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 CATCH A WAVE TECHNOLOGIES, INC.

8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10 SAN FRANCISCO DIVISION

12 CATCH A WAVE TECHNOLOGIES,
 INC.,
 13
 Plaintiff,
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 v.
 15 SIRIUS XM RADIO INC.,
 16
 Defendant.

Case No. 3:12-cv-05791-WHA

**FIRST AMENDED COMPLAINT FOR
 PATENT INFRINGEMENT**

DEMAND FOR JURY TRIAL

18 Plaintiff Catch a Wave Technologies, Inc. (“CAWT”) hereby brings this action against
 19 Defendant Sirius XM Radio Inc. (“SiriusXM”) for infringement of United States Patent No.
 20 7,177,608 (“the ’608 patent”) and alleges as follows:

NATURE OF THE ACTION AND PARTIES

- 22 1. This is an action for patent infringement arising under the patent laws of the
 23 United States.
- 24 2. CAWT is a corporation organized and existing under the laws of the State of
 25 Delaware with its principal place of business in Hayward, California.
- 26 3. SiriusXM is a corporation organized and existing under the laws of the State of
 27 Delaware with its principal place of business in New York, New York.

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JURISDICTION

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2 4. This court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§
3 1331 and 1338(a), as this is an action arising under the Patent Act, 35 U.S.C. § 1 *et seq.*

4 5. SiriusXM is subject to personal jurisdiction in this district because the SiriusXM
5 has conducted and continues to conduct business within this judicial district. Upon information
6 and belief, SiriusXM, directly or through intermediaries (including distributors, retailers, and
7 others), ships, distributes, offers for sale, sells, and advertises its products in the United States and
8 the State of California. SiriusXM has purposefully and voluntarily placed one or more of its
9 infringing products, as described below, into the stream of commerce with the expectation that
10 they will be purchased or used within this judicial district. Moreover, SiriusXM has committed
11 the tort of patent infringement within the State of California and within this judicial district.

VENUE

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13 6. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b), 1391(c), 1391
14 (d), and 1400(b) because SiriusXM transacts business within this district and offers for sale in this
15 district products that infringe the '608 patent. In addition, venue is proper because CAWT's
16 principal place of business is in this district and CAWT suffered harm in this district.

INTRADISTRICT ASSIGNMENT

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18 7. Pursuant to Local Rule 3-2(c), Intellectual Property Actions are assigned on a
19 district-wide basis.

COUNT I: INFRINGEMENT OF U.S. PATENT NO. 7,177,608

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21 8. CAWT realleges and incorporates by reference the allegations of paragraphs 1-7.

22 9. The '608 patent is entitled "PERSONAL SPECTRUM RECORDER." The
23 application that issued as the '608 patent was filed on March 10, 2003, and the United States
24 Patent and Trademark Office duly and legally issued the '608 patent on February 13, 2007. A
25 true and correct copy of the '608 patent is attached hereto as Exhibit A.

26 10. CAWT owns all right, title, and interest in the '608 patent, and has owned all right,
27 title, and interest throughout the period of the infringement complained of herein.

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DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, CAWT demands a jury trial for all issues so triable.

Dated: January 24, 2013

FREITAS TSENG & KAUFMAN LLP

/s/ Qudus B. Olaniran

Kaiwen Tseng
Qudus B. Olaniran
Attorneys for Plaintiff,
CATCH A WAVE
TECHNOLOGIES, INC.

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