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9 *Attorneys for Plaintiffs*
10 *Blue Spike LLC, Blue Spike*
International Ltd., and
11 *Wistaria Trading Ltd.*

12
13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**
15 **WESTERN DIVISION**

16
17 BLUE SPIKE LLC,
18 BLUE SPIKE INTERNATIONAL
LTD., and
19 WISTARIA TRADING LTD.

20 Plaintiffs,

21 v.

22 PANDORA MEDIA, INC.,
23

24 Defendant.

CASE NO.: 2:19-cv-748

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

1 Plaintiffs Blue Spike LLC, Blue Spike International Ltd. (“Blue Spike Int.”) and
2 Wistaria Trading Ltd. (“Wistaria”) file this Second Amended Complaint against
3 Pandora Media, Inc. (“Defendant” or “Pandora”) seeking damages and other relief for
4 patent infringement, and alleges with knowledge to its own acts, and on information
5 and belief as to other matters, as follows:

6 **I. NATURE OF ACTION**

7 1. This is an action for patent infringement arising under Title 35 of the
8 United States Code, seeking monetary damages and other relief against Defendant due
9 to its infringement of United States Patent Nos. 7,813,506 (“the ’506 Patent”), 7,664,263
10 (“the ’263 Patent”), and 8,265,276 (“the ’276 Patent”) (the “Patents-in-Suit”) in
11 accordance with 35 U.S.C. § 271.

12 **II. PARTIES**

13 2. Blue Spike LLC is a limited liability company organized and existing under
14 the laws of the State of Texas, having its principal place of business at 1820 Shiloh
15 Road, Suite 1201-C, Tyler, Texas 75703.

16 3. Blue Spike Int. is a limited liability company established in Ireland with a place of
17 business at 6 Mountain View, Sheen Falls Country Club, Kenmare, County Kerry,
18 Ireland V93 XK85. Blue Spike Int. was recently acquired by Blue Spike Inc., a Florida
19 corporation. Blue Spike Inc. has no right, title, or interest in the patents in suit, nor any
20 licensing rights to the patents in suit, nor any enforcement rights in the patents in suit.

21 4. The Patents-in-Suit are owned by and assigned to Wistaria. Blue Spike LLC
22 is the exclusive licensee of the Patents-in-Suit. Blue Spike LLC’s exclusive license to the
23 Patents-in-Suit includes the right to assert infringement under 35 U.S.C. §281 and grant
24 sub-licenses to the Patents-in-Suit.

25 5. Blue Spike Int. is a prior exclusive licensee of the Patents-in-Suit, which
26 license was revoked upon the grant of the exclusive license to Blue Spike LLC; however,
27 Blue Spike Int. retains the right to receive all revenues from Blue Spike LLC’s licensing
28

1 of the Patents-in-Suit.

2 6. Blue Spike LLC, Blue Spike Int., and Wistaria are each exclusively and
3 entirely owned and controlled by Scott Moskowitz.

4 7. Collectively, all substantive rights to the Patents-in-Suit reside with
5 Plaintiffs, including the rights to grant sublicenses, to exclude others from practicing the
6 inventions taught therein, and to sue and obtain damages and other relief for past and
7 future acts of infringement.

8 8. Defendant is a Delaware corporation with its principal place of business at
9 3000 Ocean Park Blvd., Suite 3050, Santa Monica, California 90405. Defendant can be
10 served through its registered agent, CT Corporation System, located at 818 West
11 Seventh Street, Suite 930, Los Angeles, California 90017.

12 **III. JURISDICTION AND VENUE**

13 9. This is an action under the patent laws of the United States, 35 U.S.C. §§1,
14 et seq. This Court has subject matter jurisdiction over this action pursuant to 22 28 U.S.C.
15 §§1331 and 1338(a). Venue is proper under 28 U.S.C. §§1391(a) & (c), and 1400(b).

16 10. This Court has personal jurisdiction over Defendant under the laws of the
17 State of California, including the California long-arm statute, CAL. CODE OF CIVIL
18 PROCEDURE §410.10.

