

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

_____)	
ANDREA ELECTRONICS)	
CORPORATION,)	
) Civil Action No. _____	
Plaintiff,)	
) COMPLAINT	
) JURY TRIAL DEMANDED	
)	
v.)	
)	
SAMSUNG ELECTRONICS CO., LTD.)	
and SAMSUNG ELECTRONICS)	
AMERICA, INC.)	
)	
Defendants.)	
_____)	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Andrea Electronics Corporation (“Andrea” or “Plaintiff”), by and through its counsel, Pepper Hamilton LLP, hereby submits its Complaint for Patent Infringement against defendants Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc. (collectively “Samsung” or “Defendant”), and alleges as follows:

NATURE OF ACTION

1. This is an action for patent infringement under the patent laws of the United States, 35 U.S.C. §§ 271, *et seq.*, to enjoin infringement and obtain damages resulting from Defendant’s unauthorized and ongoing actions, in the state of New York and elsewhere, of making, having made, using, selling, having sold, offering to sell, and/or importing or having imported into the United States, desktop computers, all-in-one computers, notebook/laptop computers, Chromebook computers, tablets, smart phones, headsets, headphones, earbuds, and wearables (*e.g.*, watches) that infringe one or more claims of Andrea’s U.S. Patent No. 6,049,607 (the “607 Patent”), U.S. Patent No. 6,363,345 (the “345 Patent”), and U.S. Patent No. 6,377,637 (the “637 Patent”) (collectively, the “Asserted Patents”).

2. This is an action for direct infringement. Upon information and belief, Defendant makes, has made, uses, sells, offers to sell, imports, and/or has imported into the United States certain desktop computers, all-in-one computers, notebook/laptop computers, Chromebook computers, tablets, smart phones, headsets, headphones, earbuds, and wearables that infringe one or more of the Asserted Patents, either literally or under the doctrine of equivalents.

3. In addition, this is an action for indirect infringement. Upon information and belief, Defendant contributes to or induces the direct infringement, either literally or under the doctrine of equivalents, of one or more claims in the Asserted Patents.

4. Andrea asserts that Defendant infringes the following claims:

Asserted Patent	Asserted Claims
'607	1-12 and 25-37
'345	1-25, 38-40, and 42-47
'637	1-14

THE PARTIES

A. Plaintiff Andrea

5. Plaintiff Andrea is a corporation organized and existing under the laws of the state of New York with its principal place of business at 620 Johnson Avenue, Suite 1B, Bohemia, New York 11716.

6. Andrea is a publicly-held company with its corporate headquarters located in Bohemia, New York. Andrea engages in substantial engineering, research, and development related to audio technology and has developed microphone hardware and software that provides solutions to current sound fidelity challenges.

7. Andrea has a decorated history as a leading industry developer of product solutions which optimize the performance of voice user interfaces. Its technology has been

applied to products related to, among other things, voice over internet protocol (“VoIP”) telephony, VoIP teleconferencing, video conferencing, speech recognition, computer gaming, in-car computing, and 3D audio recording.

8. The leadership of Andrea has spanned three familial generations and over 80 years. Andrea’s products are featured in the Henry Ford Museum and Smithsonian National Museum of American History.

9. In the early 1900s, Frank Andrea, an Italian immigrant, started his business career. He began as an electroplater for I.P. Frink manufacturing company and studied at night as a tool maker and machinist at the Mechanic’s Institute in New York City. In 1913 he joined the Frederick Pierce Company and, after the outbreak of World War I, worked to design tools to manufacture parts for a new aircraft radio receiver that he had built. Mr. Andrea soon thereafter started his own company, FADA.

10. As founder of FADA, Mr. Andrea employed his family members, including his 16 year-old brother, John. FADA picked up momentum when Mr. Andrea convinced Marconi, the predecessor of RCA, to place an order for radio parts. FADA began manufacturing parts for crystal sets and “Do It Yourself” kits. FADA also soon began manufacturing parts such as sockets and rheostats for tube type radios.

