

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

D&M HOLDINGS INC. d/b/a THE D+M	)	
GROUP, D&M HOLDINGS U.S. INC.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	C.A. No. 16-141 (RGA)
	)	
SONOS, INC.,	)	<b>JURY TRIAL DEMANDED</b>
	)	
Defendant.	)	

**PLAINTIFFS’ AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Pursuant to the Court’s Memorandum Opinion and Order entered April 18, 2017 (D.I. 58-59), Plaintiffs D&M Holdings Inc. d/b/a The D&M Group (“The D&M Group”) and D&M Holdings U.S. Inc. (D&M Holdings US) (collectively, “Plaintiffs”), by and through the undersigned counsel, hereby file the following Amended Complaint For Patent Infringement against Defendant Sonos, Inc. (“Sonos” or “Defendant”).

**I. THE PARTIES**

1. Plaintiff D&M Holdings, Inc. d/b/a The D&M Group is a Japanese corporation with its principal place of business at 2-1 Nisshin-cho, Kawasaki-ku, Kawasaki-shi, Kanagawa 210-8569, Japan.

2. Plaintiff D&M Holdings U.S. Inc. is a Delaware corporation with its principal place of business at 100 Corporate Drive, Mahwah, New Jersey 07430.

3. On information and belief, Defendant Sonos, Inc. is a Delaware corporation with its principal place of business at 223 E. De La Guerra Street, Santa Barbara, California 93101.

**II. JURISDICTION AND VENUE**

4. These Claims are for patent infringement and arise under the patent laws of the

United States, Title 35, United States Code, specifically §§ 271 and 281-285. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331, 1338, 1367.

5. Upon information and belief, and by virtue of Sonos filing its original lawsuit (No. 1:14-cv-1330), this Court has personal jurisdiction over Sonos.

6. Venue for the purposes of these Claims is proper under 28 U.S.C. §§ 1391 and 1400.

### III. FACTUAL BACKGROUND

7. The D&M Group, including D&M Holdings US, is an international leader in the consumer audio market, holding brands such as Denon®, Marantz®, and Boston Acoustics®, that are known throughout the world for their quality and technological innovation. Accordingly, The D&M Group holds more than 50 U.S. Patents.

8. The Denon® brand traces its history back to 1910 with the production of Japan's first gramophone. It celebrated its 100<sup>th</sup> Year Anniversary in 2010. Home audio systems have been marketed in the United States under the Denon® brand for many decades. For example, Denon released its DHT-682XP home theater system in Nov. 2001 and the DHT-700DV home theater system in 2002:



DHT-682XP from Nov. 2001



DHT-700DV from 2002

9. More recently, in 2014, Denon introduced its HEOS line of home audio products.

10. On information and belief, Sonos was founded in 2002 and entered the home audio market in late 2004 with a line of wireless home speakers.

11. On information and belief, Sonos commenced an investigation into Plaintiffs no later than the date that D&M launched its HEOS products. On information and belief, the investigation included a review of The D&M Group's and D&M Holdings US's issued patents, and Sonos's potential infringement of the same.

12. Sonos currently designs, manufactures, and sells products for use in various configurable wireless home audio systems (collectively, the "Accused Home Audio System"). These systems include Sonos's line of "PLAY" speakers, including the "PLAY:1," "PLAY:3," and "PLAY:5" speakers, the "SUB" speaker and the "PLAYBAR" speaker (the "Sonos Speaker Products"). In various exemplary configurations Sonos's wireless speakers receive and processes wireless data signals from Sonos's "CONNECT" pre-amplifier and "CONNECT:AMP" ( the "Sonos Component Products"). The systems also include Sonos's controller application (the "Sonos Controller App") available for iOS, Android, PC, or Mac, which remotely controls Sonos's Speaker and Component Products.

13. Sonos advertises that its Accused Home Audio System can stream audio to and from multiple devices. For example, Sonos advertises that it can "[p]lay music stored on up to 16 PCs, Macs or NAS (Network Attached Storage) devices on your home network, supporting the most popular audio formats, from iTunes® to MP3," and "wirelessly plays your iTunes® music, direct from your iPhone®, iPad® or iPod touch®, to any room in your home." *See, e.g.*, <http://www.sonos.com/shop/play1>.

14. Sonos also advertises its Accused Home Audio System's ability to "[g]et over 100,000 free radio stations, shows and podcasts, all for free. And [users] can tune in without turning on [their] computer: browse for stations, or type in specific call letters or a radio host [they] love." *See, e.g.*, <http://www.sonos.com/shop/play1>.

15. Sonos specifies that its system supports "compressed MP3, iTunes Plus, WMA (including purchased Windows Media downloads), AAC (MPEG4), AAC+, Ogg Vorbis, Audible (format 4), Apple Lossless, Flac (lossless) music files, as well as uncompressed WAV and AIFF files. Native support for 44.1kHz sample rates. Additional support for 48kHz, 32kHz, 24kHz, 22kHz, 16kHz, 11kHz, and 8kHz sample rates." *See, e.g.*, <http://www.sonos.com/shop/play1>.

16. The Sonos Accused Home Audio System is specially adapted to operate on a pre-existing wireless network, or using Sonos's SonosNet encrypted peer-to-peer wireless mesh network, which is "dedicated for [] Sonos systems to reduce WiFi interference." *See, e.g.*, <http://www.sonos.com/shop/play1>.

