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Las Vegas

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8 Attorneys for Plaintiffs
EQUALIA, LLC and HOVERBOARD
9 TECHNOLOGIES CORPORATION

10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEVADA

13 EQUALIA, LLC, a California limited
liability company, and HOVERBOARD
14 TECHNOLOGIES CORPORATION, a
California corporation,

15 Plaintiffs,

16 v.

17 KUSHGO LLC dba HALO BOARD, a
18 California limited liability company;
HALO BOARD LLC, an Oregon limited
19 liability company; ARTHUR
ANDREASYAN, an individual; and
20 SHENZHEN WINDGOO INTELLIGENT
TECHNOLOGY CO. LTD., a foreign
21 company,

22 Defendants.
23

CASE NO.

COMPLAINT FOR:

**(1) PATENT INFRINGEMENT UNDER 35
U.S.C. §271; and**

**(2) UNFAIR AND DECEPTIVE TRADE
PRACTICES UNDER 15 U.S.C. §45.**

DEMAND FOR JURY TRIAL

[Out of state counsel will comply with LR IA
11-2 within 45 days]

24
25 Plaintiffs EQUALIA, LLC, a California limited liability company, and HOVERBOARD
26 TECHNOLOGIES CORPORATION, a California corporation (collectively known as "Equalia"),
27 as and for their complaint against Defendants KUSHGO LLC dba HALO BOARD, a California
28 limited liability company ("Kushgo"), HALO BOARD, LLC, an Oregon limited liability

1 company, ARTHUR ANDREASYN, an individual (collectively "HaloBoard"), and SHENZHEN
2 WINDGOO INTELLIGENT TECHNOLOGY CO. LTD. ("Windgoo"), a foreign company, and
3 allege as follows:

4 **I. INTRODUCTION**

5 1. The Court has jurisdiction over this action because it is an action for patent
6 infringement arising under the Patent Laws of the United States, 35 U.S.C. §101 *et seq.* Equalia
7 owns exclusive rights in the ornamental design claimed in United States Design Patent No.
8 D768,252, titled PITCH-PROPELLED VEHICLE ("Equalia Patent"). A true and correct copy of
9 the Equalia Patent is attached hereto as **Exhibit A**.

10 2. Equalia also owns exclusive rights in the utility patent described in United States
11 Patent No. 9,211,470, titled PITCH-PROPELLED VEHICLE. A true and correct copy of the '470
12 patent is attached hereto as **Exhibit B**.

13 3. Defendants have used and continue to use the claimed design of the Equalia Patent
14 without Equalia's permission, on products that Defendants make, use, offer for sale, sell, and/or
15 import into the United States.

16 4. Equalia seeks, among other relief, an injunction preventing Defendants from
17 further infringing the Equalia Patent, and damages and/or a disgorgement of Defendants' profits
18 from their patent infringement.

19 **II. PARTIES**

20 5. Equalia, LLC is a California limited liability company in the automation, electric
21 vehicle, and control system consumer marketplace. Equalia, LLC's principal place of business is
22 located at 380 Logue Avenue, Mountain View, California 94043.

23 6. Hoverboard Technologies Corporation is a California corporation in the business
24 of developing, marketing, and selling personal transportation vehicles. Hoverboard Technologies
25 Company's principal place of business is located at 380 Logue Avenue, Mountain View, CA
26 94043.

27 7. Hereinafter, Equalia, LLC and Hoverboard Technologies Corporation shall be
28

1 referred to collectively as "Equalia" and all such references shall include Equalia, LLC and
2 Hoverboard Technologies Corporation.

3 8. Upon information and belief, Kushgo LLC is a California limited liability
4 company having an address at 3940 Laurel Canyon Boulevard #376, Studio City, California
5 91604. Kushgo LLC has also been known to do business as "Halo Board" and "SegAway
6 Hoverboard". Kushgo LLC shall be referred to hereafter as "Kushgo."

7 9. Upon information and belief, Halo Board LLC is a business holding itself out as an
8 Oregon limited liability company having an address of 4755 SW Griffith Drive, Beaverton,
9 Oregon 97005. On information and belief, Halo Board LLC is not registered with the Oregon
10 Secretary of State.

11 10. Upon information and belief, Arthur Andreasyan is an individual holding himself
12 out as the Chief Executive Office of Halo Board LLC having an address at 3940 Laurel Canyon
13 Boulevard, Studio City, California 91604.

14 11. Hereafter, Halo Board LLC and Arthur Andreasyan shall be referred to
15 collectively as "Halo Board" and all such references shall include Halo Board LLC and Arthur
16 Andreasyan collectively.

