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8

9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11
12 e.Digital Corporation,
13 Plaintiff,
14 v.

15 Diasonic Technology Co., LTD; Sec Tech
16 Enterprises LLC; Buy.com Inc.; MHDnet LLC
17 dba Shones Security; Gadgets and Gear
18 Enterprise Corporation; Renovatio Enterprise
19 LLC dba Stun Gun Mikes; Smarthome, Inc.;
20 Milestone Safety, LLC; Spy Tech International
21 Inc. dba Spy Tech Inc.; Atlas Technology
22 Group, a division of Atlas Electronics, Inc.;
23 Teton Web Stores dba RecorderGear.com; KJB
24 Security Products, Inc.; Spysonic Inc. aka
25 Spysonic.com; Tracking System Direct;
26 EyeSpy Pro; eSales, Inc. dba Spy Supply Store;
27 Spyville.com LLC; Skyway Security LLC;
28 Mini Gadgets, Inc.; Spy Shop of Arizona; The
Protection Pros LLC; 123Greetings.com, Inc.;
and J & J Promotions, Inc. dba Detective.com.

Defendants.

Case No. 3:12-cv-02543-CAB-WVG

**FIRST AMENDED COMPLAINT FOR
PATENT INFRINGEMENT**

DEMAND FOR JURY TRIAL

**Judge: Hon. Cathy Ann Bencivengo
Ctrm: 2 (Fourth Floor)**

26 Plaintiff e.Digital Corporation (“e.Digital” or “Plaintiff”), by and through its undersigned
27 counsel, complains and alleges against Diasonic Technology Co., LTD (“Diasonic”); Sec Tech,
28 LLC (“Sec Tech”); Buy.com Inc. (“Buy.com”); MHDnet LLC dba Shones Security (“MHDnet”);

1 Gadgets and Gear Enterprise Corporation (“Gadgets and Gear”); Renovatio Enterprise LLC dba
2 Stun Gun Mikes (“Renovatio”); Smarthome, Inc. (“Smarthome”); Milestone Safety, LLC
3 (“Milestone Safety”); Spy Tech International Inc. dba Spy Tech Inc. (“Spy Tech”); Atlas
4 Technology Group, a division of Atlas Electronics, Inc. (“Atlas”); Teton Web Stores dba
5 RecorderGear.com (“Teton”); KJB Security Products, Inc. (“KJB Security”); Spysonic Inc. aka
6 Spysonic.com (“Spysonic”); Tracking System Direct (“Tracking System Direct”); EyeSpy Pro
7 (“EyeSpy Pro”); eSales, Inc. dba Spy Supply Store (“eSales”); Spyville.com, LLC
8 (“Spyville.com”); Skyway Security LLC (“Skyway Security”); Mini Gadgets, Inc. (“Mini
9 Gadgets”); Spy Shop of Arizona (“Spy Shop of Arizona”); The Protection Pros LLC (“The
10 Protection Pros”); 123Greetings.com, Inc. (“123Greetings.com”), and, J & J Promotions, Inc.
11 dba Detective.com (“J & J”) (collectively, “Defendants”) as follows:

12 **NATURE OF THE ACTION**

13 1. This is a civil action for infringement of a patent arising under the laws of the
14 United States relating to patents, 35 U.S.C. § 101, *et seq.*, including, without limitation, § 281.
15 Plaintiff e.Digital seeks a preliminary and permanent injunction and monetary damages for the
16 infringement of its U.S. Patent Nos. 5,839,108; 5,842,170; 5,742,737; and 5,491,774.

17 **JURISDICTION AND VENUE**

18 2. This court has subject matter jurisdiction over this case for patent infringement
19 under 28 U.S.C. §§ 1331 and 1338(a) and pursuant to the patent laws of the United States of
20 America, 35 U.S.C. § 101, *et seq.*

21 3. Venue properly lies within the Southern District of California pursuant to the
22 provisions of 28 U.S.C. §§ 1391(b), (c), and (d) and 1400(b). On information and belief,
23 Defendant conducts substantial business directly and/or through third parties or agents in this
24 judicial district by selling and/or offering to sell the infringing products and/or by conducting
25 other business in this judicial district. Furthermore, Plaintiff e.Digital is headquartered and has
26 its principal place of business in this district, engages in business in this district, and has been
27 harmed by Defendant’s conduct, business transactions and sales in this district.

