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 WEST VIEW RESEARCH, LLC

9
 10 UNITED STATES DISTRICT COURT
 11 SOUTHERN DISTRICT OF CALIFORNIA

12 WEST VIEW RESEARCH, LLC, a
 13 California corporation,

14 Plaintiff,

15 v.

16 BAYERISCHE MOTOREN
 WERKE AG, a German corporation;
 17 BMW OF NORTH AMERICA,
 LLC, a Delaware corporation; and
 18 BMW MANUFACTURING CO.,
 LLC, a Delaware corporation,

19 Defendants.

20 And Related Counterclaim.

CASE NO. 3:14-cv-2670 CAB WVG

**FIRST AMENDED COMPLAINT FOR
 PATENT INFRINGEMENT**

JURY TRIAL DEMANDED

Judge: Hon. Cathy Ann Bencivengo
 Ctrm: 4C

1 This is an action for patent infringement in which Plaintiff and Counter-
2 Defendant West View Research, LLC (“West View Research” or “Plaintiff”) makes
3 the following allegations against Defendants BAYERISCHE MOTOREN WERKE
4 AG, BMW OF NORTH AMERICA, LLC and BMW MANUFACTURING CO.,
5 LLC (collectively “BMW” or “Defendants”) as follows:

6 **THE PARTIES**

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

10 2. Upon information and belief, Defendant BAYERISCHE MOTOREN
11 WERKE AG is a corporation organized under the laws of Germany, with its
12 principal place of business at Petuelring 130, Munich 80788, Germany.

13 3. Upon information and belief, Defendant BMW OF NORTH
14 AMERICA, LLC is a corporation organized under the laws of Delaware, with its
15 principal place of business at 300 Chestnut Ridge Road, Woodcliff, New Jersey
16 07677 and a registered agent at The Corporation Trust Company, Corporation Trust
17 Center, 1209 Orange Street, Wilmington, Delaware 19801.

18 4. Upon information and belief, Defendant BMW MANUFACTURING
19 CO., LLC is a corporation organized under the laws of Delaware, with its principal
20 place of business at 1400 Highway 101 South, Greer, South Carolina 29651 and a
21 registered agent at The Corporation Trust Company, Corporation Trust Center,
22 1209 Orange Street, Wilmington, Delaware 19801.

23 **JURISDICTION AND VENUE**

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

27 6. This Court has personal jurisdiction over Defendants at least because
28 Defendants are present within or have ongoing and systematic contacts with the

1 United States, the State of California, and the Southern District of California.
2 Defendants have purposefully and regularly availed themselves of the privileges of
3 conducting business in the State of California and in the Southern District of
4 California. Plaintiff's causes of action arise directly from Defendants' business
5 contacts and other activities in the State of California and in the Southern District of
6 California. Defendants have committed acts of patent infringement in this District,
7 and have harmed and continue to harm West View Research in this District, by,
8 among other things, using, selling, offering for sale, and/or importing infringing
9 products and/or services into this District.

10 **BACKGROUND**

11 7. West View Research owns all right, title and interest in U.S. Patent
12 No. 8,719,038 (the "'038 patent"), U.S. Patent No. 8,719,037 (the "'037 patent"),
13 U.S. Patent No. 8,682,673 (the "'673 patent"), U.S. Patent No. 8,296,146 (the "'146
14 patent"), U.S. Patent No. 8,301,456 (the "'456 patent"), U.S. Patent No. 8,065,156
15 (the "'156 patent"), U.S. Patent No. 8,311,834 (the "'834 patent"), and U.S. Patent
16 No. 8,290,778 (the "'778 patent") (collectively, the "Patents-in-Suit").

17 8. Each of the Patents-in-Suit is valid and enforceable.

18 9. West View Research is in compliance with the marking requirements
19 under 35 U.S.C. § 287 in that it has no duty to mark or to give notice in lieu thereof
20 because it is a patent licensing entity and has no products to mark.

21 10. The '038 patent, entitled "Computerized Information and Display
22 Apparatus," was duly and legally issued by the United States Patent and Trademark
23 Office on May 6, 2014, after a full and fair examination. A copy of the '038 patent
24 is attached hereto as Exhibit A.

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

1 12. The '673 patent, entitled "Computerized Information and Display
2 Apparatus," was duly and legally issued by the United States Patent and Trademark
3 Office on March 25, 2014, after a full and fair examination. A copy of the '673
4 patent is attached hereto as Exhibit C.

5 13. The '146 patent, entitled "Computerized Information Presentation
6 Apparatus," was duly and legally issued by the United States Patent and Trademark
7 Office on October 23, 2012, after a full and fair examination. A copy of the '146
8 patent is attached hereto as Exhibit D.

