

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

	)	
SYNKLOUD TECHNOLOGIES, LLC	)	
	)	C.A. No. _____
Plaintiff,	)	
	)	<b>JURY TRIAL DEMANDED</b>
v.	)	
	)	
BLU PRODUCTS, INC.	)	
	)	
Defendant.	)	
	)	

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff SynKloud Technologies, LLC (“SynKloud” or “Plaintiff”), for its Complaint against BLU Products, Inc. (“BLU” or “Defendant”) alleges the following:

**NATURE OF THE ACTION**

1. This is an action for patent infringement of United States Patent Nos. 9,098,526 (“the ’526 Patent”), 9,219,780 (“the ’780 Patent”), and 10,015,254 (“the ’254 Patent” and collectively with the ’526 and ’780 Patents, the “Patents-in-Suit”) arising under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*, seeking damages and other relief under 35 U.S.C. § 281 *et seq.*

**THE PARTIES**

2. Plaintiff is a limited liability company organized under the laws of the State of Delaware with a place of business at 124 Broadkill Road, Suite 415, Milton, DE 19968.

3. On information and belief, Defendant is a corporation organized under the laws of Delaware with a place of business at 10814 NW 33<sup>rd</sup> Street, Doral, Florida 33172. The Delaware

Division of Corporations identifies Defendant's registered agent in Delaware as The Company Corporation, 251 Little Falls Drive, Wilmington, Delaware 19808.

4. On information and belief, Defendant sells and offers to sell products and services throughout the United States, including in this District, and introduces products and services into the stream of commerce and that incorporate infringing technology knowing that it would be sold in this District and elsewhere in the United States.

5. On information and belief, Defendant conducts a significant, persistent and regular amount of business in this District through product sales by its distributors and resellers and through online marketing, and derives substantial revenue from such business.

#### **JURISDICTION AND VENUE**

6. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code.

7. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

8. Venue is proper in this District under 28 U.S.C. §§ 1391(b), (c) and/or 1400(b).

On information and belief, Defendant has placed, and is continuing to place, infringing products into the stream of commerce, via an established distribution channel, with the knowledge and/or understanding that such products are sold in this District. Defendant, directly or through intermediaries, conducts business in this District, and at least a portion of the acts of infringement and claims alleged in this Complaint have taken place and are continuing to take place in this District.

9. On information and belief, this Court has personal jurisdiction over Defendant because it is incorporated in Delaware and has purposefully availed itself of the privileges and benefits of the laws of the State of Delaware. Further, Defendant is subject to this Court's

general and specific personal jurisdiction because Defendant has sufficient minimum contacts within the State of Delaware, pursuant to due process and/or the Delaware Long Arm Statute, because Defendant purposefully availed itself of the privileges of conducting business in the State of Delaware, and because Plaintiff's causes of action arise directly from Defendant's business contacts and other activities in the State of Delaware, including regularly doing or soliciting business and deriving substantial revenue from products and services provided to individuals in this District. The exercise of jurisdiction over Defendant would not offend traditional notions of fair play and substantial justice.

### **BACKGROUND**

10. Plaintiff is the owner of the Patents-in-Suit asserted in this action and has the exclusive right to sue and collect remedies for past, present, and future infringement of the patent.

### **COUNT 1** **INFRINGEMENT OF U.S. PATENT NO. 9,098,526**

11. The allegations set forth in the foregoing paragraphs 1 through 10 are incorporated by reference into this claim for relief.

12. On August 4, 2015, the '526 Patent, entitled "Method and System for Wireless Device Access to External Storage," was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the '526 Patent is attached as Exhibit 1.

13. The '526 Patent issued from United States Patent Application No. 14/150,106 ("the '106 Application"), filed on January 8, 2014. The '106 Application is a Continuation of U.S. Patent Application No. 14/079,831, filed on November 14, 2013,

now U.S. Patent No. 8,868,690, which is a Continuation of U.S. Patent Application No. 10/726,897 filed on December 4, 2003, now U.S. Patent No. 8,606,880.

14. Plaintiff is the assignee and owner of the right, title, and interest in and to the '526 Patent, including the right to assert all causes of action arising under the '526 Patent and the right to any remedies for infringement of the '526 Patent.

