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 RICHARD W. WIENING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

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8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

NC**CV 12-03510**

10 RECOGNICORP, LLC, a Texas limited
 11 liability company,

12 Plaintiff,

13 vs.

14 OUTSMART 2005 LTD., a New Zealand
 15 company; TAGGED, INC., a Delaware
 16 corporation; and HI5, INC., a Delaware
 17 corporation,

18 Defendants.

19 **PLAINTIFF RECOGNICORP, LLC'S**
COMPLAINT FOR PATENT
INFRINGEMENT

DEMAND FOR JURY TRIAL

20 Plaintiff Recognicorp, LLC ("Recognicorp" or "Plaintiff"), by its attorneys, Owens
 21 Tarabichi LLP, for its Complaint in this action alleges:

22 **NATURE OF THE ACTION**

23 1. This is an action for patent infringement arising under the Patent Laws of the
 24 United States, 35 U.S.C. §§ 1, *et seq.*

25 **THE PARTIES**

26 2. Plaintiff Recognicorp is a limited liability company organized under the laws of
 27 the State of Texas with its principal place of business at 106 Fannin Avenue East, Round Rock,
 28

1 Texas 78664-5219.

2 3. On information and belief, Defendant Outsmart is a company organized under the
3 laws of the Country of New Zealand with its principal place of business at 304/150 Karangahape
4 Road, Auckland, New Zealand, 1010.

5 4. On information and belief, Defendant Tagged is a company organized under the
6 laws of the State of Delaware with its principal place of business at 840 Battery Street, Second
7 Floor, San Francisco, California 94111.

8 5. On information and belief, Defendant Hi5 is a company organized under the laws
9 of the State of Delaware with its principal place of business at 3150 Porter Drive, Palo Alto,
10 California 94304.

11 JURISDICTION AND VENUE

12 6. This is an action for patent infringement arising under the Patent Laws of the
13 United States, Title 35 of the United States Code.

14 7. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338.

15 8. Outsmart is subject to the jurisdiction of this Court by reason of its acts of patent
16 infringement which have been committed in this Judicial District, and by virtue of its regularly
17 conducted and systematic business contacts in this State. As such, Outsmart has purposefully
18 availed itself of the privilege of conducting business within this Judicial District; has established
19 sufficient minimum contacts with this Judicial District such that it should reasonably and fairly
20 anticipate being haled into court in the District; has purposefully directed activities at residents of
21 this State; and at least a portion of the patent infringement claims alleged herein arise out of or are
22 related to one or more of the foregoing activities.

23 9. Tagged is subject to the jurisdiction of this Court by reason of its acts of patent
24 infringement which have been committed in this Judicial District, and by virtue of its regularly
25 conducted and systematic business contacts in this State. As such, Tagged has purposefully
26 availed itself of the privilege of conducting business within this Judicial District; has established
27 sufficient minimum contacts with this Judicial District such that it should reasonably and fairly
28 anticipate being haled into court in the District; has purposefully directed activities at residents of

1 this State; and at least a portion of the patent infringement claims alleged herein arise out of or are
2 related to one or more of the foregoing activities.

3 10. Hi5 is subject to the jurisdiction of this Court by reason of its acts of patent
4 infringement which have been committed in this Judicial District, and by virtue of its regularly
5 conducted and systematic business contacts in this State. As such, Hi5 has purposefully availed
6 itself of the privilege of conducting business within this Judicial District; has established
7 sufficient minimum contacts with this Judicial District such that it should reasonably and fairly
8 anticipate being haled into court in the District; has purposefully directed activities at residents of
9 this State; and at least a portion of the patent infringement claims alleged herein arise out of or are
10 related to one or more of the foregoing activities.

11 11. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(c) and 1400(b).

12 **INTRADISTRICT ASSIGNMENT**

13 12. Pursuant to N.D. Civil Local Rule 3-2(c), this is an intellectual property action
14 subject to district-wide assignment.