9 14. The '456 patent, entitled "Electronic Information Access System and
10 Methods," was duly and legally issued by the United States Patent and Trademark
11 Office on October 30, 2012, after a full and fair examination. A copy of the '456
12 patent is attached hereto as Exhibit E.

13 15. The '156 patent, entitled "Adaptive Information Presentation
14 Apparatus and Methods," was duly and legally issued by the United States Patent
15 and Trademark Office on November 22, 2011, after a full and fair examination. A
16 copy of the '156 patent is attached hereto as Exhibit F.

17 16. The '834 patent, entitled "Computerized Information Selection and
18 Download Apparatus and Methods," was duly and legally issued by the United
19 States Patent and Trademark Office on November 13, 2012, after a full and fair
20 examination. A copy of the '834 patent is attached hereto as Exhibit G.

21 17. The '778 patent, entitled "Computerized Information Presentation
22 Apparatus," was duly and legally issued by the United States Patent and Trademark
23 Office on October 16, 2012, after a full and fair examination. A copy of the '778
24 patent is attached hereto as Exhibit H.

25 **LITIGATION HISTORY**

26 18. Plaintiff originally filed this action on November 10, 2014 ("Original
27 Complaint") in the U.S. District Court for the Southern District of California.
28 (Docket No. 1). On or about November 19, 2014, BMW OF NORTH AMERICA,

1 LLC and BMW MANUFACTURING CO., LLC were served with the Original
2 Complaint. (Docket Nos. 13-14). Simultaneously, Plaintiff began the diligent
3 pursuit of service on BAYERISCHE MOTOREN WERKE AG abroad, in
4 accordance with the requirements of the Hague Convention.

5 19. On or about January 9, 2015 Defendants BMW OF NORTH
6 AMERICA, LLC and BMW MANUFACTURING CO., LLC filed their Answers,
7 Affirmative Defenses and Counterclaims to the Original Complaint. (Docket Nos.
8 15 and 17.) On February 2, 2015, Plaintiff filed its Answers to BMW OF NORTH
9 AMERICA, LLC and BMW MANUFACTURING CO., LLC's Counterclaims.
10 (Docket Nos. 21-22).

11 20. On May 19, 2015, West View Research sought leave of Court to
12 amend its complaint in this action. (Docket No. 38.) The Court granted in part, and
13 denied in part West View Research's Motion for Leave to Amend its Complaint on
14 June 10, 2015. (Docket No. 44.)

15 21. On information and belief, Defendants have had knowledge of the
16 Patents-in-Suit as early as November 19, 2014, the date Defendants BMW OF
17 NORTH AMERICA, LLC and BMW MANUFACTURING CO., LLC were served
18 with the Original Complaint, and perhaps as early as November 10, 2014, the date
19 of filing of the Original Complaint in this action and the related actions filed at or
20 about the same time (i.e., Case Nos. 14-CV-2668-CAB (WVG), 14-CV-2670-CAB
21 (WVG), 14-CV-2675-CAB (WVG), 14-CV-2677-CAB (WVG), 14-CV-2679-CAB
22 (WVG)) (hereinafter, "Related Actions").

23 **DEFENDANTS' RELEVANT TECHNOLOGY**

24 22. Upon information and belief, Defendants make, use, sell, offer for sale,
25 distribute, import, and/or advertise (including the provision of an interactive
26 website) their infringing products, namely vehicles that include but are not limited
27 to:

28 ///

1 (1) 2011 and later (as applicable) 1-Series, 2-Series, 3-Series, 4-Series, 5-
2 Series, 6-Series, 7-Series, Z4, M-models, X-models, and i-Series with “iDrive” with
3 Navigation system including but not limited to those with “BMW ConnectedDrive”
4 and/or “BMW Assist” and/or “BMW Online” (hereinafter, “BMW iDrive
5 Navigation Products”);

6 (2) 2011 and later (as applicable) 1-Series, 2-Series, 3-Series, 4-Series, 5-
7 Series, 6-Series, 7-Series, Z4, M-models, X-models, and i-Series with “iDrive” with
8 Navigation system including but not limited to those with “BMW ConnectedDrive”
9 and/or “BMW Assist” and/or “BMW Online” used in conjunction with BMW
10 Connected Smartphone application and/or “Last Mile” (Android Only) (hereinafter,
11 “BMW iDrive Navigation Products with Connected Smartphone Application”);

12 (3) 2016 and later (as applicable) 7-Series and other vehicles with next-
13 generation touchscreen-based iDrive navigation/infotainment system (hereinafter,
14 “Touchscreen-based iDrive Products”);

15 (4) 2016 and later (as applicable) 7-Series and other vehicles with next-
16 generation touchscreen-based navigation/infotainment system and Android-based
17 portable electronic computing device known as the BMW “Touch Command”
18 Tablet (hereinafter, “Touchscreen and Tablet Products”); and

19 (5) 2016 and later (as applicable) versions of the Android-based, portable
20 electronic tablet computing device known as the BMW “Touch Command” Tablet
21 (hereinafter, “Tablet Products”).