28 4. This Court has personal jurisdiction over Defendant because, on information and

1 belief, Defendant transacts continuous and systematic business within the State of California and
2 the Southern District of California. In addition, this Court has personal jurisdiction over the
3 Defendants because, on information and belief, this lawsuit arises out of Defendant's infringing
4 activities, including, without limitation, the making, using, selling and/or offering to sell
5 infringing products in the State of California and the Southern District of California. Finally,
6 this Court has personal jurisdiction over Defendant because, on information and belief,
7 Defendant has made, used, sold and/or offered for sale its infringing products and placed such
8 infringing products in the stream of interstate commerce with the expectation that such infringing
9 products would be made, used, sold and/or offered for sale within the State of California and the
10 Southern District of California.

11 **PARTIES**

12 5. Plaintiff e.Digital is a Delaware corporation with its headquarters and principal
13 place of business at 16870 West Bernardo Drive, Suite 120, San Diego, CA 92127.

14 6. Upon information and belief, Defendant Diasonic is a company registered and
15 lawfully existing under the laws of the Republic of Korea, with an office and principal place of
16 business located at 430-040, 321-43 Seoksu-dong Manan-Gu, Anyang-si, Gyeonggi-do, Korea.

17 7. Upon information and belief, Defendant Sec Tech is a limited liability company
18 registered and lawfully existing under the laws of the State of Florida, with an office and
19 principal place of business located at 18006 SW 12 CT, Pembroke Pines, Florida. Upon
20 information and belief, Defendant Sec Tech sells products, including but not limited to, the
21 accused products, on various websites that it owns, operates, and controls, including but not
22 limited to: 1) <http://www.sectechent.com>; 2) www.justrecorders.com; 3) www.onlyrecorders.com;
23 4) www.digitalrecordingdevices.com; 5) www.bestaudioandvideorecorders.com; 6) www.onlydigit
24 alrecorders.com ; and/or 7) www.onlyaudioandvideorecorders.com.

25 8. Upon information and belief, Defendant Buy.com is a corporation registered and
26 lawfully existing under the laws of the State of Delaware, with an office and principal place of
27 business located at 85 Enterprise, Suite 100, Aliso Viejo, California, 92656. Upon information
28 and belief, Defendant Buy.com Inc. sells products, including but not limited to, the accused

1 products, on various websites that it owns, operates, and controls, including but not limited to:
2 <http://www.buy.com>.

3 9. Upon information and belief, Defendant MHDnet is a limited liability company
4 registered and lawfully existing under the laws of the State of Pennsylvania, with an office and
5 principal place of business located at 126 Gardenview Drive, Thorndale, Pennsylvania 19372.
6 Upon information and belief, Defendant MHDnet sells products, including but not limited to, the
7 accused products, on various websites that it owns, operates, and controls, including but not
8 limited to: <http://www.shonessecurity.com>.

9 10. Upon information and belief, Defendant Gadgets and Gear is a corporation
10 registered and lawfully existing under the laws of the State of New York, with an office and
11 principal place of business located at 517 Commack Road, Deer Park, New York 11729. Upon
12 information and belief, Defendant Gadgets and Gear Enterprises Corporation sells products,
13 including but not limited to, the accused products, on various websites that it owns, operates, and
14 controls, including but not limited to: <http://www.gadgetsandgear.com>.

15 11. Upon information and belief, Defendant Renovatio is a limited liability company
16 registered and lawfully existing under the laws of the State of Delaware, with an office and
17 principal place of business located at 315 Seaview Avenue, Suite B27781, Bridgeport,
18 Connecticut 06607. Upon information and belief, Defendant Renovatio sells products, including
19 but not limited to, the accused products, on various websites that it owns, operates, and controls,
20 including but not limited to: <http://www.stungunmikes.com>.

21 12. Upon information and belief, Defendant Smarhome is a corporation registered
22 and lawfully existing under the laws of the State of Delaware, with an office and principal place
23 of business located at 16542 Millikan Avenue, Irvine, California 92606. Upon information and
24 belief, Defendant Smarhome sells products, including but not limited to, the accused products,
25 on various websites that it owns, operates, and controls, including but not limited to:
26 <http://www.smarhome.com>.

