

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

**DESIGN 408 LLC**, a Delaware Corporation,

Plaintiff,

v.

**NEWEGG INC.**, a Delaware corporation,

Defendant.

Case No. \_\_\_\_\_

Patent Case

Jury Trial Demanded

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Design 408 LLC (“Design”), through its attorney, complains of Newegg Inc., (“Newegg”), and alleges the following:

**PARTIES**

1. Plaintiff, Design 408 LLC is a domestic limited liability corporation organized and existing under the laws of Delaware.
2. Defendant Newegg Inc. is a corporation organized and existing under the laws of Delaware that maintains its principal place of business at 9997 Rose Hills Road, Whittier, CA 90601.

**JURISDICTION**

3. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.
4. This Court has exclusive subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).
5. This Court has personal jurisdiction over Newegg because it has engaged in systematic and continuous business activities in this District. Specifically, Newegg provides its full range of

services to residents in this District. As described below, Newegg has committed acts of patent infringement giving rise to this action within this District.

#### **VENUE**

6. Venue is proper in this District under 28 U.S.C. § 1400(b) because Newegg has committed acts of patent infringement in this District and has a regular and established place of business in this District. Specifically, Newegg provides its full range of services to residents in this District. In addition, Design has suffered harm in this district.

#### **PATENT-IN-SUIT**

7. Design is the assignee of assignee of all right, title and interest in United States Patent No. 8,055,004 (the "'004 Patent" or the "Patent-in-Suit"), including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the Patent-in-Suit. Accordingly, Design possesses the exclusive right and standing to prosecute the present action for infringement of the Patent-in-Suit by Newegg.

#### **The '004 Patent**

8. On November 8, 2011, the United States Patent and Trademark Office issued the '004 Patent. The '004 Patent is titled "Fiber Optic Earpiece to Reduce Radiation Transmitted to a Cell Phone User." The application leading to the '004 Patent was filed on June 10, 2008. A true and correct copy of the '004 Patent is attached hereto as Exhibit A and incorporated herein by reference.
9. The '004 Patent is valid and enforceable.

10. The invention in the '004 Patent relates to a protective, radiation free earpiece that protects the user from RF energy emanating from a phone apparatus and to provide an enhanced, high-quality communication signal between the cell phone and an earpiece. Ex. A at 1:17-22.
11. The inventors recognized that there were previous attempts to protect cell phone users from RF radiation, which did not satisfactorily solve the problem. *Id.* at 1:24-26. For example, while previous inventions reduced the level of radiation that users were exposed to, the user's head was still exposed to radiation. *Id.* at 1:34-35. The inventors solved this problem by providing a radiation blocking apparatus, such as an optical fiber ear piece. *Id.* at 2:47-49, 51-52. The invention also solves the problem by enhancing the signal quality between the phone and the ear piece. *Id.* at 45-46.

#### **COUNT I: INFRINGEMENT OF THE '004 PATENT**

12. Design incorporates the above paragraphs herein by reference.
13. **Direct Infringement.** Newegg has been and continues to directly infringe at least claim 1 of the '004 Patent in this District and elsewhere in the United States by providing products, for example, Newegg's HW-399M provides a microphone assembly for use with an earpiece assembly. *See* Figure 1; <http://huhd.hk/index.php/product/index/g/e/id/19.html>.



*Figure 1. Newegg's HW-399M has a microphone and an earpiece assembly allowing players to use the headset.*

14. Newegg provides an assembly comprising a microphone. For example, Newegg's HW-399M has a microphone that can be positioned to best fit the player's mouth. *See* Figure 1.
15. Newegg provides an assembly comprising an amplifier and a speaker. For example, Newegg's HW-399M has a built-in amplifier included with the microphone speaker. *See* Figure 2.

## Product introduction

1. HW-399M is a 2.4Ghz wireless headset, specially designed for X BOX 360,X BOX ONE PS3 and PS4. The transmitter has built-in Microsoft approved non-driver USB sound card and adopts a pure-digit decoding system. You can hear both game and chat sounds through headset courtesy of the special circuit design and in built amplifier. Hear chat in real-time overlaid with stereo game sounds. Use volume buttons on the headset to adjust the volume.

