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11 Attorneys for Plaintiff,  
THROOP, LLC

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

16 THROOP, LLC, a California limited  
liability company,

17 Plaintiff,

18 v.

19 VUZIX CORPORATION, a Delaware  
20 corporation,

21 Defendant.

Case No. 2:19-cv-10606

**COMPLAINT FOR PATENT  
INFRINGEMENT**

**DEMAND FOR JURY TRIAL**

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**COMPLAINT**

1 Plaintiff Throop, LLC (“Throop” or “Plaintiff”) hereby alleges for its  
2 Complaint for Patent Infringement against Vuzix Corporation (“Vuzix” or  
3 “Defendant”) the following:

4 **I. NATURE OF THE ACTION**

5 1. This is an action for patent infringement of United States Patent Nos.  
6 7,035,897 (the “’897 Patent”) and 9,479,726 (the “’726 Patent”) (collectively, the  
7 “Patents-in-Suit”) arising under the Patent Laws of the United States, 35 U.S.C. § 1,  
8 et seq., seeking damages and other relief under 35 U.S.C. § 281, et seq.

9 **II. THE PARTIES**

10 2. Throop is a California limited liability company having a principal  
11 place of business at 3580 Wilshire Blvd., Ste. 1460, Los Angeles, CA 90010.

12 3. Defendant Vuzix Corporation is a corporation organized under the laws  
13 of Delaware with its principal place of business located at 25 Hendrix Road, West  
14 Henrietta, NY 14586. Vuzix’s registered agent for Service of Process is located at  
15 Corporation Service Company, 251 Little Falls Drive, Wilmington, DE 19808.

16 **III. JURISDICTION AND VENUE**

17 4. This is an action for patent infringement arising under the provisions of  
18 the Patent Laws of the United States of America, Title 35, United States Code.

19 5. This Court has subject matter jurisdiction over Throop’s claims under  
20 28 U.S.C. §§ 1331 and 1338(a).

21 6. This Court has personal jurisdiction over Defendant in this action  
22 because Defendant has committed acts within the Central District of California  
23 giving rise to this action and has established minimum contacts with this forum such  
24 that the exercise of jurisdiction over the Defendant would not offend traditional  
25 notions of fair play and substantial justice. The Defendant, directly and through  
26 subsidiaries or intermediaries, has committed and continues to commit acts of  
27 infringement in this District by, among other things, offering to sell and selling  
28 products and/or services that infringe the asserted patents.

1 7. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b),  
2 (c) and/or 28 U.S.C. § 1400(b). Defendant transacts business within this District  
3 and offers for sale in this District products that infringe the Patents-in-Suit. For  
4 example, the Vuzix Blade Smart Glasses were showcased as part of Verizon's 5G  
5 Built Right Experience at Mobile World Congress Los Angeles 2019 taking place  
6 October 22-24 2019 in Los Angeles, California.

7 **IV. THROOP'S PATENTS-IN-SUIT**

8 8. On April 25, 2006, the '897 Patent, entitled "Wireless Augmented  
9 Reality Communication System," was duly and legally issued by the United States  
10 Patent and Trademark Office. A true and correct copy of the '897 Patent is attached  
11 as Exhibit A.

12 9. On October 25, 2016, the '726 Patent, entitled "Wireless Augmented  
13 Reality Communication System," was duly and legally issued by the United States  
14 Patent and Trademark Office. A true and correct copy of the '726 Patent is attached  
15 as Exhibit B.

16 10. The inventors listed on the Patents-in-Suit were all engineers who  
17 worked at NASA's Jet Propulsion Laboratory. Founded by Caltech faculty, NASA's  
18 Jet Propulsion Laboratory is the leading U.S. center for the robotic exploration of  
19 the solar system.

20 11. The '897 Patent has been cited by twenty-four issued United States  
21 patents as relevant prior art.

22 12. Throop is the owner of the Patents-in-Suit asserted in this action and  
23 has the exclusive right to sue and collect remedies for past, present, and future  
24 infringement of the Patents-in-Suit.

