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11	1 ax. (570) 605 5005							
12		UNITED STATES DISTRICT COURT						
13	SOUTHERN DISTRICT OF CALIFORNIA							
14	WHALEN FURNITURE MFG., INC.	Civil Action No.: 11CV3001 AJB WMC						
15	Plaintiff,	COMPLAINT FOR PATENT INFRINGEMENT						
16	v.)	DEMAND FOR JURY TRIAL						
17	WALKER EDISON FURNITURE () CO. LLC ()	DEMAND FOR JUNI TRIAL						
18	Defendant.)							
19 20	Plaintiff, Whalen Furniture Manufactu	ntiff, Whalen Furniture Manufacturing, Inc. ("Whalen"), as for its Complaint against						
21	Defendant, Walker Edison Furniture Co. LLC	efendant, Walker Edison Furniture Co. LLC ("Walker Edison"), alleges as follows:						
22	HIDIODICEION AND MENHE							
23	1. This action arises under the patent laws of the United States, 35 U.S.C. §§ 271 et seq.							
24	This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).							
25	2. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b), (c) and							
26	1400(b). On information and belief, Walker Edison has purposely transacted business involving their							
27 28	accused products in this judicial district, has committed acts of direct and/or indirect infringement in							

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this judicial district, and continues to commit acts of infringement in this district.

THE PARTIES

- 3. Whalen is a corporation organized and existing under the laws of the state of California, having its principal place of business at 1578 Air Wing Road, San Diego, California 92154.
- 4. On information and belief, Walker Edison is a corporation organized and existing under the laws of the state of Utah and has a principal place of business at 4350 West 2100 South, Suite A, Salt Lake City, Utah 84120.
- 5. On information and belief, Walker Edison has committed acts of infringement alleged herein within this judicial district.

COUNT I

(Infringement of U.S. Patent No. 8,079,311)

- 6. Whalen repeats and realleges paragraphs 1-5 above.
- 7. Whalen is the owner of the entire right, title and interest in United States Patent No. 8,079,311, entitled "TELEVISION SUPPORT AND MOUNTING KIT," which was duly and legally issued by the United States Patent and Trademark Office on December 20, 2011 (the "'311 patent"). A true and correct copy of the '311 patent is attached as Exhibit A and is incorporated by reference.
- 8. Whalen has the exclusive right to make, use, sell, offer for sale and import into the United States embodiments of the inventions claimed in the '311 patent, and the exclusive right to authorize others to do the same.
- 9. Walker Edison, without permission or license from Whalen, has unlawfully and wrongfully made, used. sold, offered for sale, and/or imported, and is now making, using, selling, offering for sale and/or importing, in direct competition with Whalen, television stands in the United States and this District that are covered by one or more claims of the '311 patent, including but not

limited to, the: Walker Edison V42MWF, Walker Edison V42MWFES, Walker Edison V60MWF, Walker Edison V60MWFES, Walker Edison V48EC1ES, Walker Edison V60EC1ES, Walker Edison V48EC1BL and Walker Edison V60EC1BL (the "Accused Products").

- 10. Walker Edison's unlawful and wrongful making, using, selling, offering for sale and/or importing; contributing to the making, using, selling, offering for sale and/or importing; and inducing of others to make, use, sell, offer for sale and/or import, the Accused Products within the United States including this judicial district constitutes at least direct infringement of at least one claim of the '311 patent, under 35 U.S.C. §§ 271 et seq.
- 11. By reason of Walker Edison's infringing activities, Whalen has suffered, and will continue to suffer, substantial damages in an amount to be proven at trial.
- 12. Walker Edison's continuing acts of infringement are irreparably harming and causing damage to Whalen, for which Whalen has no adequate remedy at law, and will continue to suffer such irreparable injury unless Walker Edison's continuing acts of infringement are enjoined by the Court. The hardships, if any, that would be imposed by an injunction are less than those faced by Whalen should an injunction not issue. The public interest would be served by issuance of an injunction.

PRAYER FOR RELIEF

WHEREFORE, Whalen respectfully requests that this Court:

- A. Enter judgment in favor of Whalen that Walker Edison has infringed the '311 patent as aforesaid;
- B. Grant a permanent injunction enjoining Walker Edison, its officers, directors, agents, servants, affiliates, employees, divisions, subsidiaries, branches, parents and all others acting in concert or privity therewith from any and all further infringement of the '311 patent pursuant to 35 U.S.C. § 283;
 - C. Grant an accounting of damages resulting from Walker Edison's infringement of the

1	'311 patent, including pre-judgment and post-judgment interest pursuant to 35 U.S.C. § 284; and						
2	D. Grant any and all further relief to which the Court may deem Whalen entitled.						
3	DEMAND FOR JURY TRIAL						
4	Whalen requests a trial by jury on all issues so triable by right pursuant to Fed. R. Civ. P. 38.						
5	w haren requests a trial by jury o	if all issues so triable by right pursuant to red. R. Civ. 1. 36.					
6		WHALEN FURNITURE MFG., INC.					
7							
8	Dated: December 22, 2011	By: <u>/s/Randall S. Waier</u> Randall S. Waier					
9		LAW OFFICES OF RANDALL S. WAIER 20241 SW Birch Street, Suite 103					
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16		Attorneys for Plaintiff					
17		Whalen Furniture Mfg., Inc.					
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The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE PEVERSE OF THE FORM.)

