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24 **UNITED STATES DISTRICT COURT**
25 **NORTHERN DISTRICT OF CALIFORNIA**

26 GN AUDIO A/S, GN AUDIO USA INC.,
27 GN STORE NORD A/S, GN HEARING
28 A/S, and GN HEARING CARE
CORPORATION

Plaintiffs,

v.

SNIK LLC

Defendant.

Case No. _____

**COMPLAINT FOR DECLARATORY
JUDGMENT OF NON-INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 Plaintiffs GN Audio A/S, GN Audio USA Inc., GN Store Nord A/S, GN Hearing A/S,
2 and GN Hearing Care Corporation (collectively, “GN”), by its attorneys, Ropes & Gray LLP, file
3 this Complaint against Defendant Snik LLC (“Snik”) and allege as follows:

4 **NATURE OF THE ACTION**

5 1. This is an action for a declaratory judgment of non-infringement arising under the
6 patent laws of the United States, 35 U.S.C. § 1, *et seq.*, and the Declaratory Judgment Act, 28
7 U.S.C. § 2201. GN seeks a declaration of non-infringement of U.S. Patent Nos. 9,167,329
8 (“the ’329 patent”); 9,769,556 (“the ’556 patent”); 10,993,012 (“the ’012 patent”); 10,951,968
9 (“the ’968 patent”); 11,153,671 (“the ’671 patent”); and 11,272,281 (“the ’281 patent”)
10 (collectively, the “Patents-In-Suit”). Copies of the Challenged Patents are attached hereto as
11 Exhibits 1-6.

12 **PARTIES**

13 2. Plaintiff GN Audio A/S is a stock company organized under the laws of Denmark
14 with its principal place of business located at Lautrupbjerg 7, PO Box 99, Ballerup, 2750
15 Denmark.

16 3. Plaintiff GN Audio USA Inc. is a Delaware corporation with its principal place of
17 business located at 900 Chelmsford Street, Lowell Massachusetts 01851. It also along with its
18 subsidiaries has an office in Cupertino, CA.

19 4. Plaintiff GN Store Nord A/S is a stock company organized under the laws of
20 Denmark with its principal place of business located at Lautrupbjerg 7, PO Box 99, Ballerup,
21 2750 Denmark.

22 5. Plaintiff GN Hearing A/S is a stock company organized under the laws of
23 Denmark with its principal place of business located at Lautrupbjerg 7, PO Box 99, Ballerup,
24 2750 Denmark.

25 6. Plaintiff GN Hearing Care Corporation is a California corporation with its
26 principal place of business located at 2601 Patriot Boulevard, Glenview, IL 60026.

27 7. On information and belief, Snik LLC is a California limited liability company
28 with its principal place of business located at 1109 Parker Street, #4, Berkeley, CA 94702.

1 **JURISDICTION AND VENUE**

2 8. This action arises under the patent laws of the United States, 35 U.S.C. § 1 et seq.,
3 and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 & 2202. Subject matter jurisdiction is
4 based upon 28 U.S.C. §§ 1331 & 1338(a).

5 9. This Court has general and specific jurisdiction over Snik at least because Snik is
6 at home in the State of California, where it is incorporated and where it has its principal place of
7 business.

8 10. Venue is proper in this judicial district based on 28 U.S.C. § 1391 at least because
9 Snik resides in this judicial District. Snik is incorporated in the State of California, and has its
10 principal place of business in this judicial District.

11 **DIVISIONAL ASSIGNMENT**

12 11. This case is an Intellectual Property Rights action under Civil Local Rule 3-2(c)
13 and General Order No. 44 and pursuant to Civil Local Rule 3-5(b), shall be assigned on a
14 district-wide basis.

15 **BACKGROUND**

16 12. In 1869, GN founder C.F. Tietgen envisioned a more connected world. Since its
17 founding, GN’s ambitious 150-year journey has taken it from telegraph cables to radio waves
18 and intelligent audio engineering. GN has consistently developed and brought to market what
19 the world thought wasn’t possible. Indeed, GN has brought countless innovations to the world,
20 such as the first Bluetooth® headset in 2000.

