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12 Attorneys for Plaintiff
13 e.Digital Corporation

14 **UNITED STATES DISTRICT COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA**
16 **SAN FRANCISCO DIVISION**

17 e.Digital Corporation,
18 Plaintiff,
19 v.
20 iSmart Alarm, Inc. dba iSmartAlarm,
21 Defendant.

Case No.
**COMPLAINT FOR PATENT
INFRINGEMENT**
DEMAND FOR JURY TRIAL

22 Plaintiff e.Digital Corporation (“e.Digital” or “Plaintiff”), by and through its undersigned
23 counsel, complains and alleges against Defendant iSmart Alarm, Inc. dba iSmartAlarm
24 (“iSmartAlarm” or “Defendant”) as follows:

25 **NATURE OF THE ACTION**

26 1. This is a civil action for infringement of a patent arising under the laws of the
27 United States relating to patents, 35 U.S.C. § 101, *et seq.*, including, without limitation, 35
28 U.S.C. §§ 271, 281. Plaintiff e.Digital seeks a preliminary and permanent injunction and
monetary damages for patent infringement.

JURISDICTION AND VENUE

2. This court has subject matter jurisdiction over this case for patent infringement

1 under 28 U.S.C. §§ 1331 and 1338(a) and pursuant to the patent laws of the United States of
2 America, 35 U.S.C. § 101, *et seq.*

3 3. Venue properly lies within the Northern District of California pursuant to the
4 provisions of 28 U.S.C. §§ 1391(b), (c), and (d) and 1400(b). On information and belief,
5 Defendant conducts substantial business directly and/or through third parties or agents in this
6 judicial district by selling and/or offering to sell the infringing products and/or by conducting
7 other business in this judicial district. Furthermore, Plaintiff is informed and believes that
8 Defendant is headquartered and has its principal place of business in this district, engages in
9 business in this district, and that Plaintiff has been harmed by Defendant's conduct, business
10 transactions and sales in this district.

11 4. This Court has personal jurisdiction over Defendant because, on information and
12 belief, Defendant transacts continuous and systematic business within the State of California and
13 the Southern District of California. In addition, this Court has personal jurisdiction over the
14 Defendant because, on information and belief, this lawsuit arises out of Defendant's infringing
15 activities, including, without limitation, the making, using, selling and/or offering to sell
16 infringing products in the State of California and the Northern District of California. Finally,
17 this Court has personal jurisdiction over Defendant because, on information and belief,
18 Defendant has made, used, sold and/or offered for sale its infringing products and placed such
19 infringing products in the stream of interstate commerce with the expectation that such infringing
20 products would be made, used, sold and/or offered for sale within the State of California and the
21 Northern District of California.

22 5. Upon information and belief, certain of the products manufactured by or for
23 Defendant have been and/or are currently sold and/or offered for sale at, among other places, the
24 iSmartAlarm website located at <https://www.ismartalarm.com/US/ProductList/1/ismartalarm> to
25 consumers including, but not limited to, consumers located within the State of California and this
26 District.

27 **PARTIES**

28 6. Plaintiff e.Digital is a Delaware corporation with its headquarters and principal

1 place of business at 16870 West Bernardo Drive, Suite 120, San Diego, California 92127.

2 7. Upon information and belief, Defendant iSmartAlarm is a corporation registered
3 and lawfully existing under the laws of the State of California, with an office and principal place
4 of business located at 1290 Kifer Road, Suite 306, Sunnyvale, California 94086.

5 **THE ACCUSED PRODUCTS**

6 8. The Defendant's accused products for purposes of the asserted patents include but
7 are not limited to sensor-based products, such as, without limitation, Defendant's Cube One,
8 Motion Sensor, iCamera, iCamera KEEP, Contact Sensor, Smart Switch, and Remote Tag,
9 together with Defendant's server, mobile app and/or web-based services for remote monitoring
10 and communication (the "Accused Products").