*Figure 2. Newegg's HW-399M has a built-in amplifier, that is included with the microphone speaker.*

16. Newegg provides an assembly comprising an analog to digital converter. For example, Newegg's HW-399M adopts digital signal input, and decodes back to an analog signal. See Figure 3.

4. It adopts digital signal input, the decoding revert the original real sounds.

*Figure 3. Newegg's HW-399M adopts digital signal input and decodes back to an analog signal.*

17. Newegg provides an assembly comprising a memory chip. For example, Newegg's HW-399M has a memory chip near the MCU. See Figure 2.

18. Newegg provides an assembly comprising a parallel to serial converter. For example, Newegg's HW-399M adopts digital signal input, and reverts the digital signals to analog. See Figure 3.

19. Newegg provides an assembly comprising a means of optical modulation. For example, Newegg’s HW-399M supports optical transmission. See Figure 4;

<http://www.dx.com/p/huhd-hw-399m-2-4ghz-wireless-gaming-headphones-support-optical-fiber-transmission-black-339648#.WtdPRNPwZo5>.

Other Features	
Other Features	1. Support optical transmission; 2. Applies to the XBOX 360, XBOX ONE, PS3, PS4, PC, MAC, WII, TV; 3. Detachable microphone; 4. Frequency range: 2.400-2.483GHz; 5. Launcher channel spacing: 2MHz; 6. 1200mAh lithium battery; 7. Compatible with XBox One (but needs an extra Microsoft headset adapter or Kinect)

*Figure 4. Newegg’s HW-399M supports optical transmission.*

20. Newegg provides an assembly comprising an optical fiber medium. For example, Newegg’s HW-399M has a fiber-optical cable. See Figure 5.

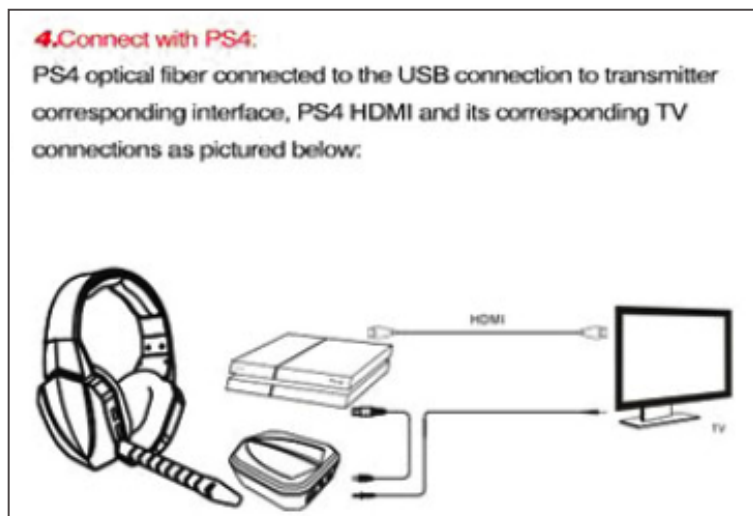
**Packaging contents:**

- 1. Transmitter-----1PCS
- 2. Wireless headset-----1PCS
- 3. Fiber-optical cable-----1PCS
- 4. USB-USB Micro cable-----2PCS
- 5. 3.5-2.5 cable-----1PCS
- 6. Detachable Microphone-----1PCS
- 7. Manual guide-----1PCS

*Figure 5. The HW-399M has a fiber-optical cable.*

21. Newegg provides an assembly comprising a means of demodulation. For example, Newegg’s HW-399M has a means of demodulation for the digital and analog signals. See Figure 3.

