IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

TAINOAPP, INC.,	§	
	§	
Plaintiff,	§	**CIVIL ACTION NO.**
	§	
v.	§	**JURY TRIAL DEMANDED**
	§	
BARNES & NOBLE, INC., BARNESANDNOBLE.COM LLC, and NOOK MEDIA LLC,	§	
	§	
Defendants.	§	

COMPLAINT FOR PATENT INFRINGEMENT

To The Honorable Court:

Comes Now, Plaintiff TainoApp, Inc. ("TainoApp" or "Plaintiff"), by and through its undersigned counsel, brings this action against Barnes & Noble Inc., Barnesandnoble.com LLC, and Nook Media LLC (collectively "Barnes & Noble" and/or "Defendants"). In support of this Complaint, Plaintiff alleges as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement arising under the Patent Laws of the United States of America, 35 U.S.C. §§ 1 *et seq*., including 35 U.S.C. § 271.

THE PARTIES

2. Plaintiff TainoApp is a corporation organized under the laws of Puerto Rico with its principal place of business at 229 Del Parque St., Suite #1401, San Juan, Puerto Rico 00912.

3. On information and belief, Barnes & Noble, Inc. is a Delaware corporation with its principal place of business at 122 Fifth Avenue, New York, NY 10011.

4. On information and belief, Barnesandnoble.com LLC is a Delaware corporation with its

principal place of business at 76 Ninth Avenue, 9th Floor, New York, NY 10011.

5. On information and belief, Nook Media LLC is a Delaware corporation with its principal place of business at 76 Ninth Avenue, 9th Floor, New York, NY 10011.

6. Defendants are in the business of making, using, selling, offering to sell and/or importing digital video display devices that employ minimal visual conveyance.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§1331 and 1338(a) because the action arises under the patent laws of the United States, 35 U.S.C. §§1 *et seq.*

8. This Court has personal jurisdiction over Defendants by virtue of their systematic and continuous contacts with this jurisdiction, as well as because of the injury to TainoApp and the cause of action TainoApp has raised, as alleged herein.

9. Defendants are subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Puerto Rico Long-Arm Statute, due to at least their substantial business in this forum, including: (i) at least a portion of the infringement alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in this District.

10. Defendants have conducted and do conduct business within this District, directly or through intermediaries, resellers, agents, or offer to sell, sell, and/or advertise (including the use of interactive web pages with promotional material) products in this District that infringe the Asserted Patent (as defined below).

11. In addition to Defendants' continuously and systematically conducting business in

this District, the causes of action against Defendants are connected (but not limited) to Defendants' purposeful acts committed in this District, including Defendants' making, using, importing, offering to sell, or selling products which include features that fall within the scope of at least one claim of the Asserted Patent.

12. Venue lies in this District under 28 U.S.C. §§1391 and 1400(b) because, among other reasons, Defendants are subject to personal jurisdiction in this District, and has committed and continues to commit acts of patent infringement in this District. For example, Defendants have used, sold, offered for sale, and/or imported Accused Products (as defined below) in this District.

JOINDER

13. Defendants are properly joined under 35 U.S.C. §299(a)(1) because a right to relief is asserted against the parties jointly, severally, and in the alternative with respect to the same transactions, occurrences, or series of transactions or occurrences relating to the making, using, importing into the United States, offering to sell, and/or selling the same Accused Products. Specifically, as alleged in detail below, Defendants are alleged to infringe the Asserted Patent with respect to the same Accused Products, as defined below.

14. Defendants are properly joined under 35 U.S.C. §299(a)(2). Questions of fact will arise that are common to both defendants, including for example, whether Defendants' products have features that meet the features of one or more claims of the Asserted Patent, and what reasonable royalty will be adequate to compensate the owner of the Asserted Patent for their infringement.

15. Defendants use, make, sell, offer to sell and/or import digital video display devices that employ minimal visual conveyance.

16. At least one right to relief is asserted against these parties jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences relating to the making, using, importing into the United States, offering to sell, or selling of the same accused product and/or process.

THE PATENT-IN-SUIT

17. There is one patent at issue in this action: United States Patent No. 7,034,791 (the "'791 Patent" or the "Asserted Patent").

18. On April 25, 2006, the United States Patent and Trademark Office ("USPTO") duly and legally issued the '791 Patent, entitled "Digital video display employing minimal visual conveyance" after a full and fair examination. TainoApp is presently the owner of the patent and possesses all right, title and interest in and to the '791 Patent. TainoApp owns all rights of recovery under the '791 Patent, including the exclusive right to recover for past infringement. The '791 Patent is valid and enforceable. A copy of the '791 Patent is attached hereto as Exhibit A.