27 13. Upon information and belief, Defendant Milestone Safety is a limited liability
28 company registered and lawfully existing under the laws of the State of California, with an office

1 and principal place of business located at 1062 Lois Avenue, Sunnyvale, California 94087. Upon
2 information and belief, Defendant Milestone Safety sells products, including but not limited to,
3 the accused products, on various websites that it owns, operates, and controls, including but not
4 limited to: <http://www.milestonesafety.com>.

5 14. Upon information and belief, Defendant Spy Tech is a corporation registered and
6 lawfully existing under the laws of the State of New York, with an office and principal place of
7 business located at 44 West 55th Street, Suite 3, New York, New York 10019. Upon information
8 and belief, Defendant Spy Tech sells products, including but not limited to, the accused products,
9 on various websites that it owns, operates, and controls, including but not limited to:
10 <http://www.spytechinc.com>.

11 15. Upon information and belief, Defendant Atlas is a corporation registered and
12 lawfully existing under the laws of the State of Florida, with an office and principal place of
13 business located at 20533 Biscayne Blvd, Suite 100, Aventura, Florida 33180. Upon information
14 and belief, Defendant Atlas sells products, including but not limited to, the accused products, on
15 various websites that it owns, operates, and controls, including but not limited to:
16 <http://www.proofpronto.com>.

17 16. Upon information and belief, Defendant Teton is a company registered and
18 lawfully existing under the laws of the State of Idaho, with an office and principal place of
19 business located at 1920 North 3000 West, Rexburg, Idaho 83440. Upon information and belief,
20 Defendant Teton sells products, including but not limited to, the accused products, on various
21 websites that it owns, operates, and controls, including but not limited to:
22 <http://www.recordergear.com>.

23 17. Upon information and belief, Defendant KJB Security is a corporation registered
24 and lawfully existing under the laws of the State of Tennessee, with an office and principal place
25 of business located at 841 Fesslers Parkway, Nashville, Tennessee 37210. Upon information and
26 belief, Defendant KJB Security sells products, including but not limited to, the accused products,
27 on various websites that it owns, operates, and controls, including but not limited to:
28 <http://www.kjbsecurity.com>. Upon information and belief and thereupon so stated, KJB Security

1 may and/or does market the accused products under the brand name “KJB Disonic Voice
2 Recorder.”

3 18. Upon information and belief, Defendant Spysonic is a corporation registered and
4 lawfully existing under the laws of the State of California, with an office and principal place of
5 business located at 3528 Priscilla Drive, West Covina, California 91792. Upon information and
6 belief, Defendant Spysonic sells products, including but not limited to, the accused products, on
7 various websites that it owns, operates, and controls, including but not limited to:
8 <http://www.amazon.com>.

9 19. Upon information and belief, Defendant Tracking System Direct is a company
10 registered and lawfully existing under the laws of the State of California, with an office and
11 principal place of business located at 28360 Old Town Front Street, Temecula, California 92593.
12 Upon information and belief, Defendant Tracking System Direct sells products, including but not
13 limited to, the accused products, on various websites that it owns, operates, and controls,
14 including but not limited to: <http://www.tracking-system.com>.

15 20. Upon information and belief, Defendant EyeSpy Pro is a company lawfully
16 existing under the laws of the State of California, with an office and principal place of business
17 located at 2973 Harbor Blvd., Suite 691, Costa Mesa, California 92626. Upon information and
18 belief, Defendant EyeSpy Pro sells products, including but not limited to, the accused products,
19 on various websites that it owns, operates, and controls, including but not limited to:
20 <http://www.eyespypro.com>.

21 21. Upon information and belief, Defendant eSales is a corporation registered and
22 lawfully existing under the laws of the State of Nevada, with an office and principal place of
23 business located at 8550 West Charleston Blvd., Suite 102-124, Las Vegas, Nevada 89117. Upon
24 information and belief, Defendant eSales sells products, including but not limited to, the accused
25 products, on various websites that it owns, operates, and controls, including but not limited to:
26 <http://spysupplystore.com>.