21 13. Today, GN continues to bring people closer through the power of sound and
22 vision—letting people hear more, do more, and be more in life and at work than they ever
23 thought possible through its deep understanding and commitment to customers’ unique needs,
24 innovation leadership and commercial and ecosystem excellence. GN does so in part by
25 providing customers with the latest in earphone technology.

26 14. As discussed in further detail below, Snik has asserted that GN infringes the
27 Patents-In-Suit that Snik alleges cover the following GN products (“Accused Products”): Jabra
28 Elite 65t, Jabra Elite 75t, Jabra Elite 85t, Jabra Elite Active 65t, Jabra Elite Active 75t, Jabra

1 Elite 3, Jabra Elite 4 Active, Jabra Elite 7 Active, Jabra Elite 7 Pro, Jabra Elite Sport, Jabra
2 Evolve 65t, Beltone Imagine, Beltone Amaze, and ReSound ONE. Snik has threatened to
3 “immediately” file an infringement lawsuit if GN does not take a license to these patents.

4 **THE PATENTS-IN-SUIT**

5 15. The '329 patent, entitled “Magnetic Earphones Holder,” states on its cover that it
6 was issued on October 20, 2015 to named inventor Rob Honeycutt of Berkeley, California.
7 The '329 patent also states that the initial assignee of the '329 patent was Snik LLC of Berkeley,
8 California. A true and correct copy of the patent is attached to this Complaint as Exhibit 1.

9 16. The '556 patent, entitled “Magnetic Earphones Holder Including Receiving
10 External Ambient Audio And Transmitting To The Earphones,” states on its cover that it was
11 issued on September 19, 2017 to named inventor Rob Honeycutt of Berkeley, California.
12 The '556 patent also states that the initial assignee of the '556 patent was Snik LLC of Berkeley,
13 California. A true and correct copy of the patent is attached to this Complaint as Exhibit 2.

14 17. The '012 patent, entitled “Magnetic Earphones Holder,” states on its cover that it
15 was issued on April 27, 2021 to named inventor Rob Honeycutt of Berkeley, California.
16 The '012 patent also states that the initial assignee of the '012 patent was Snik LLC of Berkeley,
17 California. A true and correct copy of the patent is attached to this Complaint as Exhibit 3.

18 18. The '968 patent, entitled “Magnetic Earphones Holder,” states on its cover that it
19 was issued on March 16, 2021 to named inventor Rob Honeycutt of Berkeley, California.
20 The '968 patent also states that the initial assignee of the '968 patent was Snik LLC of Berkeley,
21 California. A true and correct copy of the patent is attached to this Complaint as Exhibit 4.

22 19. The '671 patent, entitled “Magnetic Earphones Holder,” states on its cover that it
23 was issued on October 19, 2021 to named inventor Rob Honeycutt of Berkeley, California.
24 The '671 patent also states that the initial assignee of the '671 patent was Snik LLC of Berkeley,
25 California. A true and correct copy of the patent is attached to this Complaint as Exhibit 5.

26 20. The '281 patent, entitled “Magnetic Earphones Holder,” states on its cover that it
27 was issued on March 8, 2022 to named inventor Rob Honeycutt of Berkeley, California.
28

1 The '281 patent also states that the initial assignee of the '281 patent was Snik LLC of Berkeley,
2 California. A true and correct copy of the patent is attached to this Complaint as Exhibit 6.

3 **SNIK'S PREVIOUS LITIGATION OF THE '329 AND '556 PATENTS**

4 21. On October 9, 2019, Snik filed a complaint for patent infringement in the Eastern
5 District of Texas, alleging that Samsung Electronics, Co., Ltd. and Samsung Electronics
6 America, Inc. (collectively, "Samsung") infringe the '329 and '556 patents. *See Snik LLC v.*
7 *Samsung Elecs. Co.*, C.A. No. 6:19-cv-00458, ECF No. 1 (E.D. Tex. Oct. 9, 2019).¹

