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8 Attorneys for Plaintiff
9 Wok & Pan Ind., Inc.

11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA
13 WESTERN DIVISION

15 Wok & Pan Ind., Inc., a China
16 Corporation,

17 Plaintiff,

18 v.

20 Staples Incorporated, a
21 Massachusetts Corporation,

22 Defendant.

Case No. CV15-00809 AB (ASx)

**(1) FIRST AMENDED COMPLAINT
FOR
PATENT INFRINGEMENT
[35 U.S.C. § 271 *et seq.*]**

(2) DEMAND FOR JURY TRIAL

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1 For its First Amended Complaint against Defendant Staples Incorporated
2 (“Staples”), Plaintiff Wok & Pan Ind., Inc. (“Wok & Pan”), states the following:
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5 **I.**

6 **THE PARTIES**

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8 1. Wok & Pan is a China corporation with its principal place of business at
9 Tangja Village, Gonming Town, Bao’an Dist., Shenzhen City, Guangdong, China,
10 518132.
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13 2. Wok & Pan is informed and believes, and thereupon alleges, that
14 Defendant Staples Incorporated is an Massachusetts corporation with a principal place of
15 business at 500 Staples Drive, Framingham, Massachusetts 01702.
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18 3. Upon information and belief, Defendant has substantial contacts and
19 transacts substantial business, either directly or through its agents, on an ongoing basis
20 in this judicial district and elsewhere in the United States.
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23 4. Unless specifically stated otherwise, the acts complained of herein were
24 committed by, on behalf of, and/or for the benefit of Defendant.
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II.

NATURE OF THE ACTION

5. This is an action for patent infringement.

6. Wok & Pan is informed and believes, and thereupon alleges, that Defendant has been and is infringing, contributing to the infringement of, and/or actively inducing others to infringe claims of U.S. Patent No. 5,957,061 ("the '061 Patent"), U.S. Patent No. 8,881,661 B2 ("the '661 Patent"), and U.S Patent No. 8,931,421 B2 ("the '421 Patent," hereinafter collectively, "the Asserted Patents").

III.

JURISDICTION AND VENUE

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

8. This Court has jurisdiction over Defendant because it has substantial contacts and conducts substantial business in the state of California, in this judicial district and has been infringing, contributing to the infringement of, and/or actively inducing others to infringe the Asserted Patents in this District and elsewhere.

9. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 (a) (b) and (c)

1 and /or 1400 (b) because a substantial part of the events giving rise to Wok & Pan's
2 claims occurred in the Central District of California and because Defendant is subject to
3 personal jurisdiction in the Central District of California.
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6 **IV.**
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8 **FACTUAL BACKGROUND**

