

1 Nicola A. Pisano (CA Bar No. 151282)
npisano@foley.com

2 Jose L. Patiño (CA Bar No. 149568)
jpatino@foley.com

3 **FOLEY & LARDNER LLP**
4 3579 Valley Centre Drive, Suite 300
5 San Diego, CA 92130
6 Telephone: 858.847.6700
7 Facsimile: 858.792.6773

8 Scott R. Kaspar (CA Bar No. 271277)
skaspar@foley.com

9 **FOLEY & LARDNER LLP**
10 321 N. Clark Street, Suite 2800
11 Chicago, IL 60654
12 Telephone: 312.832.4500
13 Facsimile: 312.832.4700

14 Attorneys for Plaintiff
15 ACTIONTEC ELECTRONICS, INC.

16 **UNITED STATES DISTRICT COURT**
17 **NORTHERN DISTRICT OF CALIFORNIA**
18 **SAN JOSE DIVISION**

19 ACTIONTEC ELECTRONICS, INC.,

20 Plaintiff,

21 v.

22 SOCKEYE LICENSING TX LLC,

23 Defendant.

Case No. _____

**COMPLAINT FOR DECLARATORY
JUDGMENT**

Judge: To Be Assigned

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1 Plaintiff Actiontec Electronics, Inc. (“Actiontec”), by and through its undersigned
2 attorneys, for its Complaint for Declaratory Judgment against Sockeye Licensing TX
3 LLC (“Sockeye” or “Defendant”), and demanding trial by jury, hereby alleges as
4 follows:

5 **NATURE OF ACTION**

6 1. This is a declaratory judgment action seeking declarations of non-
7 infringement and invalidity of U.S. Patent Nos. 8,135,342 (“the ’342 patent”) and
8 8,879,987 (“the ’987 patent”), true and correct copies of which are attached hereto as
9 Exhibits 1 and 2.

10 **THE PARTIES**

11 2. Actiontec is a California corporation having its principal place of business
12 at 760 North Mary Avenue, Sunnyvale, CA 94085.

13 3. On information and belief, Defendant Sockeye is a limited liability
14 company organized and existing under the laws of the State of Texas, with a principal
15 place of business at 320 Wilmette Avenue, Glenview, IL 60025.

16 **JURISDICTION AND VENUE**

17 4. This Complaint arises under the Patent Laws of the United States, 35
18 U.S.C. § 100 *et seq.* and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202,
19 based upon an actual controversy between the parties to declare that Actiontec does not
20 infringe any valid claim of the ’342 and ’987 patents and further that the ’342 and ’987
21 patents are invalid pursuant to 35 U.S.C. §§ 101, 102, 103 and/or 112.

22 5. This Court has jurisdiction over the subject matter of these claims pursuant
23 to 28 U.S.C. §§ 1331, 1338(a), 1367(a), 2201, and 2202, and 35 U.S.C. § 100, *et seq.*

24 6. Upon information and belief, this Court has personal jurisdiction over
25 Sockeye at least because of its nationwide licensing program, including continuous and
26 systematic contacts with the State of California in connection with its conducting
27 substantial and regular business therein through the enforcement and licensing of its
28 intellectual property, including at least the ’342 and ’987 patents, to California

1 corporations and business entities and individuals residing in California and/or
2 organized under the laws of the State of California.

3 7. Venue is proper in this District under 28 U.S.C. §§ 1391(b), (c), and
4 1400(b).

5 **PATENTS-IN-SUIT**

6 8. On its face, the '342 patent entitled "System, Method and Apparatus for
7 Using a Wireless Cell Phone Device to Create a Desktop Computer and Media Center"
8 indicates it was issued by the United States Patent and Trademark Office on March 13,
9 2012. A true and correct copy of the '342 patent is attached hereto as Exhibit 1.

10 9. On its face, the '987 patent entitled "System, Method and Apparatus for
11 Using a Wireless Device to Control Other Devices" indicates it was issued by the
12 United States Patent and Trademark Office on November 4, 2014. A true and correct
13 copy of the '987 patent is attached hereto as Exhibit 2.

14 10. According to the records at the United States Patent and Trademark Office,
15 Sockeye is the assignee of the '342 and '987 patents.

16 11. On information and belief, and based on the assertions of Sockeye in
17 *Sockeye Licensing TX LLC v. Actiontec Electronics, Inc.*, No. 2:15-cv-01618 (E.D.
18 Tex.) ("Texas Litigation"), which is currently pending voluntary dismissal without
19 prejudice, Sockeye has all substantial rights and interest to the '342 and '987 patents.

20 **COUNT I**

21 **DECLARATORY JUDGMENT OF NON-INFRINGEMENT**

22 **OF THE '342 PATENT**

23 12. Actiontec repeats and realleges Paragraphs 1-11 of its Complaint as if fully
24 set forth herein.

25 13. Based on assertions of Sockeye made in the Texas Litigation, Sockeye has
26 asserted that Actiontec has infringed the '342 patent.

27 14. Actiontec denies any claim of infringement of the '342 patent, and
28 contends that it does not infringe the '342 patent or any valid or enforceable claim

1 thereof.