19 11. Plaintiffs' claims arise directly from Defendant's business contacts and other
20 activities in the State of California and in the Central District of California:
21 Defendant is present within or has minimum contacts within the State of California and
22 the Central District of California; Defendant has purposefully availed itself of the
23 privileges of conducting business in the State of California and in the Central District
24 of California; Defendant has sought protection and benefit from the laws of the State of
25 California; and Defendant regularly conducts business within the State of California and
26 within the Central District of California.
27

1 12. Defendant directly or through intermediaries, makes, uses, offers for sale,
2 imports, sells, advertises or distributes products and services in the United States, the
3 State of California, and the Central District of California. This Court also has personal
4 jurisdiction over Defendant because Defendant has committed acts of patent
5 infringement in California, including within this District.

6 13. Defendant has regularly and systematically conducted and solicited business
7 in this District by and through at least sales and offers for sale of Defendant's products
8 and services.

9 14. Defendant has been, and currently is, continuously and systematically
10 conducting business in this District and throughout California.

11 15. Defendant has systematically and continuously harmed Plaintiffs in this
12 District by infringing one or more claims of the Patents-in-Suit.

13 16. Venue is proper in this District because, inter alia, Defendant maintains a
14 regular and established place of business in this judicial District.

15 17. Defendant has a regular and established place of business at 3000 Ocean
16 Park Blvd., Suite 3050, Santa Monica, California 90405.

17 **IV. PATENTS-IN-SUIT**

18 **U.S. Patent No. 7,813,506**

19 18. On March 30, 2009, Blue Spike, Inc. filed United States Patent Application
20 No. 12/383,879 entitled "System and Methods for Permitting Open Access to Data
21 Objects and for Securing Data Within the Data Objects" with the United States Patent
22 and Trademark Office ("USPTO").

23 19. Application No. 12/383,879 is a continuation application of United States
24 Patent Application No. 11/647,861, which Blue Spike, Inc. filed on December 29, 2006,
25 which issued as United States Patent No. 7,532,725.

1 20. Application No. 11/647,861 is a continuation application of United States
2 Patent Application No. 09/731,039, which Blue Spike, Inc. filed on December 7, 2000,
3 which issued as United States Patent No. 7,177,429.

4 21. The Cross Reference to Related Applications section of United States
5 Patent No. 7,177,429 recites: “This application claims the benefit of pending U.S.
6 patent application Ser. No. 08/674,726, filed Jul. 2, 1996, entitled “Exchange
7 Mechanisms for Digital Information Packages with Bandwidth Securitization,
8 Multichannel Digital Watermarks, and Key Management”; pending U.S. patent
9 application Ser. No. 08/999,766, filed Jul. 23, 1997, entitled “Steganographic Method
10 and Device”; pending U.S. patent application Ser. No. 09/046,627, filed Mar. 24,
11 1998, entitled “Method for Combining Transfer Function with Predetermined Key
12 Creation”; pending U.S. patent application Ser. No. 09/053,628, filed Apr. 2, 1998,
13 entitled “Multiple Transform Utilization and Application for Secure Digital
14 Watermarking”; pending U.S. patent application Ser. No. 09/281,279, filed Mar. 30, 1999,
15 entitled “Optimization Methods for the Insertion, Protection, and Detection of Digital
16 Watermarks in Digital Data”; pending U.S. Provisional Application No. 60/169,274,
17 filed Dec. 7, 1999, entitled “Systems, Methods And Devices For Trusted Transactions”;
18 pending U.S. patent application Ser. No. 09/456,319, filed Dec. 8, 1999, entitled “Z-
19 Transform Implementation of Digital Watermarks”; pending U.S. patent application Ser.
20 No. 09/545,589, filed Apr. 7, 2000, entitled “Method and System for Digital
21 Watermarking”; pending U.S. patent application Ser. No. 09/594,719, filed Jun. 16, 2000,
22 entitled “Utilizing Data Reduction in Steganographic and Cryptographic Systems” (which
23 is a continuation-in-part of International Application No. PCT/US00/06522, filed Mar.
24 14, 2000, which PCT application claimed priority to U.S. Provisional Application No.
25 60/125,990, filed Mar. 24, 1999); International Application No. PCT/US00/21189, filed
26 Aug. 4, 2000 (which claims priority to U.S. patent application Ser. No. 60/147,134, filed
27 Aug. 4, 1999, and to U.S. patent application Ser. No. 60/213,489, filed Jun. 23, 2000,
28