8 22. On July 20, 2020, Samsung Electronics America, Inc. filed two petitions for *inter*
9 *partes* review challenging claims of the '329 patent. *Samsung Elecs. Am., Inc. v. Snik LLC*,
10 IPR2020-01324, Paper 2 (P.T.A.B. July 20, 2020); *Samsung Elecs. Am., Inc. v. Snik LLC*,
11 IPR2020-01325, Paper 2 (P.T.A.B. July 20, 2020). And on August 10, 2020, Samsung
12 Electronics America, Inc. filed three petitions for *inter partes* review challenging claims of
13 the '556 patent. *Samsung Elecs. Am., Inc. v. Snik LLC*, IPR2020-01427, Paper 2 (P.T.A.B. Aug.
14 10, 2020); *Samsung Elecs. Am., Inc. v. Snik LLC*, IPR2020-01428, Paper 2 (P.T.A.B. Aug. 10,
15 2020); *Samsung Elecs. Am., Inc. v. Snik LLC*, IPR2020-01429, Paper 2 (P.T.A.B. Aug. 10,
16 2020). The Patent Trial and Appeal Board granted institution of all five petitions on March 9,
17 2021. *Samsung Elecs. Am., Inc. v. Snik LLC*, IPR2020-01324, Paper 9 (P.T.A.B. Mar. 9, 2021);
18 *Samsung Elecs. Am., Inc. v. Snik LLC*, IPR2020-01325, Paper 10 (P.T.A.B. Mar. 9, 2021);
19 *Samsung Elecs. Am., Inc. v. Snik LLC*, IPR2020-01427, Paper 10 (P.T.A.B. Mar. 9, 2021);
20 *Samsung Elecs. Am., Inc. v. Snik LLC*, IPR2020-01428, Paper 10 (P.T.A.B. Mar. 9, 2021);
21 *Samsung Elecs. Am., Inc. v. Snik LLC*, IPR2020-01429, Paper 10 (P.T.A.B. Mar. 9, 2021).

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25 ¹ Snik voluntarily dismissed the case on November 25, 2019, *Snik LLC v. Samsung Elecs. Co.*,
26 C.A. No. 6:19-cv-00458, ECF No. 7 (E.D. Tex. Nov. 25, 2019), and refiled a substantially
27 similar complaint that same day in the Eastern District of Texas's Marshall Division. *Snik LLC*
28 *v. Samsung Elecs. Co.*, C.A. No. 2:19-cv-00387, ECF No. 1 (E.D. Tex. Nov. 25, 2019).

1 23. Samsung and Snik subsequently settled their dispute. In April of 2021, Samsung
2 and Snik dismissed the Eastern District of Texas case and the Patent Trial and Appeal Board
3 proceedings were terminated.

4 **REEXAMINATION OF THE '329 AND '556 PATENTS**

5 24. After Samsung and Snik settled their dispute, Snik filed requests for *ex parte*
6 reexamination of the '329 and '556 patents on January 13, 2022. *See* App. Nos. 90/014,942
7 ('329 reexamination proceeding), 90/014,943 ('556 reexamination proceeding). In each request,
8 Snik identified the grounds and prior art presented by Samsung in the *inter partes* review
9 proceedings referenced above (*supra*, ¶ 22), and requested the USPTO to determine whether a
10 Substantial New Question of patentability exists. On February 9, 2022, the USPTO granted each
11 request, finding that each raises a Substantial New Question of patentability. In response, on
12 April 11, 2022, Snik argued that there is no Substantial New Question of patentability with
13 respect to either the '329 or '556 patent, that there is “no reason” for the Office to reexamine
14 either patent, and Snik further amended each patent to add new claims.

15 **DISPUTE BETWEEN GN AND SNIK LLC**

16 25. Eight days before Snik filed its complaint against Samsung, counsel for Snik sent
17 GN a letter on October 1, 2019 alleging that several GN products infringe the '556 patent. A
18 true and correct copy of the October 1, 2019 letter is attached hereto as Exhibit 7. Counsel for
19 Snik threatened that he was “authorized to file an action for infringement . . . immediately and
20 without further notice.” Ex. 7, at 2. After a representative from GN confirmed receipt of the
21 October 1, 2019 letter via email, counsel for Snik further informed GN that Snik was
22 “investigating the Jabra Elite 75t, Elite 65t, Elite Active 65t, Elite Sport, and Ev[ol]ve 65t with
23 respect to claims of US Patent Nos. 9,167,329B2 and 9,769,556B2.” A true and correct copy of
24 this email exchange is attached hereto as Exhibit 8.

