

1 Thomas W. Lathram (State Bar No. 59639)  
Tom@SiliconEdgeLaw.com  
2 Arthur J. Behiel (State Bar No. 172165)  
Art@SiliconEdgeLaw.com  
3 SILICON EDGE LAW GROUP LLP  
6601 Koll Center Parkway, Suite 245  
4 Pleasanton, CA 94566  
Telephone: (925) 621-2110  
5 Facsimile: (925) 621-2119

6 Attorneys for Plaintiff, Counterdefendant  
and Counterclaimant  
7 BRILLIANT INSTRUMENTS, INC.

8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA

11 BRILLIANT INSTRUMENTS, INC.

12 Plaintiff,

13 v.

14 GUIDETECH, INC., and  
15 RONEN SIGURA, an individual,

16 Defendants.

Civil No. C09-05517 CW

**FIRST AMENDED COMPLAINT**

**DEMAND FOR JURY TRIAL**

17  
18 and Related Counterclaims  
19

20 Plaintiff Brilliant Instruments, Inc. ("Brilliant" or "Plaintiff"), by its attorneys, hereby  
21 alleges against Defendant GuideTech, Inc. ("GuideTech" or "Defendant") as follows:

22 **NATURE OF THE ACTION**

23 1. This is an action for a declaratory judgment of non-infringement of United States  
24 Patent Nos. 6,091,671 (the "671 patent"); 6,181,649 (the "649 patent"); 6,226,231 (the "231  
25 patent"); 6,456,959 (the "959 patent"); 6,621,767 (the "767 patent"); 6,999,382 (the "382  
26 patent"); and 7,203,610 (the "610 patent") (collectively the "GuideTech Patents").  
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1 **INTRADISTRICT ASSIGNMENT**

2 2. This action is an Intellectual Property Action under Civil Local Rule 3-2(c) and is  
3 to be assigned on a district-wide basis.

4 **PARTIES**

5 3. Plaintiff Brilliant is a corporation organized and existing under the laws of the State  
6 of Delaware, and has its headquarters and principal place of business in this District at 1600 W.  
7 Campbell Avenue, Suite 206, Campbell, California 95008. Brilliant is in the business, among  
8 other things, of manufacturing and selling precision time and frequency measurement instruments.

9 4. On information and belief, Defendant GuideTech is a corporation organized and  
10 existing under the laws of the State of California, and has its headquarters and principal place of  
11 business in this District at 102 Persian Drive, Suite 101, Sunnyvale, California 94089. On  
12 information and belief, GuideTech is in the business of manufacturing and selling measurement  
13 instruments.

14 **JURISDICTION AND VENUE**

15 5. This action arises under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,  
16 and under the patent laws of the United States, Title 35 of the United States Code. This Court has  
17 jurisdiction over this action pursuant to 35 U.S.C. § 271 *et seq.*, and 28 U.S.C. §§ 1331, 1338(a),  
18 and 2201-2202.

19 6. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (c); and 1400(b)  
20 because, on information and belief, GuideTech's principal place of business is in this District,  
21 GuideTech does business in this District, and a substantial part of the events giving rise to the  
22 claims at issue occurred in this District.

23 **THE GUIDETECH PATENTS**

24 7. The '671 patent issued on July 18, 2000, on an application filed on July 14, 1999,  
25 and is entitled "Time Interval Analyzer Having Interpolator With Constant Current Capacitor  
26 Control." A true and correct copy of the '671 patent is attached hereto as Exhibit A.





**COUNT III**

**(Declaration of Non-infringement of U.S. Patent No. 6,226,231)**

26. Plaintiff repeats and realleges the allegations in paragraphs 1 through 17 above as though fully set forth herein.

27. Plaintiff has not infringed and does not infringe, directly or indirectly, any valid and enforceable claim of the '231 patent.

28. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

29. A judicial declaration is necessary and appropriate so that Plaintiff may ascertain its rights regarding the '231 patent.

**COUNT IV**

**(Declaration of Non-infringement of U.S. Patent No. 6,456,959)**

30. Plaintiff repeats and realleges the allegations in paragraphs 1 through 17 above as though fully set forth herein.

31. Plaintiff has not infringed and does not infringe, directly or indirectly, any valid and enforceable claim of the '959 patent.

32. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

33. A judicial declaration is necessary and appropriate so that Plaintiff may ascertain its rights regarding the '959 patent.

**COUNT V**

**(Declaration of Non-infringement of U.S. Patent No. 6,621,767)**

34. Plaintiff repeats and realleges the allegations in paragraphs 1 through 17 above as though fully set forth herein.

35. Plaintiff has not infringed and does not infringe, directly or indirectly, any valid and enforceable claim of the '767 patent.