1 both of which are entitled “A Secure Personal Content Server”), U.S. patent application
2 Ser. No. 09/657,181, filed Sep. 7, 2000, entitled “Method And Device For Monitoring
3 And Analyzing Signals”; U.S. Provisional Patent Application No. 60/234,199, filed Sep.
4 20, 2000, entitled “Improved Security Based on Subliminal and Supraliminal Channels For
5 Data Objects”; U.S. patent application Ser. No. 09/671,739, filed Sep. 29, 2000, entitled
6 “Method And Device For Monitoring And Analyzing Signals”; and U.S. patent
7 application Ser. No. 09/731,040, entitled “Systems, Methods and Devices for Trusted
8 Transactions,” filed Dec. 7, 2000. The previously identified patents and/or patent
9 applications are hereby incorporated by reference, in their entireties.”

10 22. Application No. 12/383,879 issued as the ’506 Patent on October 12, 2010.
11 A true and correct copy of the ’506 Patent is attached hereto as “Exhibit 1” and is
12 incorporated herein by reference.

13 23. The ’506 Patent is presumed valid.

14 24. Collectively, Plaintiffs have all substantial rights to the ’506 Patent. Blue
15 Spike LLC is the sole current exclusive licensee of the ’506 patent.

16 25. The ’506 Patent is directed to electronically securing data objects by
17 scrambling a data object to degrade the data object to a predetermined signal quality level.
18 *See, e.g.*, Exhibit 1, ’506 Patent, col. 2, ll. 38–52.

19 26. By scrambling a data object to degrade the data object to a predetermined
20 signal quality level, the ’506 Patent describes a technical solution to a technical problem
21 that is intrinsically tied to electronically securing data objects. *Id.* at Abstract.

22 27. The ’506 Patent describes improvements to electronically securing data
23 objects. As an example, rather than providing disparate security schemes for audio files
24 of different signal quality, the ’506 Patent describes methods for “designing security to
25 meet either model [streaming and downloads].” *Id.* at col. 7, l. 66 – col. 8, l. 5.

26 28. The ’506 Patent also discloses multiple inventive concepts and
27 improvements over prior data security systems. *E.g., id.* at col. 11, l. 36–62.

1 29. The '506 Patent is not directed to any abstract idea, method of organizing
2 human activity, or any fundamental economic practice. The claims of the '506 Patent are
3 directed toward technical solutions to technical problems—how to protect digital audio
4 files when those files are widely distributed over a large, networked population. *See,*
5 *e.g., id.* at col. 11, ll. 36–63.

6 30. As demonstrated by its frequent citation by the USPTO in other later-
7 issued patents and pending patent applications involving data security systems, the '506
8 Patent represents a fundamental technical improvement involving electronically securing
9 data objects. Specifically, the '506 Patent has been cited during the prosecution of 112
10 subsequently issued U.S. patents and pending U.S. patent applications.

11 **U.S. Patent No. 7,664,263**

12 31. On June 25, 2003, Blue Spike, Inc. filed United States Patent Application
13 No. 10/602,777, entitled “Method for Combining Transfer Functions with
14 Predetermined Key Creation” with the USPTO.

15 32. Application No. 10/602,777 is a continuation application of United States
16 Patent Application No. 09/046,627, which Blue Spike, Inc. filed on March 24, 1998,
17 which issued as United States Patent No. 6,598,162.

18 33. U.S. Patent Application No. 09/046,627, which issued July 22, 2003 as
19 United States Patent No. 6,598,162, is a continuation-in-part of U.S. Patent Application
20 No. 08/587,943, filed Jan. 17, 1996, which issued Apr. 28, 1998, as U.S. Pat. No.
21 5,745,569.