17 12. Upon information and belief, Shenzhen Windgoo Intelligent Technology Co. Ltd.
18 is a foreign company having an address at 216 Zone 1, Building B, Mingyou Industrial Products
19 Displaying & Purchasing Center, Bao'an, Shenzhen, People's Republic of China and 5th Floor,
20 Building 7, Changfeng Industrial Park, Donkeng Village, Guangming New Area, Shenzhen,
21 People's Republic of China. Shenzhen Windgoo Intelligent Technology Co. Ltd. shall be referred
22 to hereafter as "Windgoo." Upon information and belief, Windgoo also maintains a United States
23 warehouse at 1933 W. 11th St., Suite 5, Upland CA 91786.

24 13. Hereafter, Kushgo, Halo Board, and Windgoo shall be referred to collectively as
25 "Defendants."

26 **III. JURISDICTION AND VENUE**

27 14. This is a civil action for patent infringement arising under the patent laws of the
28

1 United States, Title 35, United States Code §§1 *et seq.*, including 35 U.S.C. §271.

2 15. This Court has original jurisdiction over the subject matter of this action under at
3 least 28 U.S. C. §1331 (federal question); 28 U.S.C. §1338 (a) (action arising under the Patent
4 Act); 28 U.S.C. §1338(b) (unfair competition joined with claims under the Patent Act); and 28
5 U.S.C. §1367 (supplemental jurisdiction).

6 16. This Court has personal jurisdiction over this matter because Defendants, for one
7 or more of the following reasons:

8 a. The exercise of personal jurisdiction over Defendants by this Court is
9 consistent with the Federal Due Process Clause, Defendants having established minimum
10 contacts with this forum such that the exercise of jurisdiction over Defendants would not offend
11 traditional notions of fair play and substantial justice;

12 b. Defendants have done and continue to do business in the State of Nevada
13 and with one or more residents of the State of Nevada, including this District;

14 c. Defendants direct into the State of Nevada, including this District,
15 commerce, goods, and advertising including by electronic and other means;

16 d. Defendants have entered into contracts with one or more residents of the
17 State of Nevada to supply products within the State of Nevada, including in this District;

18 e. Defendants have offered, and continue to offer, products constituting patent
19 infringement and products that constitute unfair and deceptive trade practices relating to this
20 complaint in the State of Nevada, including this District; and

21 f. Defendants have committed tortious injury to Equalia and to Equalia's
22 business operations within that State of Nevada, including this District.

23 17. Venue is proper in this district pursuant to 28 U.S.C. §1391 because Defendants
24 do, and have done, substantial business in this judicial District, including: (i) regularly doing
25 business or soliciting business by virtue of Defendants' nationwide sales and offers to sell through
26 its website; and (ii) engaging in other persistent courses of conduct, including trade shows, and/or
27 deriving substantial revenue from products and/or services provided to persons in this District and
28 State.

1 18. This Court's exercise of personal jurisdiction over Defendants is consistent with
2 the Constitution of the United States and the State of Nevada.

3 19. Venue is proper in this jurisdictional district under 28 U.S.C. §§1391 and 1400 at
4 least because Defendants reside in this district by transacting and soliciting business in this
5 district, including with respect to products that infringe the Equalia Patent, and committing acts of
6 patent infringement in this district by selling and offering for sale products that infringe on the
7 Equalia Patent.

8 **IV.**
9 **FACTUAL BACKGROUND**

10 **A. The Equalia Patent**

11 20. Equalia is an innovator in the field of single-wheeled electric personal mobility
12 devices. Equalia designs, develops, and markets for sale single-wheeled electric mobility devices,
13 including devices known as "hoverboards." Equalia's hoverboards provide unique and distinctive
14 qualities to riders, as well as high quality engineering and construction.

15 21. Equalia is in the process of launching a hoverboard product which consists of a
16 board with one centered electrically-powered wheel for locomotion for a single rider. This
17 hoverboard was first promoted through the crowdfunding site Kickstarter for approximately one
18 month, lasting from September 17, 2015 to October 21, 2015. The Kickstarter page is located at
19 [https://www.kickstarter.com/projects/552747221/hoverboard-the-next-evolution-in-personal-](https://www.kickstarter.com/projects/552747221/hoverboard-the-next-evolution-in-personal-electric/)
20 <http://www.hoverboard.com>, in the media, and at trade shows, including the Computer
21 Electronics Show held annually in Las Vegas, Nevada.