11. After selling his controlling interest in FADA, Mr. Andrea founded the Andrea Radio Corporation (“Andrea Radio”), whose product offerings evolved over time. In 1939, Andrea Radio developed and produced one of the first television sets, which was displayed at the World’s Fair in Queens, New York. Andrea Radio sold TV kits and the first television console models that also housed a radio and phonograph. In 1954, Andrea Radio began developing a color television and introduced a set in 1957.

12. During the Second World War, Andrea Radio also engaged in the production of military electronics. In 1942, Andrea Radio was presented with the prestigious high honors Navy E Award for manufacturing excellence and providing military audio communications equipment. In the early 1960s, Andrea Radio developed and produced several types of high reliability intercommunication systems for installation in various military and commercial aircraft. Andrea Radio produced the audio intercom system for Project Mercury's first manned spacecraft.

13. Mr. Andrea passed away in 1965, leaving his son, Frank Jr., to continue the Andrea business.

14. In the 1970s and 1980s, Andrea Radio became a premier supplier of high performance avionic intercom equipment for defense industry manufacturers like Bell Helicopter, Boeing, Sikorsky, and Lockheed, prompting Andrea Radio to change its name to Andrea Electronics Corporation. Andrea produced microphone audio pre-amplifiers for Navy aviators' oxygen mask helmet systems. The experience gained from producing audio intercom systems for these high noise environments paved the way for Andrea's emphasis on active noise cancellation.

15. Product development continued in the 1990s with Andrea producing the first Active Noise Canceling boom microphone computer headset for deployment with computer speech recognition. Andrea shipped millions of headsets and microphone products to software OEMs. In 1998, Andrea developed and produced the first digital array microphone for commercial use, providing hands-free voice command and control functionality. In 1999, Andrea developed and produced the first USB headset as well as the first desktop digital array microphone.

16. In the 2000s, Andrea broadened the application of its product offerings. In 2001, it developed and produced digital noise canceling array microphones for speech control systems in police cruisers. In 2002, Andrea revolutionized personal computer audio input by introducing the first stereo array microphone interface for integrated audio codecs. By the late 2000s, Andrea had shipped over one million SuperBeam stereo array microphones, and millions of DSDA stereo array microphone and EchoStop speakerphone products.

17. Andrea has continued its innovation and offers microphone and earphone technologies designed to enhance sound quality. Andrea, now led by Frank Andrea's grandson, Douglas Andrea, successfully transformed itself from a manufacturer of industrial and military intercommunication systems into a creator of cutting-edge audio technologies. Andrea incorporates its patented technologies to enable natural language interfaces and enhance the performance of voice-related applications.

18. Today, Andrea offers a variety of products incorporating its technologies such as printed circuit boards, microphones, software algorithms, and related products. Since its inception, Andrea has gone through a remarkable evolution as an audio technology leader, meeting the ever-changing needs of a demanding audio communications marketplace.

19. As a result of the convergence between computers and communication devices, a new generation of connected mobile devices is becoming pervasive. Andrea has developed and continues developing new products incorporating its technologies to enhance the user experience of mainstream applications such as speech recognition, VoIP/ video conferencing, distance learning, enterprise collaboration, game chat, and live digital audio recordings.

20. In addition to its own significant engineering, research, and development into audio processing technologies, Andrea also worked extensively with Lamar Signal Processing

(“Lamar”). Andrea eventually acquired substantially all of the assets of Lamar in 1998 such that Lamar became an Andrea subsidiary. In the early 2000s, Andrea began licensing its software algorithms in a number of industries, including the personal computer industry, and these algorithms have now shipped on well over 600 million personal computers from 2002 to the present.

21. Andrea and Lamar’s efforts resulted in approximately thirty (30) issued United States utility and design patents, including fourteen (14) currently-effective United States utility patents owned by Andrea, including the Asserted Patents. Andrea’s development efforts also include at least one (1) currently-pending United States patent application directed to Andrea’s audio processing technology.

22. Andrea has made concerted efforts to deliver its patented technology and products to a number of customers and has made significant contributions towards developing its technology for use across a broad spectrum of industries. Andrea’s continued success and investments in advancing its proprietary audio processing technology depends, in part, on its ability to establish, maintain, and protect this proprietary technology through enforcement of its patent rights.