25 **V. ACCUSED PRODUCTS AND/OR SERVICES**

26 13. Defendant manufactures, provides, uses, sells, offers for sale, imports,  
27 and/or distributes infringing services for wearable devices, including, for example,  
28 Vuzix Blade (collectively, "Accused Products and/or Services").

1 14. The Accused Products and/or Services offer the benefits of Plaintiff's  
2 technology by, for example, incorporating a highly integrated radio communication  
3 system allowing for true two-way multimedia access via a wearable device.

4 15. Defendant has had knowledge of the Patents-in-Suit and its  
5 infringement since at least the filing of the Original Complaint in this action, or  
6 shortly thereafter, including by way of this lawsuit.

7 **COUNT I: INFRINGEMENT OF U.S. PATENT NO. 7,035,897**

8 16. Throop reasserts and incorporates herein by reference the allegations of  
9 all preceding paragraphs of this Complaint as if fully set forth herein.

10 17. Defendant has infringed and continues to infringe at least claim 1 and  
11 one or more of its dependents of the '897 Patent under 35 U.S.C. § 271(a), literally  
12 or under the doctrine of equivalents, by making, using, selling, and/or offering for  
13 sale in the United States, and/or importing into the United States, the Accused  
14 Products and/or Services.

15 18. For example, the Accused Products and/or Services meet all of the  
16 claim limitations of claim 1 of the '897 Patent, set forth below with claim language  
17 in italics. To the extent the preamble is limiting, the Accused Products and/or  
18 Services include *[a] mobile access unit for use in a localized communications*  
19 *system.*



27 <https://www.vuzix.com/products/legacy-product/m100-smart-glasses>

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1 19. The Accused Products and/or Services include *a video input configured*  
2 *to receive real-time video information; a video output configured to provide real-*  
3 *time video information; a wearable display connected to the video output; a codec*  
4 *connected to the video input and video output; and a transceiver.*

5 **M100 Primary Components**

6 Dual microphones for audio capture with noise cancellation

7 Multiple control systems, including manual Control Buttons

8 3D gesture control

9 OMAP processor running an Android 4.0 operating system

10 AccuTilt display assembly

11 Display backdrop for outdoor viewing

12 HD camera with "recording" indicator

13 5GB internal memory

14 Micro flash memory upgradeable to 32GB

15 Voice navigation with custom libraries

16 Rechargeable & includes external power pak

17 Bluetooth 4.0 & Wi-Fi 802.11b/g/n

18 Flexible and extendable display arm

19 Full color 16:9 WQVGA display

20 <http://www.vuzix.com/developer/>

21 **Camera**

22 The M100's integrated camera captures 5 megapixel still images and 1080p high-definition video. Video and image capture can be stored directly on the M100's memory (expandable up to 32 GB) or streamed live. Where privacy may be a concern when recording video, a "video recording indicator" light on the face of the M100 provides an alert, the same as that accepted for use with video cameras around the world.

23 [http://www.vuzix.com/consumer/products\\_m100/](http://www.vuzix.com/consumer/products_m100/)

22 20. The Accused Products and/or Services include *a transmitter connected*  
23 *to the codec that is configured to transmit a data stream provided by the codec over*  
24 *an upstream wireless communication link; and a receiver connected to the codec*  
25 *that is configured to receive a data stream transmitted over a downstream wireless*  
26 *communication link, which includes encoded real-time video.*

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### Connectivity

- uUSB: Control/Power/Upgrade
- **Wi-Fi 802.11b/g/n, Bluetooth/GPS**

<http://www.vuzix.com/wp-content/uploads/consumer/docs/m100/Vuzix-Smart-Glasses-M100-Hands-Free.pdf>

**Vuzix Smart Glasses M100 are the world's first "Hands Free" smartphone display for on-the-go data access from and to your Smartphone and the Internet.**

As the name implies, smart glasses are much more than just a wearable TV. Vuzix' M100 are the first hands free personal display and communications system for linking consumers to smartphone data and the Cloud. Text, video, email, mapping, audio, and all we have come to expect from smartphones, is available through this Bluetooth wireless personal information display system. Vuzix smart glasses offer a wearable visual connection to the Cloud, through your smartphone or other compatible smart device, wherever you go.



