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6 *Attorneys for Plaintiff Precision Point Devices LLC*

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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

PRECISION POINT DEVICES LLC,

Plaintiff,

v.

ASUS COMPUTER
INTERNATIONAL,

Defendant.

CASE NO.:

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

1 **ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT**

2 1. Precision Point Devices LLC (“PPD” or “Plaintiff”), by and through its
3 counsel, hereby brings this action for patent infringement against Asus Computer
4 International (“Asus” or “Defendant”), alleging infringement of the following validly
5 issued patents (the “Patents-in-Suit”): U.S. Patent No. 8,566,060 titled “Information
6 service providing system, information service providing device, and method therefor”
7 (the “’060 Patent”), and U.S. Patent No. 8,583,452 titled “Health check system, health
8 check apparatus and method thereof” (the “’452 Patent), attached hereto as Exhibits A
9 and B, respectively.

10 **NATURE OF THE ACTION**

11 2. This is an action for patent infringement arising under the United States
12 Patent Act 35 U.S.C. §§ 1 et seq., including 35 U.S.C. § 271.

13 **PARTIES**

14 3. Plaintiff Precision Point Devices LLC is a Delaware limited liability
15 company with a regular and established place of business at 251 Little Falls Drive,
16 Wilmington, Delaware, 19808.

17 4. On information and belief, Defendant Asus Computer International is a
18 corporation organized and existing under the laws of the State of California with a
19 principal place of business at 48720 Kato Rd., Fremont, CA 94538. On information and
20 belief, Asus Computer International may be served via its registered agent, C T
21 Corporation System, 330 N Brand Blvd Suite 700, Glendale, CA 91203.

22 **JURISDICTION AND VENUE**

23 5. This lawsuit is a civil action for patent infringement arising under the
24 patent laws of the United States, 35 U.S.C. § 101 et seq. The Court has subject-matter
25 jurisdiction pursuant to 28 U.S.C. §§ 1331, 1332, 1338(a), and 1367.

26 6. The Court has personal jurisdiction over Defendant for the following
27 reasons: (1) Defendant is present within or has minimum contacts within the State of
28 California and the Northern District of California; (2) Defendant has purposefully

1 availed itself of the privileges of conducting business in the State of California and in
2 this district; (3) Defendant has sought protection and benefit from the laws of the State
3 of California; (4) Defendant regularly conducts business within the State of California
4 and within this district, and Plaintiff's cause of action arises directly from Defendant's
5 business contacts and other activities in the State of California and in this district; and
6 (5) Defendant has purposely availed itself of the privileges and benefits of the laws of
7 the State of California.

8 7. Defendant, directly and/or through intermediaries, ships, distributes, uses,
9 offers for sale, sells, and/or advertises products and services in the United States, the
10 State of California, and the Northern District of California including but not limited to
11 the products which contain the infringing elements as detailed below. Defendant has
12 committed patent infringement in the State of California and in this district; Defendant
13 solicits and has solicited customers in the State of California and in this district; and
14 Defendant has paying customers who are residents of the State of California and this
15 district and who each use and have used the Defendant's products and services in the
16 State of California and in this district.

17 8. Venue is proper in the Northern District of California over Asus pursuant
18 to 28 U.S.C. §§ 1400(b). Defendant is incorporated in this district, maintains a regular
19 and established place of business in this district, has transacted business in this district,
20 and has directly and/or indirectly committed acts of patent infringement in this district.
21 For example, Defendant maintains a regular and established place of business at 48720
22 Kato Rd., Fremont, CA 94538.

23 **PATENTS-IN-SUIT**

24 9. Plaintiff incorporates the above paragraphs herein by reference.

25 10. On October 22, 2013, United States Patent No. 8,566,060 titled
26 "Information service providing system, information service providing device, and
27 method therefor" was duly and legally issued by the United States Patent and
28 Trademark Office. *See* Ex. A. The '060 Patent is presumed valid and enforceable.

1 11. On August 26, 2014, United States Patent No. 8,583,452 titled "Health
2 check system, health check apparatus and method thereof" was duly and legally issued
3 by the United States Patent and Trademark Office. *See* Ex. B. The '452 Patent is
4 presumed valid and enforceable.

5 12. Plaintiff is the assignee of all right, title and interest in the Patents-in-Suit,
6 including all rights to enforce and prosecute actions for infringement and to collect
7 damages for all relevant times against infringers of the Patents-in-Suit.

8 13. Each of the claims of the Patents-in-Suit is presumed to be valid, and none
9 of the claims of the Patents-in-Suit is representative of the respective Patent's other
10 claims or the claims of the other Patent-in-Suit.