B. Defendant Samsung

23. Upon information and belief, Samsung Electronics Co., Ltd. is a corporation organized and existing under the laws of Korea, with its principal place of business at 129, Samsung-ro, Yeongtong-gu, Suwon-si, Gyeonggi-do, Korea. Upon information and belief, Samsung Electronics America, Inc. is a corporation organized and existing under the laws of the state of New York, with its principal place of business at 85 Challenger Road, Ridgefield Park, NJ 07660. Samsung Electronics America, Inc. is a wholly-owned subsidiary of or otherwise controlled by Samsung Electronics Co., Ltd. Samsung Electronics America, Inc. may be served

through its registered agent for service of process, CT Corporation System, 111 Eighth Ave New York, New York 10011.

JURISDICTION AND VENUE

24. Upon information and belief, Defendant is subject to personal jurisdiction in the Eastern District of New York because it regularly transacts business in this judicial district and engages in continuous and systematic contact with New York. Defendant offers products to customers, business affiliates, and/or partners located in this judicial district. In addition, Defendant has committed acts of infringement of one or more claims of each of the Asserted Patents in this judicial district. Infringing products made and sold by Defendant including, but not limited to, desktop computers, all-in-one computers, notebook/laptop computers, Chromebook computers, tablets, smart phones, headsets, headphones, earbuds, and wearables, are widely advertised in New York and are readily available at numerous retail locations throughout the state, including within the Eastern District of New York. Upon information and belief, Defendant makes ongoing and continuous shipments of infringing products into the Eastern District of New York and maintains an established sales and distribution network that encompasses New York. Infringing products are manufactured by Defendant, or at its direction, and are used or consumed within this State in the ordinary course of trade.

25. For example, Defendant maintains a website offering for sale and selling infringing products into this judicial district. ([http://www.samsung.com/us/.](http://www.samsung.com/us/)) Additionally, Defendant's infringing products are sold in retail stores throughout the state of New York and in this judicial district, including multiple Best Buy retail stores in Brooklyn, New York and on Long Island.

26. Finally, at least Defendant Samsung Electronics America, USA is registered to do business in New York and maintains a registered agent for service of process in New York.

27. Venue is proper in the Eastern District of New York under 28 U.S.C. §§ 1391(b) and (c) as well as 28 U.S.C. § 1400(b) because Defendant is subject to personal jurisdiction in this district and has committed acts of infringement in this district. Additionally, Plaintiff's principal place of business is located in this judicial district.

COUNT I

(Infringement of the '607 Patent)

28. Paragraphs 1 through 27 are incorporated by reference as if fully restated herein.

29. On April 11, 2000, United States Patent No. 6,049,607 (the "'607 Patent") was duly and legally issued for "Interference Canceling Method and Apparatus." The '607 Patent is in full force and effect. A true and correct copy of the '607 Patent is attached hereto as Exhibit 1 and made part hereof.

30. Andrea is the assignee and owner of the '607 Patent with the exclusive right to enforce the '607 Patent against infringers and the exclusive right to collect damages for all relevant times, including the right to prosecute this action.

31. The '607 Patent generally relates to an interference canceling method and apparatus.

32. Upon information and belief, Defendant – without authority, consent, right, or license – manufactures, makes, has made, uses, sells, offers for sale, and/or imports into the United States certain desktop computers, all-in-one computers, notebook/laptop computers, Chromebook computers, tablets, smart phones, headsets, headphones, and earbuds that directly

infringe, either literally and/or under the doctrine of equivalents, or enable the practice of, at least one claim of the '607 Patent.

33. For example, Exhibit 2 includes a chart comparing the asserted independent claims of the '607 Patent to Defendant's Galaxy S7 product. Exhibit 2 shows that the Galaxy S7 product and its use are covered by at least the asserted independent claims of the '607 Patent. The Galaxy S7 is a representative example of Defendant's infringement of the '607 Patent. Andrea believes that Defendant's devices in addition to the Galaxy S7 product, including Defendant's desktop computers, all-in-one computers, notebook/laptop computers, Chromebook computers, tablets, other smart phones, headsets, headphones, and earbuds, and their uses, are covered by at least one of the Asserted Claims of the '607 Patent.