17. The Accused Home Audio System is also advertised to allow users to "control [their] Sonos players, music on the Internet and [their] computer right from the palm of [their] hand." "If you have multiple music players, you can control what's playing in any room from anywhere in your house. Sonos Controllers aren't tied to a specific player, so you can use any Controller to control the music and the volume in all your rooms." *See, e.g.*, <http://www.sonos.com/shop/play1>. Users of the Accused Home Audio System can "[p]lay a different song in every room, at the same time." *Id.*

18. On information and belief, Sonos releases regular updates for its Controller App for automatic or prompted download by its customers. *See, e.g.*, <http://www.sonos.com/software/release/5-5>.

19. As further alleged and described below, these and other technologies utilized by Sonos's Accused Home Audio System infringe one or more claims of The D&M Group's and D&M Holding's patents.

#### **IV. CLAIMS FOR PATENT INFRINGEMENT**

##### **FIRST CLAIM FOR INFRINGEMENT (THE '210 PATENT)**

20. D&M Holdings US incorporate by reference paragraphs 1 through 19 of this Amended Complaint and realleges them as though fully set forth herein.

21. On March 25, 2003, the United States Patent and Trademark Office issued U.S. Patent No. 6,539,210, entitled "Automatic assignment and tuning of radio call letters to radio presets" ("the '210 Patent"). A true and correct copy of the '210 Patent is attached hereto as Exhibit A.

22. D&M Holdings US is the owner of all rights title and interest in and to the '210 Patent.

23. On information and belief, Sonos has been and is now infringing, contributorily infringing and/or actively inducing infringement of the '210 Patent in violation of 35 U.S.C. § 271 by making, using, offering to sell, selling causing to be sold, causing to be imported and/or importing in the United States of America its Accused Home Audio System that practices methods that fall within the scope of one or more claims of the '210 Patent. For example, the Sonos App utilizes an infringing method of identifying signal sources as demonstrated, for example, in the claim charts attached as Exhibit H. Sonos's infringement is literal and/or under the doctrine of equivalents.

24. On information and belief, and for at least the reasons stated in Paragraph 10 above, Sonos's infringement of the '210 Patent has been, and continues to be, willful.

25. Additionally, and/or alternatively, Sonos has indirectly infringed and continues to indirectly infringe one or more of the claims of the '210 Patent, in violation of 35 U.S.C. § 271(b), by actively inducing users of the Accused Home Audio System to directly infringe the one or more claims of the '210 Patent. In particular, on information and belief, (a) Sonos had actual knowledge of the '210 Patent or were willfully blind to its existence prior to, and no later than, the filing of Plaintiffs Original counterclaims as an attachments to their Motion for Leave to Assert Counterclaims (D.I. 81 in C.A. No. 14-1330) (*See* ¶ 11), (b) Sonos intentionally caused, urged, or encouraged users of the Accused Home Audio System to directly infringe one or more claims of the '210 Patent by promoting, advertising, and instructing customers and potential customers about the Accused Home Audio System and uses of the system, including infringing uses (*See* ¶¶ 12-18; Exhibit H), (c) Sonos knew (or should have known) that its actions would induce users of the Accused Home Audio System to directly infringe one or more claims of the '210 Patent, and (d) users of the Accused Home Audio System directly infringe one or more claims of the '210 Patent. For instance, at a minimum, Sonos has supplied and continues to supply its Speaker Products, Component Products, the Sonos Controller App, and its SonosNet product to customers while knowing that use of these products will infringe one or more claims of the '210 Patent, and that Sonos's customers then directly infringe one or more claims of the '210 Patent by using the Accused Home Audio Products in accordance with Sonos's literature (*See* ¶¶ 12-18; Exhibit H).

26. Additionally, and/or alternatively, Sonos has indirectly infringed and continues to indirectly infringe one or more of the claims of the '210 Patent, in violation of 35 U.S.C.

§ 271(c), by offering to sell or selling within the United States, and or importing into the United States, components in connection with the Accused Home Audio System that contribute to the direct infringement of the ‘210 Patent by users of the Accused Home Audio System. In particular, on information and belief, (a) Sonos had actual knowledge of the ‘210 Patent or were willfully blind to its existence prior to, and no later than, the filing of Plaintiffs Original counterclaims as an attachments to their Motion for Leave to Assert Counterclaims (D.I. 81 in C.A. No. 14-1330) (*See* ¶ 11), (b) Sonos offers for sale, sells, and/or imports, in connection with its Accused Home Audio System, one or more material components of the invention of the ‘210 Patent that are not staple articles of commerce suitable for substantial noninfringing use, (c) Sonos knows (or should have known) that such component(s) were especially made or especially adapted for use in an infringement of the ‘210 Patent, and (d) users of the Accused Home Audio Products that comprise such material components directly infringe one or more claims of the ‘210 Patent. (*See* ¶¶ 12-18; Exhibit H) For instance, at a minimum, Sonos offers for sale, sells, and/or imports software updates for the Accused Home Audio System that meet the one or more claims of the ‘210 Patent. (*See* ¶ 18; Exhibit H) These software updates are material components of the Accused Home Audio System especially made and/or adapted for use in the Accused Home Audio System, and these software updates are not staple articles of commerce suitable for substantial non-infringing use. Sonos’s customers then directly infringe the one or more claims of the ‘210 Patent by installing and using the software updates with the Accused Home Audio System.