11 9. By way of example, information about and demonstration videos showing how to
12 infringe the asserted patents are posted by iSmartAlarm on its website(s) at
13 <http://www.ismartalarm.com>, including, but not limited to,
14 <https://www.ismartalarm.com/US/info/AboutUs>, [http://support.ismartalarm.com/hc/en-](http://support.ismartalarm.com/hc/en-us/sections/200623687-FAQs)
15 [us/sections/200623687-FAQs](http://support.ismartalarm.com/hc/en-us/sections/200623687-FAQs), [http://support.ismartalarm.com/hc/en-us/sections/200789328-](http://support.ismartalarm.com/hc/en-us/sections/200789328-Specifications-and-Manuals)
16 [Specifications-and-Manuals](http://support.ismartalarm.com/hc/en-us/sections/200789328-Specifications-and-Manuals), <https://www.ismartalarm.com/us/boards>, and on its YouTube site at
17 <https://www.youtube.com/channel/UCujMVYQOKabhqybPpkNSI2A>. The Defendant advertises
18 its infringing products and services at among other locations, <https://www.ismartalarm.com/us/>,
19 http://www.amazon.com/iSmartAlarm/b/ref=bl_dp_s_web_8536545011?ie=UTF8&node=85365
20 [45011&field-lbr_brands_browse-bin=iSmartAlarm](http://www.amazon.com/iSmartAlarm/b/ref=bl_dp_s_web_8536545011?ie=UTF8&node=85365), and
21 <https://www.youtube.com/channel/UCujMVYQOKabhqybPpkNSI2A>.

22 10. iSmartAlarm also provides operating manuals, user or installation guides, "quick
23 reference guides," instructional/informational videos on its website and other public websites
24 that instruct customers and end-users on how to purchase the Accused Products and set them up
25 in conjunction with the Defendant's servers, mobile apps, and/or web sites. Among other things,
26 the Defendant provides informational materials that lays out step-by-step instructions on how to
27 set up an apparatus or system that infringes the asserted claims of the asserted patents on its
28 website including but no limited to the websites located at [HANDAL & ASSOCIATES
750 B STREET
SUITE 2510
SAN DIEGO, CA 92101
TEL: 619.544.6400
FAX: 619.696.0323](http://support.ismartalarm.com/hc/en-</p></div><div data-bbox=)

1 [us/sections/200623687-FAQs](http://www.ismartalarm.com/us/sections/200623687-FAQs), [http://support.ismartalarm.com/hc/en-us/sections/200789328-](http://support.ismartalarm.com/hc/en-us/sections/200789328-Specifications-and-Manuals)
2 [Specifications-and-Manuals](http://www.ismartalarm.com/us/boards), and <https://www.ismartalarm.com/us/boards>.

3 11. Plaintiff believes and thereupon alleges that iSmartAlarm is aware that its
4 customers and end-users are using the accused products in an infringing manner based on,
5 among other things: the discussions, questions, answers, and/or comments posted on its own
6 forum located (<https://www.ismartalarm.com/us/boards>) and/or its Twitter page
7 (<https://twitter.com/iSmartAlarm>), and/or its Facebook page
8 (<https://www.facebook.com/iSmartAlarmInc/>) where iSmartAlarm's authorized agents,
9 customers and/or end-users discuss and disclose the use of the accused products, a process which
10 iSmartAlarm knows infringes upon the patents-in-suit; and/or, the fact that iSmartAlarm
11 encourages its customers and end-users to use the accused products in an infringing manner as
12 set forth herein.

13 THE ASSERTED PATENTS

14 12. On November 13, 2012, the United States and Trademark office duly and legally
15 issued United States Patent No. 8,311,522, entitled "System and Method for Managing Mobile
16 Communications" ("the '522 patent"). The patent's named inventor is Patrick Nunally and
17 Plaintiff e.Digital is assignee and owner of the entire right, title and interest in and to the '522
18 patent and vested with the right to bring this suit for damages and other relief. A true and correct
19 copy of the '522 patent is attached hereto as Exhibit "A."