11 14. The Patents-in-Suit relate to an information service providing device
12 which selects sensors which may be used for the implementation of an information
13 service to be provided within a plurality of sensors, including selecting the most
14 appropriate sensor. *See* Ex. A at 2:63-3:4. In one embodiment, a basic health check is
15 provided as an information service, with the device processing information from a
16 variety of health-related sensors such as a blood pressure sensor or a pulse sensor. *See*
17 Ex. A at 2:19-22.

18 15. The claims of the Patents-in-Suit recite improvements over prior art and
19 conventional systems and methods and represent meaningful limitations and/or
20 inventive concepts. Further, in view of these specific improvements, the inventions of
21 the asserted claims, when such claims are viewed as a whole and in ordered
22 combination, were not routine, well-understood, conventional, generic, existing,
23 commonly used, well-known, previously known, or typical as of the earliest priority
24 date of each of the Patents-in-Suit.

25 16. Additionally, the claims of the Patents-in-Suit do not merely recite the
26 performance of a familiar business practice with a requirement to perform it on the
27 Internet. Instead, the claims recite one or more inventive concepts that are rooted in
28 improving the provision of information services via the selection an appropriate

1 parameter for the sensors and processing program in order for the information service
2 to be provided appropriately. *See* Ex. A at 3:5-9.

3 17. Moreover, the inventions taught in the Patents-in-Suit, which are rooted in
4 improving the provision of information services via the selection an appropriate
5 parameter for the sensors and processing program in order for the information service
6 to be provided appropriately, cannot be performed with pen and paper or in the human
7 mind. Additionally, because the Patents-in-Suit address problems rooted in improving
8 the provision of information services via the selection an appropriate parameter for the
9 sensors and processing program in order for the information service to be provided
10 appropriately, the solutions they teach are not merely drawn to longstanding human
11 activities.

12 18. The claims of the Patents-in-Suit are not directed toward fundamental
13 economic practices, methods of organizing human activities, an idea itself, or
14 mathematical formulas.

15 19. The claims of the Patents-in-Suit are directed to a narrow area of
16 application and thus do not pre-empt others from using other methods and systems.

17 20. The claims of the Patents-in-Suit recite more than generic computer
18 functionality and recite steps that are not purely conventional.

19 **ACCUSED PRODUCTS**

20 21. Defendant makes, uses, offers for sale and sells in the U.S. products,
21 systems, and/or services that infringe the Patent-in-Suit, including, but not limited to
22 the VivoWatch and ZenWatch series (the "Accused Products").

23 22. The VivoWatch and ZenWatch series include smartwatches with touch
24 user interfaces, allowing the device to provide the user with various data, including but
25 not limited to exercise and activity data.

26 **COUNT I**

27 **(Infringement of U.S. Patent No. 8,266,060)**

28 23. Plaintiff incorporates the above paragraphs herein by reference.

1 24. On October 22, 2013, United States Patent No. 8,566,060 titled
2 "Information service providing system, information service providing device, and
3 method therefor" was duly and legally issued by the United States Patent and
4 Trademark Office. *See* Ex. A. The '060 Patent is presumed valid and enforceable.

5 25. Plaintiff is the owner by assignment of the '060 Patent and possesses all
6 rights of recovery under the '060 Patent, including the exclusive right enforce the '060
7 Patent and pursue lawsuits against infringers.

8 26. Without a license or permission from Plaintiff, Defendant has infringed
9 and continues to directly and indirectly infringe on one or more claims of the '060
10 Patent by importing, making, using, offering for sale, or selling products and devices
11 that embody the patented inventions, including, without limitation, one or more of the
12 patented '060 systems and methods, in violation of 35 U.S.C. § 271.

13 **Direct Infringement – 35 U.S.C. § 271(a)**

14 27. Plaintiff incorporates the above paragraphs herein by reference, the same
15 as if set forth herein.

16 28. Without a license or permission from Plaintiff, Defendant has infringed
17 and continues to directly infringe on one or more claims of the '060 Patent by
18 importing, making, using, offering for sale, or selling products and devices that embody
19 the patented inventions, including, without limitation, one or more of the patented '060
20 systems and methods, in violation of 35 U.S.C. § 271.

21 29. Defendant has been and now is directly infringing by, among other things,
22 practicing all of the steps of the '060 Patent through, for example, internal testing,
23 quality assurance, research and development, and troubleshooting. *See, e.g., Waymark*
24 *Corp. v. Porta Sys. Corp.*, 245 F.3d 1364, 1366 (Fed. Cir. 2001) (noting that "testing is
25 a use of the invention that may infringe under § 271(a)").

