IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

VOXWARE, INC., Plaintiff, v. HONEYWELL INTERNATIONAL INC., HAND HELD PRODUCTS, INC. INTERMEC INC., AND VOCOLLECT, INC., Defendants.	)	C.A. No. _____ **JURY TRIAL DEMANDED**

COMPLAINT FOR DECLARATORY JUDGMENT OF NO PATENT INFRINGEMENT, PATENT INVALIDITY, AND PATENT UNENFORCEABILITY, VIOLATION OF ANTITRUST LAWS, DECEPTIVE TRADE PRACTICES, UNFAIR COMPETITION, AND TORTIOUS INTERFERENCE WITH PROSPECTIVE BUSINESS RELATIONS

Plaintiff Voxware, Inc. ("Voxware"), by and through its attorneys, files its Complaint for declaratory judgment of no patent infringement, patent invalidity, and patent unenforceability, violation of antitrust laws, deceptive trade practices, unfair competition, and tortious interference with prospective business relations against Defendants Honeywell International, Inc. ("Honeywell"), Hand Held Products, Inc. ("Hand Held"), Intermec Inc. ("Intermec"), and Vocollect, Inc. ("Vocollect") (collectively, "Defendants"), alleging as follows:

NATURE OF THE ACTION

1. This is an action for declaratory judgment pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201, 2202 seeking declarations of non-infringement, invalidity, and unenforceability of five (5) United States patents under the patent laws of the United States, title 35 United States Code § 1 *et seq.*, as well as findings of antitrust violations under the antitrust laws of the United States, Title 15 United States Code § 1 *et seq.*, deceptive trade practices under

Delaware law, common law unfair competition, and common law tortious interference with prospective business relations.

2. Voxware requests this relief because Defendants have, over the course of several years, continued to raise baseless claims of patent infringement against Voxware's products. Each time the Defendants made an infringement allegation, Voxware promptly responded by identifying why its products do not infringe the patents identified and explaining that its products predate the patents identified. Hence, even if there was a basis for the Defendants' infringement claims, which no reasonable litigant could rationally assert, the patents identified would be invalid by the very products being accused of infringement. Despite being repeatedly informed of the baselessness of their allegations, the Defendants ignored this information and continued to pester Voxware with their baseless allegations. Defendants' continued harassment has harmed and continues to harm Voxware. Therefore, Voxware brings this action seeking relief from Defendants.

PARTIES

3. Plaintiff Voxware is a Delaware corporation with its principal place of business at 3705 Quakerbridge Township Rd. #210, Hamilton, New Jersey 08619.

4. For over 20 years, Voxware has provided solutions to assist companies with essential supply chain information exactly when and where it is needed, optimizing the speed, accuracy, and efficiency of a companies' distribution operations. To accomplish this, Voxware provides voice-directed software and hardware for managing, monitoring, and improving operations in distribution centers. These products help companies better understand how to best manage their distribution center operations and improve accuracy, productivity, and flexibility in their supply chain execution, which, in turn, improves profitability by reducing costs.

5. On information and belief, Defendant Honeywell is a Delaware corporation with its principal place of business at 855 S. Mint Street, Charlotte, NC 28202.

6. On information and belief, Defendant Hand Held is a Delaware corporation with its principal place of business at 855 S. Mint Street, Charlotte, NC 28202. On information and belief, Hand Held is a wholly owned and controlled subsidiary of Honeywell that it acquired in December 2007. On information and belief, Hand Held operates as part of the Honeywell Safety and Productivity Solutions division of Honeywell.

7. On information and belief, Defendant Intermec, Inc. is a Delaware corporation with its principal place of business at 855 S. Mint Street, Charlotte, NC 28202. On information and belief, Intermec is a wholly owned subsidiary of Hand Held.

8. On information and belief, Defendant Vocollect is a Pennsylvania corporation with its principal place of business at 855 S. Mint Street, Charlotte, NC 28202. On information and belief, Vocollect is a wholly owned subsidiary of Intermec. On information and belief, in January 2011, Intermec acquired Vocollect and operated Vocollect as a business unit of Intermec. On information and belief, in 2013, Honeywell acquired Intermec and Vocollect. On information and belief, Intermec and Vocollect operate as part of Honeywell Safety and Productivity Solutions division of Honeywell. On information and belief, since Honeywell acquired Vocollect, Honeywell and Vocollect have held their respective entities out to the public as a single integrated entity. On information and belief, Vocollect is the current assignee of the Asserted Patents, but Honeywell has been the legal entity asserting that Voxware is infringing those patents.

9. On information and belief, the Defendants, collectively and/or individually, are known as "Honeywell." Honeywell and Hand Held have previously participated in a lawsuit

asserting Vocollect patents seeking remedies, including recovery of damages. *See, e.g.*, *Honeywell Int'l Inc. et al. v. Zebra Techs. Corp.*, Case No. 6:22-cv-0519 (W.D. Tex.).

10. Voxware and Vocollect have been competitors for decades in the Voice Logistics Market in the United States, which is the market for products and services related to voice-directed software and hardware for managing, monitoring, and improving operations in distribution centers. On information and belief, Vocollect has the largest market share in the Voice Logistics Market in the United States with over 65% of the Voice Logistics Market.

JURISDICTION AND VENUE

11. This action for a declaratory judgment of non-infringement and unenforceability arises under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201, 2202.

12. This action further arises under the antitrust laws of the United States, including, but not limited to, the Sherman Act, 15 U.S.C. § 1 *et seq.*

13. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337, 1338, 2201, and 2202.