9 10. The Asserted Patents relate to technology used in foldable tables that
10 provide flexibility and portability. Wok & Pan is the owner of the Asserted Patents by
11 assignment from their inventors, Mei-Fei Chang and Ping-Cheng Tsai. Based on the
12 patented technology, Wok & Pan has designed, and developed products that it markets
13 and sells worldwide. Wok & Pan has relied on and invested in the patented technology
14 in order to grow its markets and its business, and has relied on the United States Patent
15 system to protect both the technology and the business that has resulted from its
16 investments.
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21 11. On September 28, 1999, U.S. Patent No 5,957,061 titled "Banquet Table"
22 issued to Mei-Fang Chang, providing a banquet table "including a table surface, upper
23 frames fixedly installed on the bottom side of the table surface, and leg frames which are
24 rotatably connected to the upper frames so as to allow the leg frames to be folded inward
25 and toward the bottom side of the table surface. The table surface can also be formed by
26 two sections for folding. The two-section banquet table also includes a pair of hinges for
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1 connecting the upper frames on each table section. The hinges are designed to include
2 two facing pressure resisting sections so that when the table is extended, the pressure of
3 the table is applied on the pressure resisting sections, instead of the connecting pin
4 shafts." A true and correct copy of the '061 patent is attached as Exhibit "A" and
5 incorporated herein by reference.
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9 12. On November 11, 2014, U.S. Patent No. 8,881,661 B2 titled "Foldable
10 Table" issued to Ping-Cheng Tsai. This patent discloses a foldable table that "includes a
11 first tabletop panel, a second tabletop panel, and a reinforcing frame which includes first
12 through fourth reinforcing members mounted along longitudinal sides of the first and
13 second tabletop panels respectively, a first transverse member transversely extended
14 between outer end portions of the first and second reinforcing members at the first
15 tabletop panel, and a second transverse member transversely extended between outer end
16 portions of the third and fourth reinforcing members at the second tabletop panel. Two
17 ends of the first transverse member are affixed to the first and second reinforcing
18 members in a non-rotatably movable manner. Two ends of the second transverse
19 member are affixed to the third and fourth reinforcing members in a non-rotatably
20 movable manner. Therefore, the first and second transverse members enhance the
21 rigidity of the reinforcement frame to support two transverse sides of the first and second
22 tabletop panels respectively." A true and correct copy of the '661 Patent is attached as
23 Exhibit "B" and incorporated herein by reference.
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3 13. On January 13, 2015, U.S. Patent No. 8,931,421 B2 titled "Foldable Table"
4 issued to Ping-Cheng Tsai. This patent discloses a foldable table that "includes a first
5 tabletop panel, a second tabletop panel, and a reinforcing frame which includes first
6 through fourth reinforcing members mounted along longitudinal sides of the first and
7 second tabletop panels respectively, a first transverse member transversely extended
8 between outer end portions of the first and second reinforcing members at the first
9 tabletop panel, and a second transverse member transversely extended between outer end
10 portions of the third and fourth reinforcing members at the second tabletop panel. Two
11 ends of the first transverse member are affixed to the first and second reinforcing
12 members in a non-rotatably movable manner. Two ends of the second transverse
13 member are affixed to the third and fourth reinforcing members in a non-rotatably
14 movable manner. Therefore, the first and second transverse members enhance the
15 rigidity of the reinforcement frame to support two transverse sides of the first and second
16 tabletop panels respectively." A true and correct copy of the '421 Patent is attached as
17 Exhibit "C" and incorporated herein by reference.
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24 14. At all relevant times, the rights in the Asserted Patents have been owned
25 by their inventors, and assigned to Wok & Pan.
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1 15. On December 5, 2014, Wok & Pan purchased a product "UT-18
2 Indoor/Outdoor 30" x 72" Fold-In-Half Table" from Defendant bearing the SKU number
3 042952115883 (referred to herein as the "UT-18 table"). Wok & Pan purchased the UT-
4 18 table through one of Defendant's retail stores located in Pasadena, California. A true
5 and correct copy of the receipt for the purchase is attached as Exhibit "D," and
6 incorporated herein by reference.
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10 16. True and correct images of the box for the UT-18 table purchased by Wok
11 & Pan are attached as Exhibit "E," and incorporated herein by reference. The box
12 identifies the product as "UT-18 Indoor/Outdoor 30" x 72" Fold-In-Half Table." A label
13 seen in Exhibit E and affixed to the box for the UT-18 table bears the same SKU number
14 as the SKU number shown on the receipt for purchase found in Exhibit D,
15 042952115883.
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19 17. True and correct images of the UT-18 table purchased by Wok & Pan are
20 attached as Exhibit "F," and incorporated herein by reference. A label seen in Exhibit F
21 and affixed to the table identifies the table as item UT18.3U541. The label affixed to the
22 table also bears the same SKU number as the SKU number shown on the receipt for
23 purchase found in Exhibit D, 042952115883.
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1 18. Attached as Exhibit "G" is a true and correct copy of the item page for the
2 UT-18 table at Defendant's website, located at <http://www.staples.com/Meco-6-Utility->
3 [Fold-in-Half-Table/product_WYF078277097913](http://www.staples.com/Meco-6-Utility-Fold-in-Half-Table/product_WYF078277097913), and obtained on March 30, 2015 by
4 plaintiff.
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8 **V.**