15. Defendant has infringed and continues to infringe the '526 Patent under 35 U.S.C. § 271, literally or under the doctrine of equivalents, by making, using, selling, and/or offering for sale in the United States, and/or importing into the United States, infringing products without authorization (hereafter "Infringing Instrumentalities"). At a minimum, Infringing Instrumentalities include all BLU smartphones and tablets that use cloud services like Google Drive. This includes products like the VIVO One and VIVO XI+ that use cloud services like Google Drive.

16. Defendant directly infringed and continues to directly infringe at least claim 1<sup>1</sup> of the '526 Patent by making, using, selling, offering to sell, importing and/or providing and causing to be used the BLU VIVO One and VIVO XI+ which satisfies, literally or under the doctrine of equivalents, each and every claim limitation of claim 1 of the '526 Patent. The correspondence between the limitations of claim 1 of the '526 Patent and the VIVO One and VIVO XI+ smartphones is shown in the claim chart attached hereto as Exhibit 2. The claim chart is incorporated by reference as if set forth herein. Additional details relating to the BLU VIVO One and VIVO XI+ and their infringement are within the possession, custody or control of Defendant.

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<sup>1</sup> Plaintiff reserves the right to identify additional asserted claims and accused products as this litigation proceeds. For example, Plaintiff expressly reserves the right to identify additional asserted claims and accused products in its infringement contentions to be served during the discovery process.

17. Defendant provides users with support material for the BLU VIVO One and VIVO XI+ with instructions about their use of cloud services like Google Drive that practice at least claim 1 of the '526 Patent.

18. On information and belief, the identified structures and functionalities of the BLU VIVO One and VIVO XI+ shown in the claim chart are representative of the structure and functionality present in all Infringing Instrumentalities including but not limited to BLU families of products with the following designations or trade names: Advance Series, C Series, Dash Series, Energy Series, Grand Series, Life Series, Neo Series, Pure Series, R Series, Studio Series, Tank Series, Touchbook Series, and Vivo Series. On information and belief, any other product of BLU that uses cloud services is also an Infringing Instrumentality. Additional details relating to Infringing Instrumentalities and their infringement are within the possession, custody or control of Defendant.

19. Plaintiff offers this preliminary identification and description of infringement without the benefit of discovery or claim construction in this action, and expressly reserves the right to augment, supplement, and revise its identification and description of infringement based on additional information obtained through discovery or otherwise.

20. On information and belief, Defendant had knowledge and became aware that its products that use cloud services infringe the '526 Patent prior to the filing of this Complaint. By way of example, prior to the filing of this Complaint, BLU received a letter from SynKloud stating that the '526 Patent was being practiced in cloud service-enabled products that were being used, offered for sale and sold by BLU. Discovery in this matter may reveal that Defendant has induced others to infringe the '526 Patent.

21. Defendant had pre-suit knowledge that it was using the '526 Patent and has knowingly made, used, offered to sell, sold, and/or imported into the United States the Infringing Instrumentalities that infringed and continue to infringe the '526 Patent under 35 U.S.C. § 271. Because Defendant did so with such knowledge of the '526 Patent, Defendant is liable for willful infringement

22. Defendant's acts of infringement have caused damage to Plaintiff, and Plaintiff is entitled to recover from Defendant the damages it has sustained as a result of Defendant's wrongful acts in an amount subject to proof at trial.

**COUNT 2**  
**INFRINGEMENT OF U.S. PATENT NO. 9,219,780**

23. The allegations set forth in the foregoing paragraphs 1 through 10 are incorporated by reference into this claim for relief.

24. On December 22, 2015, the '780 Patent, entitled "Method and System for Wireless Device Access to External Storage," was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the '780 Patent is attached as Exhibit 3.

25. The '780 Patent issued from United States Patent Application No. 14/623,476 ("the '476 Application"), filed on February 16, 2015. The '476 Application is a Continuation of U.S. Patent Application No. 14/150,106, filed on January 8, 2014, now U.S. Patent No. 9,098,526, which is a Continuation of U.S. Patent Application No. 14/079,831, filed on November 14, 2013, now U.S. Patent No. 8,868,690, which is a Continuation of U.S. Patent Application No. 10/726,897 filed on December 4, 2003, now U.S. Patent No. 8,606,880.