27. As a consequence of the infringement by Sonos, D&M Holdings US is entitled to recover damages adequate to compensate it for the infringement complained of herein, including lost profits, but in no event less than a reasonable royalty.

28. D&M Holdings US has been, and continues to be, irreparably injured by Sonos's infringement, unless and until such infringement is enjoined by this Court.

**SECOND CLAIM FOR INFRINGEMENT (THE '633 PATENT)**

29. D&M Holdings US incorporates by reference paragraphs 1 through 28 of this Amended Complaint and realleges them as though fully set forth herein.

30. On October 22, 2002, the United States Patent and Trademark Office issued U.S. Patent No. 6,469,633, entitled "Remote control of electronic devices" ("the '633 Patent"). A true and correct copy of the '633 Patent is attached hereto as Exhibit B.

31. D&M Holdings US is the owner of all rights title and interest in and to the '633 Patent.

32. On information and belief, Sonos has been and is now infringing, contributorily infringing and/or actively inducing infringement of the '633 Patent in violation of 35 U.S.C. § 271 by making, using, offering to sell, selling causing to be sold, causing to be imported and/or importing in the United States of America its Accused Home Audio System that falls within the scope of one or more claims of the '633 Patent. For example, the Sonos App utilizes an infringing method and apparatus for interfacing with remotely controllable devices as demonstrated, for example, in the claim charts attached as Exhibit H. Sonos's infringement is literal and/or under the doctrine of equivalents.

33. On information and belief, and for at least the reasons stated in Paragraph 10 above, Sonos's infringement of the '633 Patent has been and continues to be willful.

34. Additionally, and/or alternatively, Sonos has indirectly infringed and continues to indirectly infringe one or more of the claims of the '633 Patent, in violation of 35 U.S.C. § 271(b), by actively inducing users of the Accused Home Audio System to directly infringe the



one or more claims of the '633 Patent. In particular, on information and belief, (a) Sonos had actual knowledge of the '633 Patent or were willfully blind to its existence prior to, and no later than, the filing of Plaintiffs Original counterclaims as an attachments to their Motion for Leave to Assert Counterclaims (D.I. 81 in C.A. No. 14-1330) (*See* ¶ 11), (b) Sonos intentionally caused, urged, or encouraged users of the Accused Home Audio System to directly infringe one or more claims of the '633 Patent by promoting, advertising, and instructing customers and potential customers about the Accused Home Audio System and uses of the system, including infringing uses (*See* ¶¶ 12-18; Exhibit H), (c) Sonos knew (or should have known) that its actions would induce users of the Accused Home Audio System to directly infringe one or more claims of the '633 Patent, and (d) users of the Accused Home Audio System directly infringe one or more claims of the '633 Patent. For instance, at a minimum, Sonos has supplied and continues to supply its Speaker Products, Component Products, the Sonos Controller App, and its SonosNet product to customers while knowing that use of these products will infringe one or more claims of the '633 Patent, and that Sonos's customers then directly infringe one or more claims of the '633 Patent by using the Accused Home Audio Products in accordance with Sonos's literature (*See* ¶¶ 12-18; Exhibit H).

35. Additionally, and/or alternatively, Sonos has indirectly infringed and continues to indirectly infringe one or more of the claims of the '633 Patent, in violation of 35 U.S.C. § 271(c), by offering to sell or selling within the United States, and or importing into the United States, components in connection with the Accused Home Audio System that contribute to the direct infringement of the '633 Patent by users of the Accused Home Audio System. In particular, on information and belief, (a) Sonos had actual knowledge of the '633 Patent or were willfully blind to its existence prior to, and no later than, the filing of Plaintiffs Original

counterclaims as an attachments to their Motion for Leave to Assert Counterclaims (D.I. 81 in C.A. No. 14-1330) (*See* ¶ 11), (b) Sonos offers for sale, sells, and/or imports, in connection with its Accused Home Audio System, one or more material components of the invention of the ‘633 Patent that are not staple articles of commerce suitable for substantial noninfringing use, (c) Sonos knows (or should have known) that such component(s) were especially made or especially adapted for use in an infringement of the ‘633 Patent, and (d) users of the Accused Home Audio Products that comprise such material components directly infringe one or more claims of the ‘633 Patent. (*See* ¶¶ 12-18; Exhibit H) For instance, at a minimum, Sonos offers for sale, sells, and/or imports software updates for the Accused Home Audio System that meet the one or more claims of the ‘633 Patent. (*See* ¶ 18; Exhibit H) These software updates are material components of the Accused Home Audio System especially made and/or adapted for use in the Accused Home Audio System, and these software updates are not staple articles of commerce suitable for substantial non-infringing use. Sonos’s customers then directly infringe the one or more claims of the ‘633 Patent by installing and using the software updates with the Accused Home Audio System.

36. As a consequence of the infringement by Sonos, D&M Holdings US is entitled to recover damages adequate to compensate it for the infringement complained of herein, including lost profits, but in no event less than a reasonable royalty.

37. D&M Holdings US has been, and continues to be, irreparably injured by Sonos’s infringement, unless and until such infringement is enjoined by this Court.