20 13. On November 6, 2012, the United States and Trademark office duly and legally
21 issued United States Patent No. 8,306,514, entitled "System and Method for Managing Mobile
22 Communications" ("the '514 patent"). Although, issued one week earlier, the '514 patent is a
23 continuation of the '522 patent. The patent's named inventor is Patrick Nunally and Plaintiff
24 e.Digital is assignee and owner of the entire right, title and interest in and to the '514 patent and
25 vested with the right to bring this suit for damages and other relief. A true and correct copy of
26 the '514 patent is attached hereto as Exhibit "B."

27 14. On November 13, 2012, the United States and Trademark office duly and legally
28 issued United States Patent No. 8,311,524, entitled "System and Method for Managing Mobile

1 Communications” (“the ’524 patent”). The ’524 patent is a continuation of the ’522 patent. The
2 patent’s named inventor is Patrick Nunally and Plaintiff e.Digital is assignee and owner of the
3 entire right, title and interest in and to the ’524 patent and vested with the right to bring this suit
4 for damages and other relief. A true and correct copy of the ’524 patent is attached hereto as
5 Exhibit “C.”

6 15. On April 7, 2015, the United States Patent and Trademark office duly and legally
7 issued United States Patent No. 9,002,331, entitled “System and Method for Managing Mobile
8 Communications” (“the ’331 patent”), which is a continuation of the ’522 patent. Patrick
9 Nunally is the sole named inventor and Plaintiff e.Digital is assignee and owner of the entire
10 right, title and interest in and to the ’331 patent and vested with the right to bring this suit for
11 damages and other relief. A true and correct copy of the ’331 patent is attached hereto as Exhibit
12 “D.”

13 16. On November 3, 2015, the United States Patent and Trademark office duly and
14 legally issued United States Patent No. 9,178,983, also entitled “System and Method of
15 Managing Mobile Communications (“the ’983 patent”). The ’983 patent is a continuation of
16 U.S. Patent No. 8,315,618, which is, in turn, a continuation of the ’522 patent. Patrick Nunally is
17 the sole named inventor and Plaintiff e.Digital is assignee and owner of the entire right, title and
18 interest in and to the ’983 patent and vested with the right to bring this suit for damages and
19 other relief. A true and correct copy of the ’983 patent is attached hereto as Exhibit “E.”

20 **COUNT ONE**

21 **INFRINGEMENT OF THE ’522 PATENT BY DEFENDANT**

22 1. Plaintiff re-alleges and incorporates by reference each of the allegations set forth
23 in paragraphs 1 through 16 above.

24 2. Defendant has knowledge of infringement of the ’522 patent since at least the
25 filing of this complaint.

26 3. The accused products, alone or in combination with other products, directly or
27 alternatively under the doctrine of equivalents practice each of the limitations of independent
28 claim 17 and dependent claim 21 of the ’522 patent (hereafter “the asserted claims of the ’522

1 patent”) in violation of 35 U.S.C. § 271(a) when Defendant demonstrates, tests or otherwise uses
2 the accused products in the United States.

3 4. Plaintiff alleges that Defendant encourages others to directly infringe the asserted
4 claims of the ‘522 patent by among other things, advertising and promoting the sale and use of
5 the accused products in violation of 35 U.S.C. § 271(b) and (c) by knowingly inducing and
6 contributing to the infringement of the ’522 patent by, amount other things, providing operating
7 manuals, guides, instructional and/or informational videos and other materials designed to
8 instruct others how to use the products in an infringing manner. In particular, Defendant’s
9 product literature, materials and instructional videos advertise and encourage customers to use
10 the accused product(s) for remote monitoring, which utilizes the devices described by the ’522
11 patent in a manner Defendant knows infringes the patent. As more fully set forth above in
12 paragraphs 9, 10 and 11, Defendant’s informational materials lay out step-by-step instructions on
13 how to set up an apparatus or system that infringes the asserted claims of the asserted patents.

14 5. Plaintiff thereupon alleges on information and belief that Defendant has, in the
15 United States, without authority, actively induced and continues to actively induce infringement
16 of the asserted claims of the ‘522 patent in violation of 35 U.S.C. § 271(b) by among other things
17 posting information about and demonstration videos showing how to infringe the asserted patents
18 as more specifically set forth above in paragraphs 9, 10 and 11.