26. Plaintiff is the assignee and owner of the right, title, and interest in and to the '780 Patent, including the right to assert all causes of action arising under the '780 Patent and the right to any remedies for infringement of the '780 Patent.

27. Defendant has infringed and continues to infringe the '780 Patent under 35 U.S.C. § 271, literally or under the doctrine of equivalents, by making, using, selling, and/or offering for sale in the United States, and/or importing into the United States, infringing products without authorization (hereafter "Infringing Instrumentalities"). At a minimum, Infringing Instrumentalities include all BLU smartphones and tablets that use cloud services like Google Drive. This includes products like the VIVO One and VIVO XI+ that use cloud services like Google Drive.

28. Defendant directly infringed and continues to directly infringe at least claim 1<sup>2</sup> of the '780 Patent by making, using, selling, offering to sell, importing and/or providing and causing to be used the BLU VIVO One and VIVO XI+ which satisfies, literally or under the doctrine of equivalents, each and every claim limitation of claim 1 of the '780 Patent. The correspondence between the limitations of claim 1 of the '780 Patent and the VIVO One and VIVO XI+ smartphones is shown in the claim chart attached hereto as Exhibit 4. The claim chart is incorporated by reference as if set forth herein. Additional details relating to the BLU VIVO One and VIVO XI+ and their infringement are within the possession, custody or control of Defendant.

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<sup>2</sup> Plaintiff reserves the right to identify additional asserted claims and accused products as this litigation proceeds. For example, Plaintiff expressly reserves the right to identify additional asserted claims and accused products in its infringement contentions to be served during the discovery process.

29. Defendant provides users with support material for the BLU VIVO One and VIVO XI+ with instructions about their use of cloud services like Google Drive that practice at least claim 1 of the '780 Patent.

30. On information and belief, the identified structures and functionalities of the BLU VIVO One and VIVO XI+ shown in the claim chart are representative of the structure and functionality present in all Infringing Instrumentalities including but not limited to BLU families of products with the following designations or trade names: Advance Series, C Series, Dash Series, Energy Series, Grand Series, Life Series, Neo Series, Pure Series, R Series, Studio Series, Tank Series, Touchbook Series, and Vivo Series. On information and belief, any other product of BLU that uses cloud services is also an Infringing Instrumentality. Additional details relating to Infringing Instrumentalities and their infringement are within the possession, custody or control of Defendant.

31. Plaintiff offers this preliminary identification and description of infringement without the benefit of discovery or claim construction in this action, and expressly reserves the right to augment, supplement, and revise its identification and description of infringement based on additional information obtained through discovery or otherwise.

32. On information and belief, Defendant had knowledge and became aware that its products that use cloud services infringe the '780 Patent prior to the filing of this Complaint. By way of example, prior to the filing of this Complaint, BLU received a letter from SynKloud stating that the '780 Patent was being practiced in cloud service-enabled products that were being used, offered for sale and sold by BLU. Discovery in this matter may reveal that Defendant has induced others to infringe the '780 Patent.



33. Defendant had pre-suit knowledge that it was using the '780 Patent and has knowingly made, used, offered to sell, sold, and/or imported into the United States the Infringing Instrumentalities that infringed and continue to infringe the '780 Patent under 35 U.S.C. § 271. Because Defendant did so with such knowledge of the '780 Patent, Defendant is liable for willful infringement

34. Defendant's acts of infringement have caused damage to Plaintiff, and Plaintiff is entitled to recover from Defendant the damages it has sustained as a result of Defendant's wrongful acts in an amount subject to proof at trial.

**COUNT 3**  
**INFRINGEMENT OF U.S. PATENT NO. 10,015,254**

35. The allegations set forth in the foregoing paragraphs 1 through 10 are incorporated by reference into this claim for relief.

36. On July 3, 2018, the '254 Patent, entitled "System and Method for Wireless Device Access to External Storage," was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the '254 Patent is attached as Exhibit 5.

37. The '254 Patent issued from United States Patent Application No. 14/977,509 ("the '509 Application"), filed on December 21, 2015. The '509 Application is a Continuation of U.S. Patent Application No. 14/036,744, filed on September 25, 2013, now U.S. Patent No. 9,239,686, which is a Continuation of U.S. Patent Application No. 10/726,897, filed on December 4, 2003, now U.S. Patent No. 8,606,880.