22 34. Application No. 10/602,777 issued as the '263 Patent on February 16, 2010.
23 A true and correct copy of the '263 Patent is attached hereto as “Exhibit 2” and is
24 incorporated herein by reference.

25 35. The '263 Patent is presumed valid.

26 36. Collectively, Plaintiffs have all substantial rights to the '263 Patent. Blue
27 Spike LLC is the sole current exclusive licensee of the '263 patent.

1 37. The '263 Patent is directed to protecting a digital signal by manipulating the
2 digital signal using a predetermined key to generate a permutation of the digital signal
3 parameterized by file format information defining how the digital signal is encoded.
4 *See, e.g.*, Exhibit 2, '263 Patent, col. 7, ll. 39–47.

5 38. By manipulating the digital signal in a manner that is parameterized by file
6 format information, the '263 Patent describes a technical solution to a technical problem
7 that is intrinsically tied to electronically securing data objects. *See, e.g., id.* at col. 4, ll.
8 38–54.

9 39. The '263 Patent describes improvements to protecting digital signals. As an
10 example, by using a predetermined key to generate a permutation of the digital signal
11 parameterized by file format information defining how the digital signal is encoded, the
12 '263 Patent allows for the generation of degraded digital signals that may be “freely
13 distributed in encoded form to the public This lets the public decide, based on the
14 available lower quality version of the song, if they want to purchase a key from the
15 publisher to decode, or ‘clean-up,’ the content.” *Id.* at col. 4, ll. 38–54.

16 40. The '263 Patent is not directed to any abstract idea, method of organizing
17 human activity, or any fundamental economic practice. The claims of the '263 Patent are
18 directed toward technical solutions to technical problems—how to protect digital audio
19 files when those files are widely distributed over a large, networked population. *See,*
20 *e.g., id.* at col. 4, ll. 38–54.

21 41. The '263 Patent also discloses multiple inventive concepts and
22 improvements over prior data security systems. *E.g., id.* at col. 6, ll. 39–52.

23 42. As demonstrated by its frequent citation by the USPTO in other later-issued
24 patents and pending patent applications involving data security systems, the '263 Patent
25 represents a fundamental technical improvement involving electronically securing data
26 objects. Specifically, the '263 Patent has been cited during the prosecution of 31
27 subsequently issued U.S. patents and pending U.S. patent applications.

U.S. Patent No. 8,265,276

1
2 43. On June 25, 2003, Blue Spike, Inc. filed United States Patent Application
3 No. 12/655,002, entitled “Method for Combining Transfer Functions with
4 Predetermined Key Creation” with the USPTO.

5 44. Application No. 12/655,002 is a continuation application of United States
6 Patent Application No. 10/602,777, which Blue Spike, Inc. filed on June 25, 2003, which
7 issued as United States Patent No. 7,664,263.

8 45. Application No. 10/602,777 is a continuation application of United States
9 Patent Application No. 09/046,627, which Blue Spike, Inc. filed on March 24, 1998,
10 which issued as United States Patent No. 6,598,162.

11 46. Application No. 09/046,627 is a continuation-in-part of United States Patent
12 Application No. 08/587,943, which Blue Spike, Inc. filed on January 17, 1996, which
13 issued as United States Patent No. 5,745,569.

14 47. Application No. 12/665,002 issued as the '276 Patent on September 11, 2012.
15 A true and correct copy of the '276 Patent is attached hereto as “Exhibit 3” and is
16 incorporated herein by reference.

17 48. The '276 Patent is presumed valid.

18 49. Collectively, Plaintiffs have all substantial rights to the '276 Patent. Blue
19 Spike LLC is the sole current exclusive licensee of the '276 patent.

20 50. The '276 Patent is directed to protecting a digital signal by manipulating the
21 digital signal using a predetermined key to generate a permutation of the digital signal
22 parameterized by file format information defining how the digital signal is encoded.
23 See, e.g., Exhibit 3, '276 Patent, col. 7, ll. 40–48.

24 51. By manipulating the digital signal in a manner that is parameterized by file
25 format information, the '276 Patent describes a technical solution to a technical problem
26 that is intrinsically tied to electronically securing data objects. See, e.g., *id.* at col. 4, ll.
27 43–62.

