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7 Attorneys for Plaintiff,
 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 ADESSO, INC.; a California corporation; and
 16 DOES 1 through 10, inclusive,

17 Defendants.

CASE NO. '15CV1538 JAH 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 Adesso, Inc., and DOES 1 through 10 (collectively, “Adesso”), and alleges as follows:

3 **NATURE OF THE ACTION**

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

6 **THE PARTIES**

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

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

25 4. Pathway is informed and believes and based thereon alleges that Defendant
26 Adesso is an corporation organized and existing under the laws of the State of California with its
27 principal place of business located at 160 Commerce Way, Walnut, CA 91789.

28 5. Pathway is ignorant of the true names and capacities of the parties sued herein as

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

6 **JURISDICTION AND VENUE**

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

9 7. This Court has personal jurisdiction over Adesso because it regularly conducts
10 business and/or solicit business in California and within this District; because Adesso engages in
11 other courses of conduct and derives revenue from products provided to residents of California
12 and this District as well as substantial revenue from interstate and international commerce;
13 because Adesso has purposefully established substantial, systematic and continuous contacts with
14 California and this District and should reasonably expect to be haled into court in this District;
15 and because Adesso has committed and continues to commit acts of patent infringement in
16 California and this District in violation of 35 U.S.C. § 271, and placing infringing products into
17 the stream of commerce, with the knowledge or understanding that such products are sold in the
18 State of California, including in this District. Adesso products may be purchased online through
19 its e-shop (www.adesso-shop.com) or online retailer Amazon.com and through local resellers
20 nationwide including those in California and this District such as Best Buy and Staples. The acts
21 by Adesso cause injury to Pathway within this District.

22 8. Venue is proper in this District under 28 U.S.C. §§ 1391 and 1400(b) because
23 Adesso has regularly transacted business in California and within this District and offers for sale
24 in this District products that infringe Pathway's patents, because certain of the acts complained of
25 herein occurred in California and within this District, because Adesso derives and seeks to derive
26 revenue from sales of infringing products sold in California and within this District, and because
27 Adesso is subject to personal jurisdiction in this District. In addition, venue is proper because
28 Pathway's principal place of business is in this District and Pathway suffered harm in this district.

GENERAL ALLEGATIONS

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2 9. Pathway has protected its innovative designs and cutting-edge technologies
3 through a broad range of intellectual property rights including the following design patents.
4 Pathway owns all right, title, and interest in and to each of the asserted patents listed below.

5 10. On January 15, 2013, the PTO duly and lawfully issued U.S. Design Patent No.
6 D674,389, entitled “Document Imaging Instrument” (“the ‘D389 patent”). Pathway is the owner
7 by assignment of the ‘389 patent, a copy of which is attached hereto as Exhibit A.

8 11. On November 1, 2011, the United States Patent & Trademark Office (“PTO”)
9 dully and lawfully issued U.S. Design Patent No. D647,906, entitled “Portable and Small Form
10 Factor Document Camera and Scanner with Extendible Folding Arms” (“the ‘D906 patent”).
11 Pathway is the owner by assignment of the ‘906 patent, a copy of which is attached hereto as
12 Exhibit B.

13 12. Adesso has willfully copied Pathway’s products.

14 13. Pathway is informed and believes and based thereon alleges that the making,
15 using, selling, offering for sale, and/or importation of Adesso’s products infringe the ‘906 patent,
16 and the ‘389 patent, including without limitation Adesso’s NuScan 510 Visual Presenter (the
17 “Accused Product”).

18 14. Pathway is informed and believes and based thereon alleges that Adesso
19 manufactures, uses, sells, and offers for sale in the United States, and imports into the United
20 States, white label products including, but not limited to QView QPC20 by QOMO Hitevision,
21 LLC, a Michigan limited liability company (“QOMO”), and SimplicityCam 2i by Recordex USA,
22 Inc. (“Recordex”), a Georgia corporation. The QView QPC20 and SimplicityCam2i are accused
23 of infringing one or more Pathway patents in lawsuits against QOMO and Recordex, respectively,
24 which are concurrently pending in this District.

FIRST CLAIM FOR RELIEF

(Infringement of U.S. Design Patent No. D674,389)

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

1 16. Adesso, by and through its agents, officers, directors, resellers, retailers,
2 employees and servants, has been and is currently willfully and intentionally infringing the ‘D389
3 patent by making, using, offering to sell, and/or selling in the United States, and/or importing into
4 the United States the Accused Product, which embodies the design covered by the ‘D389 patent.
5 Adesso’s acts constitute infringement of the ‘D389 patent in violation of 35 U.S.C. §271.
6 Pathway is further informed and believes and thereon alleges that Adesso’s infringement is
7 willful.