22 22. Equalia's hoverboard is anticipated to retail for \$4,375 when made available for
23 sale in 2017. A low-cost version will be available in early 2017 to retail between \$995 and
24 \$1,195.

25 23. Equalia has taken steps to protect its innovative technology and designs, including
26 its hoverboard-related designs. In particular, Equalia owns various United States patents,
27 including design patents relating to its hoverboard designs.
28

1 24. On October 4, 2016, the Equalia Patent, United States Design Patent No.
2 D768,252, titled PITCH-PROPELLED VEHICLE, was duly and legally issued by the United
3 States Patent and Trademark Office ("USPTO"). The Equalia Patent has remained in force since
4 that time and continues to be in force. *See Exhibit A*. The Equalia Patent gives Equalia the right to
5 exclude others from making, using, offering for sale, and selling the invention claimed in the
6 patent within the United States, and from importing the invention claimed in the patent into the
7 United States.

8 25. The Equalia Patent covers an ornamental design for a single-wheeled electric
9 personal mobility device.

10 26. Equalia owns all right, title, and interest in, and has the right to sue and recover for
11 past, present, and future infringement of, the Equalia Patent from the date the patent duly and
12 legally issued to Equalia.

13 27. Equalia has extensively promoted, advertised, and used products embodying the
14 Equalia Patent design throughout the United States, including, but not limited to, brochures, trade
15 show displays and materials, signage, and online to distinguish Equalia's products from those
16 offered by others.

17 28. Although Equalia's hoverboard embodying the Equalia Patent has not been sold on
18 the open market, it has garnered significant discussions and press which has created value in the
19 design of the product. Equalia previously displayed its hoverboard to the public at large at the
20 2016 Computer Electronics Show ("CES") in Las Vegas, Nevada, from January 6-9, 2016, and
21 through numerous television and trade show appearances. For example, the Equalia hoverboard
22 has been featured on General Electric's *Projects Garage*, as well as the nationwide morning
23 program *Live Kelly & Michael Show*. Equalia has also given demos of its hoverboard, including
24 at the CDX Global Forum in 2016. A true and correct copy of the YouTube pages hosting these
25 videos is attached hereto as **Exhibit C**.

26 29. The Equalia Patent is presumed to be valid.

27 **B. Defendants' Infringing Activity**

28 30. On information and belief, without Equalia's authorization, Defendants have made,

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1 used, offered for sale, sold, and/or imported into the United States products having designs that
2 violate the Equalia Patent (hereafter, the "Infringing Products"). The Infringing Products include
3 at least products identified by the model name "Halo Board" as well as Defendants' products
4 bearing the same or substantially similar infringing designs, regardless of the model name.
5 Publically available materials advertising the Infringing Products are attached hereto as **Exhibit**
6 **D.**

7 31. On information and belief, the overall appearance of the design of the Equalia
8 Patent and corresponding designs of the Defendants Infringing Products are substantially the
9 same.

10 32. On information and belief, an ordinary observer will perceive the overall
11 appearance of the designs of the Equalia Patent and the corresponding design of Defendants'
12 Infringing Products to be substantially the same. Defendants' products have been characterized as
13 "knock-offs" of Equalia's products.

14 33. On information and belief, Kushgo filed a trademark application with the USPTO
15 for the mark "HALO BOARD", serial no. 87017860, on April 28, 2016. In that application,
16 Kushgo states that it has been using the mark for sale of its product, depicted in the specimen,
17 since at least April 25, 2016. The product depicted in the specimen has an overall appearance
18 nearly identical to the Equalia Patent design. A true and correct copy of the trademark
19 application, including the specimen, is attached hereto as **Exhibit E**. Halo Board is the current
20 assignee of the HALO BOARD trademark application.

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Specimen included with the "HALO BOARD" trademark (*see id*, pg. 7):



Equalia's hoverboard embodying the Equalia Patent:



34. Windgoo openly admits that they have copied the Equalia products which embody the Equalia Patent. Attached hereto as **Exhibit F** is a true and correct copy of correspondence from Wingdoo in which it acknowledges copying. Upon information and belief, Windgoo's business model is based on copying patented technology and selling it through retailers and wholesalers and retailers in the United States and abroad.