25 26. In October and November of 2019, representatives from GN and counsel for Snik
26 subsequently exchanged several emails in an attempt to negotiate a non-disclosure agreement
27 under which the parties could discuss Snik’s infringement allegations and a potential license. A
28 true and correct copy of this email exchange is attached hereto as Exhibit 9. In this exchange,

1 counsel for Snik reiterated its allegations that GN infringes the '329 and '556 patents. Ex. 9,
2 Email from John Kyle, counsel for Snik to Christina Andrea Johannesen, GN Store Nord A/S
3 Senior Group Legal Counsel (Nov. 1, 2019). Moreover, counsel for Snik went so far as to
4 threaten GN with allegations of willful infringement before it even substantiated its infringement
5 threats. *Id.*, Email from John Kyle, counsel for Snik to Christina Andrea Johannesen, GN Store
6 Nord A/S Senior Group Legal Counsel (Nov. 20, 2019). Throughout the exchange, GN
7 reasonably believed that none of its products infringes either the '329 or '556 patents. GN and
8 Snik did not enter into a non-disclosure agreement at this time, and licensing discussions
9 seemingly ended.

10 27. For over eighteen months, GN and Snik did not communicate until counsel for
11 Snik sent a second letter on October 8, 2021. A true and correct copy of the October 8, 2021
12 letter is attached hereto as Exhibit 10. In this second letter, counsel for Snik not only alleged
13 again that GN infringed the '329 and '556 patents, but also identified additional patents and
14 pending applications in its portfolio, including the '012, '968, patent application no. 16/568,120,
15 which issued as the '671 patent, and patent application no. 17/200,424,² which issued as the '281
16 patent. Ex. 10 at 1. Counsel for Snik further stated that the '329, '556, '968, and '012 patents
17 “are relevant to at least” several “exemplary Jabra-brand products,” including “Jabra Elite 65t;
18 Jabra Evolve 65t; Jabra Elite Active 65t; Jabra Elite Sport; Jabra Elite 75t; Jabra Elite Active 75t;
19 Jabra Elite 85t; and Jabra Elite 3.” *Id.* at 2. Further, counsel for Snik explicitly referred to its
20 purported “succe[ss]” in asserting the '329 and '556 patents against Samsung. *Id.* at 1. Counsel
21 for Snik ended his letter by reaffirming Snik’s infringement allegations, informing GN that he
22 could “provide claim charts to substantiate” Snik’s infringement allegations, and stating that he
23 was “authorized to file an action for infringement . . . immediately and without further notice.”
24 *Id.* at 2.

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27 ² Application no. 17/200,424 was filed as a continuation-in-part of the application that issued as
28 the '968 patent.

1 34. As a result of the acts described in the preceding paragraphs, there exists a
2 controversy of sufficient immediacy and reality to warrant the issuance of a declaration
3 judgment.

4 35. Independent claim 1 recites:
5 A system for holding a set of earphones comprising:

- 6 a. a holder body comprising one or more magnets;
7 b. a set of earphones comprising a magnetically attractable surface for removably
8 coupling with the one or more magnets; and
9 c. an electronic device controller coupled to receive an activation signal when one or
10 more of the set of earphones are decoupled from one of the one or more magnets,
11 wherein the electronic device controller receives a deactivation signal when one
12 or more of the set of earphones are coupled to one of the one or more magnets.

13 36. None of the Accused Products includes every claimed feature of independent
14 claim 1 in the '329 patent. GN's Accused Products do not include, among other things, the
15 claimed "an electronic device controller coupled to receive an activation signal when one or
16 more of the set of earphones are decoupled" and "the electronic device controller receives a
17 deactivation signal when one or more of the set of earphones are coupled"

18 37. For at least these reasons, GN has not infringed and does not infringe any claim of
19 the '329 patent.