27 22. Upon information and belief, Defendant Spyville.com is a limited liability
28 company registered and lawfully existing under the laws of the State of Tennessee, with an office

1 and principal place of business located at 1719 Andy Lane, Monterey, Tennessee 38574. Upon
2 information and belief, Defendant Spyville.com sells products, including but not limited to, the
3 accused products, on various websites that it owns, operates, and controls, including but not
4 limited to: <http://www.spyville.com>.

5 23. Upon information and belief, Defendant Skyway Security is a limited liability
6 company registered and lawfully existing under the laws of the State of Florida, with an office
7 and principal place of business located at 201-B West Butler Road, Unit 1111, Mauldin, South
8 Carolina 29662. Upon information and belief, Defendant Skyway Security sells products,
9 including but not limited to, the accused products, on various websites that it owns, operates, and
10 controls, including but not limited to: <http://www.skywaysecurity.com>.

11 24. Upon information and belief, Defendant Mini Gadgets is a corporation registered
12 and lawfully existing under the laws of the State of Georgia, with an office and principal place of
13 business located at 701 Whitlock Avenue, Suite K-47, Marietta, Georgia 30064. Upon
14 information and belief, Defendant Mini Gadgets sells products, including but not limited to, the
15 accused products, on various websites that it owns, operates, and controls, including but not
16 limited to: <http://www.minigadgets.com>.

17 25. Upon information and belief, Defendant Spy Shop of Arizona is a company
18 registered and lawfully existing under the laws of the State of Arizona, with an office and
19 principal place of business located at 1041 East Camelback, Phoenix, Arizona 85014. Upon
20 information and belief, Defendant Spy Shop of Arizona sells products, including but not limited
21 to, the accused products, on various websites that it owns, operates, and controls, including but
22 not limited to: <http://www.arizonaspysshop.com>.

23 26. Upon information and belief, Defendant The Protection Pros is a limited liability
24 company registered and lawfully existing under the laws of the State of Indiana, with an office
25 and principal place of business located at 11683 North 100 E, Morristown, IN 46161. Upon
26 information and belief, Defendant The Protection Pros sells products, including but not limited
27 to, the accused products, on various websites that it owns, operates, and controls, including but
28 not limited to: <http://www.theprotectionpros.com>.

1 27. Upon information and belief, Defendant 123Greetings.com is a corporation
2 registered and lawfully existing under the laws of the State of Delaware, with an office and
3 principal place of business located at 107 Northern Blvd., Suite 414, Great Neck, New York
4 11021. Upon information and belief, Defendant 123Greetings.com sells products, including but
5 not limited to, the accused products, on various websites that it owns, operates, and controls,
6 including but not limited to: 1) <http://store.123greetings.com>; and/or 2) <http://www.sears.com>.

7 28. Upon information and belief, Defendant J & J dba Detective.com is a corporation
8 registered and lawfully existing under the laws of the State of Illinois, with an office and
9 principal place of business located at 2413 W Algonquin Rd Suite 508 Algonquin, IL 60102.
10 Upon information and belief, Defendant J & J sells products, including but not limited to, the
11 accused products, on various websites that it owns, operates, and controls, including but not
12 limited to: 1) <http://www.detectives.com>.

13 **THE ASSERTED PATENTS**

14 29. On November 17, 1998, United States Patent No. 5,839,108 (“the ’108 patent”)
15 entitled “Flash Memory File System In A Handheld Record And Playback Device,” was duly
16 and legally issued by the United States Patent and Trademark Office. The named inventors are
17 Norbert P. Daberko and Richard K. Davis. e.Digital is the assignee and owner of the entire right,
18 title and interest in and to the ’108 patent and has the right to bring this suit for damages and
19 other relief. A true and correct copy of the ’108 patent is attached hereto as Exhibit A.

20 30. On November 24, 1998, United States Patent No. 5,842,170 (“the ’170 patent”)
21 entitled “Method For Editing In Hand Held Recorder,” was duly and legally issued by the United
22 States Patent and Trademark Office. The named inventors are Norbert P. Daberko, Richard K.
23 Davis, and Richard D. Bridgewater. e.Digital is the assignee and owner of the entire right, title
24 and interest in and to the ’170 patent and has the right to bring this suit for damages and other
25 relief. A true and correct copy of the ’170 patent is attached hereto as Exhibit B.