26 30. By way of example, Defendant has infringed and continues to infringe at
27 least one or more claims of the '060 Patent, including at least Claim 10. Attached hereto
28 as Exhibit C is an exemplary claim chart detailing representative infringement of Claim

1 10 of the '060 Patent.

2 **Induced Infringement – 35 U.S.C. § 271(b)**

3 31. Plaintiff incorporates the above paragraphs herein by reference, the same
4 as if set forth herein.

5 32. Defendant has been and now is indirectly infringing by way of inducing
6 infringement by others and/or contributing to the infringement by others, including
7 Defendant's customers and other third parties interacting with the accused technology,
8 of the '060 Patent in the State of California, in this judicial District, and elsewhere in
9 the United States, by, among other things, making, using, importing, offering for sale,
10 and/or selling, without license or authority, products incorporating the accused
11 technology.

12 33. Defendant had post-suit knowledge when this suit was filed. *See EON*
13 *Corp. IP Holdings, LLC v. Sensus USA, Inc.*, No. C-12-1011 EMC, 2012 WL 4514138,
14 at *1 (N.D. Cal. 2012) (citing *In re Bill of Lading Transmission and Processing System*
15 *Patent Litigation*, 681 F.3d 1323, 1345 (Fed.Cir.2012)) (noting that the Federal Circuit
16 has determined that post-filing knowledge is sufficient to meet the knowledge
17 requirement for indirect infringement).

18 34. Defendant knew the Accused Product infringes the '060 Patent and yet
19 Defendant induced and continues to induce others—including partners, customers, and
20 third parties—to directly infringe at least one claim of the '060 Patent under 35 U.S.C.
21 § 271(b). Defendant took active steps to induce infringement, such as advertising an
22 infringing use, which supports a finding of an intention. *See Metro-Goldwyn-Mayer*
23 *Studios Inc. v. Grokster, Ltd.*, 545 U.S. 913, 932 (2005) (“[I]t may be presumed from
24 distribution of an article in commerce that the distributor intended the article to be used
25 to infringe another's patent, and so may justly be held liable for that infringement”).
26 Defendant further induces its customers and other third parties by promoting the
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1 Accused Products and providing instructions on their use. *See e.g.*, Ex. E¹ (advertising
2 the ASUS VivoWatch SP (HC-A05)); Ex. F² (advertising infringing features of the
3 ASUS VivoWatch SP (HC-A05)); and Ex. G³ (providing detailed instructions on how
4 to implement infringing features). These resources provide detailed directions on how
5 to implement the infringing technology.

6 35. The allegations herein support a finding that Defendant induced
7 infringement of the '060 Patent. *See Power Integrations v. Fairchild Semiconductor*,
8 843 F.3d 1315, 1335 (Fed. Cir. 2016) (“[W]e have affirmed induced infringement
9 verdicts based on circumstantial evidence of inducement [e.g., advertisements, user
10 manuals] directed to a class of direct infringers [e.g., customers, end users] without
11 requiring hard proof that any individual third-party direct infringer was actually
12 persuaded to infringe by that material.”).

13 **Contributory Infringement – 35 U.S.C. § 271(c)**

14 36. Plaintiff incorporates the above paragraphs herein by reference, the same
15 as if set forth herein.

16 37. Defendant had post-suit knowledge when this suit was filed. *See EON*
17 *Corp. IP Holdings, LLC v. Sensus USA, Inc.*, No. C-12-1011 EMC, 2012 WL 4514138,
18 at *1 (N.D. Cal. 2012) (citing *In re Bill of Lading Transmission and Processing System*
19 *Patent Litigation*, 681 F.3d 1323, 1345 (Fed.Cir.2012)) (noting that the Federal Circuit
20 has determined that post-filing knowledge is sufficient to meet the knowledge
21 requirement for indirect infringement).

22 38. On information and belief, Defendant contributes to its users' infringement
23 of at least Claim 10 of the '060 Patent by actions of making, using, selling, offering for
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25 ¹ Available at <https://www.asus.com/us/Mobile/Wearable-Healthcare/VivoWatch/ASUS-VivoWatch-SP-HC-A05/>.

26 ² Available at <https://www.asus.com/us/Mobile/Wearable-Healthcare/VivoWatch/ASUS-VivoWatch-SP-HC-A05/techspec/>.

27 ³ Available at https://dlcdnets.asus.com/pub/ASUS/Healthcare_System/ASUS_VivoWatch_SP_HC-A05/E15974_VivoWatch_SP_UM_WEB.pdf.

