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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
10 **WESTERN DIVISION**

11 **SYBOLOGY INNOVATIONS, LLC,**

12 **Plaintiff,**

13 **v.**

14 **FABLETICS, LLC,**

15 **Defendant.**

16 **Civil Action No.: 2:20-cv-3736**

17 **TRIAL BY JURY DEMANDED**

18 **ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT**

19 1. Symbology Innovations, LLC (“Symbology” or “Plaintiff”), by and
20 through its counsel, hereby brings this action for patent infringement against
21 Fabletics, LLC (“Fabletics” or “Defendant”) alleging infringement of the following
22 validly issued patent (the “Patent-in-Suit”): U.S. Patent No. 8,424,752, titled
23 “System and method for presenting information about an object on a portable
24 electronic device” (the “’752 Patent”), attached hereto as Exhibit A.
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1 State of California; and (4) Defendant regularly conducts business within the State
2 of California and within this district, and Plaintiff's cause of action arises directly
3 from Defendant's business contacts and other activities in the State of California and
4 in this district.
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7 7. Defendant, directly and/or through intermediaries, ships, distributes,
8 uses, offers for sale, sells, and/or advertises products and services in the United
9 States, the State of California, and this district including but not limited to the
10 products which contain the infringing '752 Patent systems and methods as detailed
11 below. Upon information and belief, Defendant has committed patent infringement
12 in the State of California and in this district; Defendant solicits and has solicited
13 customers in the State of California and in this district; and Defendant has paying
14 customers that are residents of the State of California and this district and that use
15 and have used Defendant's products and services in the State of California and in
16 this district.
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21 8. Venue is proper in the Central District of California pursuant to 28
22 U.S.C. §§ 1400(b). Defendant is headquartered in this district, has a regular and
23 established place of business in this district, has transacted business in this district,
24 and has directly and/or indirectly committed acts of patent infringement in this
25 district.
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1 **PATENT-IN-SUIT**

2 9. The Patent-in-Suit teaches systems and methods for enabling a portable
3 electronic device (e.g., smartphone) to retrieve information about an object when the
4 object's symbology (e.g. QR code) is detected.
5

6 10. The invention disclosed in the Patent-in-Suit discloses inventive
7 concepts that represent significant improvements in the art and are not mere routine
8 or conventional uses of computer components.
9

10 **ACCUSED PRODUCTS**

11 11. Defendant makes, uses, offers for sale and sells in the U.S. products,
12 systems, and/or services that infringe the Patent-in-Suit, including, but not limited
13 to certain products and services implementing QR code functionality as described in
14 the Patent-in-Suit (collectively, the "Accused Products").
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17 **COUNT I**

18 **(Infringement of U.S. Patent No. 8,424,752)**

19 12. Plaintiff incorporates by reference the allegations of paragraphs 1-11,
20 the same as if set forth herein.
21

22 13. The '752 Patent is valid, enforceable, and was duly and legally issued
23 by the United States Patent and Trademark Office ("USPTO") on April 23, 2013.
24 The '752 Patent is presumed valid and enforceable. See 35 U.S.C. § 282.
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26 14. Plaintiff is the owner by assignment of the '752 Patent and possesses
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1 all rights of recovery under the '752 Patent, including the exclusive right enforce
2 the '752 Patent and pursue lawsuits against infringers.
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4 15. Without a license or permission from Symbology, Defendant has
5 infringed and continues to infringe on one or more claims of the '752 Patent—
6 directly, contributorily, and/or by inducement—by importing, making, using,
7 offering for sale, or selling products and devices that embody the patented invention,
8 including, without limitation, one or more of the patented '752 systems and methods,
9 in violation of 35 U.S.C. § 271.
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12 **Direct Infringement**
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14 16. Defendant has been and now is directly infringing by, among other
15 things, practicing all of the steps of the '752 Patent, for example, through internal
16 testing, quality assurance, research and development, and troubleshooting. *See Joy*
17 *Techs., Inc. v. Flakt, Inc.*, 6 F.3d 770, 775 (Fed. Cir. 1993); see also 35 U.S.C. § 271
18 (2006). For instance, Defendant has directly infringed the Patent-in-Suit by testing,
19 configuring, and troubleshooting the functionality of QR codes on its products and
20 services.
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23 17. By way of example, Defendant has infringed and continues to infringe
24 at least one or more claims of the '752 Patent, including at least Claim 1. Attached
25 hereto as Exhibit B is an exemplary claim chart detailing representative infringement
26 of claim 1 of the Patent-in-Suit.
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1 **Induced Infringement**