Vuzix Smart Glasses, M100 (Snowflake White) with over ear mounting option.

The Vuzix M100 contains a virtual display with integrated camera and powerful processing engine, running an Android OS, to **wirelessly connect via Bluetooth or WiFi to your smartphone**

**(iOS or Android) or other compatible device.** Powerful enough to connect to the Internet, run applications and games on its own, the M100 works in harmony with your smartphone to open up to a plethora of existing and future applications.

<http://www.vuzix.com/wp-content/uploads/consumer/docs/m100/Vuzix-Smart-Glasses-M100-Hands-Free.pdf>

21. The Accused Products and/or Services include *wherein the codec is configured to: encode real-time video information received from the video input; and multiplex the encoded real-time video with other data to generate the data stream provided by the codec to the transmitter; and wherein the codec is also configured to: demultiplex the encoded real-time video from the data stream provided to the codec by the receiver; and decode the encoded real-time video*

1 information and provide the decoded real-time video information to the video  
2 output.

3 " **LiveCast Duetto** In-App Purchases ADD TO LIBRARY  
4 3.18.420.504

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5 LiveCast Duetto

6 ▼ | M400 ▼ | M300XL & M300 ENTERPRISE TOOLS , MEDIA ,  
7 PRODUCTIVITY , TRANSPORTATION , VIDEO ♥ ADD TO WISHLIST

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8 **Description**

9 LiveCast Duetto software enables M100 / M300 users with highest quality, two-way video  
10 streaming capabilities. Hardware assisted video encode and decode provides efficient  
11 H.264 streaming at lowest power consumption.

12 Duetto application connects with LiveCast's Enterprise grade video platform (leveraging  
13 Cloud or OnPrem Servers). Integration of comprehensive IoT sensors and real-time data,  
14 man-down monitoring, end-to-end FIPS encryption and advanced video monitoring  
15 software for Decision Makers, collectively make the LiveCast Platform the most advanced  
16 live video communication solution on the market.

17 <https://www.vuzix.com/appstore/app/livecast-duetto>

18 📷 Camera

19 The integrated camera on Vuzix M100 Smart Glasses is capable of capturing 5 megapixel still images and 1080p high-definition video. Video and image captures can  
20 be stored directly on the M100's memory (expandable up to 32GB) or streamed live over the internet. Where privacy may be a concern, a video recording indicator  
light on the face of the M100 will inform those around you that video is being recorded, in accordance with accepted standards for video cameras around the world.

21 <https://www.vuzix.com/products/legacy-product/m100-smart-glasses>

22 22. Defendant has committed acts of infringement without license or  
23 authorization. Defendant knew or should have known that its actions would cause  
24 direct and indirect infringement of the '897 Patent. On information and belief,  
25 Defendant acted with objective recklessness by proceeding despite an objective high  
26 likelihood that its actions constituted infringement of a valid patent.

27 23. Defendant is also liable under 35 U.S.C. § 271(b) for actively inducing  
28 infringement and continuing to actively induce infringement. Defendant actively

1 induces and continues to induce its customers, distributors, end-users, vendors  
2 including customer-support and/or manufacturers to infringe the '897 Patent. On  
3 information and belief, Defendant possessed a specific intent to induce  
4 infringement, and in fact did induce infringement, by engaging in affirmative acts  
5 such as by selling and causing the Accused Products and/or Services to be  
6 manufactured, by providing user guides, installation or instruction manuals, and  
7 other training materials, by advertising and solicitation and otherwise providing  
8 sales-related materials, and by instructing and/or demonstrating to customers,  
9 distributors, end-users, vendors including customer-support and/or manufacturers  
10 the normal operation of the Accused Products and/or Services that infringe the '897  
11 Patent. Defendant is aware and/or willfully blind that these affirmative acts infringe  
12 and/or would induce infringement of the '897 Patent, of which it had knowledge.