2 15. An actual and justiciable controversy has thus arisen between Sockeye and
3 Actiontec concerning the alleged infringement of the '342 patent.

4 16. Pursuant to the Federal Declaratory Act, 28 U.S.C. § 2201, *et seq.*,
5 Actiontec is entitled to judgment from this Court finding that the '342 patent is not
6 infringed, directly or indirectly, by Actiontec.

7 **COUNT II**

8 **DECLARATORY JUDGMENT OF INVALIDITY OF THE '342 PATENT**

9 17. Actiontec repeats and realleges Paragraphs 1-16 of its Complaint as if fully
10 set forth herein.

11 18. Based on assertions of Sockeye made in the Texas Litigation, Sockeye has
12 asserted that the '342 patent is valid. Actiontec denies this allegation and contends that
13 the '342 patent is invalid under one or more of 35 U.S.C. §§ 101, 102, 103 and/or 112.

14 19. An actual and justiciable controversy has thus arisen between Sockeye and
15 Actiontec concerning the validity of the '342 patent.

16 20. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, *et*
17 *seq.*, Actiontec is entitled to judgment from this Court finding that the '342 patent is
18 invalid pursuant to 35 U.S.C. §§ 101, 102, 103 and/or 112.

19 **COUNT III**

20 **DECLARATORY JUDGMENT OF NON-INFRINGEMENT**

21 **OF THE '987 PATENT**

22 21. Actiontec repeats and realleges Paragraphs 1-20 of its Complaint as if fully
23 set forth herein.

24 22. Based on assertions of Sockeye made in the Texas Litigation, Sockeye has
25 asserted that Actiontec has infringed the '987 patent.

26 23. Actiontec denies any claim of infringement of the '987 patent, and
27 contends that it does not infringe the '987 patent or any valid or enforceable claim
28 thereof.

1 24. An actual and justiciable controversy has thus arisen between Sockeye and
2 Actiontec concerning the alleged infringement of the '987 patent.

3 25. Pursuant to the Federal Declaratory Act, 28 U.S.C. § 2201, *et seq.*,
4 Actiontec is entitled to judgment from this Court finding that the '987 patent is not
5 infringed, directly or indirectly, by Actiontec.

6 **COUNT IV**

7 **DECLARATORY JUDGMENT OF INVALIDITY OF THE '987 PATENT**

8 26. Actiontec repeats and realleges Paragraphs 1-25 of its Complaint as if fully
9 set forth herein.

10 27. Based on assertions of Sockeye made in the Texas Litigation, Sockeye has
11 asserted that the '987 patent is valid. Actiontec denies this allegation and contends that
12 the '987 patent is invalid under one or more of 35 U.S.C. §§ 101, 102, 103 and/or 112.

13 28. An actual and justiciable controversy has thus arisen between Sockeye and
14 Actiontec concerning the validity of the '987 patent.

15 29. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, *et*
16 *seq.*, Actiontec is entitled to judgment from this Court finding that the '987 patent is
17 invalid pursuant to 35 U.S.C. §§ 101, 102, 103 and/or 112

18 **DEMAND FOR JURY TRIAL**

19 Actiontec demands a jury trial on all issues so triable.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Actiontec prays as follows:

22 A. Declare that Actiontec has not infringed the '342 patent or any valid asserted
23 claim therein;

24 B. Declare that the claims of the '342 patent are invalid;

25 C. Declare that Actiontec has not infringed the '987 patent or any valid asserted
26 claim therein;

27 D. Declare that the claims of the '987 patent are invalid;

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1 E. Enjoin Sockeye, its assigns, and all those in privity therewith from asserting
2 any of the claims of the '342 patent against Actiontec or any of its customers or suppliers;

3 F. Enjoin Sockeye, its assigns, and all those in privity therewith from asserting
4 any of the claims of the '987 patent against Actiontec or any of its customers or suppliers;

5 G. Find this case an exceptional case and award Actiontec its fees and costs in
6 this suit under 35 U.S.C. § 285; and

7 H. For such other and further relief as the Court may deem just and proper.

8
9 Respectfully submitted,

DATED: October 26, 2015

10 FOLEY & LARDNER LLP

11 /s/ Nicola A. Pisano

12 Nicola A. Pisano (CA Bar No. 151282)

npisano@foley.com

13 Jose L. Patiño (CA Bar No. 149568)

jpatino@foley.com

14 **FOLEY & LARDNER LLP**

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15 San Diego, CA 92130

Telephone: 858.847.6700

16 Facsimile: 858.792.6773

17 Scott R. Kaspar (CA Bar No. 271277)

skaspar@foley.com

18 **FOLEY & LARDNER LLP**

321 N. Clark Street, Suite 2800

19 Chicago, IL 60654

Telephone: 312.832.5113

20 Facsimile: 312.832.4700

21 Attorneys for Plaintiff

ACTIONTEC ELECTRONICS, INC.

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the Electronic Service List for this case.

Executed on October 26, 2015 FOLEY & LARDNER LLP

/s/ Nicola A. Pisano
Nicola A. Pisano (CA Bar No. 151282)
npisano@foley.com

Attorneys for Plaintiff
ACTIONTEC ELECTRONICS, INC.

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