34. In addition to the Galaxy S7 directly infringing at least one of the Asserted Claims of the '607 Patent, as does its use, as shown in Exhibit 2, Andrea also believes that Defendant's desktop computers, all-in-one computers, notebook/laptop computers, Chromebook computers, tablets, other smart phones, headsets, headphones, and earbuds infringe the Asserted Claims of the '607 Patent in a similar manner. Andrea intends to and does accuse such products of infringement and seeks injunctive and monetary relief against Defendant's infringement with respect to these products as well.

35. Further, upon information and belief, Defendant has also indirectly infringed at least one claim of the '607 Patent by inducing infringement.

36. Defendant has been aware of the '607 Patent and of Andrea's allegations of infringement since at least being sent a notice letter by Andrea's counsel on May 13, 2015. Additionally Defendant had constructive notice of the '607 patent prior to the filing of this Complaint by virtue of Andrea's marking practice, as set forth in Count IV below.

37. Despite Defendant's awareness of the '607 Patent and Andrea's allegations, it has knowingly and actively induced others to infringe the '607 Patent by selling desktop computers, all-in-one computers, notebook/laptop computers, Chromebook computers, tablets, smart phones, headsets, headphones, and earbuds which induce the direct infringement of at least one of the claims of the '607 Patent by end-users – for example, customers. Upon information and belief, at least one customer has directly infringed one or more claims of Andrea's '607 Patent.

38. Defendant has provided and continues to provide user interfaces wherein the audio processing functionalities described and claimed in the '607 Patent cannot be disabled by the user. For example, on information and belief, the noise reduction capabilities in the Samsung Galaxy S7 product cannot be disabled by a user. As shown for the representative Galaxy S7 product (Exhibit 2), Defendant's audio processing implementation reduces or eliminates interference in a manner that infringes the claims of the '607 Patent. At least by providing users such functionality, Defendant has induced and is actively inducing use of that functionality and infringement of at least one claim of Andrea's '607 Patent.

39. Further, upon information and belief, Defendant has also indirectly infringed at least one of the claims of the '607 Patent by contributing to infringement.

40. The audio processing hardware and/or software in Defendant's desktop computers, all-in-one computers, notebook/laptop computers, Chromebook computers, tablets, smart phones, headsets, headphones, and earbuds are made solely for the purpose of reducing or eliminating interference from voice and/or other audio signals in a manner that infringes at least one claim of the '607 Patent. Further, this hardware and/or software is especially made and/or especially adapted for use in the infringement of Andrea's '607 Patent, is not a staple commodity of commerce, and is not suitable for substantial non-infringing use. By selling desktop

computers, all-in-one computers, notebook/laptop computers, Chromebook computers, tablets, smart phones, headsets, headphones, and earbuds containing this hardware and/or software, Defendant has contributed to the infringement of the '607 Patent by end-users – for example, customers – who use said hardware and/or software provided in Defendant's desktop computers, all-in-one computers, notebook/laptop computers, Chromebook computers, tablets, smart phones, headsets, headphones, and earbuds.

41. As a result of Defendant's infringing conduct, Andrea has suffered damages and will continue to suffer damages in an amount that, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by the Court under 35 U.S.C. § 284.

42. Upon information and belief, Defendant will continue its infringement of the '607 Patent unless enjoined by the Court. Defendant's infringing conduct has caused Andrea irreparable harm and will continue to cause such harm without the issuance of an injunction.

COUNT II

(Infringement of the '345 Patent)

43. Paragraphs 1 through 42 are incorporated by reference as if fully restated herein.

44. On March 26, 2002, United States Patent No. 6,363,345 (the "'345 Patent'") was duly and legally issued for "System, Method and Apparatus for Cancelling Noise." The '345 Patent is in full force and effect. A true and correct copy of the '345 Patent is attached hereto as Exhibit 3 and made part hereof.

45. Andrea is the assignee and owner of the '345 Patent with the exclusive right to enforce the '345 Patent against infringers and the exclusive right to collect damages for all relevant times, including the right to prosecute this action.

46. The '345 Patent generally relates to noise cancellation and reduction.

47. Upon information and belief, Defendant – without authority, consent, right, or license – manufactures, makes, has made, uses, sells, offers for sale, and/or imports into the United States certain desktop computers, all-in-one computers, notebook/laptop computers, Chromebook computers, tablets, smart phones, headsets, headphones, earbuds, and wearables that directly infringe, either literally and/or under the doctrine of equivalents, or enable the practice of, at least one claim of the '345 Patent.