22 23. BMW iDrive Navigation Products, BMW iDrive Navigation Products
23 with Connected Smartphone Application, Touchscreen-based iDrive Products,
24 Touchscreen and Tablet Products, and Tablet Products may be collectively referred
25 to herein as the “Accused Products.”

26 24. The Accused Products directly infringe the Patents-in-Suit in violation
27 of 5 U.S.C. § 271(a).

28 ///

1 25. Upon information and belief, Defendants own, operate, and/or control
2 various Internet websites, including the URL addresses <http://www.bmw.com/> and
3 <http://www.bmwusa.com> and therefore manage and/or control the contents
4 displayed thereon. Upon information and belief, through the publication and
5 dissemination of marketing and/or promotional materials, detailed operational
6 manuals, on-line instructional videos, and/or technical assistance, Defendants
7 entice, encourage, instruct, enable and otherwise aid and abet third parties,
8 including but not limited to Defendants' customers and sales or technical personnel,
9 Defendants' agents, owners, and/or drivers of the Accused Products, to use such
10 Accused Products in a manner that directly infringes the Patents-in-Suit, including
11 the '156 patent, '146 patent, '834 patent, and '456 patent. *See e.g.:*

- 12 • Publishing online resources including operating instructions and
13 explanatory videos touting BMW iDrive Navigation Products with
14 Connected Smartphone Application, at [http://www.bmw.com/com/en/
15 owners/connected_drive_services/how_to_use/index.html](http://www.bmw.com/com/en/owners/connected_drive_services/how_to_use/index.html) (A true and
16 correct copy of relevant portions of this webpage are attached hereto as
17 Exhibit I);
- 18 • Publishing a press releases and promotional material highlighting the
19 BMW iDrive Navigation Products with Connected Smartphone
20 Application at [https://www.press.bmwgroup.com/usa/pressDetail.html
21 ?title=bmw-connecteddrive-broaden-of-access-and-expansion-of-
22 services-globally-will-include-benefits-for-us&outputChannelId=9&id
23 =T0142592EN_US&left_menu_item=node_5238](https://www.press.bmwgroup.com/usa/pressDetail.html?title=bmw-connecteddrive-broaden-of-access-and-expansion-of-services-globally-will-include-benefits-for-us&outputChannelId=9&id=T0142592EN_US&left_menu_item=node_5238) (A true and correct
24 copy of relevant portions of this webpage are attached hereto as
25 Exhibit J);
- 26 • Publishing online resources including operating instructions and
27 explanatory videos touting BMW iDrive Navigation Products with
28 Connected Smartphone Application at <http://www.bmwusa.com>

1 [com/Standard/Content/Innovations/Engineering/iDrive/default.aspx?from=/standard/content/owner/idriverd.aspx&return=/standard/content/owner/idriverd.aspx](http://www.bmw.com/Standard/Content/Innovations/Engineering/iDrive/default.aspx?from=/standard/content/owner/idriverd.aspx&return=/standard/content/owner/idriverd.aspx) (A true and correct copy of relevant portions of this webpage are attached hereto as Exhibit K);

- 5 • Publishing online resources including operating instructions and explanatory videos touting BMW iDrive Navigation Products with Connected Smartphone Application, at <http://www.bmw.com/en/insights/technology/connecteddrive/2013/> (A true and correct copy of relevant portions of this webpage are attached hereto as Exhibit L);
- 11 • Publishing and distributing user manuals for BMW's iDrive Navigation Products with Connected Smartphone Application, which contains detailed instructions for the use and operation of such systems. (A true and correct copy of the manual is attached hereto as Exhibit M);
- 16 • Publishing and distributing user manuals for BMW's ConnectedDrive, which contains detailed instructions for the use and operation of such systems, including accessing the Internet. (A true and correct copy of the manual is attached hereto as Exhibit N); and
- 21 • Publishing a press release touting 2016 BMW 7-Series with Touchscreen-based iDrive Products, Touchscreen and Tablet Products, and Tablet Products, at https://www.press.bmwgroup.com/global/pressDetail.html?title=the-new-bmw-7-series&outputChannelId=6&id=T0221224EN&left_menu_item=node_4099 (A true and correct copy of relevant portions of this webpage are attached hereto as Exhibit O).

