or after October 23, 2012.

24 25. West View Research has no adequate remedy at law against these acts
25 of patent infringement. Defendant's actions complained of herein are causing
26 irreparable harm and damages to West View Research and will continue to do so
27 unless and until Defendant is permanently enjoined by the Court.

28 26. As a direct and proximate result of the acts of patent infringement by

1 Defendant, West View Research has been damaged and continues to be damaged in
2 an amount not presently known.

3 27. West View Research has incurred and will incur attorneys' fees, costs,
4 and expenses in the prosecution of this action. The circumstances of this dispute
5 create an exceptional case within the meaning of 35 U.S.C. § 285, and West View
6 Research is entitled to recover its reasonable and necessary fees and expenses.

7 **COUNT III**
8 **FOR INFRINGEMENT OF THE '673 PATENT**

9 28. West View Research incorporates paragraphs 1 through 27 by
10 reference as if fully stated herein.

11 29. Defendant has been and is directly infringing literally and/or under the
12 doctrine of equivalents, at least claims 1, 4, 6, 7, 8, 10, 12, 15, 16, 17, 18, 20, 21, 22
13 and 24 of the '673 patent.

14 30. Defendant has directly infringed, and continues to directly infringe,
15 either literally and/or under the doctrine of equivalents, in violation of 35 U.S.C. §
16 271(a), by making, using, selling, offering for sale, and/or importing in or into the
17 United States, without authority products that infringe at least claims 1, 4, 6, 7, 8,
18 10, 12, 15, 16, 17, 18, 20, 21, 22 and 24 of the '673 patent, including but not
19 limited to Model S (including all "D" and non-D variants) and, based on
20 information and belief, Model X vehicles, sold or offered for sale on or after March
21 25, 2014.

22 31. West View Research has no adequate remedy at law against these acts
23 of patent infringement. Defendant's actions complained of herein are causing
24 irreparable harm and damages to West View Research and will continue to do so
25 unless and until Defendant is permanently enjoined by the Court.

26 32. As a direct and proximate result of the acts of patent infringement by
27 Defendant, West View Research has been damaged and continues to be damaged in
28 an amount not presently known.

33. West View Research has incurred and will incur attorneys' fees, costs, and expenses in the prosecution of this action. The circumstances of this dispute create an exceptional case within the meaning of 35 U.S.C. § 285, and West View Research is entitled to recover its reasonable and necessary fees and expenses.

COUNT IV

FOR INFRINGEMENT OF THE '504 PATENT

34. West View Research incorporates paragraphs 1 through 33 by reference as if fully stated herein.

35. Defendant has been and is directly infringing literally and/or under the doctrine of equivalents, at least claims 43, 44, 45, 46 and 48 of the '504 patent.

36. Defendant has directly infringed, and continues to directly infringe, either literally and/or under the doctrine of equivalents, in violation of 35 U.S.C. § 271(a), by making, using, selling, offering for sale, and/or importing in or into the United States, without authority products that infringe at least claims 43, 44, 45, 46 and 48 of the '504 patent, including but not limited to Model S (including all "D" and non-D variants) and, based on information and belief, Model X vehicles, sold or offered for sale on or after April 22, 2014.

37. West View Research has no adequate remedy at law against these acts of patent infringement. Defendant's actions complained of herein are causing irreparable harm and damages to West View Research and will continue to do so unless and until Defendant is permanently enjoined by the Court.

38. As a direct and proximate result of the acts of patent infringement by Defendant, West View Research has been damaged and continues to be damaged in an amount not presently known.

39. West View Research has incurred and will incur attorneys' fees, costs, and expenses in the prosecution of this action. The circumstances of this dispute create an exceptional case within the meaning of 35 U.S.C. § 285, and West View Research is entitled to recover its reasonable and necessary fees and expenses.

COUNT V

FOR INFRINGEMENT OF THE '037 PATENT

40. West View Research incorporates paragraphs 1 through 39 by reference as if fully stated herein.

41. Defendant has been and is directly infringing literally and/or under the doctrine of equivalents, at least claims 22, 24, 27, 32, 33, 35, 37, 38, 39, 40, 42, 43, 44, 48, 49, 50, 51, 54, 55, 58, 59, 66, 67, 68, 70, 71, 72 and 73 of the '037 patent.

42. Defendant has directly infringed, and continues to directly infringe, either literally and/or under the doctrine of equivalents, in violation of 35 U.S.C. § 271(a), by making, using, selling, offering for sale, and/or importing in or into the United States, without authority products that infringe at least claims 22, 24, 27, 32, 33, 35, 37, 38, 39, 40, 42, 43, 44, 48, 49, 50, 51, 54, 55, 58, 59, 66, 67, 68, 70, 71, 72 and 73 of the '037 patent, including but not limited to Model S (including all "D" and non-D variants) and, based on information and belief, Model X vehicles, sold or offered for sale on or after May 6, 2014.