48. For example, Exhibit 4 includes a chart comparing the asserted independent claims of the '345 Patent to Defendant's Galaxy S7 product. Exhibit 4 shows that the Galaxy S7 product and its use are covered by at least the asserted independent claims of the '345 Patent. The Galaxy S7 is a representative example of Defendant's infringement of the '345 Patent. Andrea believes that Defendant's devices in addition to the Galaxy S7 product, including Defendant's desktop computers, all-in-one computers, notebook/laptop computers, Chromebook computers, tablets, other smart phones, headsets, headphones, earbuds, and wearables, and their uses, are covered by at least one of the Asserted Claims of the '345 Patent.

49. In addition to the Galaxy S7 directly infringing at least one of the Asserted Claims of the '345 Patent, as does its use, as shown in Exhibit 4, Andrea also believes that Defendant's desktop computers, all-in-one computers, notebook/laptop computers, Chromebook computers, tablets, other smart phones, headsets, headphones, earbuds, and wearables infringe the Asserted Claims of the '345 Patent in a similar manner. Andrea intends to and does accuse such products of infringement and seeks injunctive and monetary relief against Defendant's infringement with respect to these products as well.

50. Further, upon information and belief, Defendant has also indirectly infringed at least one claim of the '345 Patent by inducing infringement.

51. Defendant has been aware of the '345 Patent and of Andrea's allegations of infringement since at least being sent a notice letter by Andrea's counsel on May 13, 2015. Additionally Defendant had constructive notice of the '345 patent prior to the filing of this Complaint by virtue of Andrea's marking practice, as set forth in Count IV below.

52. Despite Defendant's awareness of the '345 Patent and Andrea's allegations, it has knowingly and actively induced others to infringe the '345 Patent by selling desktop computers, all-in-one computers, notebook/laptop computers, Chromebook computers, tablets, smart phones, headsets, headphones, earbuds, and wearables which induce the direct infringement of at least one of the claims of the '345 Patent by end-users – for example, customers. Upon information and belief, at least one customer has directly infringed one or more claims of Andrea's '345 Patent.

53. Defendant has provided and continues to provide products wherein the audio processing functionalities described and claimed in the '345 Patent cannot be disabled by the user. For example, on information and belief, the noise reduction capabilities in the Samsung Galaxy S7 product cannot be disabled by a user. As shown for the representative Galaxy S7 product (Exhibit 4), Defendant's audio processing implementation reduces or eliminates noise in a manner that infringes the claims of the '345 Patent. At least by providing users such functionality, Defendant has induced and is actively inducing use of that functionality and infringement of at least one claim of Andrea's '345 Patent.

54. Further, upon information and belief, Defendant has also indirectly infringed at least one claim of the '345 Patent by contributing to infringement.

55. The audio processing hardware and/or software in Defendant's desktop computers, all-in-one computers, notebook/laptop computers, Chromebook computers, tablets,

smart phones, headsets, headphones, earbuds, and wearables are made solely for the purpose of reducing or eliminating noise from voice and/or other audio signals in a manner that infringes at least one claim of the '345 Patent. Further, this hardware and/or software is especially made and/or especially adapted for use in the infringement of Andrea's '345 Patent, is not a staple commodity of commerce, and is not suitable for substantial non-infringing use. By selling desktop computers, all-in-one computers, notebook/laptop computers, Chromebook computers, tablets, smart phones, headsets, headphones, earbuds, and wearables containing this hardware and/or software, Defendant has contributed to the infringement of the '345 Patent by end-users – for example, customers – who use said hardware and/or software provided in Defendant's desktop computers, all-in-one computers, notebook/laptop computers, Chromebook computers, tablets, smart phones, headsets, headphones, earbuds, and wearables.

56. As a result of Defendant's infringing conduct, Andrea has suffered damages and will continue to suffer damages in an amount that, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by the Court under 35 U.S.C. § 284.