19 6. Plaintiff similarly alleges upon information and belief that, without authority,
20 Defendant has contributed and continues to contribute to the infringement of the asserted claims
21 of the ‘522 patent in violation of 35 U.S.C. § 271(c) by importing into the United States, selling
22 and/or offering to sell within the United States accused products, that at a minimum include
23 wireless camera and/or other sensor products together with remote monitoring and
24 communication systems constituting material components of the accused products, that
25 Defendant knows were made and/or especially adapted for use in the accused products and/or are
26 especially adapted for use in infringing the asserted claims of the ‘522 patent; and which are not
27 otherwise staple articles of commerce suitable for substantial use in a manner that does not
28 infringe the asserted claims of the ‘522 patent.

1 7. Plaintiff is informed and believes that Defendant intentionally sells, ships or
2 otherwise delivers the accused products in the United States, with knowledge that are designed to
3 and do practice the infringing features of the asserted claims of the '522 patent.

4 8. Plaintiff is without an adequate remedy at law and has thus been irreparably
5 harmed by these acts of infringement. Plaintiff asserts upon information and belief that
6 infringement of the asserted claims of the '522 patent is continuous and ongoing unless and until
7 Defendant is enjoined from further infringement by the court.

8 **COUNT TWO**

9 **INFRINGEMENT OF THE '514 PATENT BY DEFENDANT**

10 9. Plaintiff re-alleges and incorporates by reference each of the allegations set forth
11 in paragraphs 1 through 16 above.

12 10. Defendant has knowledge of infringement of the '514 patent since at least the
13 filing of this complaint.

14 11. The accused products, alone or in combination with other products, directly or
15 alternatively under the doctrine of equivalents practice each of the limitations of independent
16 claim 34 and dependent claim 35 of the '514 patent (hereafter "the asserted claims of the '514
17 patent") in violation of 35 U.S.C. § 271(a) when Defendant demonstrates, tests or otherwise uses
18 the accused products in the United States.

19 12. Plaintiff alleges that Defendant encourages others to directly infringe the asserted
20 claims of the '514 patent by among other things, advertising and promoting the sale and use of
21 the accused products in violation of 35 U.S.C. § 271(b) and (c) by knowingly inducing and
22 contributing to the infringement of the '514 patent by, amount other things, providing operating
23 manuals, guides, instructional and/or informational videos and other materials designed to
24 instruct others how to use the products in an infringing manner. In particular, Defendant's
25 product literature, materials and instructional videos advertise and encourage customers to use
26 the accused product(s) for remote monitoring, which utilizes the devices described by the '514
27 patent in a manner Defendant knows infringes the patent. As more fully set forth above in
28 paragraphs 9, 10 and 11, Defendant's informational materials lay out step-by-step instructions on

1 how to set up an apparatus or system that infringes the asserted claims of the asserted patents.

2 13. Plaintiff thereupon alleges on information and belief that Defendant has, in the
3 United States, without authority, actively induced and continues to actively induce infringement
4 of the asserted claims of the '514 patent in violation of 35 U.S.C. § 271(b) by among other things
5 posting information about and demonstration videos showing how to infringe the asserted patents
6 as more specifically set forth above in paragraphs 9, 10 and 11.

7 14. Plaintiff similarly alleges upon information and belief that, without authority,
8 Defendant has contributed and continues to contribute to the infringement of the asserted claims
9 of the '514 patent in violation of 35 U.S.C. § 271(c) by importing into the United States, selling
10 and/or offering to sell within the United States accused products, that at a minimum include
11 wireless camera and/or other sensor products together with remote monitoring and
12 communication systems constituting material components of the accused products, that
13 Defendant knows were made and/or especially adapted for use in the accused products and/or are
14 especially adapted for use in infringing the asserted claims of the '514 patent; and which are not
15 otherwise staple articles of commerce suitable for substantial use in a manner that does not
16 infringe the asserted claims of the '514 patent.