38. Plaintiff is the assignee and owner of the right, title, and interest in and to the '254 Patent, including the right to assert all causes of action arising under the '254 Patent and the right to any remedies for infringement of the '254 Patent.

39. Defendant has infringed and continues to infringe the '254 Patent under 35 U.S.C. § 271, literally or under the doctrine of equivalents, by making, using, selling, and/or offering for sale in the United States, and/or importing into the United States, infringing products without authorization (hereafter "Infringing Instrumentalities"). At a minimum, Infringing Instrumentalities include all BLU smartphones and tablets that use cloud services like Google Drive. This includes products like the VIVO One and VIVO XI+ that use cloud services like Google Drive.

40. Defendant directly infringed and continues to directly infringe at least claim 1<sup>3</sup> of the '254 Patent by making, using, selling, offering to sell, importing and/or providing and causing to be used the BLU VIVO One and VIVO XI+ which satisfies, literally or under the doctrine of equivalents, each and every claim limitation of claim 1 of the '254 Patent. The correspondence between the limitations of claim 1 of the '254 Patent and the VIVO One and VIVO XI+ smartphones is shown in the claim chart attached hereto as Exhibit 6. The claim chart is incorporated by reference as if set forth herein. Additional details relating to the BLU VIVO One and VIVO XI+ and their infringement are within the possession, custody or control of Defendant.

41. Defendant provides users with support material for the BLU VIVO One and VIVO XI+ with instructions about their use of cloud services like Google Drive that practice at least claim 1 of the '254 Patent.

42. On information and belief, the identified structures and functionalities of the BLU VIVO One and VIVO XI+ shown in the claim chart are representative of the structure and

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<sup>3</sup> Plaintiff reserves the right to identify additional asserted claims and accused products as this litigation proceeds. For example, Plaintiff expressly reserves the right to identify additional asserted claims and accused products in its infringement contentions to be served during the discovery process.

functionality present in all Infringing Instrumentalities including but not limited to BLU families of products with the following designations or trade names: Advance Series, C Series, Dash Series, Energy Series, Grand Series, Life Series, Neo Series, Pure Series, R Series, Studio Series, Tank Series, Touchbook Series, and Vivo Series. On information and belief, any other product of BLU that uses cloud services is also an Infringing Instrumentality. Additional details relating to Infringing Instrumentalities and their infringement are within the possession, custody or control of Defendant.

43. Plaintiff offers this preliminary identification and description of infringement without the benefit of discovery or claim construction in this action, and expressly reserves the right to augment, supplement, and revise its identification and description of infringement based on additional information obtained through discovery or otherwise.

44. On information and belief, Defendant had knowledge and became aware that its products that use cloud services infringe the '254 Patent prior to the filing of this Complaint. By way of example, prior to the filing of this Complaint, BLU received a letter from SynKloud stating that the '254 Patent was being practiced in cloud service-enabled products that were being used, offered for sale and sold by BLU. Discovery in this matter may reveal that Defendant has induced others to infringe the '254 Patent.

45. Defendant had pre-suit knowledge that it was using the '254 Patent and has knowingly made, used, offered to sell, sold, and/or imported into the United States the Infringing Instrumentalities that infringed and continue to infringe the '254 Patent under 35 U.S.C. § 271. Because Defendant did so with such knowledge of the '254 Patent, Defendant is liable for willful infringement

46. Defendant's acts of infringement have caused damage to Plaintiff, and Plaintiff is entitled to recover from Defendant the damages it has sustained as a result of Defendant's wrongful acts in an amount subject to proof at trial.

**JURY DEMAND**

47. Plaintiff requests a jury trial of all issues in this action so triable.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment as follows:

- A. Declaring that Defendant has infringed the Patents-in-Suit.
- B. Awarding damages arising out of Defendant's infringement of the Patents-in-Suit to SynKloud, including enhanced damages pursuant to 35 U.S.C. § 284, together with prejudgment and post-judgment interest, in an amount according to proof.
- C. Awarding attorneys' fees to SynKloud pursuant to 35 U.S.C. § 285 or as otherwise permitted by law.
- D. Awarding such other costs and further relief as the Court may deem just and proper.

DATED: March 22, 2019

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