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 PATHWAY INNOVATIONS AND TECHNOLOGIES, INC.

8 UNITED STATES DISTRICT COURT
 9 SOUTHERN DISTRICT OF CALIFORNIA

11 PATHWAY INNOVATIONS AND
 12 TECHNOLOGIES, INC., a California
 corporation,

13 Plaintiff,

14 vs.

15 QOMO HITEVISION, LLC; a Michigan
 16 limited liability company; and DOES 1
 through 10, inclusive,

17 Defendants.
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CASE NO. **'15CV1540 GPC NLS**

**COMPLAINT FOR PATENT
 INFRINGEMENT**

DEMAND FOR JURY TRIAL

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1 Plaintiff Pathway Innovations and Technologies, Inc. (“Pathway”) hereby complains of
2 Defendant QOMO HiteVision, LLC, and DOES 1 through 10 (collectively, “QOMO”), and
3 alleges as follows:

4 **NATURE OF THE ACTION**

5 1. This is an action for patent infringement under the patent laws of the United States,
6 35 U.S.C. § 271, *et seq.*

7 **THE PARTIES**

8 2. Pathway is a California corporation with its principal place of business located at
9 10211 Pacific Mesa Boulevard, Suite 412, San Diego, California 92121.

10 3. Formed in 2008, Pathway is a privately-held company that designs, develops and
11 sells innovative products that enhance learning, improve communication, and help people save
12 time. The company is the designer and manufacturer of HoverCam® branded software and
13 document cameras—a revolutionary product that combines the features of a digital camera and a
14 scanner into a new form factor. Pathway has a strong track record for developing innovative
15 products, especially for the education market. A HoverCam® document camera hovers over a
16 teacher’s desk unobtrusively and is used by teachers to capture, manipulate and present seamless
17 video of documents and objects to students real-time. Traditional scanners are too slow for the
18 classroom and conventional cameras lack sufficient resolution, zoom video, annotation
19 capability, and other functions needed for an effective learning environment. However, a
20 HoverCam® document camera captures, digitizes and displays documents immediately at an
21 incredibly high resolution of 8 megapixels, which is about 4 times the resolution of a typical HD
22 television. Moreover, HoverCam® users can manipulate, annotate, zoom and resize documents
23 and video without any loss in resolution, and can record and playback seamless video at a
24 remarkable 30 frames per second. HoverCam® document cameras have won numerous awards
25 and are presently used in over 150,000 classrooms around the world.

26 4. Pathway is informed and believes and based thereon alleges that Defendant
27 QOMO is a limited liability company organized and existing under the laws of the State of
28 Michigan with its principal place of business and headquarters located at 46950 Magellan Drive,

1 Wixom, Michigan 48393. According to the Michigan Department of Licensing and Regulatory
2 Affairs, QOMO may be served via its registered agent for service of process Wilton A. Hom,
3 30833 Northwestern Hwy., Suite 203, Farmington Hills, Michigan 48334.

4 5. QOMO is a global manufacture of presentation equipment and software. QOMO
5 owns more than 20 subsidiary companies and partners with hundreds of dealers and integrators
6 through the world.

7 6. Pathway is ignorant of the true names and capacities of the parties sued herein as
8 DOES 1 through 10, inclusive, whether individual, corporate or otherwise, and therefore sues
9 these defendants by such fictitious names. Pathway will seek leave to amend the complaint to
10 assert their true names when they have been ascertained. Pathway is informed and believes and
11 based thereon alleges that all defendants sued herein as DOES 1 through 10 are in some manner
12 responsible for the acts and omissions alleged herein.

13 **JURISDICTION AND VENUE**

14 7. This Court has original and exclusive subject matter jurisdiction over this action
15 under 28 U.S.C. §§ 1331 and 1338(a).

