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8 Attorneys for Plaintiff
9 BenQ Corporation

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

14 BENQ CORPORATION,
15 Plaintiff,
16 v.
17 THOMSON INC.,
18 Defendant.

No. C 05 01893

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

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1 Plaintiff BenQ Corporation (“BenQ”), for its Complaint against Thomson Inc.
2 (“Thomson”), alleges as follows:

3 **THE PARTIES**

4 1. Plaintiff BenQ is a corporation organized under the laws of Taiwan,
5 Republic of China, with its principal place of business at 157 Shan-Ying Road, Gueishan,
6 Taoyuan 333, Taiwan, Republic of China.

7 2. Upon information and belief, Defendant Thomson is a corporation
8 organized under the laws of Delaware with its principal place of business at 10330 N. Meridian
9 Street, Indianapolis, Indiana 46290-1024.

10 **JURISDICTION AND VENUE**

11 3. This is an action for patent infringement arising under the laws of the
12 United States including 35 U.S.C. §§ 271 and 281.

13 4. This Court has subject matter jurisdiction over this Complaint, which
14 arises under the patent laws of the United States, pursuant to 28 U.S.C. §§ 1331 and 1338(a).

15 5. Upon information and belief, Thomson has sufficient contacts with this
16 District to subject it to the personal jurisdiction of this Court for this Complaint. Plaintiff is
17 informed and believes and thereupon alleges that Defendant has committed infringing acts in this
18 District.

19 6. Venue in this District is proper under 28 U.S.C. §§ 1391(b) and 1400(b)
20 because Defendant is a corporation and/or business entity subject to personal jurisdiction in this
21 District and because Defendant has committed acts of infringement in this District.

22 **INTRADISTRICT ASSIGNMENT**

23 7. This is an Intellectual Property Action under this Court’s Assignment
24 Plan, and therefore assignment to any division of the Court is proper pursuant to Civil Local
25 Rule 3-2(c).

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1 **FIRST CLAIM FOR RELIEF**

2 **THOMSON'S INFRINGEMENT OF U.S. PATENT NO. 5,270,821**

3 8. BenQ is the owner by assignment of all right, title, and interest in United
4 States Patent No. 5,270,821 ("the '821 Patent"), entitled "Video Display Adjustment and on-
5 screen Menu System," duly and legally issued on December 14, 1993. A true and correct copy
6 of the '821 patent is attached hereto as Exhibit A.

7 9. Thomson, without license or authorization and in violation of 35 U.S.C. §
8 271, has been and is infringing the '821 patent directly, contributorily, and/or by inducement by,
9 without limitation, making, using, marketing, selling, and/or offering for sale in the United States
10 certain products, including color television receivers and other display monitors, components
11 thereof and products containing same, that are covered by the '821 patent.

12 10. Upon information and belief, Thomson's infringement of the '821 patent
13 will continue unless enjoined by this Court. BenQ has suffered, and will continue to suffer,
14 irreparable injury as a result of Thomson's infringement. Pursuant to 35 U.S.C. § 284, BenQ is
15 entitled to damages for infringement and treble damages for any infringement found to be
16 willful. Furthermore, pursuant to 35 U.S.C. § 283, BenQ is entitled to a permanent injunction
17 against further infringement.

18 **SECOND CLAIM FOR RELIEF**

19 **THOMSON'S INFRINGEMENT OF U.S. PATENT NO. 6,683,842**

20 11. BenQ is the owner by assignment of all right, title, and interest in United
21 States Patent No. 6,683,842 ("the '842 Patent"), entitled "Guiding Mechanism for Supporting a
22 Reading-Head Moving Within a Optical Storage Carrier Player," duly and legally issued on
23 January 27, 2004. A true and correct copy of the '842 patent is attached hereto as Exhibit B.

24 12. Thomson, without license or authorization and in violation of 35 U.S.C. §
25 271, has been and is infringing the '842 patent directly, contributorily, and/or by inducement by,
26 without limitation, making, using, marketing, selling, and/or offering for sale in the United States

1 certain products, including DVD recorders, components thereof, and products containing same
2 that are covered by the '842 patent.

3 13. Upon information and belief, Thomson's infringement of the '842 patent
4 will continue unless enjoined by this Court. BenQ has suffered, and will continue to suffer,
5 irreparable injury as a result of Thomson's infringement. Pursuant to 35 U.S.C. § 284, BenQ is
6 entitled to damages for infringement and treble damages for any infringement found to be
7 willful. Furthermore, pursuant to 35 U.S.C. § 283, Thomson is entitled to a permanent
8 injunction against further infringement.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, BenQ respectfully prays for the following relief on its claims for
11 patent infringement:

- 12 a) That Thomson be adjudged to have infringed the '821 and '842 patents;
13 b) That Thomson, its officers, agents, servants, employees, attorneys, and
14 those persons in active concert or participation with any of them, be permanently restrained and
15 enjoined from directly or indirectly infringing the '821 and '842 patents;
16 c) An accounting for damages by virtue of Thomson's infringement of the
17 '821 and '842 patents;
18 d) An award of damages to compensate BenQ for Thomson's infringement,
19 and pursuant to 35 U.S.C. § 284, said damages to be trebled to the extent of any willful
20 infringement by Thomson;
21 e) An award of interest and costs in accordance with 35 U.S.C. § 284;
22 f) An award of attorneys' fees pursuant to 35 U.S.C. § 285;
23 g) An award of costs of suit; and
24 h) Such other and further relief as the Court may deem just and proper.

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1 DATED: May 9, 2005

BINGHAM MCCUTCHEN LLP

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/s/
BRIAN C. ROCCA (SBN 221576)
Three Embarcadero Center
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Attorneys for Plaintiff

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JURY DEMAND

Pursuant to Rule 38(a) and (b) of the Federal Rules of Civil Procedure, Plaintiff

BenQ Corporation hereby demands a trial by jury for all issues so triable.

DATED: May 9, 2005

BINGHAM MCCUTCHEN LLP

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CERTIFICATION OF INTERESTED ENTITIES OR PERSONS

Pursuant to Civil Local Rule 3-16, the undersigned certifies that as of this date, other than the named parties, there is no such interest to report.

DATED: May 9, 2005

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