20 38. A judicial declaration is necessary and appropriate so that GN may ascertain its
21 rights regarding the '329 patent.

22 **SECOND CLAIM FOR RELIEF**
23 **DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF**
24 **THE '556 PATENT**

25 39. This is a claim for declaratory judgment of non-infringement of the '556 patent.
26 The allegations of Paragraphs 1 through 31 are repeated as though fully set forth herein.

27 40. GN is not infringing and has not infringed, directly or indirectly, literally or under
28 the doctrine of equivalents, willfully or otherwise, any claim of the '556 patent.

1 41. As a result of the acts described in the preceding paragraphs, there exists a
2 controversy of sufficient immediacy and reality to warrant the issuance of a declaration
3 judgment.

4 42. Independent claim 1 recites:
5 An audio system comprising:

- 6 a. a holder body comprising one or more magnetically attractable first surfaces;
- 7 b. a set of head phones each comprising a magnetic second surface for removably
8 coupling with the one or more magnetically attractable first surfaces;
- 9 c. a headphones controller coupled to receive an activation signal when a magnetic
10 decoupling is detected as one or more of the magnetic second surfaces of the set
11 of head phones is removed and decoupled from one of the one or more
12 magnetically attractable first surfaces, wherein the activation signal causes
13 transmitted audio to be played in the headphones;
- 14 d. a first set of controls for controlling a volume of the transmitted audio played by
15 the head phones; and
- 16 e. a second set of controls for controlling a volume of external audio played by the
17 headphones.

18 43. None of the Accused Products includes every claimed feature of independent
19 claim 1 in the '556 patent. GN's Accused Products do not include, among other things, the
20 claimed "second set of controls for controlling a volume of external audio played by the
21 headphones." As another example, GN's Accused Products also do not include the claimed
22 "headphones controller coupled to receive an activation signal . . . wherein the activation signal
23 causes transmitted audio to be played in the headphones."

24 44. For at least these reasons, GN has not infringed and does not infringe any claim of
25 the '556 patent.

26 45. A judicial declaration is necessary and appropriate so that GN may ascertain its
27 rights regarding the '556 patent.

28

THIRD CLAIM FOR RELIEF
DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF
THE '012 PATENT

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3 46. This is a claim for declaratory judgment of non-infringement of the '012 patent.
4 The allegations of Paragraphs 1 through 31 are repeated as though fully set forth herein.

5 47. GN is not infringing and has not infringed, directly or indirectly, literally or under
6 the doctrine of equivalents, willfully or otherwise, any claim of the '012 patent.

7 48. As a result of the acts described in the preceding paragraphs, there exists a
8 controversy of sufficient immediacy and reality to warrant the issuance of a declaration
9 judgment.

10 49. Independent claim 1 recites:

11 A set of earphones comprising:

- 12 a. a first earbud comprising a first earbud magnet;
13 b. a second earbud comprising a second earbud magnet; and
14 c. an electronic device controller coupled to the first earbud and the second earbud,
15 wherein the first earbud magnet of the first earbud and the second earbud magnet
16 of the second earbud are configured to removably couple with a first holder body
17 magnet of a first form fitting opening and a second holder body magnet of a
18 second form fitting opening of an earphones holder body, and wherein the
19 electronic device controller receives an activation signal based on a magnetic
20 decoupling of the first earbud magnet with the first holder body magnet of the
21 first form fitting opening and a magnetic decoupling of the second earbud magnet
22 with the second holder body magnet of the second form fitting opening.

23 50. None of the Accused Products includes every claimed feature of independent
24 claim 1 in the '012 patent. GN's Accused Products do not include, among other things, the
25 claimed "electronic device controller receives an activation signal based on a magnetic
26 decoupling..."

27 51. For at least these reasons, GN has not infringed and does not infringe any claim of
28 the '012 patent.

1 52. A judicial declaration is necessary and appropriate so that GN may ascertain its
2 rights regarding the '012 patent.