the civil docket sheet. (SEE II) I. (a) PLAINTIFFS	NSTRUCTIONS ON THE REVER	SEOF THE FORM.)	DEFENDANTS			
WHALEN FURNITURE	MFG., INC.			WALKER EDISON FURNITURE CO. LLC		
(b) County of Residence (E	of First Listed Plaintiff XCEPT IN U.S. PLAINTIFF CAS Address, and Telephone Number S. Waier, 20241 Birch nia 92660, (949) 476-2	Street, Suite 103, 2511. One Box Only) III.	County of Residence of NOTE: IN LAND II LAND II Attorneys (If Known)	f First Listed Defendant (IN U.S. PLAINTIFF CASES OF CONDEMNATION CASES, USINVOLVED. 111 CV3001 RINCIPAL PARTIES TF DEF 1	ONLY) SE THE LOCATION OF THE AJB WMC (Place an "X" in One Box for Plaintiff and One Box for Defendant) PTF DEF incipal Place	
			Citizen or Subject of a Foreign Country	3 □ 3 Foreign Nation	□ 6 □ 6	
IV. NATURE OF SUI	T (Place an "X" in One Box Only		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
□ 110 Insurance □ 120 Marine □ 130 Miller Act □ 140 Negotiable Instrument □ 150 Recovery of Overpayment & Enforcement of Judgment □ 151 Medicare Act □ 152 Recovery of Defaulted Student Loans (Excl. Veterans) □ 153 Recovery of Overpayment of Veteran's Benefits □ 160 Stockholders' Suits □ 190 Other Contract □ 195 Contract Product Liability □ 196 Franchise REAL PROPERTY □ 210 Land Condemnation □ 220 Foreclosure □ 230 Rent Lease & Ejectment □ 240 Torts to Land □ 245 Tort Product Liability □ 290 All Other Real Property	PERSONAL INJURY 310 Airplane 315 Airplane Product Liability 320 Assault, Libel & Slander 330 Federal Employers' Liability 340 Marine 345 Marine Product Liability 350 Motor Vehicle Product Liability 360 Other Personal Injury CIVIL RIGHTS 441 Voting 442 Employment 443 Housing/ Accommodations 444 Welfare 445 Amer. w/Disabilities - Employment	PERSONAL INJURY 362 Personal Injury - Med. Malpractice 365 Personal Injury - Product Liability 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY 370 Other Fraud 371 Truth in Lending 380 Other Personal Property Damage Product Liability PRISONER PETITIONS 510 Motions to Vacate Sentence Habeas Corpus: 530 General 535 Death Penalty 540 Mandamus & Other	☐ 610 Agriculture ☐ 620 Other Food & Drug ☐ 625 Drug Related Seizure of Property 21 USC 881 ☐ 630 Liquor Laws ☐ 640 R.R. & Truck ☐ 650 Airline Regs. ☐ 660 Occupational Safety/Health ☐ 690 Other LABOR ☐ 710 Fair Labor Standards Act ☐ 720 Labor/Mgmt. Relations ☐ 730 Labor/Mgmt.Reporting & Disclosure Act ☐ 740 Railway Labor Act	□ 422 Appeal 28 USC 158 □ 423 Withdrawal	□ 400 State Reapportionment □ 410 Antitrust □ 430 Banks and Banking □ 450 Commerce □ 460 Deportation □ 470 Racketeer Influenced and Corrupt Organizations □ 480 Consumer Credit □ 490 Cable/Sat TV □ 810 Selective Service □ 850 Securities/Commodities/Exchange □ 875 Customer Challenge □ 12 USC 3410 □ 890 Other Statutory Actions □ 891 Agricultural Acts □ 892 Economic Stabilization Act □ 893 Environmental Matters □ 894 Energy Allocation Act □ 895 Freedom of Information Act □ 900Appeal of Fee Determination Under Equal Access to Justice □ 950 Constitutionality of State Statutes	
▼1 Original □ 2 R	ate Court A	ppellate Court	Reopened anothe (specif	erred from		
VI. CAUSE OF ACTI	ON Cite the U.S. Civil State 35 U.S.C. § 271 Brief description of cau Patent Intringem	se:	ing (Do not cite jurisdictiona	il statutes unless diversity):		
VII. REQUESTED IN COMPLAINT:		S A CLASS ACTION	DEMAND \$	CHECK YES only JURY DEMAND:	if demanded in complaint: Yes No	
VIII. RELATED CAS	(See instructions):	Janis L. San UDGE John A. Hou	nmartino and uston	DOCKET NUMBER 11	cv2958-JLS-POR and cv2988-JAH-MDD	
DATE 12/22/2011 FOR OFFICE USE ONLY		SIGNATURE OF ATTOR /s/Randall S. Waie				
	MOUNT	APPLYING IFP	JUDGE	MAG. JUI	DGE	