1 **ADDITIONAL PARTY**

2 46. On information and belief, defendant Ronen Sigura (“Sigura”), an individual, is an  
3 owner and principal of GuideTech and at all times herein acted both in his individual capacity and  
4 on behalf of GuideTech. On information and belief, Sigura resides in this judicial district and the  
5 acts performed by Sigura as alleged herein took place in this judicial district.

6 **JURISDICTION AND VENUE**

7 47. This Court has supplemental jurisdiction over the claims set forth in Counts VIII,  
8 IX, and X below and over defendant Sigura pursuant to 28 U.S.C. § 1367(a) because such claims  
9 are so related to the claims in this action that they form part of the same case or controversy under  
10 Article III of the United States Constitution. Venue is proper in this District under 28 U.S.C. §  
11 1391(b).

12 **COUNT VIII**

13 **(Intentional Interference with Prospective Economic Advantage)**

14 48. On information and belief, Sigura and other representatives of GuideTech have  
15 made the following statements, before and after the filing of plaintiff’s Complaint herein, to one or  
16 more of plaintiff’s customers with whom plaintiff has contractual relations and/or prospective  
17 customers with whom plaintiff has a present relationship and an expectation of future contractual  
18 relations:

- 19 a. Sigura is an electrical engineer..
- 20 b. Sigura is a founder or co-founder of Guide Technology, Inc.
- 21 c. Mr. Kattan of Brilliant “betrayed” Sigura by founding Brilliant.
- 22 d. GuideTech can prove that Brilliant’s products infringe the patents asserted  
23 in GuideTech’s Counterclaim.
- 24 e. Experts have examined Brilliant’s products and have confirmed to Sigura  
25 and GuideTech that Brilliant’s products infringe.
- 26 f. If GuideTech wins the lawsuit, Brilliant’s customers will have to remove  
27 Brilliant’s products from products that incorporate them and that have already been sold to  
28 third parties.

1           49.    On information and belief, the statements set forth in paragraph 47 above are false  
2 and the true facts are:

3           a.    Sigura is not an electrical engineer.

4           b.    Mr. Kattan founded Guide Technology, Inc. in approximately 1988, Sigura  
5 worked at Guide Technology from approximately 1996 to 2000, and Sigura is not a  
6 founder or co-founder of Guide Technology.

7           c.    Sigura obtained any rights in assets of Guide Technology more than eight  
8 years after leaving the company and more than four years after Mr. Kattan left the  
9 company, and Mr. Sigura obtained any rights in assets of Guide Technology at a time  
10 when he was well aware that Mr. Kattan had already founded Brilliant to sell time interval  
11 analyzer products; therefore Mr. Kattan did not “betray” Sigura by founding Brilliant.

12           d.    Mr. Kattan advised Sigura and other representatives of GuideTech both  
13 before and after Sigura’s acquisition of any assets of Guide Technology that Brilliant’s  
14 products do not infringe Guide Technology patents; Sigura and GuideTech did not and do  
15 not have any specific knowledge of the internal circuitry or operation of Brilliant’s  
16 products and have no specific knowledge as to whether those products infringe; therefore  
17 they could not and cannot prove that those products infringe; subsequent to the filing of the  
18 instant lawsuit and subsequent to Brilliant’s advice to GuideTech that Brilliant believed  
19 GuideTech had no specific knowledge of the internal circuitry and operation of Brilliant’s  
20 products, Sigura contacted at least one Brilliant customer and advised the customer that  
21 GuideTech had initiated a company-wide “program” under which it would provide a free  
22 “legal” GuideTech product in exchange for an “illegal” Brilliant product, and requested  
23 that the customer ship Brilliant’s product to GuideTech; subsequent to Brilliant’s  
24 informing GuideTech that it objected to Sigura’s conduct, Sigura again contacted the  
25 customer and complained about the customer’s disclosure of Sigura’s attempts to obtain a  
26 Brilliant product;

27           e.    Experts have not examined Brilliant’s products and confirmed to Sigura or  
28 GuideTech that those products infringe.



1           f.       Sigura and GuideTech had no legal basis for telling Brilliant's customers  
2           and/or prospective customers that Brilliant's products would have to be removed from  
3           previously-sold products.

4           50.     On information and belief, Sigura and GuideTech made the statements set forth in  
5           paragraph 47 above with knowledge that they were false or with reckless disregard of whether  
6           they were true or false.

7           51.     On information and belief, Sigura and GuideTech made the statements set forth in  
8           paragraph 47 above with the intent that Brilliant's customers and/or prospective customers would  
9           believe them to be true and in reliance thereon would return previously purchased Brilliant  
10          products, would cancel outstanding orders for Brilliant's products and/or would refuse to make  
11          new purchases of Brilliant's products.

12          52.     On information and belief, Sigura and GuideTech made the statements set forth in  
13          paragraph 47 above with the intent that Brilliant's customers and prospective customers would in  
14          reliance thereon buy GuideTech's products rather than Brilliant's products.