**THIRD CLAIM FOR INFRINGEMENT (THE ‘667 PATENT)**

38. D&M Holdings US incorporates by reference paragraphs 1 through 37 of this Amended Complaint and realleges them as though fully set forth herein.

39. On June 17, 2014, the United States Patent and Trademark Office issued U.S. Patent No. 8,755,667, entitled “Data entry via on-screen display” (“the ‘667 Patent”). A true and correct copy of the ‘667 Patent is attached hereto as Exhibit C.

40. D&M Holdings US is the owner of all rights title and interest in and to the ‘667 Patent.

41. On information and belief, Sonos has been and is now infringing, contributorily infringing and/or actively inducing infringement of the ‘667 Patent in violation of 35 U.S.C. § 271 by making, using, offering to sell, selling causing to be sold, causing to be imported and/or importing in the United States of America its Accused Home Audio System that fall within the scope of one or more claims of the ‘667 Patent. For example, the Sonos App in conjunction with the Sonos Speaker and Component Products utilizes infringing methods for inputting text associated with a recording as demonstrated, for example, in the claim charts attached as Exhibit H. Sonos’s infringement is literal and/or under the doctrine of equivalents.

42. On information and belief, and for at least the reasons stated in Paragraph 10 above, Sonos’s infringement of the ‘667 Patent has been and continues to be willful.

43. Additionally, and/or alternatively, Sonos has indirectly infringed and continues to indirectly infringe one or more of the claims of the ‘667 Patent, in violation of 35 U.S.C. § 271(b), by actively inducing users of the Accused Home Audio System to directly infringe the one or more claims of the ‘667 Patent. In particular, on information and belief, (a) Sonos had actual knowledge of the ‘667 Patent or were willfully blind to its existence prior to, and no later than, the filing of Plaintiffs Original counterclaims as an attachments to their Motion for Leave to Assert Counterclaims (D.I. 81 in C.A. No. 14-1330) (*See* ¶ 11), (b) Sonos intentionally caused, urged, or encouraged users of the Accused Home Audio System to directly infringe one

or more claims of the '667 Patent by promoting, advertising, and instructing customers and potential customers about the Accused Home Audio System and uses of the system, including infringing uses (*See* ¶¶ 12-18; Exhibit H), (c) Sonos knew (or should have known) that its actions would induce users of the Accused Home Audio System to directly infringe one or more claims of the '667 Patent, and (d) users of the Accused Home Audio System directly infringe one or more claims of the '667 Patent. For instance, at a minimum, Sonos has supplied and continues to supply its Speaker Products, Component Products, the Sonos Controller App, and its SonosNet product to customers while knowing that use of these products will infringe one or more claims of the '667 Patent, and that Sonos's customers then directly infringe one or more claims of the '667 Patent by using the Accused Home Audio Products in accordance with Sonos's literature (*See* ¶¶ 12-18; Exhibit H).

44. Additionally, and/or alternatively, Sonos has indirectly infringed and continues to indirectly infringe one or more of the claims of the '667 Patent, in violation of 35 U.S.C. § 271(c), by offering to sell or selling within the United States, and or importing into the United States, components in connection with the Accused Home Audio System that contribute to the direct infringement of the '667 Patent by users of the Accused Home Audio System. In particular, on information and belief, (a) Sonos had actual knowledge of the '667 Patent or were willfully blind to its existence prior to, and no later than, the filing of Plaintiffs Original counterclaims as an attachments to their Motion for Leave to Assert Counterclaims (D.I. 81 in C.A. No. 14-1330) (*See* ¶ 11), (b) Sonos offers for sale, sells, and/or imports, in connection with its Accused Home Audio System, one or more material components of the invention of the '667 Patent that are not staple articles of commerce suitable for substantial noninfringing use, (c) Sonos knows (or should have known) that such component(s) were especially made or especially

adapted for use in an infringement of the '667 Patent, and (d) users of the Accused Home Audio Products that comprise such material components directly infringe one or more claims of the '667 Patent. (See ¶¶ 12-18; Exhibit H) For instance, at a minimum, Sonos offers for sale, sells, and/or imports software updates for the Accused Home Audio System that meet the one or more claims of the '667 Patent. (See ¶ 18; Exhibit H) These software updates are material components of the Accused Home Audio System especially made and/or adapted for use in the Accused Home Audio System, and these software updates are not staple articles of commerce suitable for substantial non-infringing use. Sonos's customers then directly infringe the one or more claims of the '667 Patent by installing and using the software updates with the Accused Home Audio System.

45. As a consequence of the infringement by Sonos, D&M Holdings US is entitled to recover damages adequate to compensate it for the infringement complained of herein, including lost profits, but in no event less than a reasonable royalty.

46. D&M Holdings US has been, and continues to be, irreparably injured by Sonos's infringement, unless and until such infringement is enjoined by this Court.

**FOURTH CLAIM FOR INFRINGEMENT (THE '441 PATENT)**

47. D&M Holdings US incorporates by reference paragraphs 1 through 46 of this Amended Complaint and realleges them as though fully set forth herein.

48. On October 29, 2002, the United States Patent and Trademark Office issued U.S. Patent No. 6,473,441, entitled "Multi-channel video pump" ("the '441 Patent"). A true and correct copy of the '441 Patent is attached hereto as Exhibit D.