27 26. Upon information and belief, as a result of Defendants' active,
28 knowing, intentional, and ongoing efforts that induce infringement of the Patents-

1 in-Suit, including the '156 patent, '146 patent, '834 patent, and '456 patent, as
2 described herein, substantially all of Defendants' customers and sales or technical
3 personnel, owners, and/or drivers of the Accused Products use and operate the
4 Accused Products in a manner that directly infringes one or more of the Patents-in-
5 Suit, including the '156 patent, '146 patent, '834 patent, and '456 patent.

6 **COUNT I**

7 **INFRINGEMENT OF THE '038 PATENT**

8 27. West View Research incorporates paragraphs 1 through 26 by
9 reference as if fully stated herein.

10 28. Defendants have been and are directly infringing literally and/or under
11 the doctrine of equivalents, at least claims 1 through 16, 18 through 20, 22 through
12 38, 40 through 45, and 47 through 68 of the '038 patent.

13 29. Defendants have directly infringed, and continue to directly infringe,
14 either literally and/or under the doctrine of equivalents, in violation of 35 U.S.C. §
15 271(a), by making, using, selling, offering for sale, and/or importing in or into the
16 United States, without authority products that infringe at least claims 1 through 16,
17 18 through 20, 22 through 38, 40 through 45, and 47 through 68 of the '038 patent,
18 including, which products include but may not be not limited to BMW iDrive
19 Navigation Products, Touchscreen-based iDrive Products, Touchscreen and Tablet
20 Products, and Tablet Products, and/or other Accused Products sold or offered for
21 sale on or after May 6, 2014.

22 30. West View Research has no adequate remedy at law against these acts
23 of patent infringement. Defendants' 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 Defendants are permanently enjoined by the Court.

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

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

5 **COUNT II**
 6 **INFRINGEMENT OF THE ’037 PATENT**

7 33. West View Research incorporates paragraphs 1 through 32 by
 8 reference as if fully stated herein.

9 34. Defendants have been and are directly infringing literally and/or under
 10 the doctrine of equivalents, at least claims 1 through 11, 13, 15 through 28, 30
 11 through 37, 40 through 45, and 48 through 77 of the ’037 patent.

12 35. Defendants have directly infringed, and continue 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 through 11,
 16 13, 15 through 28, 30 through 37, 40 through 45, and 48 through 77 of the ’037
 17 patent, which products include but may not be not limited to BMW iDrive
 18 Navigation Products, Touchscreen-based iDrive Products, Touchscreen and Tablet
 19 Products, and/or other Accused Products sold on or after May 6, 2014.

20 36. West View Research has no adequate remedy at law against these acts
 21 of patent infringement. Defendants’ 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 Defendants are permanently enjoined by the Court.

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

27 38. 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 **COUNT III**

4 **FOR INFRINGEMENT OF THE '673 PATENT**

5 39. West View Research incorporates paragraphs 1 through 38 by
6 reference as if fully stated herein.

7 40. Defendants have been and are directly infringing literally and/or under
8 the doctrine of equivalents, at least claims 1 through 4, 6 through 18, and 20
9 through 30 of the '673 patent.

10 41. Defendants have directly infringed, and continue to directly infringe,
11 either literally and/or under the doctrine of equivalents, in violation of 35 U.S.C. §
12 271(a), by making, using, selling, offering for sale, and/or importing in or into the
13 United States, without authority products that infringe at least claims 1 through 4, 6
14 through 18, and 20 through 30 of the '673 patent, which products include but may
15 not be not limited to BMW iDrive Navigation Products, Touchscreen-based iDrive
16 Products, Touchscreen and Tablet Products, and Tablet Products, and/or other
17 Accused Products sold or offered for sale on or after March 25, 2014.

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

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

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

COUNT IV

FOR INFRINGEMENT OF THE '146 PATENT

1
2
3 45. West View Research incorporates paragraphs 1 through 44 by
4 reference as if fully stated herein.

5 46. Defendants have been and are directly infringing literally and/or under
6 the doctrine of equivalents, at least claims 1 through 34 of the '146 patent.

7 47. Defendants have directly infringed, and continue to directly infringe,
8 either literally and/or under the doctrine of equivalents, in violation of 35 U.S.C. §
9 271(a), by making, using, selling, offering for sale, and/or importing in or into the
10 United States, without authority products that infringe at least claims 1 through 34
11 of the '146 patent, which products include but may not be not limited to all
12 aforementioned subcategories of the Accused Products sold or offered for sale on or
13 after October 23, 2012.