26 31. On April 21, 1998, United States Patent No. 5,742,737 (“the ’737 patent”) entitled
27 “Method For Recording Voice Messages On Flash Memory In A Hand Held Recorder,” was
28 duly and legally issued by the United States Patent and Trademark Office. The named inventors

1 are Norbert P. Daberko, Richard K. Davis, and Richard D. Bridgewater. e.Digital is the assignee
2 and owner of the entire right, title and interest in and to the '737 patent and has the right to bring
3 this suit for damages and other relief. A true and correct copy of the '737 patent is attached
4 hereto as Exhibit C.

5 32. On October 17, 2012, the United States Patent and Trademark Office issued a
6 Reexamination Certificate for the '737 patent, canceling Claim 5 and adding new Claim 13,
7 which is substantially identical to former claim 5. A true and correct copy of the Reexamination
8 Certificate is attached hereto as Exhibit D.

9 33. On February 13, 1996, United States Patent No. 5,491,774 ("the '774 patent")
10 entitled "Handheld Record And Playback Device With Flash Memory," was duly and legally
11 issued by the United States Patent and Trademark Office. The named inventors are Elwood G.
12 Norris, Norbert P. Daberko, and Steven T. Brightbill. e.Digital is the assignee and owner of the
13 entire right, title and interest in and to the '774 patent and has the right to bring this suit for
14 damages and other relief. A true and correct copy of the '774 patent is attached hereto as Exhibit
15 E.

16 34. On August 14, 2012, the United States Patent and Trademark Office issued a
17 Reexamination Certificate for the '774 patent. A true and correct copy of the Reexamination
18 Certificate is attached hereto as Exhibit F.

19 **COUNT ONE**

20 **INFRINGEMENT OF THE '108 PATENT BY DEFENDANTS**

21 35. Plaintiff realleges and incorporates by reference each of the allegations set forth
22 above.

23 36. Upon information and belief, Defendants, without authority, (a) have directly
24 infringed and continue to directly infringe the '108 patent by making, using, offering to sell, or
25 selling within the United States, or importing into the United States, products that practice claim
26 5 of the '108 patent in violation of 35 U.S.C. § 271(a); (b) have induced and continue to induce
27 infringement of claim 5 of the '108 patent in violation of 35 U.S.C. § 271(b); and (c) have
28 contributed and continue to contribute to the infringement of claim 5 of the '108 patent in

1 violation of 35 U.S.C. § 271(c).

2 37. The accused products for purposes of the '108 patent include but are not limited
3 to the Diasonic and/or "KJB Diasonic" DDR-4000, DDR-5000, DDR-6000 and DDR-7000
4 series of products, including, but not limited to, the Diasonic and/or "KJB Diasonic" model
5 numbers DDR-4100, 4300, 4500 and 4600, the DDR-5000 and 5300, the DDR-6000 and the
6 DDR-7000.

7 38. The accused products, alone or in combination with other products, practice each
8 of the limitations of independent claim 5 of the '108 patent.

9 39. Upon information and belief, Defendants, without authority, have actively
10 induced and continue to actively induce infringement of claim 5 of the '108 patent in violation of
11 35 U.S.C. § 271(b) by causing others to directly infringe the claims of the '108 patent and/or by
12 intentionally instructing others how to use the accused products in a manner that infringes claim
13 5 of the '108 patent. Plaintiff also alleges that Defendants have induced and continue to induce
14 infringement by instructing customers to operate the products in an infringing manner and/or
15 when Defendants test or otherwise operate the accused products in the United States.

16 40. Upon information and belief, Defendants, without authority, have contributed and
17 continue to contribute to the infringement of claim 5 of the '108 patent in violation of 35 U.S.C.
18 § 271(c) by importing into the United States, selling and/or offering to sell within the United
19 States accused products that (1) embody and constitute a material part of the invention of the
20 '108 patent, (2) Defendants knows to be especially adapted for use in infringing the '108 patent,
21 and (3) are not staple articles of commerce suitable for substantial non-infringing use with
22 respect to the '108 patent.