9 **CLAIMS FOR RELIEF**

10 **COUNT 1**

11 **(Patent Infringement of U.S. Patent No 5,957,061 ('061 Patent)**

12 **Under 35 U.S.C. § 271 *et seq.*)**

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15 19. Wok & Pan incorporates by reference and realleges paragraphs 1 through
16 18 above as though fully restated here.
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19 20. Wok & Pan is informed and believes that Defendant has infringed,
20 contributory infringed and/or induced the infringement of the '061 Patent through its
21 production and sale of products using the technology that is proprietary to Wok & Pan
22 under the '061 Patent.
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25 21. Wok & Pan is informed and believes that Defendant has provided
26 infringing products to the market under various names, including the product identified
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1 herein as the UT-18 table. The aforementioned and any other infringing products may be
2 referred to collectively as the “Accused Products.”
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5 22. Wok & Pan is informed and believes that Defendant makes the Accused
6 Products available through various marketing channels, including a distribution network
7 that conducts direct sales through its stores, and Internet sales.
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10 23. Wok & Pan believes that Defendant's acts of marketing the Accused
11 Products directly and in connection with customers and other parties constitute direct
12 and contributory and/or induced infringement of the '061 Patent. Wok & Pan believes
13 that Defendant has not only violated the proprietary rights of Wok & Pan, but has
14 encouraged and induced others to do so, through its marketing channels and sales
15 networks and the continued sale of the Accused Products through Defendant's direct and
16 third party marketing channels.
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21 24. Wok & Pan believes that Defendant Staples is liable for infringement by
22 designing the Accused Products in a manner that infringes Wok & Pan’s proprietary
23 technology under the '061 Patent, and further liable for contributory and induced
24 infringement by encouraging others to market, sell and use the Accused Products.
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1 25. Wok & Pan is entitled to recover from Defendant the actual damages it has
2 sustained as a result of Defendant's wrongful acts as alleged herein, in an amount to be
3 proven at trial under 35 U.S.C. § 284.
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6 26. Wok & Pan is informed and believes and thereupon alleges that
7 Defendant's infringement has been and continues to be willful and deliberate, in
8 disregard for Wok & Pan's patent rights, and that Wok & Pan is thereby entitled to
9 increased damages up to three times the amount of actual damages and attorney's fees,
10 pursuant to 35 U.S.C. §§ 284 and 285.
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14 27. Defendant's continued infringement of the '061 Patent will continue to
15 damage Wok & Pan in a manner that is causing irreparable harm for which there is no
16 adequate remedy at law unless it is enjoined by this Court.
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20 28. Wok & Pan therefore is informed and believes and thereupon alleges that
21 Defendant has infringed and continues to infringe the claims of the '061 Patent, literally
22 or under the doctrine of equivalents by making, using, offering for sale and selling
23 (directly and through intermediaries or third parties) the Accused Products in this
24 District and elsewhere in the United States.
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1 29. Wok & Pan is informed and believes and thereupon alleges Defendant has
2 contributed and continues to contribute to the literal infringement and/or infringement
3 under the doctrine of equivalents of the claims of the '061 Patent, and has actively
4 induced and continues to actively induce others to infringe the claims of the '061 Patent,
5 literally and under the doctrine of equivalents in this District and elsewhere in the United
6 States.
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10 **COUNT 2**

11 **(Patent Infringement of U.S. Patent No. 8,881,661 B2 (the '661 Patent)**

12 **under 35 U.S.C. § 271 et seq.)**

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14 30. Wok & Pan incorporates by reference and realleges paragraphs 1 through
15 18 above as though fully restated here.
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18 31. Wok & Pan is informed and believes that Defendant has infringed,
19 contributory infringed and/or induced the infringement of the '661 Patent through its
20 production and sale of products using the technology that is proprietary to Wok & Pan
21 under the '661 Patent.
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25 32. Wok & Pan is informed and believes that Defendant has provided
26 infringing products to the market under various names, including the product identified
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1 herein as the UT-18 table. The aforementioned and any other infringing products may be
2 referred to collectively as the “Accused Products.”
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5 33. Wok & Pan is informed and believes that Defendant makes the Accused
6 Products available through various marketing channels, including distribution networks
7 that conduct direct sales through stores, and Internet sales.
8