15 **COUNT I – INFRINGEMENT OF U.S. PATENT NO. 8,005,303**

16 13. The allegations set forth in the foregoing paragraphs 1 through 12 are incorporated
17 into this First Claim for Relief.

18 14. On August 23, 2011, United States Patent No. 8,005,303 (the “‘303 patent”),
19 entitled “Method and Apparatus for Encoding/Decoding Image Data,” was duly and legally
20 issued by the United States Patent and Trademark Office. A true and correct copy of the ‘303
21 patent is attached as Exhibit A to this Complaint.

22 15. Recognicorp is the assignee and owner of the right, title and interest in and to the
23 ‘303 patent, including the right to assert all causes of action arising under said patent and the right
24 to any remedies for infringement of it.

25 16. Upon information and belief, in violation of 35 U.S.C. § 271(a), each of the
26 Defendants has directly infringed, and continues to directly infringe, including under the doctrine
27 of equivalents, the ‘303 patent by making, using, importing, selling, and/or offering for sale in the
28 United States, including within this judicial district, products incorporating composite image

1 customization that infringe one or more claims of the '303 Patent ("Accused Services and
2 Products"), without the authority of Recognicorp.

3 17. The Accused Services and Products include, but are not limited to, SmallWorlds;
4 including but not limited to SmallWorlds operating on the Hi5 platform.

5 18. Features of SmallWorlds that infringe one or more claims of the '303 Patent
6 include a Change Look popup that changes an avatar's appearance by allowing the selection of a
7 facial feature, incorporation of the facial feature into a composite image, and instructions for
8 modifying the selected facial feature image that has been incorporated into the composite image.
9 In particular, the Change Look popup allows unique caricatures to be built by customizing, for
10 example, nose shape, eye shape, eyebrow shape, and mouth shape among other features. Several
11 features may be modified; for example, eye color, eye shadow makeup colors, size of eyes, and
12 angle of eyes may be modified for eye shape choices. In another example, for mouth shapes,
13 lipstick color, size of the mouth, angle of the mouth and height of the mouth may be modified.
14 On information and belief, SmallWorlds is available on the Hi5 platform.

15 19. Recognicorp has been harmed by Defendant's infringing activities

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff Recognicorp demands judgment for itself and against each
18 Defendant as follows:

19 A. An adjudication that each Defendant has infringed the '303 patent;

20 B. An award of damages to be paid by each Defendant and/or Defendants
21 collectively, adequate to compensate Recognicorp for its past infringement of the '303 patent, and
22 any continuing or future infringement through the date such judgment is entered, including
23 interest, costs, expenses and an accounting of all infringing acts including, but not limited to,
24 those acts not presented at trial;

25 C. An injunction ordering each Defendant and/or Defendants collectively to pay an
26 ongoing royalty in an amount to be determined for any continued infringement after the date
27 judgment is entered;

1 D. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of
2 Plaintiff's reasonable attorneys' fees; and

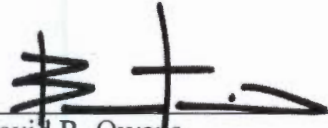
3 E. An award to Recognicorp of such further relief at law or in equity as the Court
4 deems just and proper.

5
6 Dated: July 6, 2012

Respectfully submitted,

OWENS TARABICHI LLP

7
8
9 By


David R. Owens
Bruno W. Tarabichi
Attorneys for Plaintiff
Recognicorp, LLC

DEMAND FOR JURY TRIAL


Pursuant to Rule 38 of the Federal Rules of Civil Procedure and Rule 3-6(a) of the Civil Local Rules of the Northern District of California, Plaintiff demands a jury trial.

Dated: July 6, 2012

Respectfully submitted,

OWENS TARABICHI LLP

By



David R. Owens
Bruno W. Tarabichi
Attorneys for Plaintiff
Recognicorp, LLC