17 15. Plaintiff is informed and believes that Defendant intentionally sells, ships or
18 otherwise delivers the accused products in the United States, with knowledge that are designed to
19 and do practice the infringing features of the asserted claims of the '514 patent.

20 16. Plaintiff is without an adequate remedy at law and has thus been irreparably
21 harmed by these acts of infringement. Plaintiff asserts upon information and belief that
22 infringement of the asserted claims of the '514 patent is continuous and ongoing unless and until
23 Defendant is enjoined from further infringement by the court.

24 **COUNT THREE**

25 **INFRINGEMENT OF THE '524 PATENT BY DEFENDANT**

26 17. Plaintiff re-alleges and incorporates by reference each of the allegations set forth
27 in paragraphs 1 through 16 above.

28 18. Defendant has knowledge of infringement of the '524 patent since at least the

1 filing of this complaint.

2 19. The accused products, alone or in combination with other products, directly or
3 alternatively under the doctrine of equivalents practice each of the limitations of independent
4 claim 1 and dependent claims 10 and 18 of the '524 patent (hereafter "the asserted claims of the
5 '524 patent") in violation of 35 U.S.C. § 271(a) when Defendant demonstrates, tests or otherwise
6 uses the accused products in the United States.

7 20. Plaintiff alleges that Defendant encourages others to directly infringe the asserted
8 claims of the '524 patent by among other things, advertising and promoting the sale and use of
9 the accused products in violation of 35 U.S.C. § 271(b) and (c) by knowingly inducing and
10 contributing to the infringement of the '524 patent by, amount other things, providing operating
11 manuals, guides, instructional and/or informational videos and other materials designed to
12 instruct others how to use the products in an infringing manner. In particular, Defendant's
13 product literature, materials and instructional videos advertise and encourage customers to use
14 the accused product(s) for remote monitoring, which utilizes the devices described by the '524
15 patent in a manner Defendant knows infringes the patent. As more fully set forth above in
16 paragraphs 9, 10 and 11, Defendant's informational materials lay out step-by-step instructions on
17 how to set up an apparatus or system that infringes the asserted claims of the asserted patents.

18 21. Plaintiff thereupon alleges on information and belief that Defendant has, in the
19 United States, without authority, actively induced and continues to actively induce infringement
20 of the asserted claims of the '524 patent in violation of 35 U.S.C. § 271(b) by among other things
21 posting information about and demonstration videos showing how to infringe the asserted patents
22 as more specifically set forth above in paragraphs 9, 10 and 11.

23 22. Plaintiff similarly alleges upon information and belief that, without authority,
24 Defendant has contributed and continues to contribute to the infringement of the asserted claims
25 of the '524 patent in violation of 35 U.S.C. § 271(c) by importing into the United States, selling
26 and/or offering to sell within the United States accused products, that at a minimum include
27 wireless camera and/or other sensor products together with remote monitoring and
28 communication systems constituting material components of the accused products, that

1 Defendant knows were made and/or especially adapted for use in the accused products and/or are
2 especially adapted for use in infringing the asserted claims of the '524 patent; and which are not
3 otherwise staple articles of commerce suitable for substantial use in a manner that does not
4 infringe the asserted claims of the '524 patent.

5 23. Plaintiff is informed and believes that Defendant intentionally sells, ships or
6 otherwise delivers the accused products in the United States, with knowledge that are designed to
7 and do practice the infringing features of the asserted claims of the '524 patent.

8 24. Plaintiff is without an adequate remedy at law and has thus been irreparably
9 harmed by these acts of infringement. Plaintiff asserts upon information and belief that
10 infringement of the asserted claims of the '524 patent is continuous and ongoing unless and until
11 Defendant is enjoined from further infringement by the court.

12 **COUNT FOUR**

13 **INFRINGEMENT OF THE '331 PATENT BY DEFENDANT**

14 25. Plaintiff re-alleges and incorporates by reference each of the allegations set forth
15 in paragraphs 1 through 16 above.

16 26. Defendant has knowledge of infringement of the '331 patent since at least the
17 filing of this complaint.