8 17. Pathway is informed and believes and based thereon alleges that Adesso has had
9 actual knowledge of the ‘D389 patent at least as of January 15, 2013, or shortly thereafter.
10 Pathway has marked its products with its patent numbers since at least June, 2015.

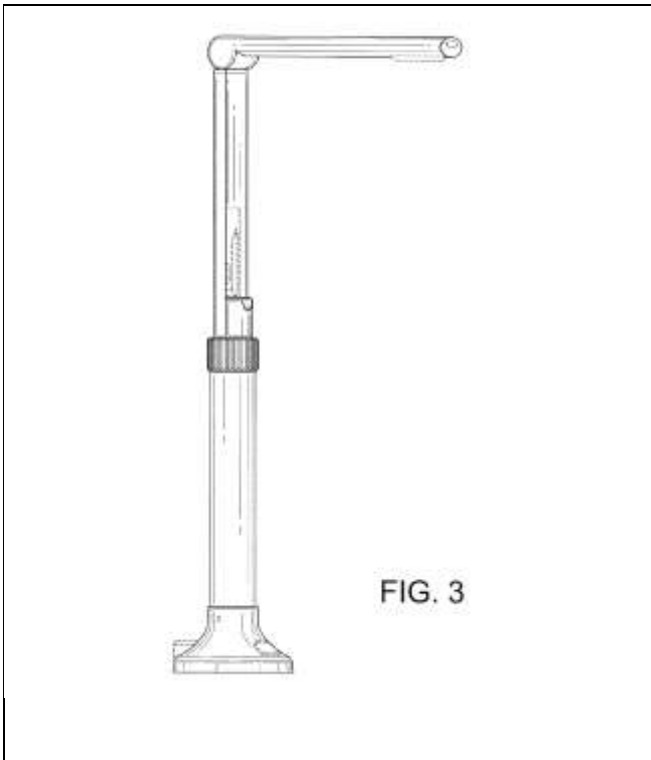
11 18. As the side-by-side comparison shown below reveals, Adesso has misappropriated
12 Pathway’s patented design (shown left) in the Accused Product (shown right).



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23 19. Pathway is informed and believes and based thereon alleges that Adesso’s
24 infringement of the ‘D389 patent will continue unless enjoined by this Court.

25 20. By reason of the aforesaid infringing acts, Pathway has been damaged and is
26 entitled to monetary relief in an amount to be determined at trial but in excess of the jurisdictional
27 requirement of this Court.
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26. Pathway is informed and believes and based thereon alleges that Adesso's infringement of the 'D906 patent will continue unless enjoined by this Court.

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

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

PRAYER FOR RELIEF

WHEREFORE, Pathway prays for judgment against Adesso as follows:

(a) An Order adjudging Adesso to have infringed the 'D389 and 'D906 patents under 35 U.S.C. § 271;

(b) An Order adjudging Adesso to have willfully infringed the 'D389 and 'D906 patents under 35 U.S.C. § 271;

(c) A permanent injunction under 35 U.S.C. § 283 enjoining Adesso, its officers, directors, agents, servants, employees and attorneys, and those persons acting in concert or participation with Adesso, from directly and/or indirectly infringing the 'D389 and 'D906 patents

1 in violation of 35 U.S.C. § 271;

2 (d) That Adesso account for all damages by its infringement of the ‘D389 and ‘D906
3 patents in violation of 35 U.S.C. § 271, and that Adesso pay to Pathway all damages suffered by
4 Pathway;

5 (e) An order for a trebling of damages and/or enhanced damages due to Adesso’s
6 willful misconduct under 35 U.S.C. § 284;

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

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

10 (h) An award to Pathway of Adesso’s total profits under 35 U.S.C. § 289;

11 (i) An award of pre-judgment and post-judgment interest and costs of this action
12 against Adesso; and

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

14 Dated: July 13, 2015

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16 By: /s/James V. Fazio, III

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20 PATHWAY INNOVATIONS AND TECHNOLOGIES,
INC.

21 **DEMAND FOR JURY TRIAL**

22 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff Pathway
23 Innovations and Technologies, Inc. hereby demands a trial by jury of all issues so triable.
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1 Dated: July 13, 2015

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