49. D&M Holdings US is the owner of all rights title and interest in and to the '441 Patent.

50. On information and belief, Sonos has been and is now infringing, contributorily infringing and/or actively inducing infringement of the '441 Patent in violation of 35 U.S.C. § 271 by making, using, offering to sell, selling causing to be sold, causing to be imported and/or importing in the United States of America its Accused Home Audio System that falls within the scope of one or more claims of the '441 Patent. For example, the Accused Home Audio System comprise an apparatus for simultaneously reproducing multiple recordings from storage devices for transport on a network recordings as demonstrated, for example, in the claim charts attached as Exhibit H. Sonos's infringement is literal and/or under the doctrine of equivalents.

51. On information and belief, and for at least the reasons stated in Paragraph 10 above, Sonos's infringement of the '441 Patent has been and continues to be willful.

52. Additionally, and/or alternatively, Sonos has indirectly infringed and continues to indirectly infringe one or more of the claims of the '441 Patent, in violation of 35 U.S.C. § 271(b), by actively inducing users of the Accused Home Audio System to directly infringe the one or more claims of the '441 Patent. In particular, on information and belief, (a) Sonos had actual knowledge of the '441 Patent or were willfully blind to its existence prior to, and no later than, the filing of Plaintiffs Original counterclaims as an attachments to their Motion for Leave to Assert Counterclaims (D.I. 81 in C.A. No. 14-1330) (*See* ¶ 11), (b) Sonos intentionally caused, urged, or encouraged users of the Accused Home Audio System to directly infringe one or more claims of the '441 Patent by promoting, advertising, and instructing customers and potential customers about the Accused Home Audio System and uses of the system, including infringing uses (*See* ¶¶ 12-18; Exhibit H), (c) Sonos knew (or should have known) that its actions would induce users of the Accused Home Audio System to directly infringe one or more claims of the '441 Patent, and (d) users of the Accused Home Audio System directly infringe one or

more claims of the '441 Patent. For instance, at a minimum, Sonos has supplied and continues to supply its Speaker Products, Component Products, the Sonos Controller App, and its SonosNet product to customers while knowing that use of these products will infringe one or more claims of the '441 Patent, and that Sonos's customers then directly infringe one or more claims of the '441 Patent by using the Accused Home Audio Products in accordance with Sonos's literature (*See* ¶¶ 12-18; Exhibit H).

53. Additionally, and/or alternatively, Sonos has indirectly infringed and continues to indirectly infringe one or more of the claims of the '441 Patent, in violation of 35 U.S.C. § 271(c), by offering to sell or selling within the United States, and or importing into the United States, components in connection with the Accused Home Audio System that contribute to the direct infringement of the '441 Patent by users of the Accused Home Audio System. In particular, on information and belief, (a) Sonos had actual knowledge of the '441 Patent or were willfully blind to its existence prior to, and no later than, the filing of Plaintiffs Original counterclaims as an attachments to their Motion for Leave to Assert Counterclaims (D.I. 81 in C.A. No. 14-1330) (*See* ¶ 11), (b) Sonos offers for sale, sells, and/or imports, in connection with its Accused Home Audio System, one or more material components of the invention of the '441 Patent that are not staple articles of commerce suitable for substantial noninfringing use, (c) Sonos knows (or should have known) that such component(s) were especially made or especially adapted for use in an infringement of the '441 Patent, and (d) users of the Accused Home Audio Products that comprise such material components directly infringe one or more claims of the '441 Patent. (*See* ¶¶ 12-18; Exhibit H) For instance, at a minimum, Sonos offers for sale, sells, and/or imports software updates for the Accused Home Audio System that meet the one or more claims of the '441 Patent. (*See* ¶ 18; Exhibit H) These software updates are material

components of the Accused Home Audio System especially made and/or adapted for use in the Accused Home Audio System, and these software updates are not staple articles of commerce suitable for substantial non-infringing use. Sonos's customers then directly infringe the one or more claims of the '441 Patent by installing and using the software updates with the Accused Home Audio System.

54. As a consequence of the infringement by Sonos, D&M Holdings US is entitled to recover damages adequate to compensate it for the infringement complained of herein, including lost profits, but in no event less than a reasonable royalty.

55. D&M Holdings US has been, and continues to be, irreparably injured by Sonos's infringement, unless and until such infringement is enjoined by this Court.

**FIFTH CLAIM FOR INFRINGEMENT (THE '850 PATENT)**

56. D&M Holdings US incorporates by reference paragraphs 1 through 55 of this Amended Complaint and realleges them as though fully set forth herein.

57. On June 8, 2010, the United States Patent and Trademark Office issued U.S. Patent No. 7,734,850, entitled "Method for stream based compressed file download with interruption recovery and further decompressing and de-archiving data in filesystem" ("the '850 Patent"). A true and correct copy of the '850 Patent is attached hereto as Exhibit E.

58. D&M Holdings US is the owner of all rights title and interest in and to the '850 Patent.

59. On information and belief, Sonos has been and is now infringing, contributorily infringing and/or actively inducing infringement of the '850 Patent in violation of 35 U.S.C. § 271 by making, using, offering to sell, selling causing to be sold, causing to be imported and/or importing in the United States of America its Accused Home Audio System that practices



method that fall within the scope of one or more claims of the '850 Patent. For example, Sonos's Accused Home Audio System utilizes an infringing method of resuming an interrupted data stream transfer as demonstrated, for example, in the claim charts attached as Exhibit H. Sonos's infringement is literal and/or under the doctrine of equivalents.