18 27. The accused products, alone or in combination with other products, directly or
19 alternatively under the doctrine of equivalents practice each of the limitations of independent
20 claim 1 and dependent claims 2, 3 and 11 of the '331 patent (hereafter "the asserted claims of the
21 '331 patent") in violation of 35 U.S.C. § 271(a) when Defendant demonstrates, tests or otherwise
22 uses the accused products in the United States.

23 28. Plaintiff alleges that Defendant encourages others to directly infringe the asserted
24 claims of the '331 patent by among other things, advertising and promoting the sale and use of
25 the accused products in violation of 35 U.S.C. § 271(b) and (c) by knowingly inducing and
26 contributing to the infringement of the '331 patent by, amount other things, providing operating
27 manuals, guides, instructional and/or informational videos and other materials designed to
28 instruct others how to use the products in an infringing manner. In particular, Defendant's

1 product literature, materials and instructional videos advertise and encourage customers to use
2 the accused product(s) for remote monitoring, which utilizes the devices described by the '331
3 patent in a manner Defendant knows infringes the patent. As more fully set forth above in
4 paragraphs 9, 10 and 11, Defendant's informational materials lay out step-by-step instructions on
5 how to set up an apparatus or system that infringes the asserted claims of the asserted patents.

6 29. Plaintiff thereupon alleges on information and belief that Defendant has, in the
7 United States, without authority, actively induced and continues to actively induce infringement
8 of the asserted claims of the '331 patent in violation of 35 U.S.C. § 271(b) by among other things
9 posting information about and demonstration videos showing how to infringe the asserted patents
10 as more specifically set forth above in paragraphs 9, 10 and 11.

11 30. Plaintiff similarly alleges upon information and belief that, without authority,
12 Defendant has contributed and continues to contribute to the infringement of the asserted claims
13 of the '331 patent in violation of 35 U.S.C. § 271(c) by importing into the United States, selling
14 and/or offering to sell within the United States accused products, that at a minimum include
15 wireless camera and/or other sensor products together with remote monitoring and
16 communication systems constituting material components of the accused products, that
17 Defendant knows were made and/or especially adapted for use in the accused products and/or are
18 especially adapted for use in infringing the asserted claims of the '331 patent; and which are not
19 otherwise staple articles of commerce suitable for substantial use in a manner that does not
20 infringe the asserted claims of the '331 patent.

21 31. Plaintiff is informed and believes that Defendant intentionally sells, ships or
22 otherwise delivers the accused products in the United States, with knowledge that are designed to
23 and do practice the infringing features of the asserted claims of the '331 patent.

24 32. Plaintiff is without an adequate remedy at law and has thus been irreparably
25 harmed by these acts of infringement. Plaintiff asserts upon information and belief that
26 infringement of the asserted claims of the '331 patent is continuous and ongoing unless and until
27 Defendant is enjoined from further infringement by the court.

28 **COUNT FIVE**

INFRINGEMENT OF THE '983 PATENT BY DEFENDANT

1
2 33. Plaintiff re-alleges and incorporates by reference each of the allegations set forth
3 in paragraphs 1 through 16 above.

4 34. Defendant has knowledge of infringement of the '983 patent since at least the
5 filing of this complaint.

6 35. The accused products, alone or in combination with other products, directly or
7 alternatively under the doctrine of equivalents practice each of the limitations of independent
8 claims 1 and 20 and dependent claims 13, 14, 16, and 19 of the '983 patent (hereafter "the
9 asserted claims of the '983 patent") in violation of 35 U.S.C. § 271(a) when Defendant
10 demonstrates, tests or otherwise uses the accused products in the United States.

11 36. Plaintiff alleges that Defendant encourages others to directly infringe the asserted
12 claims of the '983 patent by among other things, advertising and promoting the sale and use of
13 the accused products in violation of 35 U.S.C. § 271(b) and (c) by knowingly inducing and
14 contributing to the infringement of the '983 patent by, amount other things, providing operating
15 manuals, guides, instructional and/or informational videos and other materials designed to
16 instruct others how to use the products in an infringing manner. In particular, Defendant's
17 product literature, materials and instructional videos advertise and encourage customers to use
18 the accused product(s) for remote monitoring, which utilizes the devices described by the '983
19 patent in a manner Defendant knows infringes the patent. As more fully set forth above in
20 paragraphs 9, 10 and 11, Defendant's informational materials lay out step-by-step instructions on
21 how to set up an apparatus or system that infringes the asserted claims of the asserted patents.