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10 34. Wok & Pan believes that Defendant's acts of marketing the Accused
11 Products directly and in connection with customers and other parties constitute direct
12 and contributory and/or induced infringement of the Asserted Patent. Wok & Pan
13 believes that Defendant has not only violated the proprietary rights of Wok & Pan, but
14 has encouraged and induced others to do so, through its marketing channels and sales
15 networks and the continued sale of the Accused Products through Defendant's direct and
16 third party marketing channels.
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21 35. Wok & Pan believes that Defendant Staples is liable for infringement by
22 designing the Accused Products in a manner that infringes Wok & Pan’s proprietary
23 technology under the '661 Patent, and further liable for contributory and induced
24 infringement by encouraging others to market, sell and use the Accused Products.
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1 36. Wok & Pan is entitled to recover from Defendant the actual damages it has
2 sustained as a result of Defendant's wrongful acts as alleged herein, in an amount to be
3 proven at trial under 35 U.S.C. § 284.
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6 37. Wok & Pan is informed and believes and thereupon alleges that
7 Defendant's infringement has been and continues to be willful and deliberate, in
8 disregard for Wok & Pan's patent rights, and that Wok & Pan is thereby entitled to
9 increased damages up to three times the amount of actual damages and attorney's fees,
10 pursuant to 35 U.S.C. §§ 284 and 285.
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14 38. Defendant's continued infringement of the '661 Patent will continue to
15 damage Wok & Pan in a manner that is causing irreparable harm for which there is no
16 adequate remedy at law unless it is enjoined by this Court.
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20 39. Wok & Pan therefore is informed and believes and thereupon alleges that
21 Defendant has infringed and continues to infringe the claims of the '661 Patent literally
22 or under the doctrine of equivalents by making, using, offering for sale and selling
23 (directly and through intermediaries or third parties) the Accused Products in this
24 District and elsewhere in the United States.
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1 40. Wok & Pan is informed and believes and thereupon alleges Defendant has
2 contributed and continues to contribute to the literal infringement and/or infringement
3 under the doctrine of equivalents of the claims of the '661 Patent, and has actively
4 induced and continues to actively induce others to infringe the claims of the '661 Patent,
5 literally and under the doctrine of equivalents in this District and elsewhere in the United
6 States.
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10 **COUNT 3**

11 **(Patent Infringement of U.S. Patent No. 8,931,421 B2 (the '421 Patent)**

12 **under 35 U.S.C. § 271 *et seq.*)**

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14 41. Wok & Pan incorporates by reference and realleges paragraphs 1 through
15 18 above as though fully restated here.
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18 42. Wok & Pan is informed and believes that Defendant has infringed,
19 contributory infringed and/or induced the infringement of the '421 Patent through its
20 production and sale of products using the technology that is proprietary to Wok & Pan
21 under the '421 Patent.
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24 43. Wok & Pan is informed and believes that Defendant has provided
25 infringing products to the market under various names, including the product identified
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1 herein as the UT-18 table. The aforementioned and any other infringing products may be
2 referred to collectively as the “Accused Products.”
3

4
5 44. Wok & Pan is informed and believes that Defendant makes the Accused
6 Products available through various marketing channels, including distribution networks
7 that conduct direct sales through stores, and Internet sales.
8

9
10 45. Wok & Pan believes that Defendant's acts of marketing the Accused
11 Products directly and in connection with customers and other parties constitute direct
12 and contributory and/or induced infringement of the Asserted Patent. Wok & Pan
13 believes that Defendant has not only violated the proprietary rights of Wok & Pan, but
14 has encouraged and induced others to do so, through its marketing channels and sales
15 networks and the continued sale of the Accused Products through Defendant's direct and
16 third party marketing channels.
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21 46. Wok & Pan believes that Defendant Staples is liable for infringement by
22 designing the Accused Products in a manner that infringes Wok & Pan’s proprietary
23 technology under the '421 Patent, and further liable for contributory and induced
24 infringement by encouraging others to market, sell and use the Accused Products.
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1 47. Wok & Pan is entitled to recover from Defendant the actual damages it has
2 sustained as a result of Defendant's wrongful acts as alleged herein, in an amount to be
3 proven at trial under 35 U.S.C. § 284.
4