14 48. Third parties, including but not limited to Defendants' customers and
15 sales or technical personnel, Defendants' agents, owners, and/or drivers, have
16 directly infringed, and continue to directly infringe, either literally and/or under the
17 doctrine of equivalents, in violation of 35 U.S.C. § 271(a), by using, selling, and or
18 offering for sale in the United States, and/or importing into the United States,
19 products supplied by Defendants that infringe at least claims 30 through 32 of the
20 '146 patent, which products include but may not be not limited to BMW iDrive
21 Navigation Products with Connected Smartphone Application, Touchscreen and
22 Tablet Products, and Tablet Products, and/or other Accused Products sold or
23 offered for sale on or after October 23, 2012.

24 49. Upon information and belief, based on the information presently
25 available to West View Research absent discovery, in addition to and/or in the
26 alternative to direct infringement, West View Research alleges Defendants have,
27 since receiving notice of the filing of the original Complaints since at least as early
28 as November 19, 2014 (and possibly as early as November 10, 2014), induced

1 infringement and continue to induce infringement of at least claims 30 through 32
2 of the '146 patent under 35 U.S.C. § 271(b).

3 50. Upon information and belief, Defendants have, since receiving notice
4 of the filing of the original Complaints since at least as early as November 19, 2014
5 (and possibly as early as November 10, 2014), actively, knowingly, and
6 intentionally induced, and continue to actively, knowingly, and intentionally
7 induce, infringement of the '146 patent by making, using, selling, offering for sale,
8 importing, and/or otherwise supplying products including but not limited to
9 Accused Products to third parties, with the knowledge and specific intent that such
10 third parties will use, sell, offer for sale, and/or import, products supplied by
11 Defendants, including but not limited to the Accused Products to directly infringe
12 the '146 patent.

13 51. Upon information and belief, despite Defendants' knowledge of the
14 existence of the '146 patent since receiving notice of the filing of the original
15 Complaints since at least as early as November 19, 2014 (and possibly as early as
16 November 10, 2014), Defendants continue to encourage, instruct, enable and
17 otherwise aid and abet third parties, including but not limited to Defendants'
18 customers and sales or technical personnel, Defendants' agents, owners, and/or
19 drivers, to use products including but not limited to the Accused Products in a
20 manner that directly infringes the '146 patent.

21 52. Upon information and belief, Defendants specifically intended that
22 their customers and sales or technical personnel, Defendants' agents, owners,
23 and/or drivers, to use products including but not limited to the Accused Products in
24 such a way that directly infringes the '146 patent by, at a minimum, advertising,
25 enticing, encouraging, instructing, and aiding and abetting their customers, owners,
26 and/or drivers, through the publication and dissemination of marketing materials,
27 detailed operational manuals, on-line instructional videos, and/or technical
28 assistance related to products including but not limited to the Accused Products, to

1 use, sell, offer for sale, and/or import, products supplied by Defendants, including
2 but not limited to the Accused Products, to directly infringe the '146 patent.

3 53. Upon information and belief, Defendants knew and know that their
4 actions, including but not limited to providing detailed operating manuals, press
5 releases, instructional on-line videos, and other literature, in relation to products
6 including but not limited to the Accused Products, would induce, have induced, and
7 continues to induce direct infringement of the '146 patent by third parties, including
8 but not limited to Defendants' customers and sales or technical personnel,
9 Defendants' agents, owners, and/or drivers.

10 54. West View Research has no adequate remedy at law against these acts
11 of patent infringement. Defendants' actions complained of herein are causing
12 irreparable harm and damages to West View Research and will continue to do so
13 unless and until Defendants are permanently enjoined by the Court.

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

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

21 **COUNT V**

22 **FOR INFRINGEMENT OF THE '456 PATENT**

23 57. West View Research incorporates paragraphs 1 through 56 by
24 reference as if fully stated herein.

25 58. Defendants have been and are directly infringing literally and/or under
26 the doctrine of equivalents, or indirectly by inducement, at least claims 1 through 4,
27 6 through 10, 12 through 14, and 17 of the '456 patent.

28 59. Defendants have directly infringed, and continue to directly infringe,

1 either literally and/or under the doctrine of equivalents, in violation of 35 U.S.C. §
2 271(a), by making, using, selling, offering for sale, and/or importing in or into the
3 United States, without authority products that infringe at least claims 1 through 4, 6
4 through 10, 12 through 14, and 17 of the '456 patent, which products include but
5 may not be limited to BMW iDrive Navigation Products, Touchscreen-based iDrive
6 Products, and/or other Accused Products (the "'456 Accused Products") sold or
7 offered for sale on or after October 30, 2012.