1 sale, and/or importing the Accused Products that have no substantial non-infringing
2 uses. *See, e.g., Lucent Techs., Inc. v. Gateway, Inc.*, 580 F.3d 1301, 1321 (Fed. Cir.
3 2009) (holding that the "substantial non-infringing use" element of a contributory
4 infringement claim applies to an infringing feature or component, and that an
5 "infringing feature" of a product does not escape liability simply because the product
6 as a whole has other non-infringing uses).

7 **COUNT II**

8 **(Infringement of U.S. Patent No. 8,583,452)**

9 39. Plaintiff incorporates the above paragraphs herein by reference.

10 40. On August 26, 2014, United States Patent No. 8,583,452 titled "Health
11 check system, health check apparatus and method thereof" was duly and legally issued
12 by the United States Patent and Trademark Office. *See* Ex. B. The '452 Patent is
13 presumed valid and enforceable.

14 41. Plaintiff is the owner by assignment of the '452 Patent and possesses all
15 rights of recovery under the '452 Patent, including the exclusive right enforce the '452
16 Patent and pursue lawsuits against infringers.

17 42. Without a license or permission from Plaintiff, Defendant has infringed
18 and continues to directly and indirectly infringe on one or more claims of the '452
19 Patent by importing, making, using, offering for sale, or selling products and devices
20 that embody the patented inventions, including, without limitation, one or more of the
21 patented '452 systems and methods, in violation of 35 U.S.C. § 271.

22 **Direct Infringement – 35 U.S.C. § 271(a)**

23 43. Plaintiff incorporates the above paragraphs herein by reference, the same
24 as if set forth herein.

25 44. Without a license or permission from Plaintiff, Defendant has infringed
26 and continues to directly infringe on one or more claims of the '452 Patent by
27 importing, making, using, offering for sale, or selling products and devices that embody
28 the patented inventions, including, without limitation, one or more of the patented '452

1 systems and methods, in violation of 35 U.S.C. § 271.

2 45. Defendant has been and now is directly infringing by, among other things,
3 practicing all of the steps of the '452 Patent through, for example, internal testing,
4 quality assurance, research and development, and troubleshooting. *See, e.g., Waymark*
5 *Corp. v. Porta Sys. Corp.*, 245 F.3d 1364, 1366 (Fed. Cir. 2001) (noting that “testing is
6 a use of the invention that may infringe under § 271(a)”).

7 46. By way of example, Defendant has infringed and continues to infringe at
8 least one or more claims of the '452 Patent, including at least Claim 11. Attached hereto
9 as Exhibit D is an exemplary claim chart detailing representative infringement of Claim
10 11 of the '452 Patent.

11 **Induced Infringement – 35 U.S.C. § 271(b)**

12 47. Plaintiff incorporates the above paragraphs herein by reference, the same
13 as if set forth herein.

14 48. Defendant has been and now is indirectly infringing by way of inducing
15 infringement by others and/or contributing to the infringement by others, including
16 Defendant's customers and other third parties interacting with the accused technology,
17 of the '452 Patent in the State of California, in this judicial District, and elsewhere in
18 the United States, by, among other things, making, using, importing, offering for sale,
19 and/or selling, without license or authority, products incorporating the accused
20 technology.

21 49. Defendant had post-suit knowledge when this suit was filed. *See EON*
22 *Corp. IP Holdings, LLC v. Sensus USA, Inc.*, No. C-12-1011 EMC, 2012 WL 4514138,
23 at *1 (N.D. Cal. 2012) (citing *In re Bill of Lading Transmission and Processing System*
24 *Patent Litigation*, 681 F.3d 1323, 1345 (Fed.Cir.2012)) (noting that the Federal Circuit
25 has determined that post-filing knowledge is sufficient to meet the knowledge
26 requirement for indirect infringement).

27 50. Defendant knew the Accused Product infringes the '060 Patent and yet
28 Defendant induced and continues to induce others—including partners, customers, and

1 third parties—to directly infringe at least one claim of the '060 Patent under 35 U.S.C.
2 § 271(b). Defendant took active steps to induce infringement, such as advertising an
3 infringing use, which supports a finding of an intention. *See Metro-Goldwyn-Mayer*
4 *Studios Inc. v. Grokster, Ltd.*, 545 U.S. 913, 932 (2005) (“[I]t may be presumed from
5 distribution of an article in commerce that the distributor intended the article to be used
6 to infringe another's patent, and so may justly be held liable for that infringement”).
7 Defendant further induces its customers and other third parties by promoting the
8 Accused Products and providing instructions on their use. *See e.g.*, Ex. E⁴ (advertising
9 the ASUS VivoWatch SP (HC-A05)); Ex. F⁵ (advertising infringing features of the
10 ASUS VivoWatch SP (HC-A05)); and Ex. G⁶ (providing detailed instructions on how
11 to implement infringing features). These resources provide detailed directions on how
12 to implement the infringing technology.