43. West View Research has no adequate remedy at law against these acts of patent infringement. Defendant's actions complained of herein are causing irreparable harm and damages to West View Research and will continue to do so unless and until Defendant is permanently enjoined by the Court.

44. As a direct and proximate result of the acts of patent infringement by Defendant, West View Research has been damaged and continues to be damaged in an amount not presently known.

45. West View Research has incurred and will incur attorneys' fees, costs, and expenses in the prosecution of this action. The circumstances of this dispute create an exceptional case within the meaning of 35 U.S.C. § 285, and West View Research is entitled to recover its reasonable and necessary fees and expenses.

COUNT VI

FOR INFRINGEMENT OF THE '839 PATENT

46. West View Research incorporates paragraphs 1 through 45 by reference as if fully stated herein.

47. Defendant has been and is directly infringing literally and/or under the doctrine of equivalents, at least claims 1, 8, 9, 10, 11, 13, 18, 22, 23, 24, 29, 37, 38, 39, 40, 41, 43 and 47 of the '839 patent.

48. Defendant has directly infringed, and continues to directly infringe, either literally and/or under the doctrine of equivalents, in violation of 35 U.S.C. § 271(a), by making, using, selling, offering for sale, and/or importing in or into the United States, without authority products that infringe at least claims 1, 8, 9, 10, 11, 13, 18, 22, 23, 24, 29, 37, 38, 39, 40, 41, 43 and 47 of the '839 patent, including but not limited to Model S (including all "D" and non-D variants) and, based on information and belief, Model X vehicles, sold or offered for sale on or after July 15, 2014.

49. West View Research has no adequate remedy at law against these acts of patent infringement. Defendant's actions complained of herein are causing irreparable harm and damages to West View Research and will continue to do so unless and until Defendant is permanently enjoined by the Court.

50. As a direct and proximate result of the acts of patent infringement by Defendant, West View Research has been damaged and continues to be damaged in an amount not presently known.

51. West View Research has incurred and will incur attorneys' fees, costs, and expenses in the prosecution of this action. The circumstances of this dispute create an exceptional case within the meaning of 35 U.S.C. § 285, and West View Research is entitled to recover its reasonable and necessary fees and expenses.

COUNT VII

FOR INFRINGEMENT OF THE '777 PATENT

52. West View Research incorporates paragraphs 1 through 51 by reference as if fully stated herein.

53. Defendant has been and is directly infringing literally and/or under the doctrine of equivalents, or indirectly infringing by inducement, at least claims 1, 8, 9, 10, 11, 12, 14, 19, 21, 22, 23, 24, 25, 28, 29, 35, 60, 61, 62 and 65 of the '777 patent.

54. Defendant has directly infringed, and continues to directly infringe, either literally and/or under the doctrine of equivalents, in violation of 35 U.S.C. § 271(a), by making, using, selling, offering for sale, and/or importing in or into the United States, without authority products that infringe at least claims 1, 8, 9, 10, 11, 12, 14, 19, 21, 22, 23, 24, 25, 28, 29, 35, 60, 61, 62 and 65 of the '777 patent, including but not limited to Model S (including all "D" and non-D variants) and, based on information and belief, Model X vehicles, sold or offered for sale on or after April 29, 2014.

55. Third parties, including Defendant's customers and sales personnel, have directly infringed, and continue to directly infringe, either literally and/or under the doctrine of equivalents, in violation of 35 U.S.C. § 271(a), by using, selling, and or offering for sale in the United States, and/or importing into the United States, products supplied by Defendant that infringe at least claims 1, 8, 9, 10, 11, 12, 14, 19, 21, 22, 23, 24, 25, 28, 29, 35, 60, 61, 62 and 65 of the '777 patent, including but not limited to Model S (including all "D" and non-D variants) and, based on information and belief, Model X vehicles, sold or offered for sale on or after April 29, 2014.

56. Upon information and belief, based on the information presently available to West View Research absent discovery, in addition to and/or in the alternative to direct infringement, West View Research contends that Defendant

1 has, since receiving notice of the filing of this Complaint, induced infringement and
2 continues to induce infringement of at least claims 1, 8, 9, 10, 11, 12, 14, 19, 21,
3 22, 23, 24, 25, 28, 29, 35, 60, 61, 62 and 65 of the '777 patent under 35 U.S.C. §
4 271(b). The filing and service of the Complaint in this action satisfies the
5 knowledge requirement for induced infringement. Defendant has, since receiving
6 notice of the filing of this Complaint, actively, knowingly, and intentionally
7 induced, and continues to actively, knowingly, and intentionally induce,
8 infringement of the '777 patent by making, using, importing, and selling or
9 otherwise supplying products including but not limited to Model S (including all
10 "D" and non-D variants) and, based on information and belief, Model X vehicles,
11 sold or offered for sale on or after April 29, 2014 to third parties (e.g., consumers
12 or Defendant's sales personnel), with the knowledge and specific intent that such
13 third parties will use, sell, offer for sale, and/or import, products supplied by
14 Defendant to infringe the '777 patent; and with the knowledge and specific intent to
15 encourage and facilitate the infringement through the dissemination of the products
16 and/or the creation and dissemination of promotional and marketing materials,
17 supporting materials, instructions, user manuals, training manuals or videos,
18 product manuals, technical manuals and/or technical assistance related to such
19 products which actively direct, encourage and/or assist the infringement of the '777
20 patent.