8 60. Third parties, including but not limited to Defendants' customers and
9 sales or technical personnel, Defendants' agents, owners, and/or drivers, have
10 directly infringed, and continue to directly infringe, either literally and/or under the
11 doctrine of equivalents, in violation of 35 U.S.C. § 271(a), by using, selling, and or
12 offering for sale in the United States, and/or importing into the United States,
13 products supplied by Defendants that infringe at least claims 1 through 4, 6 through
14 10, 12 through 14, and 17 of the '456 patent, which products include but may not
15 be limited to the '456 Accused Products sold or offered for sale on or after October
16 30, 2012.

17 61. Upon information and belief, based on the information presently
18 available to West View Research absent discovery, in addition to and/or in the
19 alternative to direct infringement, West View Research alleges Defendants have,
20 since receiving notice of the filing of the original Complaints since at least as early
21 as November 19, 2014 (and possibly as early as November 10, 2014), induced
22 infringement and continue to induce infringement of at least claims 1 through 4, 6
23 through 10, 12 through 14, and 17 of the '456 patent under 35 U.S.C. § 271(b).

24 62. Upon information and belief, Defendants have, since receiving notice
25 of the filing of the original Complaints since at least as early as November 19, 2014
26 (and possibly as early as November 10, 2014), actively, knowingly, and
27 intentionally induced, and continue to actively, knowingly, and intentionally
28 induce, infringement of the '456 patent by making, using, selling, offering for sale,

1 importing, and/or otherwise supplying products including but not limited to the
2 '456 Accused Products to third parties, with the knowledge and specific intent that
3 such third parties will use, sell, offer for sale, and/or import, products supplied by
4 Defendants, including but not limited to the '456 Accused Products to directly
5 infringe the '456 patent.

6 63. Upon information and belief, despite Defendants' knowledge of the
7 existence of the '456 patent since receiving notice of the filing of the original
8 Complaints since at least as early as November 19, 2014 (and possibly as early as
9 November 10, 2014), Defendants continue to encourage, instruct, enable and
10 otherwise aid and abet third parties, including but not limited to Defendants'
11 customers and sales or technical personnel, Defendants' agents, owners, and/or
12 drivers, to use products including but not limited to the '456 Accused Products in a
13 manner that directly infringes the '456 patent.

14 64. Upon information and belief, Defendants specifically intended that
15 their customers and sales or technical personnel, Defendants' agents, owners,
16 and/or drivers, to use products including but not limited to the '456 Accused
17 Products in such a way that directly infringes the '456 patent by, at a minimum,
18 advertising, enticing, encouraging, instructing, and aiding and abetting their
19 customers, owners, and/or drivers, through the publication and dissemination of
20 marketing materials, detailed operational manuals, on-line instructional videos,
21 and/or technical assistance related to products including but not limited to the '456
22 Accused Products, to use, sell, offer for sale, and/or import, products supplied by
23 Defendants, including but not limited to the '456 Accused Products, to directly
24 infringe the '456 patent.

25 65. Upon information and belief, Defendants knew and know that their
26 actions, including but not limited to providing detailed operating manuals, press
27 releases, instructional on-line videos, and other literature, in relation to products
28 including but not limited to the '456 Accused Products, would induce, have

1 induced, and continues to induce direct infringement of the '456 patent by third
2 parties, including but not limited to Defendants' customers and sales or technical
3 personnel, Defendants' agents, owners, and/or drivers.

4 66. West View Research has no adequate remedy at law against these acts
5 of patent infringement. Defendants' actions complained of herein are causing
6 irreparable harm and damages to West View Research and will continue to do so
7 unless and until Defendants are permanently enjoined by the Court.

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

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

15 **COUNT VI**

16 **FOR INFRINGEMENT OF THE '156 PATENT**

17 69. West View Research incorporates paragraphs 1 through 68 by
18 reference as if fully stated herein.

19 70. Defendants have been and are directly infringing literally and/or under
20 the doctrine of equivalents, or indirectly infringing by inducement, at least claims 7
21 through 29, and 31 through 37 of the '156 patent.

22 71. Defendants have directly infringed, and continue to directly infringe,
23 either literally and/or under the doctrine of equivalents, in violation of 35 U.S.C. §
24 271(a), by making, using, selling, offering for sale, and/or importing in or into the
25 United States, without authority products that infringe at least claims 7 through 29,
26 and 31 through 37 of the '156 patent, which products include but may not be not
27 limited to all aforementioned sub-categories of the Accused Products sold or
28 offered for sale on or after November 22, 2011.