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6 48. Wok & Pan is informed and believes and thereupon alleges that
7 Defendant's infringement has been and continues to be willful and deliberate, in
8 disregard for Wok & Pan's patent rights, and that Wok & Pan is thereby entitled to
9 increased damages up to three times the amount of actual damages and attorney's fees,
10 pursuant to 35 U.S.C. §§ 284 and 285.
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14 49. Defendant's continued infringement of the '421 Patent will continue to
15 damage Wok & Pan in a manner that is causing irreparable harm for which there is no
16 adequate remedy at law unless it is enjoined by this Court.
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20 50. Wok & Pan therefore is informed and believes and thereupon alleges that
21 Defendant has infringed and continues to infringe the claims of the '421 Patent literally
22 or under the doctrine of equivalents by making, using, offering for sale and selling
23 (directly and through intermediaries or third parties) the Accused Products in this
24 District and elsewhere in the United States.
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1 51. Wok & Pan is informed and believes and thereupon alleges Defendant has
 2 contributed and continues to contribute to the literal infringement and/or infringement
 3 under the doctrine of equivalents of the claims of the '421 Patent, and has actively
 4 induced and continues to actively induce others to infringe the claims of the '421 Patent,
 5 literally and under the doctrine of equivalents in this District and elsewhere in the United
 6 States.
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 11 **VI.**
 12 **PRAYER FOR RELIEF**

13 **WHEREFORE,** Plaintiff Wok & Pan asks this Court to enter judgment in its
 14 favor against Defendant and grant the following relief:
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 18 A. An adjudication that Defendant has infringed and continues to infringe the
 19 Asserted Patents as alleged above;

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 22 B. An accounting of all damages sustained by Wok & Pan as a result of
 23 Defendant's acts of infringement of the Asserted Patents;

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 26 C. An award to Wok & Pan of actual damages adequate to compensate Wok
 27 & Pan for Defendant's acts of infringement, together with pre-judgment and post-
 28 judgment interest;

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3 D. An award to Wok & Pan of enhanced damages, up to and including the
4 trebling of Wok & Pan damages pursuant to 35 U.S.C. § 284 for Defendant's willful
5 infringement of the Asserted Patents.
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8 E. An award for Wok & Pan's cost of suit and reasonable attorneys' fees
9 pursuant to 35 U.S.C. 285 due to the exceptional nature of this case; or as otherwise
10 permitted by law.
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13 F. A grant of permanent injunction pursuant to 35 U.S.C. 283, enjoining
14 Defendant and each of its agents, servants employees, principals, officers, attorneys,
15 successors, assignees and all those in active concert with Defendant, including related
16 individuals and entities, customers, representatives, OEM's, dealers and distributors,
17 from further acts of (1) infringement, (2) contributory infringement, and (3) active
18 inducement to infringe with respect to the claims of the Asserted Patents, and;
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23 G. Any further relief that this Court deems just and proper.
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1 Dated: April 13, 2015

DAVID AND RAYMOND IP LAW FIRM

2
3 s/Tony W. Wong/

4 TONY W. WONG

A. JUSTIN LUM, Of Counsel

5 Attorneys for Plaintiff

6 Wok & Pan Ind., Inc.

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3 **DEMAND FOR JURY TRIAL**

4 Plaintiff Wok & Pan Ind., Inc. hereby demands a jury trial on all issues triable as
5 of right to a jury. FED. R. CIV. P. 38(b).

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7 Dated: April 13, 2015

DAVID AND RAYMOND IP LAW FIRM

8
9 s/Tony W. Wong/

TONY W. WONG

A. JUSTIN LUM, Of Counsel

10
11 Attorneys for Plaintiff

Wok & Pan Ind., Inc.

CERTIFICATE OF SERVICE

I am a citizen of the United States of America and I am employed in Alhambra, California. I am over the age of 18 and not a party to the within action. My business address is 388 E. Valley Blvd., Suite 223, Alhambra, California 91801. On the below execution date I served the within **FIRST AMENDED COMPLAINT** to the parties or their counsel shown below:

<p>Ryan K Yagura, Esq. Andrea L LaFountain, Esq. O'MELVENY & MYERS LLP 400 South Hope Street Los Angeles, CA 90071 Phone: 213.430.6189 Fax: 213.430.6407 Email: ryagura@omm.com alafountain@omm.com</p>	<p>Barbara L Moore, Esq. GOULSTON & STORRS PC 400 Atlantic Avenue Boston, MA 02110-3333 Phone: 617.574.4135 Fax: 617.574.4112 Email: bmoore@goulstonstorrs.com</p>
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X (BY ECF NOTIFICATION) I filed this document electronically with PACER/ECF and stated parties received notification by e-mail from the ECF filing system.

I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on April 13, 2015 at Alhambra, California.

s/Jeffrey Vien/
Jeffrey Vien