1 52. The '276 Patent describes improvements to protecting digital signals. As an
2 example, by using a predetermined key to generate a permutation of the digital signal
3 parameterized by file format information defining how the digital signal is encoded, the
4 '276 Patent allows for the generation of degraded digital signals that may be "freely
5 distributed in encoded form to the public This lets the public decide, based on the
6 available lower quality version of the song, if they want to purchase a key from the
7 publisher to decode, or 'clean-up,' the content." *Id.* at col. 54, ll. 43–62.

8 53. The '276 Patent also discloses multiple inventive concepts and
9 improvements over prior data security systems. *E.g., id.* at col. 6, ll. 40–60.

10 54. The '276 Patent is not directed to any abstract idea, method of organizing
11 human activity, or any fundamental economic practice. The claims of the '276 Patent are
12 directed toward technical solutions to technical problems—how to protect digital audio
13 files when those files are widely distributed over a large, networked population. *See,*
14 *e.g.,* col. 4, ll. 43–58.

15 55. As demonstrated by its frequent citation by the USPTO in other later-issued
16 patents and pending patent applications involving data security systems, the '276 Patent
17 represents a fundamental technical improvement involving electronically securing data
18 objects. Specifically, the '276 Patent has been cited during the prosecution of 31
19 subsequently issued U.S. patents and pending U.S. patent applications.

20 **V. COUNT I**

21 **Infringement of U.S. Patent No. 7,813,506**

22 56. Plaintiffs hereby incorporate by reference the preceding paragraphs of this
23 Complaint as if fully set forth here.

24 57. Defendant makes, uses, sells, imports, or offers for sale in the United
25 States, without authority, products, equipment, or services that infringe one or more
26 claims of the '506 Patent, including without limitation, the Pandora, Pandora Plus,
27 and/or Pandora Premium music streaming services and associated apps ("Accused
28

1 Products”). *See* Exhibit 4, <https://www.pandora.com/upgrade> (last accessed September
2 26, 2018).

3 58. Defendant has been and continues to directly infringe, either literally or under
4 the doctrine of equivalents, at least Claims 6, 7, 9 and 10 of the ’506 Patent by making,
5 using, offering to sell, importing, or selling the Accused Products. *See* ’506 Patent Claim
6 Chart, attached hereto as Exhibit 5. Plaintiffs note that the ’506 Claim Chart and analysis
7 constitute a preliminary and exemplary infringement analysis based on publicly available
8 information. Plaintiffs have not obtained discovery from Defendant, nor has Defendant
9 disclosed any analysis in support of any purported non-infringement positions. Plaintiffs
10 hereby specifically reserve the right to supplement and/or amend the positions taken in
11 this preliminary and exemplary infringement analysis, including with respect to literal
12 infringement and infringement under the doctrine of equivalents, if and when
13 warranted by further information obtained by Plaintiffs during the pendency of litigation,
14 including information adduced through fact discovery, claim construction, expert
15 discovery, and/or further analysis.

16 59. At least as early as the date of service of the Original Complaint, Defendant
17 indirectly infringed and continues to infringe the Patents-in-Suit within the United
18 States by inducement under 35 U.S.C. §271(b). By failing to cease making, using,
19 selling, importing, or offering for sale the Accused Products, Defendant has knowingly
20 and intentionally induced users of the Accused Products to directly infringe one or
21 more claims of the Patents-in-Suit, including, by: (1) providing instructions or
22 information, for example on its publicly available website, to explain how to use the
23 Accused Products in an infringing manner; and (2) touting these infringing uses of the
24 Accused Products in advertisements, including but not limited to, those on its website.

25 60. At least as early as the date of service of the Original Complaint, Defendant
26 has indirectly infringed, and continues to indirectly infringe, the Patents-in-Suit within the
27 United States by contributory infringement under 35 U.S.C. §271(c). Defendant is aware,
28

1 at least as early as the date of receipt of the Correspondence, that components of the
2 Accused Products are a material and substantial part of the invention claimed by the
3 Patents-in-Suit, and that they are designed for a use that is both patented and
4 infringing, and that has no substantial non-infringing uses.