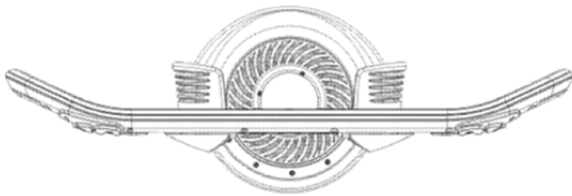

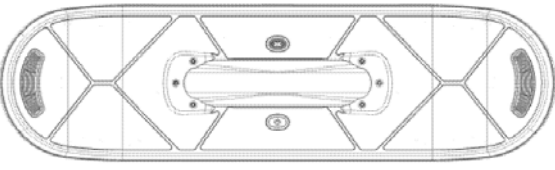

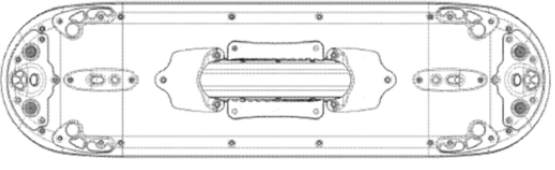

35. On information and belief, Defendants are affiliated with numerous additional companies which assist with manufacturing and/or selling and distribution of the Infringing Products in the United State and abroad. These companies advertise products identical or nearly-identical to the Infringing Products, indicating that they are made with the same base design and parts from the same molds. Attached hereto as **Exhibit G** is a true and correct copy of advertisements of a third-party Infringing Product, including a picture of the Equalia board embodying the Equalia Patent at the upper left. Upon information and belief, these companies are partners or have purchase or supply relationships with Kushgo, Halo Board, and/or Windgoo, or were former iterations of the Kushgo, Halo Board, and/or Windgoo entities.

36. The design of the Infringing Products is so similar to the subject matter of the

1 Equalia Patent that customers are likely to be deceived and persuaded to purchase the Infringing
 2 Products thinking they are actually buying products protected by the Equalia Patent.

3 37. Table 1 below illustrates Defendants' infringement by comparing figures from the
 4 Equalia Patent with exemplary images of the Infringing Products. On information and belief,
 5 Defendants' Infringing Products are identical, and therefore their depictions are used
 6 interchangeably.

7 **Table 1.** Comparison of Equalia Patent and Infringing Product

8 Equalia Patent (US Design Patent D768,252)	9 Infringing Products
 <p data-bbox="574 1062 643 1094">13 Fig. 3</p>	
 <p data-bbox="548 1434 613 1465">18 Fig. 4</p>	
 <p data-bbox="565 1822 630 1854">23 Fig. 5</p>	

28 ///

- 1 38. The Infringing Products share the following elements of the Equalia Patent:
- 2 i) Oblong shaped board with upwardly-tipped ends;
- 3 ii) Single wheel elements in center of board;
- 4 iii) Rounded board ends;
- 5 iv) Lighting strip along perimeter edge;
- 6 v) Dark, arched-shaped display on top-front of board;
- 7 vi) Gripping sticker at top of board with decorative crossing-lines pattern;
- 8 vii) Speakers on each end of board at same location with decorative colored
- 9 outline;
- 10 viii) Road-lighting feature mounted between speakers to light roadway;
- 11 ix) Triangular skid-plates on each corner;
- 12 x) Decorative circular features on skid-plates;
- 13 xi) Rubber scrapers/bumpers on each side of wheel on top of board;
- 14 xii) Protective dome over wheel on top of board;
- 15 xiii) Raised decorative features on sides of centered wheel dome;
- 16 xiv) Decorative and functional screw holes around perimeter of board;
- 17 xv) Decorative double heavy-chamfered edges around board for thinner
- 18 appearance;
- 19 xvi) Decorative chamfer angle which tracks the centered side edge stripe.

20 39. Comparison of Equalia's hoverboard and the Infringing Products demonstrates the

21 infringed design elements of the Equalia Patent. Attached hereto as **Exhibit H** is a comparison of

22 the Equalia hoverboard and an example of Defendants' Infringing Product.

23 40. On information and belief, Defendants intended to copy the design covered by the

24 Equalia Patent.

25 41. On information and belief, Defendants had pre-suit knowledge of the Equalia

26 Patent at least because Equalia's marketing of its products embodying the claims of the Equalia

27 Patent. Commensurate with this filing, Equalia mailed Defendants courtesy copies of this

28 Complaint and the Equalia Patent. Thus, Defendants had knowledge of the Equalia Patent at least

1 since the filing of this Complaint.

2 42. On information and belief, Kushgo and/or Halo Board sells and offers to sell its
3 products, including the Infringing Products, directly to end-user customers through its website, as
4 well as to third-party resellers through its wholesale distribution channel. For example, the
5 website located at www.haloboard.com offers Infringing Products for sale (see *Exhibit D*, pg. 8),
6 and accepts sign-ups from wholesale and retail distributors (see *Exhibit H*). Attached hereto as
7 **Exhibit I** is a true and correct copy of the dealer signup form available on the
8 www.haloboard.com website.