19. The '791 Patent contains five independent claims and twelve dependent claims.

DESCRIPTION OF THE ACCUSED INSTRUMENTALITIES

20. Defendants use, sell, offer to sell, and/or import products, such as Barnes and Noble's "Nook Glowlight" that minimize display screen updating ("Accused Products").

21. Accordingly, the method of at least Claim 17 of the '791 Patent is performed when using the Dendants' Accused Products, such as the Nook Glowlight, are used, tested, or operated.

COUNT I:
INFRINGEMENT OF THE '791 PATENT

22. Plaintiff re-alleges and incorporates by reference the allegations set forth in paragraphs 1-21.

23. Defendants directly infringes at leas claim 17 of the ’791 Patent. For example, without limitation, Defendants directly infringes the ’791 Patent by using the Accused Products, including use by Defendants’ employees and agents, and use during product development and testing processes.

24. Defendants have had knowledge of infringement of the ’791 Patent at least as of the service of the present complaint.

25. Defendants have indirectly infringed and continues to indirectly infringe the ’791 Patent by actively inducing their customers, users, and/or licensees to directly infringe by using the Accused Products. Defendants have engaged or will have engaged in such inducement having knowledge of the ’791 Patent. Furthermore, Defendants knew or should have known that their actions would induce direct infringement by others and intended that their actions would induce direct infringement by others. For example, Defendants sell, offer to sale and advertise the Accused Products in Puerto Rico specifically intending that their customers buy and use them in an infringing manner. As a direct and proximate result of Defendants’ indirect infringement by inducement of the ’791 Patent, Plaintiff has been and continues to be damaged.

26. Defendants have contributorily infringed and continues to contributorily infringe the ’791 Patent by selling and/or offering to sell the Accused Products, whose infringing features are not a staple article of commerce and when used by a third-party, such as a customer, can only be used in a way that infringes the ’791 Patent. Defendants have or will have done this with knowledge of the ’791 Patent and knowledge that the Accused Products constitute a material part of the invention claimed in the ’791 Patent. Defendants engaged or will have engaged in such contributory infringement having knowledge of the ’791 Patent. As a direct and proximate result of Defendants’ contributory infringement of the ’791 Patent, Plaintiff has been

and continues to be damaged.

27. By engaging in the conduct described herein, Defendants have injured TainoApp and is thus liable for infringement of the '791 Patent, pursuant to 35 U.S.C. § 271.

28. Defendants have committed these acts of infringement without license or authorization.

29. To the extent that facts learned in discovery show that Defendants' infringement of the '791 Patent is or has been willful, TainoApp reserves the right to request such a finding at the time of trial.

30. As a result of Defendants' infringement of the '791 Patent, TainoApp has suffered harm and monetary damages and is entitled to a monetary judgment in an amount adequate to compensate for Defendants' past infringement, together with interests and costs.

31. TainoApp will continue to suffer harm and damages in the future unless Defendants' infringing activities are enjoined by this Court. As such, TainoApp is entitled to compensation for any continuing or future infringement up until the date that Defendants are finally and permanently enjoined from further infringement.

DEMAND FOR JURY TRIAL

32. TainoApp will demand a trial by jury of any and all causes of action.

PRAYER FOR RELIEF

TainoApp respectfully prays for the following relief:

A. That Defendants be adjudged to have infringed the '791 Patent, directly and/or indirectly, by inducement and/or contributory infringement, literally and/or under the doctrine of equivalents;

B. That Defendants, their officers, directors, agents, servants, employees, attorneys, affiliates, divisions, branches, parents, and those persons in active concert or

participation with any of them, be permanently enjoined from directly and/or indirectly infringing the '791 Patent;

C. An award of damages pursuant to 35 U.S.C. §284 sufficient to compensate TainoApp for Defendants' past infringement and any continuing or future infringement up until the date that Defendants are finally and permanently enjoined from further infringement, including compensatory damages;

D. An assessment of pre-judgment and post-judgment interest and costs against Defendants, together with an award of such interests and costs, in accordance with 35 U.S.C. §284;

E. That Defendants be directed to pay enhanced damages, including TainoApp's attorneys' fees incurred in connection with this lawsuit pursuant to 35 U.S.C. §285; and

F. That TainoApp have such other and further relief as this Court may deem just and proper.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, on this 14th day of March, 2013.

/s/Eugenio J. Torres-Oyola
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