5 61. Defendant's infringement of the Patents-in-Suit has injured Plaintiffs, and
6 Plaintiffs are entitled to recover damages from Defendant (or any successor entity to
7 Defendant).

8 **VI. COUNT II**

9 **Infringement of U.S. Patent No. 7,664,263**

10 62. Plaintiffs hereby incorporate by reference the preceding paragraphs of this
11 Complaint as if fully set forth here.

12 63. Defendant makes, uses, sells, imports, or offers for sale in the United
13 States, without authority, products, equipment, or services that infringe one or more
14 claims of the '263 Patent, including without limitation, the Pandora, Pandora Plus,
15 and/or Pandora Premium music streaming services and associated apps ("Accused
16 Products"). *See* Exhibit 4, <https://www.pandora.com/upgrade> (last accessed September
17 26, 2018).

18 64. Defendant has been and continues to directly infringe, either literally or under
19 the doctrine of equivalents, at least Claim 1 of the '263 Patent by making, using,
20 offering to sell, importing, or selling the Accused Products. *See* '263 Patent Claim
21 Chart, attached hereto as Exhibit 6. Plaintiffs note that the '263 Claim Chart and analysis
22 constitute a preliminary and exemplary infringement analysis based on publicly available
23 information. Plaintiffs have not obtained discovery from Defendant, nor has Defendant
24 disclosed any analysis in support of any purported non- infringement positions.
25 Plaintiffs hereby specifically reserve the right to supplement and/or amend the positions
26 taken in this preliminary and exemplary infringement analysis, including with respect to
27 literal infringement and infringement under the doctrine of equivalents, if and when
28

1 warranted by further information obtained by Plaintiffs during the pendency of
2 litigation, including information adduced through fact discovery, claim construction,
3 expert discovery, and/or further analysis.

4 65. At least as early as the date of service of the Original Complaint, Defendant
5 indirectly infringed and continues to infringe the Patents-in-Suit within the United
6 States by inducement under 35 U.S.C. §271(b). By failing to cease making, using,
7 selling, importing, or offering for sale the Accused Products, Defendant has knowingly
8 and intentionally induced users of the Accused Products to directly infringe one or
9 more claims of the Patents-in-Suit, including, by: (1) providing instructions or
10 information, for example on its publicly available website, to explain how to use the
11 Accused Products in an infringing manner; and (2) touting these infringing uses of the
12 Accused Products in advertisements, including but not limited to, those on its website.

13 66. At least as early as the date of service of the Original Complaint, Defendant
14 has indirectly infringed, and continues to indirectly infringe, the Patents- in-Suit within
15 the United States by contributory infringement under 35 U.S.C. §271(c). Defendant is
16 aware, at least as early as the date of receipt of the Correspondence, that components of
17 the Accused Products are a material and substantial part of the invention claimed by the
18 Patents-in-Suit, and that they are designed for a use that is both patented and
19 infringing, and that has no substantial non-infringing uses.

20 67. Defendant's infringement of the Patents-in-Suit has injured Plaintiffs, and
21 Plaintiffs are entitled to recover damages from Defendant (or any successor entity to
22 Defendant).

23 **VII. COUNT III**

24 **Infringement of U.S. Patent No. 8,265,276**

25 68. Plaintiffs hereby incorporate by reference the preceding paragraphs of this
26 Complaint as if fully set forth here.

1 69. Defendant makes, uses, sells, imports, or offers for sale in the United
2 States, without authority, products, equipment, or services that infringe one or more
3 claims of the '276 Patent, including without limitation, the Pandora, Pandora Plus,
4 and/or Pandora Premium music streaming services and associated apps ("Accused
5 Products"). *See* Exhibit 4, <https://www.pandora.com/upgrade> (last accessed September
6 26, 2018).