2 18. Defendant has been and now is indirectly infringing by way of inducing
3 infringement by others and/or contributing to the infringement by others of the '752
4 Patent in the State of California, in this judicial District, and elsewhere in the United
5 States, by, among other things, making, using, offering for sale, and/or selling,
6 without license or authority, products affixed with QR codes that require the accused
7 technology for intended functionality, testing, configuration, troubleshooting, and
8 other utilization. End users include, for example, customers, customers' customers,
9 retail store personnel, and other third-parties.
10

11 19. Defendant took active steps to induce infringement, such as advertising
12 an infringing use, which supports a finding of an intention. *See Metro-Goldwyn-*
13 *Mayer Studios Inc. v. Grokster, Ltd.*, 545 U.S. 913, 932 (2005) (“[I]t may be
14 presumed from distribution of an article in commerce that the distributor intended
15 the article to be used to infringe another's patent, and so may justly be held liable for
16 that infringement”).
17

18 20. The allegations herein support a finding that Defendant induced
19 infringement of the '752 Patent. *See Power Integrations v. Fairchild Semiconductor*,
20 843 F.3d 1315, 1335 (Fed. Cir. 2016) (“[W]e have affirmed induced infringement
21 verdicts based on circumstantial evidence of inducement [e.g., advertisements, user
22 manuals] directed to a class of direct infringers [e.g., customers, end users] without
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1 requiring hard proof that any individual third-party direct infringer was actually
2 persuaded to infringe by that material.”).

3
4 **Contributory Infringement**

5 21. On information and belief, Defendant contributorily infringes on
6 Symbology’s ’752 Patent. Defendant knew or should have known, at the very least
7 with the filing of this complaint as a result of its freedom to operate analyses, that
8 third parties, such as its customers, would infringe the ’752 Patent by implementing
9 Defendant’s QR code technology.
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12 22. On information and belief, Defendant’s implementation of the accused
13 functionality has no substantial non-infringing uses. See, e.g., *Lucent Techs., Inc. v.*
14 *Gateway, Inc.*, 580 F.3d 1301, 1321 (Fed. Cir. 2009) (holding that the “substantial
15 noninfringing use” element of a contributory infringement claim applies to an
16 infringing feature or component, and that an “infringing feature” of a product does
17 not escape liability simply because the product as a whole has other non-infringing
18 uses).
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22 **Willful Infringement**

23 23. On information and belief, the infringement of the ’752 Patent by
24 Defendant has been and continues to be willful. Defendant has had actual knowledge
25 of Symbology’s rights in the ’752 Patent and details of Defendant’s infringement
26 based on at least the filing and service of this complaint. Additionally, Defendant
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1 had knowledge of the '752 Patent and its infringement in the course of Defendant's
2 due diligence and freedom to operate analyses.
3

4 **Plaintiff Suffered Damages**

5 24. Defendant's acts of infringement of the '752 Patent have caused
6 damage to Symbology, and Symbology is entitled to recover from Defendant the
7 damages sustained as a result of Defendant's wrongful acts in an amount subject to
8 proof at trial pursuant to 35 U.S.C. § 271. Defendant's infringement of Symbology's
9 exclusive rights under the '752 Patent will continue to damage Symbology causing
10 it irreparable harm for which there is no adequate remedy at law, warranting an
11 injunction from the Court.
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15 **REQUEST FOR RELIEF**

16 25. Symbology incorporates each of the allegations in the paragraphs
17 above and respectfully asks the Court to:
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19 (a) enter a judgment that Defendant has directly infringed, contributorily
20 infringed, and/or induced infringement of one or more claims of each of the '752
21 Patent;
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23 (b) enter a judgment awarding Symbology all damages adequate to
24 compensate it for Defendant's infringement of, direct or contributory, or
25 inducement to infringe, the including all pre-judgment and post-judgment interest
26 at the maximum rate permitted by law;
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1 (c) enter a judgment awarding treble damages pursuant to 35 U.S.C. §
2 284 for Defendant's willful infringement of the '752 Patent
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4 (d) issue a preliminary injunction and thereafter a permanent injunction
5 enjoining and restraining Defendant, its directors, officers, agents, servants,
6 employees, and those acting in privity or in concert with them, and their
7 subsidiaries, divisions, successors, and assigns, from further acts of infringement,
8 contributory infringement, or inducement of infringement of the '752 Patent.
9

10 (e) enter a judgment requiring Defendant to pay the costs of this action,
11 including all disbursements, and attorneys' fees as provided by 35 U.S.C. § 285,
12 together with prejudgment interest; and
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15 (f) award Symbology all other relief that the Court may deem just and
16 proper.
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18 Dated: April 23, 2020

Respectfully submitted,

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Together with:

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