22. Newegg provides an assembly comprising a series to parallel converter. For example, Newegg's HW-399M has a signal processing unit adopts digital signal input and reverts the digital signals to analog. *See* Figure 3.
23. Newegg provides an assembly comprising a second memory chip. For example, Newegg's HW-399M has a second memory chip in the same location as the first memory chip. *See* Figure 2.
24. Newegg provides an assembly comprising a digital to analog converter. For example, Newegg's HW-399M converts digital sounds to analog. *See* Figure 3.
25. Newegg provides an assembly comprising a means of inputting a signal into the microphone in a component of a phone. For example, Newegg's HW-399M has a processing unit where the signal is in the microphone and is sent to the game console or computer. *See* Figures 1-5.
26. Newegg provides an assembly, wherein the earpiece assembly is for use in shielding the human brain from harmful effects of radio frequency (RF) and electromagnetic radiation (EM) radiation. For example, Newegg's HW-399M does not emit RF transmissions. *See* Figures 1-5.
27. Newegg provides an earpiece assembly comprising at least two analog to optic converters. For example, Newegg's HW-399M has two analog to optical converters. *See* Figure 6.



*Figure 6. Newegg's HW-399M has two analog to optical converters.*

28. Newegg provides an earpiece assembly comprising at least two optical fiber transmission media. For example, Newegg's HW-399M has a cable optical fiber and a digital optical fiber used as transmission media. *See Figure 6.*
29. Newegg provides an earpiece assembly comprising at least two optic to analog converters. For example, Newegg's HW-399M has two optic to analog converters. *See Figure 6.*
30. Newegg provides an earpiece assembly comprising a connection assembly capable of entering a phone or a microphone in component. For example, Newegg's HW-399M has a personal computer with a data connection point that allows for a connection to enter a phone or microphone. *See Figure 6.*
31. Newegg provides an earpiece assembly comprising a means of accepting a Speaker Out signal from a phone. For example, Newegg's HW-399M has an amplifier and speakers that allow the earpiece assembly to accept a Speaker Out signal from a phone. *See Figures 1-6.*
32. Newegg provides an earpiece assembly comprising a speaker. For example, Newegg's HW-399M has a microphone allowing the user to speak into the earpiece assembly. *See Figure 1.*
33. **Induced Infringement.** Design has also actively induced, and continues to induce, the infringement of at least claim 1 of the '004 Patent by actively inducing its customers, including merchants and end-users to use Newegg's products in an infringing manner as described above. Upon information and belief, Newegg has specifically intended that its customers use its products that infringe at least claim 1 of the '004 Patent by, at a minimum,



providing access to support for, training and instructions for, its system to its customers to enable them to infringe at least claim 1 of the '004 Patent, as described above. Even where performance of the steps required to infringe at least claim 1 of the '004 Patent is accomplished by Newegg and Newegg's customer jointly, Newegg's actions have solely caused all of the steps to be performed.

34. Design is entitled to recover damages adequate to compensate it for such infringement in an amount no less than a reasonable royalty under 35 U.S.C. § 284.

35. Design will continue to be injured, and thereby caused irreparable harm, unless and until this Court enters an injunction prohibiting further infringement.

#### **JURY DEMAND**

36. Under Rule 38(b) of the Federal Rules of Civil Procedure, Design respectfully requests a trial by jury on all issues so triable.

#### **PRAYER FOR RELIEF**

WHEREFORE, Design asks this Court to enter judgment against Newegg, granting the following relief:

- A. A declaration that Newegg has infringed the Patent-in-Suit;
- B. An award of damages to compensate Design for Newegg's direct infringement of the Patent-in-Suit;
- C. An order that Newegg and its officers, directors, agents, servants, employees, successors, assigns, and all persons in active concert or participation with them, be preliminarily and permanently enjoined from infringing the Patent-in-Suit under 35 U.S.C. § 283;
- D. An award of damages, including trebling of all damages, sufficient to remedy

Newegg's willful infringement of the Patent-in-Suit under 35 U.S.C. § 284;

- E. A declaration that this case is exceptional, and an award to Design of reasonable attorneys' fees, expenses and costs under 35 U.S.C. § 285;
- F. An award of prejudgment and post-judgment interest; and
- G. Such other relief as this Court or jury may deem proper and just.

Respectfully submitted,  
/s/ Stamatios Stamoulis  
Counsel for Plaintiff

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