7 70. Defendant has been and continues to directly infringe, either literally or under
8 the doctrine of equivalents, at least Claims 1, 2, 5, 6, 7, and 9 of the '276 Patent by
9 making, using, offering to sell, importing, or selling the Accused Products. *See* '276
10 Patent Claim Chart, attached hereto as Exhibit 7. Plaintiffs note that the '276 Claim
11 Chart and analysis constitute a preliminary and exemplary infringement analysis based on
12 publicly available information. Plaintiffs have not obtained discovery from Defendant,
13 nor has Defendant disclosed any analysis in support of any purported non-infringement
14 positions. Plaintiffs hereby specifically reserve the right to supplement and/or amend the
15 positions taken in this preliminary and exemplary infringement analysis, including with
16 respect to literal infringement and infringement under the doctrine of equivalents, if and
17 when warranted by further information obtained by Plaintiffs during the pendency of
18 litigation, including information adduced through fact discovery, claim construction,
19 expert discovery, and/or further analysis.

20 71. At least as early as the date of service of the Original Complaint, Defendant
21 indirectly infringed and continues to infringe the Patents-in-Suit within the United
22 States by inducement under 35 U.S.C. §271(b). By failing to cease making, using,
23 selling, importing, or offering for sale the Accused Products, Defendant has knowingly
24 and intentionally induced users of the Accused Products to directly infringe one or
25 more claims of the Patents-in-Suit, including, by: (1) providing instructions or
26 information, for example on its publicly available website, to explain how to use the
27
28

1 Accused Products in an infringing manner; and (2) touting these infringing uses of the
2 Accused Products in advertisements, including but not limited to, those on its website.

3 72. At least as early as the date of service of the Original Complaint, Defendant
4 has indirectly infringed, and continues to indirectly infringe, the Patents-in-Suit within the
5 United States by contributory infringement under 35 U.S.C. §271(c). Defendant is aware,
6 at least as early as the date of receipt of the Correspondence, that components of the
7 Accused Products are a material and substantial part of the invention claimed by the
8 Patents-in-Suit, and that they are designed for a use that is both patented and
9 infringing, and that has no substantial non-infringing uses.

10 73. Defendant's infringement of the Patents-in-Suit has injured Plaintiffs, and
11 Plaintiffs are entitled to recover damages from Defendant (or any successor entity to
12 Defendant).

13 **VIII. RELIEF REQUESTED**

14 WHEREFORE, Plaintiffs respectfully request that this Court:

- 15 A. Enter judgment that Defendant has infringed one or more claims of the
16 Patents-in-Suit literally or under the doctrine of equivalents;
- 17 B. Enter judgment that Defendant has induced infringement and continues to
18 induce infringement of one or more claims of the Patents-in-Suit;
- 19 C. Enter judgment that Defendant has contributed to and continues to
20 contribute to infringement of one or more claims of the Patents-in-Suit;
- 21 D. Enter judgment that Defendant's infringement has been willful;
- 22 E. Award Plaintiffs past and future damages, to be paid by Defendant, in an
23 amount no less than a reasonable royalty and adequate to compensate
24 Plaintiffs for such past and future damages, together with pre-judgment and
25 post-judgment interest for Defendant's infringement of the Patents-in-Suit
26 through the date that such judgment is entered in accordance with 35
27 U.S.C. §284, and increase such award by up to three times the amount found
28

1 or assessed in accordance with 35 U.S.C. §284;

2 F. Declare this case exceptional pursuant to 35 U.S.C. §285; and

3 G. Award Plaintiffs their costs, disbursements, attorneys' fees, and such further
4 and additional relief as is deemed appropriate by this Court

5 **IX. JURY DEMAND**

6 Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiffs hereby demands
7 a trial by jury on all issues so triable.

8
9 DATED: January 31, 2019

DEVLIN LAW FIRM LLC

10 /s/ Jeffrey Francis Craft

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18 Facsimile: (302) 353-4251

19 *Attorneys for Plaintiffs Blue Spike LLC, Blue*
20 *Spike International Ltd., and Wistaria Trading*
21 *Ltd.*

CERTIFICATE OF SERVICE

I hereby certify that on January 31, 2019, a true and correct copy of the foregoing document was served on each party through their respective counsel of record via email as set forth below.

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