1 72. Third parties, including but not limited to Defendants' customers and
2 sales or technical personnel, Defendants' agents, owners, and/or drivers, have
3 directly infringed, and continue to directly infringe, either literally and/or under the
4 doctrine of equivalents, in violation of 35 U.S.C. § 271(a), by using, selling, and or
5 offering for sale in the United States, and/or importing into the United States,
6 products supplied by Defendants that infringe at least claims 10, 14, 15, 18, and 20
7 through 24 of the '156 patent, which products include but may not be not limited to
8 all aforementioned sub-categories of the Accused Products sold or offered for sale
9 on or after November 22, 2011.

10 73. Upon information and belief, based on the information presently
11 available to West View Research absent discovery, in addition to and/or in the
12 alternative to direct infringement, West View Research alleges Defendants have,
13 since receiving notice of the filing of the original Complaints since at least as early
14 as November 19, 2014 (and possibly as early as November 10, 2014), induced
15 infringement and continue to induce infringement of at least claims 10, 14, 15, 18,
16 and 20 through 24 of the '156 patent under 35 U.S.C. § 271(b).

17 74. Upon information and belief, Defendants have, since receiving notice
18 of the filing of the original Complaints since at least as early as November 19, 2014
19 (and possibly as early as November 10, 2014), actively, knowingly, and
20 intentionally induced, and continue to actively, knowingly, and intentionally
21 induce, infringement of the '156 patent by making, using, selling, offering for sale,
22 importing, and/or otherwise supplying products including but not limited to
23 Accused Products to third parties, with the knowledge and specific intent that such
24 third parties will use, sell, offer for sale, and/or import, products supplied by
25 Defendants, including but not limited to the Accused Products to directly infringe
26 the '156 patent.

27 75. Upon information and belief, despite Defendants' knowledge of the
28 existence of the '156 patent since receiving notice of the filing of the original

1 Complaints since at least as early as November 19, 2014 (and possibly as early as
2 November 10, 2014), Defendants continue to encourage, instruct, enable and
3 otherwise aid and abet third parties, including but not limited to Defendants'
4 customers and sales or technical personnel, Defendants' agents, owners, and/or
5 drivers, to use products including but not limited to the Accused Products in a
6 manner that directly infringes the '156 patent.

7 76. Upon information and belief, Defendants specifically intended that
8 their customers and sales or technical personnel, Defendants' agents, owners,
9 and/or drivers, to use products including but not limited to the Accused Products in
10 such a way that directly infringes the '156 patent by, at a minimum, advertising,
11 enticing, encouraging, instructing, and aiding and abetting their customers, owners,
12 and/or drivers, through the publication and dissemination of marketing materials,
13 detailed operational manuals, on-line instructional videos, and/or technical
14 assistance related to products including but not limited to the Accused Products, to
15 use, sell, offer for sale, and/or import, products supplied by Defendants, including
16 but not limited to the Accused Products, to directly infringe the '156 patent.

17 77. Upon information and belief, Defendants knew and know that their
18 actions, including but not limited to providing detailed operating manuals, press
19 releases, instructional on-line videos, and other literature, in relation to products
20 including but not limited to the Accused Products, would induce, have induced, and
21 continues to induce direct infringement of the '156 patent by third parties, including
22 but not limited to Defendants' customers and sales or technical personnel,
23 Defendants' agents, owners, and/or drivers.

24 78. West View Research has no adequate remedy at law against these acts
25 of patent infringement. Defendants' 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 Defendants are permanently enjoined by the Court.

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

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

8 **COUNT VII**
9 **FOR INFRINGEMENT OF THE '834 PATENT**

10 81. West View Research incorporates paragraphs 1 through 80 by
11 reference as if fully stated herein.

12 82. Defendants have been and are directly infringing literally and/or under
13 the doctrine of equivalents, or indirectly infringing by inducement, at least claims 1
14 through 11, 15 through 26, 30 through 40, 44 through 56, and 59 through 66 of the
15 '834 patent.

16 83. Defendants have directly infringed, and continue to directly infringe,
17 either literally and/or under the doctrine of equivalents, in violation of 35 U.S.C. §
18 271(a), by making, using, selling, offering for sale, and/or importing in or into the
19 United States, without authority products that infringe at least claims 1 through 11,
20 15 through 26, 30 through 40, 44 through 56, and 59 through 66 of the '834 patent,
21 which products include but may not be not limited to BMW iDrive Navigation
22 Products, Touchscreen-based iDrive Products, and/or other Accused Products (the
23 "'834 Accused Products") sold or offered for sale on or after November 13, 2012.

24 84. Third parties, including but not limited to Defendants' customers and
25 sales or technical personnel, Defendants' agents, owners, and/or drivers, have
26 directly infringed, and continue to directly infringe, either literally and/or under the
27 doctrine of equivalents, in violation of 35 U.S.C. § 271(a), by using, selling, and or
28 offering for sale in the United States, and/or importing into the United States,

1 products supplied by Defendants that infringe at least claims 1 through 11, 15
2 through 26, 30 through 40, 44 through 56, and 59 through 66 of the '834 patent,
3 including the '834 Accused Products sold or offered for sale on or after November
4 13, 2012.