57. Upon information and belief, Defendant will continue its infringement of the '345 Patent unless enjoined by the Court. Defendant's infringing conduct has caused Andrea irreparable harm and will continue to cause such harm without the issuance of an injunction.

COUNT III

(Infringement of the '637 Patent)

58. Paragraphs 1 through 57 are incorporated by reference as if fully restated herein.

59. On April 23, 2002, United States Patent No. 6,377,637 (the "'637 Patent") was duly and legally issued for "Sub-Band Exponential Smoothing Noise Canceling System." The

'637 Patent is in full force and effect. A true and correct copy of the '637 Patent is attached hereto as Exhibit 5 and made part hereof.

60. Andrea is the assignee and owner of the '637 Patent with the exclusive right to enforce the '637 Patent against infringers and the exclusive right to collect damages for all relevant times, including the right to prosecute this action.

61. The '637 Patent generally relates to noise cancellation and reduction.

62. Upon information and belief, Defendant – without authority, consent, right, or license – manufactures, makes, has made, uses, sells, offers for sale, and/or imports into the United States certain desktop computers, all-in-one computers, notebook/laptop computers, Chromebook computers, tablets, smart phones, headsets, headphones, earbuds, and wearables that directly infringe, either literally and/or under the doctrine of equivalents, or enable the practice of, at least one claim of the '637 Patent.

63. For example, Exhibit 6 includes a chart comparing the asserted independent claims of the '637 Patent to Defendant's Galaxy S7 product. Exhibit 6 shows that the Galaxy S7 product and its use are covered by at least the asserted independent claims of the '637 Patent. The Galaxy S7 is a representative example of Defendant's infringement of the '637 Patent. Andrea believes that Defendant's devices in addition to the Galaxy S7 product, including Defendant's desktop computers, all-in-one computers, notebook/laptop computers, Chromebook computers, tablets, other smart phones, headsets, headphones, earbuds, and wearables, and their uses, are covered by at least one of the Asserted Claims of the '637 Patent.

64. In addition to the Galaxy S7 directly infringing at least one of the Asserted Claims of the '637 Patent, as does its use, as shown in Exhibit 6, Andrea also believes that Defendant's desktop computers, all-in-one computers, notebook/laptop computers, Chromebook computers,

tablets, other smart phones, headsets, headphones, earbuds, and wearables infringe the Asserted Claims of the '637 Patent in a similar manner. Andrea intends to and does accuse such products of infringement and seeks injunctive and monetary relief against Defendant's infringement with respect to these products as well.

65. Further, upon information and belief, Defendant has also indirectly infringed at least one claim of the '637 Patent by inducing infringement.

66. Defendant has been aware of the '637 Patent and of Andrea's allegations of infringement since at least being sent a notice letter by Andrea's counsel on May 13, 2015. Additionally Defendant had constructive notice of the '637 patent prior to the filing of this Complaint by virtue of Andrea's marking practice, as set forth in Count IV below.

67. Despite Defendant's awareness of the '637 Patent and Andrea's allegations, it has knowingly and actively induced others to infringe the '637 Patent by selling desktop computers, all-in-one computers, notebook/laptop computers, Chromebook computers, tablets, smart phones, headsets, headphones, earbuds, and wearables which induce the direct infringement of at least one claim of the '637 Patent by end-users – for example, customers. Upon information and belief, at least one customer has directly infringed one or more claims of Andrea's '637 Patent.

68. Defendant has provided and continues to provide products wherein the audio processing functionalities described and claimed in the '637 Patent cannot be disabled by the user. For example, on information and belief, the noise reduction capabilities in the Samsung Galaxy S7 product cannot be disabled by a user. As shown for the representative Galaxy S7 product (Exhibit 6), Defendant's audio processing implementation reduces or eliminates noise in a manner that infringes the claims of the '637 Patent. At least by providing users with such

functionality, Defendant has induced and is actively inducing use of that functionality and infringement of at least one claim of Andrea's '637 Patent.

69. Further, upon information and belief, Defendant has also indirectly infringed at least one claim of the '637 Patent by contributing to infringement.