13 51. The allegations herein support a finding that Defendant induced
14 infringement of the '452 Patent. *See Power Integrations v. Fairchild Semiconductor*,
15 843 F.3d 1315, 1335 (Fed. Cir. 2016) (“[W]e have affirmed induced infringement
16 verdicts based on circumstantial evidence of inducement [e.g., advertisements, user
17 manuals] directed to a class of direct infringers [e.g., customers, end users] without
18 requiring hard proof that any individual third-party direct infringer was actually
19 persuaded to infringe by that material.”).

20 **Contributory Infringement – 35 U.S.C. § 271(c)**

21 52. Plaintiff incorporates the above paragraphs herein by reference, the same
22 as if set forth herein.

23 53. Defendant had post-suit knowledge when this suit was filed. *See EON*
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25 ⁴ Available at <https://www.asus.com/us/Mobile/Wearable-Healthcare/VivoWatch/ASUS-VivoWatch-SP-HC-A05/>.

26 ⁵ Available at <https://www.asus.com/us/Mobile/Wearable-Healthcare/VivoWatch/ASUS-VivoWatch-SP-HC-A05/techspec/>.

27 ⁶ Available at https://dlcdnets.asus.com/pub/ASUS/Healthcare_System/ASUS_VivoWatch_SP_HC-A05/E15974_VivoWatch_SP_UM_WEB.pdf.

1 *Corp. IP Holdings, LLC v. Sensus USA, Inc.*, No. C-12-1011 EMC, 2012 WL 4514138,
2 at *1 (N.D. Cal. 2012) (citing *In re Bill of Lading Transmission and Processing System*
3 *Patent Litigation*, 681 F.3d 1323, 1345 (Fed.Cir.2012)) (noting that the Federal Circuit
4 has determined that post-filing knowledge is sufficient to meet the knowledge
5 requirement for indirect infringement).

6 54. On information and belief, Defendant contributes to its users'
7 infringement of at least Claim 11 of the '452 Patent by actions of making, using, selling,
8 offering for sale, and/or importing the Accused Products that have no substantial non-
9 infringing uses. *See, e.g., Lucent Techs., Inc. v. Gateway, Inc.*, 580 F.3d 1301, 1321
10 (Fed. Cir. 2009) (holding that the "substantial non-infringing use" element of a
11 contributory infringement claim applies to an infringing feature or component, and that
12 an "infringing feature" of a product does not escape liability simply because the product
13 as a whole has other non-infringing uses).

14 **Plaintiff Suffered Damages**

15 55. Defendant's acts of infringement of the Patents-in-Suit have caused
16 damage to Plaintiff, and Plaintiff is entitled to recover from Defendant the damages
17 sustained as a result of Defendant's wrongful acts pursuant to 35 U.S.C. § 271. The
18 precise amount of damages will be determined through discovery in this litigation and
19 proven at trial.

20 **REQUEST FOR RELIEF**

21 56. Plaintiff incorporates each of the allegations in the paragraphs above and
22 respectfully asks the Court to:

23 (a) enter a judgment that Defendant has directly infringed, contributorily
24 infringed, and/or induced infringement of one or more claims of each of the Patents-in-
25 Suit;

26 (b) enter a judgment awarding Plaintiff all damages adequate to compensate
27 it for Defendant's infringement of, direct or contributory, or inducement to infringe, the
28 including all pre-judgment and post-judgment interest at the maximum rate permitted

1 by law;

2 (d) issue a preliminary injunction and thereafter a permanent injunction
3 enjoining and restraining Defendant, its directors, officers, agents, servants, employees,
4 and those acting in privity or in concert with them, and their subsidiaries, divisions,
5 successors, and assigns, from further acts of infringement, contributory infringement,
6 or inducement of infringement of the Patents-in-Suit;

7 (e) enter a judgment requiring Defendant to pay the costs of this action,
8 including all disbursements, and attorneys' fees as provided by 35 U.S.C. § 285,
9 together with prejudgment interest; and

10 (f) award Plaintiff all other relief that the Court may deem just and proper.

11
12 Dated: December 13, 2022

Respectfully submitted,

/s/Kirk J. Anderson

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19 ***Attorney(s) for Plaintiff Precision Point***
20 ***Devices LLC***