3
4 **FOURTH CLAIM FOR RELIEF**
5 **DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF**
6 **THE '968 PATENT**

7 53. This is a claim for declaratory judgment of non-infringement of the '968 patent.
8 The allegations of Paragraphs 1 through 31 are repeated as though fully set forth herein.

9 54. GN is not infringing and has not infringed, directly or indirectly, literally or under
10 the doctrine of equivalents, willfully or otherwise, any claim of the '968 patent.

11 55. As a result of the acts described in the preceding paragraphs, there exists a
12 controversy of sufficient immediacy and reality to warrant the issuance of a declaration
13 judgment.

14 56. Independent claim 1 recites:
15 A system for securing one or more wireless earbuds, the system comprising:

- 16 a. one or more wireless earbuds, each earbud comprising:
17 i. an earbud magnet;
18 ii. an earbud engagement detector; and
19 iii. an electronic device controller; and
20 b. a base unit comprising a docking base magnet for removably coupling with the
21 earbud magnet to secure the one or more wireless earbuds, wherein the earbud
22 engagement detector is configured to detect a coupling of the earbud magnet with
23 the docking base magnet and the electronic device controller is configured to
24 operate an electronic device based on the coupling and the decoupling of the
25 earbud magnet and the docking base magnet, wherein the electronic device
26 controller sends a signal to transfer playing audio from one or more speakers of
27 the electronic device to the one or more earbuds when the one or more earbuds
28 are decoupled from the base unit, and wherein the base unit comprises a case for
the one or more earbuds.

1 c. one or more earphone magnets for releasably coupling the set of earphones with
2 an earphones holder, wherein the one or more sensors sense when the earphones
3 are not coupled to the earphones holder and further wherein the earphones are
4 always in the non-use condition when coupled to the earphones holder and are
5 only able to be in the use condition when not coupled to the earphones holder.

6 64. None of the Accused Products includes every claimed feature of independent
7 claim 1 in the '671 patent. GN's Accused Products do not include, among other things, the
8 claimed "one or more sensors for sensing a use and a non-use of the earphones" and "wherein
9 the wireless control device is configured to send a signal to transmit sound based on a use and a
10 non-use of the earphones."

11 65. For at least these reasons, GN has not infringed and does not infringe any claim of
12 the '671 patent.

13 66. A judicial declaration is necessary and appropriate so that GN may ascertain its
14 rights regarding the '671 patent.

15 **SIXTH CLAIM FOR RELIEF**
16 **DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF**
17 **THE '281 PATENT**

18 67. This is a claim for declaratory judgment of non-infringement of the '281 patent.
19 The allegations of Paragraphs 1 through 31 are repeated as though fully set forth herein.

20 68. GN is not infringing and has not infringed, directly or indirectly, literally or under
21 the doctrine of equivalents, willfully or otherwise, any claim of the '281 patent.

22 69. As a result of the acts described in the preceding paragraphs, there exists a
23 controversy of sufficient immediacy and reality to warrant the issuance of a declaration
24 judgment.

25 70. Independent claim 1 recites:
26 A system for securing one or more wireless earbuds, the system comprising:

- 27 a. one or more wireless earbuds, each earbud comprising:
28 i. an earbud magnet;

1 against GN, or any of GN’s subsidiaries, affiliates, customers, potential customers, end-users,
2 agents, suppliers, contractors, consultants, successors, and assigns;

3 C. Order that this case is “exceptional” pursuant to 35 U.S.C. § 285 entitling GN to
4 an award of its reasonable and necessary attorneys’ fees, expenses, and costs, and pre-judgment
5 interest thereon;

6 D. Order awarding GN its costs of suit incurred in this action; and

7 E. Granting to GN such other and further relief as this Court deems just and proper.

8 **DEMAND FOR JURY TRIAL**

9 GN demands trial by jury on all issues so triable in this action.

10
11 Dated: April 28, 2022

Respectfully submitted,

12
13 By: /s/ Keyna Chow

14 James R. Batchelder (CSB # 136347)
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