23 41. On information and belief, Defendants sell, ship or otherwise deliver the accused
24 products with all the features required to infringe the asserted claims of the '108 patent. On
25 information and belief, these products are designed to practice the infringing features.

26 42. Defendants had knowledge of infringement of the '108 patent since at least the
27 filing of this complaint and perhaps as early as 2010 by virtue of the Plaintiff's filing of
28 complaints against others within Defendants' industry. On information and belief, Defendants

1 have continued to sell products that practice the '108 patent after acquiring knowledge of
2 infringement.

3 43. Upon information and belief, the infringement by Defendants has been and is
4 willful.

5 44. Plaintiff has been irreparably harmed by these acts of infringement and has no
6 adequate remedy at law. Upon information and belief, infringement of the '108 patent is
7 ongoing and will continue unless Defendants are enjoined from further infringement by the
8 court.

9 **COUNT TWO**

10 **INFRINGEMENT OF THE '170 PATENT BY DEFENDANT**

11 45. Plaintiff realleges and incorporates by reference each of the allegations set forth
12 above.

13 46. Upon information and belief, Defendants, without authority, (a) have directly
14 infringed and continue to directly infringe the '170 patent by making, using, offering to sell, or
15 selling within the United States, or importing into the United States, products that practice one
16 ore more claims of the '170 patent in violation of 35 U.S.C. § 271(a); (b) have induced and
17 continue to induce infringement of one or more claims of the '170 patent in violation of 35
18 U.S.C. § 271(b); and (c) have contributed and continue to contribute to the infringement of one
19 ore more claims of the '170 patent in violation of 35 U.S.C. § 271(c).

20 47. The accused products for purposes of the '170 patent include but are not limited
21 to the Diasonic and/or "KJB Diasonic" model numbers DDR-5300 and DDR-7000.

22 48. The accused products, alone or in combination with other products, practice each
23 of the limitations of independent claims 1 and 7 and dependent claims 2 through 6 and 8 through
24 13 of the '170 patent.

25 49. Upon information and belief, Defendants, without authority, have actively
26 induced infringement and continue to actively induce infringement of the '170 patent in violation
27 of 35 U.S.C. § 271(b) by causing others to directly infringe the claims of the '170 patent and/or
28 by intentionally instructing others how to use the accused products in a manner that infringes the

1 claims of the '170 patent. On information and belief, Defendants have induced and continue to
2 induce infringement by instructing customers to operate the products in an infringing manner
3 and/or when Defendants test or otherwise operate the accused products in the United States.

4 50. Upon information and belief, Defendants, without authority, have contributed and
5 continue to contribute to the infringement of the '170 patent in violation of 35 U.S.C. § 271(c) by
6 importing into the United States, selling and/or offering to sell within the United States accused
7 products that (1) embody and constitute a material part of the invention of the '170 patent, (2)
8 Defendants knows to be especially adapted for use in infringing the '170 patent, and (3) are not
9 staple articles of commerce suitable for substantial non-infringing use with respect to the '170
10 patent.

11 51. Based on information and belief, Plaintiff alleges that Defendants sell, ship, or
12 otherwise deliver the accused products with all the features required to infringe the asserted
13 claims of the '170 patent. On information and belief, these products are designed to practice the
14 infringing features.

15 52. Defendants had knowledge of infringement of the '170 patent since at least the
16 filing of this complaint and perhaps as early as 2010 by virtue of the Plaintiff's filing of
17 complaints against others within Defendants' industry. On information and belief, Defendants
18 have continued to sell products that practice the '170 patent after acquiring knowledge of
19 infringement.

20 53. Plaintiff alleges upon information and belief, that the infringement by Defendants
21 has been and is willful.

22 54. Plaintiff has been irreparably harmed by these acts of infringement and has no
23 adequate remedy at law. Upon information and belief, infringement of the '170 patent is
24 ongoing and will continue unless Defendants are enjoined from further infringement by the
25 court.

26 **COUNT THREE**

27 **INFRINGEMENT OF THE '737 PATENT BY DEFENDANT**

28 55. Plaintiff realleges and incorporates by reference each of the allegations set forth

1 above.