5 85. Upon information and belief, based on the information presently
6 available to West View Research absent discovery, in addition to and/or in the
7 alternative to direct infringement, West View Research alleges Defendants have,
8 since receiving notice of the filing of the original Complaints since at least as early
9 as November 19, 2014 (and possibly as early as November 10, 2014), induced
10 infringement and continue to induce infringement of at least claims 1 through 11,
11 15 through 26, 30 through 40, 44 through 56, and 59 through 66 of the '834 patent
12 under 35 U.S.C. § 271(b).

13 86. Upon information and belief, Defendants have, since receiving notice
14 of the filing of the original Complaints since at least as early as November 19, 2014
15 (and possibly as early as November 10, 2014), actively, knowingly, and
16 intentionally induced, and continue to actively, knowingly, and intentionally
17 induce, infringement of the '834 patent by making, using, selling, offering for sale,
18 importing, and/or otherwise supplying products including but not limited to the
19 '834 Accused Products to third parties, with the knowledge and specific intent that
20 such third parties will use, sell, offer for sale, and/or import, products supplied by
21 Defendants, including but not limited to the '834 Accused Products to directly
22 infringe the '834 patent.

23 87. Upon information and belief, despite Defendants' knowledge of the
24 existence of the '834 patent since receiving notice of the filing of the original
25 Complaints since at least as early as November 19, 2014 (and possibly as early as
26 November 10, 2014), Defendants continue to encourage, instruct, enable and
27 otherwise aid and abet third parties, including but not limited to Defendants'
28 customers and sales or technical personnel, Defendants' agents, owners, and/or

1 drivers, to use products including but not limited to the '834 Accused Products in a
2 manner that directly infringes the '834 patent.

3 88. Upon information and belief, Defendants specifically intended that
4 their customers and sales or technical personnel, Defendants' agents, owners,
5 and/or drivers, to use products including but not limited to the '834 Accused
6 Products in such a way that directly infringes the '834 patent by, at a minimum,
7 advertising, enticing, encouraging, instructing, and aiding and abetting their
8 customers, owners, and/or drivers, through the publication and dissemination of
9 marketing materials, detailed operational manuals, on-line instructional videos,
10 and/or technical assistance related to products including but not limited to the '834
11 Accused Products, to use, sell, offer for sale, and/or import, products supplied by
12 Defendants, including but not limited to the '834 Accused Products, to directly
13 infringe the '834 patent.

14 89. Upon information and belief, Defendants knew and know that their
15 actions, including but not limited to providing detailed operating manuals, press
16 releases, instructional on-line videos, and other literature, in relation to products
17 including but not limited to the '834 Accused Products, would induce, have
18 induced, and continues to induce direct infringement of the '834 patent by third
19 parties, including but not limited to Defendants' customers and sales or technical
20 personnel, Defendants' agents, owners, and/or drivers.

21 90. West View Research has no adequate remedy at law against these acts
22 of patent infringement. Defendants' 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 Defendants are permanently enjoined by the Court.

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

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

5 **COUNT VIII**
6 **FOR INFRINGEMENT OF THE '778 PATENT**

7 93. West View Research incorporates paragraphs 1 through 92 by
8 reference as if fully stated herein.

9 94. Defendants have been and are directly infringing literally and/or under
10 the doctrine of equivalents, or indirectly infringing by inducement, at least claims 1
11 through 25 and 27 through 30 of the '778 patent.

12 95. Defendants have directly infringed, and continue 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 through 25
16 and 27 through 30 of the '778 patent, which products include but may not be
17 limited to Touchscreen-based iDrive Products, Touchscreen and Tablet Products,
18 and Tablet Products, and/or other Accused Products sold or offered for sale on or
19 after May 2015.

20 96. West View Research has no adequate remedy at law against these acts
21 of patent infringement. Defendants' 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 Defendants are permanently enjoined by the Court.

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

27 98. 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 Defendants, and that the Court award the following relief to West
6 View Research:

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

9 B. A permanent injunction against Defendants, 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 Defendants 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 Defendants;

19 E. A judgment and order requiring Defendants 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

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

JURY DEMAND

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

Dated: June 19, 2015

Respectfully submitted,
GAZDZINSKI & ASSOCIATES, P.C.

/s/ Adam Garson
ADAM GARSON
JOSH EMORY
FREDERIC G. LUDWIG, III
Attorneys for Plaintiff and Counter-Defendant WEST VIEW RESEARCH, LLC