16 8. This Court has personal jurisdiction over QOMO because it regularly conducts
17 business and/or solicit business in California and within this District; because QOMO engages in
18 other courses of conduct and derives revenue from products provided to residents of California
19 and this District as well as substantial revenue from interstate and international commerce;
20 because QOMO has purposefully established substantial, systematic and continuous contacts with
21 California and this District and should reasonably expect to be haled into court in this District;
22 and because QOMO has committed and continues to commit acts of patent infringement in
23 California and this District in violation of 35 U.S.C. § 271, and placing infringing products into
24 the stream of commerce, with the knowledge or understanding that such products are sold in the
25 State of California, including in this District. The acts by QOMO cause injury to Pathway within
26 this District.

27 9. Venue is proper in this District under 28 U.S.C. §§ 1391 and 1400(b) because
28 QOMO has regularly transacted business in California and within this District and offers for sale

1 in this District products that infringe Pathway's patents, because certain of the acts complained of
2 herein occurred in California and within this District, because QOMO derives and seeks to derive
3 revenue from sales of infringing products sold in California and within this District, and because
4 QOMO is subject to personal jurisdiction in this District. In addition, venue is proper because
5 Pathway's principal place of business is in this District and Pathway suffered harm in this district.

6 **GENERAL ALLEGATIONS**

7 10. On August 13, 2013, the United States Patent & Trademark Office ("PTO") duly
8 and lawfully issued U.S. Patent No. 8,508,751, entitled "Capturing Real-Time Video With
9 Zooming Capability and Scanning High Resolution Still Images of Documents Using the Same
10 Apparatus" ("the '751 patent"). Pathway is the owner by assignment of the '751 patent, a copy of
11 which is attached hereto as Exhibit A.

12 11. QOMO has willfully copied Pathway's products and software, and has no patents
13 or pending patent applications of its own.

14 12. QOMO has been sued for patent infringement at least two times by other entities
15 including, but not limited to Renaissance Learning, Inc. in the Western District of Wisconsin
16 (Case No. 09-cv-0763-c) and eInstruction Corporation in the U.S. International Trade
17 Commission (Inv. No. 337-TA-682). QOMO was granted a license to U.S. Patent No. 6,930,673
18 by eInstruction Corporation.

19 13. Pathway is informed and believes and based thereon alleges that the making,
20 using, selling, offering for sale, and/or importation of QOMO's products infringe one or more
21 claims of the '751 patent, including without limitation QOMO's document cameras QView
22 QPC20, QPC20 F1 Flip Cam, CornerCam QPC30M, QPC35 Caterpillar Cam, QView QPC60A,
23 HDMI QPC70, QPC80 Full HD Document Camera, and Visualizer software, which is designed
24 specifically for QOMO's document cameras (collectively, the "Accused Products").

25 14. Pathway is informed and believes and based thereon alleges that Adesso, Inc.
26 ("Adesso") manufactures or causes to be manufactured the QView QPC20 as a white label
27 product for QOMO. Adesso is accused of infringing one or more Pathway patents in a lawsuit
28 concurrently pending in this District.

FIRST CLAIM FOR RELIEF

(Infringement of U.S. Patent No. 8,508,751)

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3 15. Pathway repeats, realleges and incorporates by reference the preceding allegations
4 above as though set forth fully herein.

5 16. QOMO, by and through its agents, officers, directors, employees and servants, has
6 been and is currently willfully and intentionally infringing one or more claims of the ‘751 patent
7 by (a) making, using, offering to sell, and/or selling in the United States and/or importing into the
8 United States, one or more of the Accused Products ; (b) actively inducing direct infringement of
9 the ‘751 patent; and/or (c) importing, offering to sell, or selling the Accused Products, knowing
10 such products to be especially made or adapted for use in infringing the ‘751 patent and not staple
11 articles or commodities suitable for substantial noninfringing use. QOMO’s acts constitute
12 infringement of the ‘751 patent in violation of 35 U.S.C. §271. Pathway is further informed and
13 believes and thereon alleges that QOMO’s infringement is willful.