60. On information and belief, and for at least the reasons stated in Paragraph 10 above, Sonos's infringement of the '850 Patent has been and continues to be willful.

61. Additionally, and/or alternatively, Sonos has indirectly infringed and continues to indirectly infringe one or more of the claims of the '850 Patent, in violation of 35 U.S.C. § 271(b), by actively inducing users of the Accused Home Audio System to directly infringe the one or more claims of the '850 Patent. In particular, on information and belief, (a) Sonos had actual knowledge of the '850 Patent or were willfully blind to its existence prior to, and no later than, the filing of Plaintiffs Original counterclaims as an attachments to their Motion for Leave to Assert Counterclaims (D.I. 81 in C.A. No. 14-1330) (*See* ¶ 11), (b) Sonos intentionally caused, urged, or encouraged users of the Accused Home Audio System to directly infringe one or more claims of the '850 Patent by promoting, advertising, and instructing customers and potential customers about the Accused Home Audio System and uses of the system, including infringing uses (*See* ¶¶ 12-18; Exhibit H), (c) Sonos knew (or should have known) that its actions would induce users of the Accused Home Audio System to directly infringe one or more claims of the '850 Patent, and (d) users of the Accused Home Audio System directly infringe one or more claims of the '850 Patent. For instance, at a minimum, Sonos has supplied and continues to supply its Speaker Products, Component Products, the Sonos Controller App, and its SonosNet product to customers while knowing that use of these products will infringe one or more claims of the '850 Patent, and that Sonos's customers then directly infringe one or more claims of the

'850 Patent by using the Accused Home Audio Products in accordance with Sonos's literature (See ¶¶ 12-18; Exhibit H).

62. Additionally, and/or alternatively, Sonos has indirectly infringed and continues to indirectly infringe one or more of the claims of the '850 Patent, in violation of 35 U.S.C. § 271(c), by offering to sell or selling within the United States, and or importing into the United States, components in connection with the Accused Home Audio System that contribute to the direct infringement of the '850 Patent by users of the Accused Home Audio System. In particular, on information and belief, (a) Sonos had actual knowledge of the '850 Patent or were willfully blind to its existence prior to, and no later than, the filing of Plaintiffs Original counterclaims as an attachments to their Motion for Leave to Assert Counterclaims (D.I. 81 in C.A. No. 14-1330) (See ¶ 11), (b) Sonos offers for sale, sells, and/or imports, in connection with its Accused Home Audio System, one or more material components of the invention of the '850 Patent that are not staple articles of commerce suitable for substantial noninfringing use, (c) Sonos knows (or should have known) that such component(s) were especially made or especially adapted for use in an infringement of the '850 Patent, and (d) users of the Accused Home Audio Products that comprise such material components directly infringe one or more claims of the '850 Patent. (See ¶¶ 12-18; Exhibit H) For instance, at a minimum, Sonos offer for sale, sells, and/or imports software updates for the Accused Home Audio System that meet the one or more claims of the '850 Patent. (See ¶ 18; Exhibit H) These software updates are material components of the Accused Home Audio System especially made and/or adapted for use in the Accused Home Audio System, and these software updates are not staple articles of commerce suitable for substantial non-infringing use. Sonos's customers then directly infringe the one or

more claims of the '850 Patent by installing and using the software updates with the Accused Home Audio System.

63. As a consequence of the infringement by Sonos, D&M Holdings US is entitled to recover damages adequate to compensate it for the infringement complained of herein, including lost profits, but in no event less than a reasonable royalty.

64. D&M Holdings US has been, and continues to be, irreparably injured by Sonos's infringement, unless and until such infringement is enjoined by this Court.

**SIXTH CLAIM FOR INFRINGEMENT (THE '899 PATENT)**

65. D&M Holdings US incorporates by reference paragraphs 1 through 64 and realleges them as though fully set forth herein.

66. On August 9, 2011, the United States Patent and Trademark Office issued U.S. Patent No. 7,995,899, entitled "Apparatus, method and database for control of audio/video equipment" ("the '899 Patent"). A true and correct copy of the '899 Patent is attached hereto as Exhibit F.

67. D&M Holdings US is the owner of all rights title and interest in and to the '899 Patent.

68. On information and belief, Sonos has been and is now infringing, contributorily infringing and/or actively inducing infringement of the '899 Patent in violation of 35 U.S.C. § 271 by making, using, offering to sell, selling causing to be sold, causing to be imported and/or importing in the United States of America its Accused Home Audio System that fall within the scope of one or more claims of the '899 Patent. For example, the Sonos App operated in conjunction with the Sonos Speaker and Component Products utilizes infringing methods for of

playing back a recorded signal as demonstrated, for example, in the claim charts attached as Exhibit H. Sonos's infringement is literal and/or under the doctrine of equivalents.

69. On information and belief, and for at least the reasons stated in Paragraph 10 above, Sonos's infringement of the '899 Patent has been and continues to be willful.