70. The audio processing hardware and/or software in Defendant's desktop computers, all-in-one computers, notebook/laptop computers, Chromebook computers, tablets, smart phones, headsets, headphones, earbuds, and wearables are made solely for the purpose of reducing or eliminating noise from voice and/or other audio signals in a manner that infringes at least one claim of the '637 Patent. Further, this hardware and/or software is especially made and/or especially adapted for use in the infringement of Andrea's '637 Patent, is not a staple commodity of commerce, and is not suitable for substantial non-infringing use. By selling desktop computers, all-in-one computers, notebook/laptop computers, Chromebook computers, tablets, smart phones, headsets, headphones, earbuds, and wearables containing this hardware and/or software, Defendant has contributed to the infringement of the '637 Patent by end-users – for example, customers – who use said hardware and/or software provided in Defendant's desktop computers, all-in-one computers, notebook/laptop computers, Chromebook computers, tablets, smart phones, headsets, headphones, earbuds, and wearables.

71. As a result of Defendant's infringing conduct, Andrea has suffered damages and will continue to suffer damages in an amount that, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by the Court under 35 U.S.C. § 284.

72. Upon information and belief, Defendant will continue its infringement of the '637 Patent unless enjoined by the Court. Defendant's infringing conduct has caused Andrea irreparable harm and will continue to cause such harm without the issuance of an injunction.

COUNT IV

(Notice of the Asserted Patents under 35 U.S.C. § 287)

73. Paragraphs 1 through 72 are incorporated by reference as if fully restated herein.

74. Prior to the initiation of this action, Andrea provided Defendant with constructive notice of the Asserted Patents by consistently marking substantially all of Andrea's articles practicing the Asserted Patents.

75. Additionally, prior to the initiation of this action, Andrea provided Defendant with actual notice of the Asserted Patents by sending Defendant a notice letter accusing Defendant's products of infringing the Asserted Patents on May 13, 2015.

COUNT V

(Willful Infringement of the Asserted Patents)

76. Paragraphs 1 through 75 are incorporated by reference as if fully restated herein.

77. As of the date of filing of this complaint, Defendant has been on actual notice of the Asserted Patents and Andrea's infringement allegations for at least 16 months. Andrea sent Defendant a notice letter containing these allegations on May 13, 2015, and requested that Defendant engage in licensing discussions regarding the Asserted Patents.

78. Although certain correspondence and communications were exchanged between the parties, no significant licensing discussions have been held.

79. Despite actual notice for over 16 months, Defendant was objectively reckless, and acted despite an objectively high likelihood that its actions constituted infringement of the valid Asserted Patents, in continuing to make, use, sell, offer for sale, and import its infringing desktop computers, all-in-one computers, notebook/laptop computers, Chromebook computers, tablets, smart phones, headsets, headphones, earbuds, and wearables.

80. The continued infringement of the Asserted Patents by Defendant is deliberate and willful, entitling Andrea to increased damages under 35 U.S.C. § 284 and to attorney fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

JURY DEMAND

Andrea hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

Wherefore, Andrea requests the following relief:

- a. Judgment that one or more claims of the '607, '345, and '637 Patents have been directly infringed either literally and/or under the Doctrine of Equivalents by Defendant;
- b. Judgment that one or more of the claims of the '607, '345, and '637 Patents have been indirectly infringed either literally and/or under the Doctrine of Equivalents by Defendant;
- c. Judgment that Defendant be held liable and ordered to account for and pay to Andrea:
 - (1) Damages adequate to compensate Andrea for Defendant's infringement of the '607, '345, and '637 Patents, for Andrea's lost profits and/or in an amount no less than a reasonable royalty, pursuant to 35 U.S.C. § 284;
 - (2) Trebled damages on account of Defendant's willful infringement of the '607, '345, and '637 Patents, pursuant to 35 U.S.C. § 284;
 - (3) Andrea's pre-judgment and post-judgment interest and costs pursuant to 35 U.S.C. §284; and
 - (4) Andrea's reasonable attorneys' fees under 35 U.S.C. § 285.
- d. Judgment that Defendant be permanently enjoined from any further conduct that infringes one or more claims of the '607, '345, and '637 Patents; and
- e. Judgment that Andrea be granted such other and further relief as the Court may deem just and proper under the circumstances.

September 19, 2016

Respectfully submitted,

/s/ Goutam Patnaik
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