14 17. Pathway is further informed and believes and based thereon alleges that if and to
15 the extent QOMO is not infringing directly, QOMO is infringing indirectly by contributing to
16 and/or inducing direct infringers, including without limitation QOMO’s distributors, retailers,
17 resellers, end users and/or customers, to infringe the ‘751 patent.

18 18. Pathway is further informed and believes and based thereon alleges that QOMO is
19 knowingly inducing direct infringement and has the specific intent to encourage its distributors,
20 retailers, resellers, end users and/or customers to directly infringe the ‘751 patent by (among other
21 things) designing, developing and selling products, including without limitation the Accused
22 Products, to their distributors, resellers, retailers, end users and/or customers for the purpose of
23 performing real-time image and video capturing and recording with zooming and high-resolution
24 scanning capabilities, and/or by making, using, selling, importing and offering to sell the Accused
25 Products that perform real-time image and video capturing and recording with zooming and high-
26 resolution scanning capabilities. Pathway is further informed and believes and based thereon
27 alleges that the Accused Products are each a material component of Pathway’s patented methods
28 and/or systems and that the Accused Products are not capable of substantial non-infringing use.

1 19. Pathway is informed and believes and based thereon alleges that QOMO's
2 infringement of the '751 patent will continue unless enjoined by this Court.

3 20. Pathway is informed and believes and based thereon alleges that QOMO became
4 aware of the subject matter of the '751 patent at least as of August 4, 2011, or shortly thereafter.
5 Pathway has marked its products with its patent numbers since at least June, 2015.

6 21. QOMO's infringement of the '751 patent provides QOMO with unique
7 functionality for its products that was the result of Pathway's innovation, not QOMO's. QOMO
8 has not obtained permission from Pathway to use its inventions in the '751 patent.

9 22. By reason of the aforesaid infringing acts, Pathway has been damaged and is
10 entitled to monetary relief in an amount to be determined at trial but in excess of the jurisdictional
11 requirement of this Court.

12 23. Because of the aforesaid infringing acts, Pathway has suffered and continues to
13 suffer great and irreparable injury for which there is no adequate remedy at law.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, Pathway prays for judgment against QOMO as follows:

16 (a) An Order adjudging QOMO to have infringed the '751 patent under 35 U.S.C. §
17 271;

18 (b) An Order adjudging QOMO to have willfully infringed the '751 patent under 35
19 U.S.C. § 271;

20 (c) A permanent injunction under 35 U.S.C. § 283 enjoining QOMO, its officers,
21 directors, agents, servants, employees and attorneys, and those persons acting in concert or
22 participation with QOMO, from directly or indirectly infringing the '751 patent in violation of 35
23 U.S.C. § 271;

24 (d) That QOMO account for all damages by its infringement of the '751 patent in
25 violation of 35 U.S.C. § 271, and that QOMO pay to Pathway all damages suffered by Pathway;

26 (e) An order for a trebling of damages and/or enhanced damages due to QOMO's
27 willful misconduct under 35 U.S.C. § 284;

28 (f) An Order adjudicating that this is an exceptional case;

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(g) An award to Pathway of the attorneys’ fees and costs incurred by Pathway in connection with this action under 35 U.S.C. § 285;

(h) An award of pre-judgment and post-judgment interest and costs of this action against QOMO;

(i) For such other and further relief as the Court deems just and proper.

Dated: July 13, 2015

SAN DIEGO IP LAW GROUP LLP

By: /s/James V. Fazio, III

JAMES V. FAZIO, III
TREVOR Q. CODDINGTON, PH.D.
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PATHWAY INNOVATIONS AND TECHNOLOGIES,
INC.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff Pathway Innovations and Technologies, Inc. hereby demands a trial by jury of all issues so triable.

Dated: July 13, 2015

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By: /s/James V. Fazio, III

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