70. Additionally, and/or alternatively, Sonos has indirectly infringed and continues to indirectly infringe one or more of the claims of the '899 Patent, in violation of 35 U.S.C. § 271(b), by actively inducing users of the Accused Home Audio System to directly infringe the one or more claims of the '899 Patent. In particular, on information and belief, (a) Sonos had actual knowledge of the '899 Patent or were willfully blind to its existence prior to, and no later than, the filing of Plaintiffs Original counterclaims as an attachments to their Motion for Leave to Assert Counterclaims (D.I. 81 in C.A. No. 14-1330) (*See* ¶ 11), (b) Sonos intentionally caused, urged, or encouraged users of the Accused Home Audio System to directly infringe one or more claims of the '899 Patent by promoting, advertising, and instructing customers and potential customers about the Accused Home Audio System and uses of the system, including infringing uses (*See* ¶¶ 12-18; Exhibit H), (c) Sonos knew (or should have known) that its actions would induce users of the Accused Home Audio System to directly infringe one or more claims of the '899 Patent, and (d) users of the Accused Home Audio System directly infringe one or more claims of the '899 Patent. For instance, at a minimum, Sonos has supplied and continues to supply its Speaker Products, Component Products, the Sonos Controller App, and its SonosNet product to customers while knowing that use of these products will infringe one or more claims of the '899 Patent, and that Sonos's customers then directly infringe one or more claims of the '899 Patent by using the Accused Home Audio Products in accordance with Sonos's literature (*See* ¶¶ 12-18; Exhibit H).

71. Additionally, and/or alternatively, Sonos has indirectly infringed and continues to indirectly infringe one or more of the claims of the '899 Patent, in violation of 35 U.S.C. § 271(c), by offering to sell or selling within the United States, and or importing into the United States, components in connection with the Accused Home Audio System that contribute to the direct infringement of the '899 Patent by users of the Accused Home Audio System. In particular, on information and belief, (a) Sonos had actual knowledge of the '899 Patent or were willfully blind to its existence prior to, and no later than, the filing of Plaintiffs Original counterclaims as an attachments to their Motion for Leave to Assert Counterclaims (D.I. 81 in C.A. No. 14-1330) (*See* ¶ 11), (b) Sonos offers for sale, sells, and/or imports, in connection with its Accused Home Audio System, one or more material components of the invention of the '899 Patent that are not staple articles of commerce suitable for substantial noninfringing use, (c) Sonos knows (or should have known) that such component(s) were especially made or especially adapted for use in an infringement of the '899 Patent, and (d) users of the Accused Home Audio Products that comprise such material components directly infringe one or more claims of the '899 Patent. (*See* ¶¶ 12-18; Exhibit H) For instance, at a minimum, Sonos offers for sale, sells, and/or imports software updates for the Accused Home Audio System that meet the one or more claims of the '899 Patent. (*See* ¶ 18; Exhibit H) These software updates are material components of the Accused Home Audio System especially made and/or adapted for use in the Accused Home Audio System, and these software updates are not staple articles of commerce suitable for substantial non-infringing use. Sonos's customers then directly infringe the one or more claims of the '899 Patent by installing and using the software updates with the Accused Home Audio System.

72. As a consequence of the infringement by Sonos, D&M Holdings US is entitled to recover damages adequate to compensate it for the infringement complained of herein, including lost profits, but in no event less than a reasonable royalty.

73. D&M Holdings US has been, and continues to be, irreparably injured by Sonos's infringement, unless and until such infringement is enjoined by this Court.

**SEVENTH CLAIM FOR INFRINGEMENT (THE '294 PATENT)**

74. The D&M Group incorporates by reference paragraphs 1 through 73 of this Amended Complaint and realleges them as though fully set forth herein.

75. On July 26, 2011, the United States Patent and Trademark Office issued U.S. Patent No. 7,987,294, entitled "Unification of Multimedia Devices" ("the '294 Patent"). A true and correct copy of the '294 Patent is attached hereto as Exhibit G.

76. The D&M Group is the owner of all rights title and interest in and to the '294 Patent.

77. On information and belief, Sonos has been and is now infringing, contributorily infringing and/or actively inducing infringement of the '294 Patent in violation of 35 U.S.C. § 271 by making, using, offering to sell, selling causing to be sold, causing to be imported and/or importing in the United States of America its Accused Home Audio System that fall within the scope of one or more claims of the '294 Patent. For example, the Accused Home Audio System utilizes infringing methods and systems for providing a multimedia system including a plurality of networked multimedia devices as demonstrated, for example, in the claim charts attached as Exhibit H. Sonos's infringement is literal and/or under the doctrine of equivalents.

78. On information and belief, and for at least the reasons stated in Paragraph 10 above, Sonos's infringement of the '294 Patent has been and continues to be willful.