22 37. Plaintiff thereupon alleges on information and belief that Defendant has, in the
23 United States, without authority, actively induced and continues to actively induce infringement
24 of the asserted claims of the '983 patent in violation of 35 U.S.C. § 271(b) by among other things
25 posting information about and demonstration videos showing how to infringe the asserted patents
26 as more specifically set forth above in paragraphs 9, 10 and 11.

27 38. Plaintiff similarly alleges upon information and belief that, without authority,
28 Defendant has contributed and continues to contribute to the infringement of the asserted claims

1 of the '983 patent in violation of 35 U.S.C. § 271(c) by importing into the United States, selling
2 and/or offering to sell within the United States accused products, that at a minimum include
3 wireless camera and/or other sensor products together with remote monitoring and
4 communication systems constituting material components of the accused products, that
5 Defendant knows were made and/or especially adapted for use in the accused products and/or are
6 especially adapted for use in infringing the asserted claims of the '983 patent; and which are not
7 otherwise staple articles of commerce suitable for substantial use in a manner that does not
8 infringe the asserted claims of the '983 patent.

9 39. Plaintiff is informed and believes that Defendant intentionally sells, ships or
10 otherwise delivers the accused products in the United States, with knowledge that are designed to
11 and do practice the infringing features of the asserted claims of the '983 patent.

12 40. Plaintiff is without an adequate remedy at law and has thus been irreparably
13 harmed by these acts of infringement. Plaintiff asserts upon information and belief that
14 infringement of the asserted claims of the '983 patent is continuous and ongoing unless and until
15 Defendant is enjoined from further infringement by the court.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff prays for relief and judgment as follows:

- 18 1. That Defendant has infringed the Patents-in-Suit;
- 19 2. That Defendant, Defendant's officers, agents, servants, employees, and attorneys,
20 and those persons in active concert or participation with them, be preliminarily and permanently
21 enjoined from infringement of the Patents-in-Suit, including but not limited to any making,
22 using, offering for sale, selling, or importing of unlicensed infringing products within and
23 without the United States;
- 24 3. Compensation for all damages caused by Defendant's infringement of the Patents-in-
25 Suit to be determined at trial;
- 26 4. A finding that this case is exceptional and an award of reasonable attorneys fees
27 pursuant to 35 U.S.C. § 285;
- 28 5. Granting Plaintiff pre-and post-judgment interest on its damages, together with all

1 costs and expenses; and,

2 6. Awarding such other relief as this Court may deem just and proper.

3
4 HANDAL & ASSOCIATES

5 Dated: December 17, 2015

6 By: /s/ Gabriel G. Hedrick

7 Gabriel G. Hedrick

8 Lauren G. Kane

9 Anton N. Handal

10 Attorneys for Plaintiff

11 e.Digital Corporation

12 **DEMAND FOR JURY TRIAL**

13 Plaintiff hereby demands a trial by jury on all claims.

14 HANDAL & ASSOCIATES

15 Dated: December 17, 2015

16 By: /s/ Gabriel G. Hedrick

17 Gabriel G. Hedrick

18 Lauren G. Kane

19 Anton N. Handal

20 Attorneys for Plaintiff

21 e.Digital Corporation

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document has been served on this date to all counsel of record, if any to date, who are deemed to have consented to electronic service via the Court’s CM/ECF system per CivLR 5.4(d). Any other counsel of record will be served by electronic mail, facsimile and/or overnight delivery upon their appearance in this matter.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct. Executed this 17th day of December, 2015 at San Diego, California.

HANDAL & ASSOCIATES

Dated: December 17, 2015

By: /s/ Gabriel G. Hedrick
Gabriel G. Hedrick