2 56. Upon information and belief, Defendants, without authority, (a) have directly
3 infringed and continue to directly infringe the '737 patent by making, using, offering to sell, or
4 selling within the United States, or importing into the United States, products that practice one
5 ore more claims of the '737 patent in violation of 35 U.S.C. § 271(a); (b) have induced and
6 continue to induce infringement of one or more claims of the '737 patent in violation of 35
7 U.S.C. § 271(b); and (c) have contributed and continue to contribute to the infringement of one
8 ore more claims of the '737 patent in violation of 35 U.S.C. § 271(c).

9 57. The accused products for purposes of the '737 patent include but are not limited
10 to the Disonic and/or "KJB Disonic" DDR-3000, DMP-105/115, DDR4000, DDR-5000,
11 DDR-6000, DDR-7000 and PDVR-1000 series of products, including, but not limited to,
12 Disonic and/or "KJB Disonic" model numbers DDR-3022, 3064, and 3256, the DMP-105 and
13 115, the DDR-4000, 4100, 4300, 4500 and 4600, the DDR-5000 and 5300, the DDR-6000, the
14 DDR-7000 and the PDVR-1000.

15 58. The accused products, alone or in combination with other products, practice each
16 of the limitations of independent claims 1, 4, 9, 11, and 13 (former claim 5) and dependent
17 claims 2 through 3, 6 through 10, and 12 of the '737 patent.

18 59. Upon information and belief, Defendants, without authority, have actively
19 induced infringement and continue to actively induce infringement of the '737 patent in violation
20 of 35 U.S.C. § 271(b) by causing others to directly infringe the claims of the '737 patent and/or
21 by intentionally instructing others how to use the accused products in a manner that infringes the
22 claims of the '737 patent. On information and belief, Defendants have induced and continue to
23 induce infringement by instructing customers to operate the products in an infringing manner
24 and/or when Defendants test or otherwise operate the accused products in the United States.

25 60. Upon information and belief, Defendants, without authority, have contributed and
26 continue to contribute to the infringement of the '737 patent in violation of 35 U.S.C. § 271(c) by
27 importing into the United States, selling and/or offering to sell within the United States accused
28 products that (1) embody and constitute a material part of the invention of the '737 patent, (2)

1 Defendants knows to be especially adapted for use in infringing the '737 patent, and (3) are not
2 staple articles of commerce suitable for substantial non-infringing use with respect to the '737
3 patent.

4 61. Based on information and belief, Plaintiff alleges that Defendants sell, ship, or
5 otherwise deliver the accused products with all the features required to infringe the asserted
6 claims of the '737 patent. On information and belief, these products are designed to practice the
7 infringing features.

8 62. Defendants had knowledge of infringement of the '737 patent since at least the
9 filing of this complaint and perhaps as early as 2010 by virtue of the Plaintiff's filing of
10 complaints against others within Defendants' industry. On information and belief, Defendants
11 have continued to sell products that practice the '737 patent after acquiring knowledge of
12 infringement.

13 63. Plaintiff alleges upon information and belief, that the infringement by Defendants
14 has been and is willful.

15 64. Plaintiff has been irreparably harmed by these acts of infringement and has no
16 adequate remedy at law. Upon information and belief, infringement of the '737 patent is
17 ongoing and will continue unless Defendants are enjoined from further infringement by the
18 court.

19 **COUNT FOUR**

20 **INFRINGEMENT OF THE '774 PATENT BY DEFENDANT**

21 65. Plaintiff realleges and incorporates by reference each of the allegations set forth
22 above.

23 66. Upon information and belief, Defendants, without authority, (a) have directly
24 infringed and continue to directly infringe the '774 patent by making, using, offering to sell, or
25 selling within the United States, or importing into the United States, products that practice one
26 ore more claims of the '774 patent in violation of 35 U.S.C. § 271(a); (b) have induced and
27 continue to induce infringement of one or more claims of the '774 patent in violation of 35
28 U.S.C. § 271(b); and (c) have contributed and continue to contribute to the infringement of one

1 ore more claims of the '774 patent in violation of 35 U.S.C. § 271(c).