15          53.     On information and belief, customers and/or prospective customers, acting in  
16          reliance on the aforementioned statements, have returned previously-purchased Brilliant products,  
17          cancelled outstanding orders for Brilliant's products and/or refused to make new purchases of  
18          Brilliant's products, and instead have purchased GuideTech's products.

19          54.     Sigura's and GuideTech's conduct as aforesaid has caused injury and damage to  
20          Brilliant and Brilliant's business and reputation in amounts to be proved at trial

21          55.     Sigura's and GuideTech's conduct as aforesaid has caused irreparable injury and  
22          damage to Brilliant that will continue unless such conduct is enjoined.

23          56.     Sigura and GuideTech are liable to Brilliant for intentional interference with  
24          prospective economic advantage and Brilliant is entitled to recover all damages caused thereby.

25          57.     On information and belief, Sigura and GuideTech acted as aforesaid with actual  
26          malice toward Mr. Kattan and Brilliant. On information and belief, Sigura and GuideTech  
27          acquired any assets of Guide Technology with the intent to sue Brilliant for patent infringement  
28          without regard to whether or not Brilliant's products infringe those patents. On information and

1 belief, Sigura told at least one Brilliant customer or prospective customer that he intended to “take  
2 away Mr. Kattan’s house.”

3 58. On information and belief, Sigura and GuideTech are guilty of oppression, fraud, or  
4 malice, entitling Brilliant to recover punitive and exemplary damages.

5 **COUNT IX**

6 **(Intentional Interference with Contractual Relations)**

7 59. Plaintiff repeats and realleges the allegations in paragraphs 1 through 58 above as  
8 though fully set forth herein.

9 60. Sigura and GuideTech are liable to Brilliant for intentional interference with  
10 contractual relations and Brilliant is entitled to recover all damages caused thereby.

11 61. On information and belief, Sigura and GuideTech are guilty of oppression, fraud, or  
12 malice, entitling Brilliant to recover punitive and exemplary damages.

13 **COUNT X**

14 **(Unfair Competition – Cal. Bus. & Prof. Code §§ 17200 et seq.)**

15 62. Plaintiff repeats and realleges the allegations in paragraphs 1 through 61 above as  
16 though fully set forth herein.

17 63. Sigura’s and GuideTech’s conduct as aforesaid constitutes unlawful, unfair or  
18 fraudulent business acts or practices within the meaning of § 17200 of California’s unfair  
19 competition law, California Business and Professions Code §§ 17200, et seq..

20 64. Brilliant has suffered injury in fact and has lost money or property as a result of the  
21 unfair competition within the meaning of California Business and Professions Code § 17204 and  
22 is entitled to the rights afforded by the unfair competition law, including injunctive relief.

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**PRAYER FOR RELIEF**

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WHEREFORE, Plaintiff respectfully requests that judgment be entered in its favor and prays that the Court grant the following relief:

A. A declaration that Plaintiff has not infringed, either directly or indirectly, any valid and enforceable claim of the '671 patent;

B. A declaration that Plaintiff has not infringed, either directly or indirectly, any valid and enforceable claim of the '649 patent;

C. A declaration that Plaintiff has not infringed, either directly or indirectly, any valid and enforceable claim of the '231 patent;

D. A declaration that Plaintiff has not infringed, either directly or indirectly, any valid and enforceable claim of the '959 patent;

E. A declaration that Plaintiff has not infringed, either directly or indirectly, any valid and enforceable claim of the '767 patent;

F. A declaration that Plaintiff has not infringed, either directly or indirectly, any valid and enforceable claim of the '382 patent;

G. A declaration that Plaintiff has not infringed, either directly or indirectly, any valid and enforceable claim of the '610 patent;

H. An order declaring that Plaintiff is the prevailing party and that this is an exceptional case, awarding Plaintiff its costs, expenses, disbursements, and reasonable attorneys' fees under 35 U.S.C. § 285 and all other applicable statutes, rules and common law;

I. Damages and punitive damages for intentional interference with prospective economic advantage;

J. Damages and punitive damages for intentional interference with contractual relations;

1 K. An order enjoining defendants GuideTech and Sigura from committing the acts and  
2 practices of unfair competition alleged herein; and

3 L. Such other and further relief as this Court may deem just and proper.

4 **JURY DEMAND**

5 Plaintiff hereby respectfully demands a trial by jury on all issues and claims so triable.

6  
7 Dated: May 18, 2010

SILICON EDGE LAW GROUP LLP

8  
9 By: Thomas W. Lathram  
10 Thomas W. Lathram (SBN 59639)

11 Attorneys for Plaintiff, Counterdefendant and  
12 Counterclaimant  
13 BRILLIANT INSTRUMENTS, INC.  
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