9 43. On information and belief, Windgoo sells and offers to sell its products, including
10 the Infringing Products, to distributors and wholesalers through its website, as well as through
11 direct marketing. For example, an email received from Daisy Ding of Windgoo's International
12 Sales department, Ms. Ding states that Windgoo has "start[ed] to produce your style hoverboard"
13 and "we have a warehouse in LA, this products will also provide there." Windgoo openly solicits
14 sales of Infringing Products via direct email marketing. See *Exhibit F*, pg. 3. Windgoo makes no
15 attempt to hide the fact that it is copying products directly, and readily provided pictures of the
16 Infringing Products in an effort to market them to Equalia. *Id.* The emails from Windgoo also
17 indicate that the company has started to produce the Infringing Products and provides that these
18 Infringing Products are already available in the United States. *Id.* at pg. 4.

19 44. On information and belief, Kushgo and/or Halo Board sell and offer to sell
20 Infringing Products directly to end-user customers in the United States, including Nevada. Third-
21 party resellers also sell and offer to sell the Infringing Products in the United States, including
22 Nevada.

23 45. On information and belief, Windgoo sells and offers to sell Infringing Products to
24 distributors and wholesalers in the United States, including Nevada.

25 46. On information and belief, Defendants have infringed and continue to infringe the
26 Equalia Patent within the meaning of 35 U.S.C. §271 at least by making, using, selling, offering
27 to sell, and/or importing the Infringing Products into the United States without Equalia's
28 authorization.

1 property of Equalia.

2 56. Plaintiffs allege, on information and belief that Defendants have been making,
3 using, and/or selling or offering for sale products embodying the Equalia Patent in the United
4 States, and have consequently been engaged in unfair and deceptive trade practices and unfair
5 competition against Plaintiffs to Plaintiff's irreparable damage.

6 57. Defendants' actions constitute unfair and deceptive trade practices against Equalia
7 in violation of 15 U.S.C. §45.

8 58. Defendants' unfair and deceptive trade practices utilizing the Equalia Patent has
9 and will continue to damage Equalia's business, causing irreparable harm, for which there is no
10 adequate remedy at law, unless Defendants are enjoined by this Court.

11 **REQUEST FOR RELIEF**

12 Wherefore, Plaintiffs Equalia, LLC and Hoverboard Technologies Corporation request
13 that this Court grant the following relief:

- 14 1. A judgment that Defendants infringe the Equalia Patent;
- 15 2. A preliminary and permanent injunction enjoining Defendants, and all persons acting in
16 concert with Defendants, from infringing the Equalia Patent, including but not limited to making,
17 using, selling, offering for sale, and importing the Infringing Products;
- 18 3. A judgment and order requiring Defendants to pay Equalia a reasonable royalty for
19 infringement of the Equalia Patent pursuant to 35 U.S.C. §284, or the total profit made by
20 Defendants from their infringement of the Equalia Patent pursuant to 35 U.S.C. §289;
- 21 4. A judgment and order requiring Defendants to pay Equalia supplemental damages or
22 profits for any continuing post-verdict infringement up until entry of the final judgment, with an
23 accounting, as needed;
- 24 5. A judgment and order requiring Defendants to pay Equalia increased damages up to three
25 times the amount found or assessed pursuant to 35 U.S.C. §284;
- 26 6. A judgment and order requiring Defendants to pay Equalia pre-judgment and post-
27 judgment interest on any damages or profits awarded;
- 28 7. A determination that this action is an exceptional case pursuant to 35 U.S.C. §285;

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- 8. An award of Equalia's attorneys' fees for bringing and prosecuting this action;
 - 9. An aware of Equalia's costs and expenses incurred in bringing and prosecuting this action;
- and
- 10. Such further and additional relief as this Court and/or a jury deems just and proper.

Dated: December 9, 2016

ROPERS, MAJESKI, KOHN & BENTLEY

By: /s/ Timothy J. Lepore
 STEPHEN J. ERIGERO
 TIMOTHY J. LEPORE
 LAEL D. ANDARA
 MARIE E. SOBIESKI
 Attorneys for Plaintiffs
 EQUALIA, LLC and HOVERBOARD
 TECHNOLOGIES CORPORATION

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a jury trial.

Dated: December 9, 2016

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