

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

GRACE DIGITAL, INC.	)	
	)	
Plaintiff,	)	
	)	Civil Action No. 2:16-cv-1201
v.	)	
	)	<b>JURY TRIAL DEMANDED</b>
AT&T INC., LOGITECH INC. and	)	
ULTIMATE EARS INCORPORATED	)	
	)	
Defendants.	)	
_____	)	

**COMPLAINT**

For its Complaint, Plaintiff Grace Digital, Inc. ("Grace Digital"), by and through the undersigned counsel, alleges as follows:

**THE PARTIES**

1. Grace Digital is a California company with a place of business located at 11895 Community Road, Poway, California 92064.
2. Grace Digital has registered with the Texas Secretary of State to conduct business in Texas.
3. Defendant AT&T Inc. ("AT&T") is a Delaware company with, upon information and belief, a place of business located at 208 S. Akard Street, Dallas, Texas, 75202.
4. Upon information and belief, AT&T has registered with the Texas Secretary of State to conduct business in Texas.
5. Defendant Logitech Inc. ("Logitech") is a California company, with, upon information and belief, a place of business located at 7700 Gateway Boulevard, Newark, California 94560.

6. Upon information and belief, Logitech has registered with the Texas Secretary of State to conduct business in Texas.

7. Defendant Ultimate Ears Incorporated ("Ultimate Ears") is a Nevada company, with, upon information and belief, a place of business located at 7700 Gateway Boulevard, Newark, California 94560.

8. Upon information and belief, Ultimate Ears is a subsidiary of Logitech.

### **JURISDICTION AND VENUE**

9. This action arises under the Patent Act, 35 U.S.C. § 1 *et seq.*

10. Subject matter jurisdiction is proper in this Court under 28 U.S.C. §§ 1331 and 1338.

11. Upon information and belief, Defendants AT&T Inc., Logitech Inc. and Ultimate Ears Incorporation (collectively, "Defendants") conduct substantial business in this forum, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in this district.

12. Venue is proper in this district pursuant to §§ 1391(b), (c) and 1400(b).

### **BACKGROUND**

13. On August 7, 2001, U.S. Patent No. 9,307,307 (the "'307 patent"), entitled "Portable Wireless Waterproof Speakers," was duly and lawfully issued by the U.S. Patent and Trademark Office. A true and correct copy of the '307 patent is attached hereto as Exhibit A.

14. Grace Digital is the assignee and owner of the right, title and interest in and to the '307 patent, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of it.

15. Since its founding in 2007, Grace Digital has been, and continues to be, an innovator in the world of Internet radios and leading manufacture of a wide variety of award-winning wired and wireless home audio solutions.

16. Grace Digital has a design facility and research and development locations in the U.S. and in England, Taiwan and Korea.

17. Grace Digital is a leader in the world of home audio.

18. Grace Digital has incorporated technology covered by the '307 patent into its ECOXGEAR brand speakers, which are sold in stores such as Costco, West Marine, Gander Mtn., Cabela's and REI, among others.

**COUNT I – INFRINGEMENT OF U.S. PATENT NO. 9,307,307**

19. Grace Digital repeats and realleges the allegations of paragraphs 1 through 18 as if fully set forth herein.

20. Without license or authorization and in violation of 35 U.S.C. § 271(a), Defendant AT&T is liable for infringement of at least claim 1 of the '307 patent by offering for sale and/or selling portable wireless waterproof speakers including, but not limited to, UE Boom 2 and UE Megaboom (collectively, "Waterproof Speakers").

21. Without license or authorization and in violation of 35 U.S.C § 271(a), Defendants Logitech and Ultimate Ears are liable for infringement of at least claim 1 of the '307 patent by making, using, importing, offering for sale, and/or selling portable wireless waterproof speakers including, but not limited to, the Waterproof Speakers.

22. More specifically and upon information and belief, Defendants' Waterproof Speakers have waterproof enclosures. *See* <http://www.ultimateears.com/en-us/ueboom2> (last accessed Oct. 25, 2016); <http://www.ultimateears.com/en-us/uemegaboom> (last accessed Oct. 25, 2016); *see also* <http://www.dsmt.com/resources/ip-rating-chart/> (last accessed Oct. 25, 2016). The Waterproof Speakers have Bluetooth modules able to receive audio data from a mobile device. *See* <http://www.ultimateears.com/en-us/ueboom2> (last accessed Oct. 25, 2016); <http://www.ultimateears.com/en-us/uemegaboom> (last accessed Oct. 25, 2016); *see also* <http://www.dsmt.com/resources/ip-rating-chart/> (last accessed Oct. 25, 2016). They also have a pair of speakers enclosed in the waterproof enclosure. *See* <http://www.cnetfrance.fr/produits/logitech-ultimate-ears-boom-39794753.htm> (last accessed Oct. 25, 2016); <https://www.youtube.com/watch?v=V03bmBVLqR4> (last accessed Oct. 25, 2016). The Waterproof Speakers have connection ports in a recessed area with a flexible cover that forms a waterproof seal with the enclosure when closed. *See* <http://www.dinside.no/data/logitech-ue-megaboom/61185548> (last accessed Oct. 25, 2016); <http://www.ultimateears.com/app/webroot/uemegaboom-guide/en/> (last accessed Oct. 25, 2016); <http://www.ultimateears.com/boom-guide/en-us/> (last accessed Oct. 25, 2016); <http://gizmodo.com/ue-boom-2-the-best-bluetooth-speaker-is-now-waterproof-1730718596> (last accessed Oct. 25, 2016).

23. Grace Digital is entitled to recover from Defendants the damages sustained by Grace Digital as a result of Defendants' infringement of the '307 patent in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

24. Grace Digital will suffer and is suffering irreparable harm from Defendants' infringement of the '307 patent. Grace Digital has no adequate remedy at law and is entitled to an injunction against Defendants' continuing infringement of the '307 patent. Unless enjoined, Defendants will continue their infringing conduct.

**JURY DEMAND**

Grace Digital hereby demands a trial by jury on all issues so triable.

**PRAYER FOR RELIEF**

WHEREFORE, Grace Digital requests that this Court enter judgment against Defendants as follows:

- A. An adjudication that Defendants have infringed the '307 patent;
- B. An order and judgment permanently enjoining Defendants and their officers, directors, agents, servants, employees, affiliates, attorneys, and all others acting in privity or in concert with them, and their parents, subsidiaries, divisions, successors and assigns from further acts of infringement of the '307 patent;
- C. An award of damages to be paid by Defendants adequate to compensate Grace Digital for Defendants' past infringement of the '307 patent and any continuing or future infringement through the date such judgment is entered, including interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;
- D. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of Grace Digital's reasonable attorneys' fees; and
- E. An award to Grace Digital of such further relief at law or in equity as the Court deems just and proper.

Dated: October 25, 2016

*/s/ Richard C. Weinblatt*

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