2 67. The accused products for purposes of the '774 patent include but are not limited
3 to the Disonic and/or "KJB Disonic" DD-800, DD-900, DDR-4000, DDR-5000, DDR-7000
4 and PDVR-1000 series of products, including, but not limited to the Disonic and/or "KJB
5 Disonic" model numbers DD-803, 804, 807 and 900, the DDR-4000, 4100, 4300, 4500 and
6 4600, the DDR-5300, the DDR-7000 and the PDVR-1000.

7 68. The accused products, alone or in combination with other products, practice each
8 of the limitations of independent claims 33 and 34, and dependent claims 2 through 4, 6 through
9 8, 10 through 11, 15 through 18, 23 through 27 of the '774 patent.

10 69. Upon information and belief, Defendants, without authority, have actively
11 induced infringement and continue to actively induce infringement of the '774 patent in violation
12 of 35 U.S.C. § 271(b) by causing others to directly infringe the claims of the '774 patent and/or
13 by intentionally instructing others how to use the accused products in a manner that infringes the
14 claims of the '774 patent. On information and belief, Defendants have induced and continue to
15 induce infringement by instructing customers to operate the products in an infringing manner
16 and/or when Defendants test or otherwise operate the accused products in the United States.

17 70. Upon information and belief, Defendants, without authority, have contributed and
18 continue to contribute to the infringement of the '774 patent in violation of 35 U.S.C. § 271(c) by
19 importing into the United States, selling and/or offering to sell within the United States accused
20 products that (1) embody and constitute a material part of the invention of the '774 patent, (2)
21 Defendants knows to be especially adapted for use in infringing the '774 patent, and (3) are not
22 staple articles of commerce suitable for substantial non-infringing use with respect to the '774
23 patent.

24 71. Based on information and belief, Plaintiff alleges that Defendants sell, ship, or
25 otherwise deliver the accused products with all the features required to infringe the asserted
26 claims of the '774 patent. On information and belief, these products are designed to practice the
27 infringing features.

28 72. Defendants had knowledge of infringement of the '774 patent since at least the

1 filing of this complaint and perhaps as early as 2010 by virtue of the Plaintiff's filing of
2 complaints against others within Defendants' industry. On information and belief, Defendants
3 have continued to sell products that practice the '774 patent after acquiring knowledge of
4 infringement.

5 73. Plaintiff alleges upon information and belief, that the infringement by Defendants
6 has been and is willful.

7 74. Plaintiff has been irreparably harmed by these acts of infringement and has no
8 adequate remedy at law. Upon information and belief, infringement of the '774 patent is
9 ongoing and will continue unless Defendants are enjoined from further infringement by the
10 court.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiff prays for relief and judgment as follows:

- 13 1. That Defendants be declared to have infringed the Patents-in-Suit;
- 14 2. That Defendants' infringement of the Patents-in-Suit has been deliberate and
15 willful;
- 16 3. Preliminarily and permanently enjoining the Defendants, their officers, agents,
17 servants, employees, and attorneys, and those persons in active concert or participation with
18 them, from infringement of the Patents-in-Suit, including but not limited to any making, using,
19 offering for sale, selling, or importing of unlicensed infringing products within and without the
20 United States;
- 21 4. Compensation for all damages caused by Defendants' infringement of the Patents-
22 in-Suit to be determined at trial;
- 23 5. Enhancing Plaintiff's damages up to three (3) times their amount pursuant to 35
24 U.S.C. § 284;
- 25 6. Granting Plaintiff pre- and post-judgment interest on its damages, together with
26 all costs and expenses; and
- 27 7. Awarding such other relief as this Court may deem just and proper.

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HANDAL & ASSOCIATES

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Dated: December 20, 2012

By: /s/ Gabriel G. Hedrick
Anton N. Handal
Gabriel G. Hedrick
Pamela C. Chalk
Attorneys for Plaintiff
e.Digital Corporation

DEMAND FOR JURY TRIAL

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Plaintiff hereby demands a trial by jury on all claims.

HANDAL & ASSOCIATES

Dated: December 20, 2012

By: /s/ Gabriel G. Hedrick
Anton N. Handal
Gabriel G. Hedrick
Pamela C. Chalk
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e.Digital Corporation