13 24. Defendant is also liable under 35 U.S.C. § 271(c) for contributing to  
14 and continuing to contribute to the infringement of the '897 Patent by, among other  
15 things, providing seamless external storage capability that operates as internal  
16 storage in its Accused Products and/or Services and by encouraging, at a minimum,  
17 customers, distributors, end-users, vendors including customer-support and/or  
18 manufacturers in this District and elsewhere, to infringe the '897 Patent. By  
19 importing, exporting, manufacturing, distributing, selling, and/or providing the  
20 Accused Products and/or Services for their intended use to customers, distributors,  
21 end-users, vendors including customer-support and/or manufacturers, Defendant  
22 has, in the past and continue to contribute to the infringement of one or more claims  
23 of the '897 Patent. The Accused Products and/or Services are material to the  
24 inventions claimed in the '897 Patent, has no substantial non-infringing uses, and  
25 are known by Defendant (on information and belief) to be especially made or  
26 especially adapted for use in infringing the '897 Patent, and which are otherwise not  
27 staple articles of commerce suitable for substantial non-infringing use. Defendant  
28



1 are aware and/or willfully blind that these affirmative acts infringe and/or constitute  
2 contributory infringement of the '897 Patent, of which it had knowledge.

3 25. Defendant is liable for indirect infringement, i.e., both inducement and  
4 contributory infringement, based on the direct infringement that is the result of  
5 activities performed by customers, distributors, end-users, vendors including  
6 customer-support and/or manufacturers who use all elements or perform all steps of  
7 one or more claims of the '897 Patent. For example, end users of Defendant's  
8 Accused Products and/or Services infringe, either directly or under the doctrine of  
9 equivalents, one or more claims of the '897 Patent (e.g., claim 1 and one or more of  
10 its dependents). At a minimum, Defendant is liable for the indirect infringement of  
11 claim 1 and one or more of its dependents of the '897 Patent.

12 26. Defendant will continue to infringe unless this Court enjoins Defendant  
13 and its agents, servants, employees, representatives and all others acting in active  
14 concert with it from infringing the '897 Patent.

15 27. Plaintiff has been damaged as a result of Defendant's infringing  
16 conduct. Defendant is, thus, liable to Plaintiff in an amount that adequately  
17 compensates Plaintiff for Defendant's infringement, which, by law, cannot be less  
18 than a reasonable royalty, together with interest and costs as fixed by this Court  
19 under 35 U.S.C. § 284.

20 **COUNT II: INFRINGEMENT OF U.S. PATENT NO. 9,479,726**

21 28. Throop reasserts and incorporates herein by reference the allegations of  
22 all preceding paragraphs of this Complaint as if fully set forth herein.

23 29. Defendant has infringed and continues to infringe at least claims 1, 25  
24 and one or more of its dependents of the '726 Patent under 35 U.S.C. § 271(a),  
25 literally or under the doctrine of equivalents, by making, using, selling, and/or  
26 offering for sale in the United States, and/or importing into the United States, the  
27 Accused Products and/or Services.

1       30.       Defendant has committed acts of infringement without license or  
2 authorization. Defendant knew or should have known that its actions would cause  
3 direct and indirect infringement of the '726 Patent. On information and belief,  
4 Defendant acted with objective recklessness by proceeding despite an objective high  
5 likelihood that its actions constituted infringement of a valid patent.

6       31.       Defendant is also liable under 35 U.S.C. § 271(b) for actively inducing  
7 infringement and continuing to actively induce infringement. Defendant actively  
8 induces and continues to induce its customers, distributors, end-users, vendors  
9 including customer-support and/or manufacturers to infringe the '726 Patent. On  
10 information and belief, Defendant possessed a specific intent to induce  
11 infringement, and in fact did induce infringement, by engaging in affirmative acts  
12 such as by selling and causing the Accused Products and/or Services to be  
13 manufactured, by providing user guides, installation or instruction manuals, and  
14 other training materials, by advertising and solicitation and otherwise providing  
15 sales-related materials, and by instructing and/or demonstrating to customers,  
16 distributors, end-users, vendors including customer-support and/or manufacturers  
17 the normal operation of the Accused Products and/or Services that infringe the '897  
18 Patent. Defendant are aware and/or willfully blind that these affirmative acts  
19 infringe and/or would induce infringement of the '726 Patent, of which it had  
20 knowledge.