21 57. West View Research has no adequate remedy at law against these acts
22 of patent infringement. Defendant's actions complained of herein are causing
23 irreparable harm and damages to West View Research and will continue to do so
24 unless and until Defendant is permanently enjoined by the Court.

25 58. As a direct and proximate result of the acts of patent infringement by
26 Defendant, West View Research has been damaged and continues to be damaged in
27 an amount not presently known.

28 59. West View Research has incurred and will incur attorneys' fees, costs,

1 and expenses in the prosecution of this action. The circumstances of this dispute
2 create an exceptional case within the meaning of 35 U.S.C. § 285, and West View
3 Research is entitled to recover its reasonable and necessary fees and expenses.

4 **COUNT VIII**

5 **FOR INFRINGEMENT OF THE '038 PATENT**

6 60. West View Research incorporates paragraphs 1 through 59 by
7 reference as if fully stated herein.

8 61. Defendant has been and is infringing literally and/or under the doctrine
9 of equivalents, directly, at least claims 1, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 18,
10 22, 23, 24, 25, 27, 33, 34, 37, 38, 40, 41, 42, 43, 47, 49, 50, 51, 52 and 53 of the
11 '038 patent.

12 62. Defendant has directly infringed, and continues to directly infringe,
13 either literally and/or under the doctrine of equivalents, in violation of 35 U.S.C. §
14 271(a), by making, using, selling, offering for sale, and/or importing in or into the
15 United States, without authority products that infringe at least claims 1, 4, 5, 6, 7, 8,
16 9, 11, 12, 13, 14, 15, 16, 18, 22, 23, 24, 25, 27, 33, 34, 37, 38, 40, 41, 42, 43, 47,
17 49, 50, 51, 52 and 53 of the '038 patent, including but not limited to Model S
18 (including all "D" and non-D variants) and, based on information and belief, Model
19 X vehicles, sold or offered for sale one or after May 6, 2014.

20 63. West View Research has no adequate remedy at law against these acts
21 of patent infringement. Defendant's actions complained of herein are causing
22 irreparable harm and damages to West View Research and will continue to do so
23 unless and until Defendant is permanently enjoined by the Court.

24 64. As a direct and proximate result of the acts of patent infringement by
25 Defendant, West View Research has been damaged and continues to be damaged in
26 an amount not presently known.

27 65. West View Research has incurred and will incur attorneys' fees, costs,
28 and expenses in the prosecution of this action. The circumstances of this dispute

1 create an exceptional case within the meaning of 35 U.S.C. § 285, and West View
2 Research is entitled to recover its reasonable and necessary fees and expenses.

3 **PRAYER FOR RELIEF**

4 West View Research respectfully requests that judgment be entered in its
5 favor and against Defendant, and that the Court award the following relief to West
6 View Research:

7 A. A judgment in favor of West View Research that Defendant has
8 infringed, directly and/or indirectly, the Patents-in-Suit;

9 B. A permanent injunction against Defendant, its officers, directors,
10 agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents,
11 and all others acting in active concert therewith from infringement of the Patents-
12 in-Suit, or such other equitable relief the Court determines is warranted;

13 C. A judgment and order that Defendant account for and pay all damages
14 necessary to adequately compensate West View Research for infringement of the
15 Patents-in-Suit, but in no event less than a reasonable royalty;

16 D. A judgment and order finding that this is an exceptional case within
17 the meaning of 35 U.S.C. § 285 and awarding West View Research its reasonable
18 attorneys' fees against Defendant;

19 E. A judgment and order requiring Defendant to provide an accounting
20 and to pay supplemental damages to West View Research, including without
21 limitation, pre-judgment and post-judgment interest; and

22 F. Any and all other relief to which West View Research may be entitled.
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JURY DEMAND

West View Research hereby respectfully demands trial by jury of all issues so triable.

Dated: November 10, 2014

Respectfully submitted,

GAZDZINSKI & ASSOCIATES, P.C.

/s/ Adam Garson

ADAM GARSON (Bar No. 240440)
JOSH EMORY (Bar No. 247398)

Attorneys for Plaintiff
West View Research, LLC