79. Additionally, and/or alternatively, Sonos has indirectly infringed and continues to indirectly infringe one or more of the claims of the '294 Patent, in violation of 35 U.S.C. § 271(b), by actively inducing users of the Accused Home Audio System to directly infringe the one or more claims of the '294 Patent. In particular, on information and belief, (a) Sonos had actual knowledge of the '294 Patent or were willfully blind to its existence prior to, and no later than, the filing of Plaintiffs Original counterclaims as an attachments to their Motion for Leave to Assert Counterclaims (D.I. 81 in C.A. No. 14-1330) (*See* ¶ 11), (b) Sonos intentionally caused, urged, or encouraged users of the Accused Home Audio System to directly infringe one or more claims of the '294 Patent by promoting, advertising, and instructing customers and potential customers about the Accused Home Audio System and uses of the system, including infringing uses (*See* ¶¶ 12-18; Exhibit H), (c) Sonos knew (or should have known) that its actions would induce users of the Accused Home Audio System to directly infringe one or more claims of the '294 Patent, and (d) users of the Accused Home Audio System directly infringe one or more claims of the '294 Patent. For instance, at a minimum, Sonos has supplied and continues to supply its Speaker Products, Component Products, the Sonos Controller App, and its SonosNet product to customers while knowing that use of these products will infringe one or more claims of the '294 Patent, and that Sonos's customers then directly infringe one or more claims of the '294 Patent by using the Accused Home Audio Products in accordance with Sonos's literature (*See* ¶¶ 12-18; Exhibit H).

80. Additionally, and/or alternatively, Sonos has indirectly infringed and continues to indirectly infringe one or more of the claims of the '294 Patent, in violation of 35 U.S.C. § 271(c), by offering to sell or selling within the United States, and or importing into the United States, components in connection with the Accused Home Audio System that contribute to the

direct infringement of the '294 Patent by users of the Accused Home Audio System. In particular, on information and belief, (a) Sonos had actual knowledge of the '294 Patent or were willfully blind to its existence prior to, and no later than, the filing of Plaintiffs Original counterclaims as an attachments to their Motion for Leave to Assert Counterclaims (D.I. 81 in C.A. No. 14-1330) (*See* ¶ 11), (b) Sonos offers for sale, sells, and/or imports, in connection with its Accused Home Audio System, one or more material components of the invention of the '294 Patent that are not staple articles of commerce suitable for substantial noninfringing use, (c) Sonos knows (or should have known) that such component(s) were especially made or especially adapted for use in an infringement of the '294 Patent, and (d) users of the Accused Home Audio Products that comprise such material components directly infringe one or more claims of the '294 Patent. (*See* ¶¶ 12-18; Exhibit H) For instance, at a minimum, Sonos offers for sale, sells, and/or imports software updates for the Accused Home Audio System that meet the one or more claims of the '294 Patent. (*See* ¶ 18; Exhibit H) These software updates are material components of the Accused Home Audio System especially made and/or adapted for use in the Accused Home Audio System, and these software updates are not staple articles of commerce suitable for substantial non-infringing use. Sonos's customers then directly infringe the one or more claims of the '294 Patent by installing and using the software updates with the Accused Home Audio System.

81. As a consequence of the infringement by Sonos, The D&M Group is entitled to recover damages adequate to compensate it for the infringement complained of herein, including lost profits, but in no event less than a reasonable royalty.

82. The D&M Group has been, and continues to be, irreparably injured by Sonos's infringement, unless and until such infringement is enjoined by this Court.



**V. ALLEGATIONS REGARDING U.S. PATENTS 7,343,435 (the “435 PATENT”) AND 7,305,694 (the “694 PATENT”)**

83. By way of its April 18, 2017 Memorandum Opinion and Order (D.I. 58-59), the Court has held invalid, under 35 U.S.C. § 101, the claims of the ‘435 and ‘694 Patents that Plaintiffs had originally asserted against Sonos (*See* D.I. 1).

84. To the extent that those claims and allegations must be reasserted in this Amended Complaint for Patent Infringement for the purpose of appealing the Court’s ruling, Plaintiffs fully incorporate by reference the allegations of their First and Third Counterclaims as pleaded in their original Counterclaims for Patent Infringement, including all attachments relating thereto.

**VI. REQUEST FOR JURY TRIAL**

Pursuant to Federal Rule of Civil Procedure 38, Plaintiffs demand a trial by jury of any triable issues within the claims enumerated above.

**VII. PRAYER FOR RELIEF**

WHEREFORE, D&M Holdings US and The D&M Group pray for relief against Sonos as follows:

A. A judgment that Sonos has infringed and continues to infringe one or more of U.S. Patent Nos. 6,539,210; 469,633; 7,987,294; 8,755,667; 6,473,441; 7,734,850; 7,995,899 (collectively the “D&M Patents”) in violation of 35 U.S.C. § 271(a), (b), and (c), and that such infringement is willful;

B. A preliminary and permanent injunction enjoining Sonos, its officers, agents, servants, employees and attorneys, and other persons in active concert or participation with Sonos, and its parents, subsidiaries, divisions, successors and assigns, from further infringement of the D&M Patents;

C. A judgment awarding D&M Holdings US and The D&M Group all damages adequate to compensate for Sonos's infringement of the D&M Patents, including lost profits, and in no event less than a reasonable royalty for Sonos's acts of infringement, including damages for provisional rights (where applicable) and all pre-judgment and post-judgment interest at the maximum rate permitted by law;

D. A judgment awarding D&M Holdings US and The D&M Group all damages, including treble damages based on any infringement found to be willful, pursuant to 35 U.S.C. §§ 284 and/or 289, together with prejudgment interest;

E. Such other and further relief as this Court may deem just and proper.

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May 1, 2017

**CERTIFICATE OF SERVICE**

I hereby certify that on May 1, 2017, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

I further certify that I caused copies of the foregoing document to be served on May 1, 2017, upon the following in the manner indicated:

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