21       32.       Defendant is also liable under 35 U.S.C. § 271(c) for contributing to  
22 and continuing to contribute to the infringement of the '726 Patent by, among other  
23 things, providing seamless external storage capability that operates as internal  
24 storage in its Accused Products and/or Services and by encouraging, at a minimum,  
25 customers, distributors, end-users, vendors including customer-support and/or  
26 manufacturers in this District and elsewhere, to infringe the '726 Patent. By  
27 importing, exporting, manufacturing, distributing, selling, and/or providing the  
28 Accused Products and/or Services for their intended use to customers, distributors,

1 end-users, vendors including customer-support and/or manufacturers, Defendant  
2 has, in the past and continue to contribute to the infringement of one or more claims  
3 of the '726 Patent. The Accused Products and/or Services are material to the  
4 inventions claimed in the '726 Patent, has no substantial non-infringing uses, and  
5 are known by Defendant (on information and belief) to be especially made or  
6 especially adapted for use in infringing the '726 Patent, and which are otherwise not  
7 staple articles of commerce suitable for substantial non-infringing use. Defendant is  
8 aware and/or willfully blind that these affirmative acts infringe and/or constitute  
9 contributory infringement of the '726 Patent, of which it had knowledge.

10 33. Defendant is liable for indirect infringement, i.e., both inducement and  
11 contributory infringement, based on the direct infringement that is the result of  
12 activities performed by customers, distributors, end-users, vendors including  
13 customer-support and/or manufacturers who use all elements or perform all steps of  
14 one or more claims of the '726 Patent. For example, end users of Defendant's  
15 Accused Products and/or Services infringe, either directly or under the doctrine of  
16 equivalents, one or more claims of the '726 Patent (e.g., claims 1, 25 and one or  
17 more of its dependents). At a minimum, Defendant is liable for the indirect  
18 infringement of claims 1, 25 and one or more of its dependents of the '726 Patent.

19 34. Defendant will continue to infringe unless this Court enjoins Defendant  
20 and its agents, servants, employees, representatives and all others acting in active  
21 concert with it from infringing the '726 Patent.

22 35. Plaintiff has been damaged as a result of Defendant's infringing  
23 conduct. Defendant is, thus, liable to Plaintiff in an amount that adequately  
24 compensates Plaintiff for Defendant's infringement, which, by law, cannot be less  
25 than a reasonable royalty, together with interest and costs as fixed by this Court  
26 under 35 U.S.C. § 284.

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**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests the following relief:

- a) A judgment that Defendant has infringed the Patents-in-Suit;
- b) An injunction barring Defendant and its officers, directors, agents, servants, employees, affiliates, attorneys, and all others acting in privity or in concert with them, and their parents, subsidiaries, divisions, successors and assigns, from further acts of infringement of the Patents-in-Suit; alternatively, a judicial decree that Defendant pay an ongoing royalty in an amount to be determined for continued infringement after the date of judgment;
- c) An award of damages adequate to compensate for Defendant’s infringement of the Patents-in-Suit, and in no event less than a reasonable royalty for Defendant’s acts of infringement, including all pre-judgment and post-judgment interest at the maximum rate permitted by law;
- d) An award of trebled damages under 35 U.S.C. § 284;
- e) A declaration that this case is exceptional under 35 U.S.C. § 285; and
- f) An award of Plaintiff’s costs and attorney’s fees under 35 U.S.C. § 285 and other applicable law; and any other remedy to which Plaintiff may be entitled.

Dated: December 16, 2019

**ONE LLP**

By: /s/ Nathaniel L. Dilger  
Nathaniel L. Dilger  
Deepali A. Brahmbhatt  
John E. Lord

Attorneys for Plaintiff,  
Throop, LLC

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**DEMAND FOR JURY TRIAL**

Throop demands trial by jury on all claims and issues so triable.

Dated: December 16, 2019

**ONE LLP**

By: /s/ Nathaniel L. Dilger  
Nathaniel L. Dilger  
Deepali A. Brahmbhatt  
John E. Lord

Attorneys for Plaintiff,  
Throop, LLC