14. This Court also has supplemental jurisdiction pursuant to 28 U.S.C. § 1367 over Voxware's state law and common law claims because they are so related to the federal claims that they form part of the same case or controversy.

15. This Court has personal jurisdiction over Honeywell because it is incorporated in this District. On information and belief, Honeywell has a registered agent for service of process located at Corporation Service Company, 251 Little Falls Drive, Wilmington, DE 19808.

16. This Court has personal jurisdiction over Hand Held because it is incorporated in this District. On information and belief, Hand Held has a registered agent for service of process located at Corporation Service Company, 251 Little Falls Drive, Wilmington, DE 19808.

17. This Court has personal jurisdiction over Intermec because it is incorporated in this District. On information and belief, Intermec has a registered agent for service of process located at Corporation Service Company, 251 Little Falls Drive, Wilmington, DE 19808.

18. This Court has personal jurisdiction over Vocollect because it has sufficient minimum contacts to establish personal jurisdiction in this District. On information and belief, Vocollect has purposefully availed itself of the privilege of conducting business in this District and invoked the benefits and protection of this District by regularly and purposefully conducting business in this District, for example, by using a Delaware corporation as its agent to send cease and desist letters related to the Asserted Patents, offering and selling its products and services in this District that compete with Voxware and/or practice the Asserted Patents, and has committed acts violating the U.S. patent and antitrust laws and Delaware state and common law in this state and District and has reaped the benefits of its unlawful activities in this District, and the impact of those violations will be a substantial lessening of competition in the Voice Logistics Market in this District. Moreover, Vocollect's acts have resulted in harm to Voxware, a Delaware corporation.

19. This Court also has personal jurisdiction over Vocollect because Honeywell, who is incorporated in this District, is an alter ego and/or agent of Vocollect. On information and belief, Vocollect is a wholly owned subsidiary of Intermec, a Delaware corporation, which is a wholly owned subsidiary of Hand Held, a Delaware corporation, which is a wholly owned subsidiary of Honeywell, a Delaware corporation, and Honeywell has alleged it controls Hand Held. On information and belief, the Defendants have the same principal place of business of 855 S. Mint

Street, Charlotte, NC 28202. On information and belief, Honeywell's relationship with Vocollect has far exceeded the normal scope of a parent/subsidiary relationship. On information and belief, Honeywell controls and manages Vocollect, including managing and directing its business, daily operations, policies, and strategies, including its internal and external affairs. On information and belief, Vocollect is no longer a viable, operating entity, but a mere shell corporation through which Honeywell conducts its business. On information and belief, Honeywell maintains and controls Vocollect's website, vocollect.com, and directs traffic from vocollect.com to its own website, honeywell.com, where it markets, advertises, and offers for sale Vocollect's products and services as its own under the Honeywell brand. On information and belief, Vocollect is part of Honeywell Safety and Productivity Solutions. On information and belief, Vocollect does not have a business separate or distinct from Honeywell and they are one and the same. On information and belief, Honeywell manages Vocollect's intellectual property and treats it as its own. For example, Honeywell's in-house counsels have made multiple infringement allegations based on Vocollect's patents to Voxware, identified that "Honeywell and Vocollect recently enforced several" Vocollect patents to Voxware, noted that Honeywell and Vocollect now have "the time and resources to focus attention on other parties infringing Honeywell's technology," and offered a license to Voxware on behalf of Vocollect that would cover both Honeywell's and Vocollect's patents. That is, on information and belief, Vocollect's operations, including those relevant to this case, were wholly directed by Honeywell and, to the extent Vocollect formally exists as a separate entity, it operates wholly as an alter ego and/or agent of Honeywell.

20. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400(b) and 15 U.S.C. § 15(a) because the Defendants are incorporated, reside, and/or have agents in this

District, acts giving rise to this action occurred in this District, and/or Defendants are subject to personal jurisdiction in this District.

THE ASSERTED PATENTS

21. U.S. Patent No. 7,609,669 ("the '669 Patent") is entitled "Voice Directed System and Method Configured for Assured Messaging to Multiple Recipients" and was issued by the United States Patent and Trademark Office ("PTO") on October 27, 2009. The face of the '669 Patent identifies that the application for the '669 Patent was filed on February 14, 2005. The face of the '669 Patent identifies Vocollect as the assignee. A copy of the '669 Patent is attached as Exhibit 1.

22. U.S. Patent No. 7,885,419 ("the '419 Patent") is entitled "Headset Terminal with Speech Functionality" and was issued by the PTO on February 8, 2011. The face of the '419 Patent identifies that the application for the '419 Patent was filed on February 6, 2006. The face of the '419 Patent identifies Vocollect as the assignee. A copy of the '419 Patent is attached as Exhibit 2.

23. U.S. Patent No. 8,255,219 ("the '219 Patent") is entitled "Method and Apparatus for Determining a Corrective Action for a Speech Recognition System Based on the Performance of the System" and was issued by the PTO on August 28, 2012. The face of the '219 Patent identifies that the application for the '219 Patent was filed on March 9, 2011 and identifies several related applications, the earliest filed one being February 4, 2005. The face of the '219 Patent identifies Vocollect as the assignee. A copy of the '219 Patent is attached as Exhibit 3.

24. U.S. Patent No. 8,914,290 ("the '290 Patent") is entitled "Systems and Methods for Dynamically Improving User Intelligibility of Synthesized Speech in a Work Environment" and was issued by the PTO on December 16, 2014. The face of the '290 Patent identifies that the

application for the '290 Patent was filed on May 18, 2012 and identifies a related provisional application filed on May 20, 2011. The face of the '290 Patent identifies Vocollect as the assignee. A copy of the '290 Patent is attached as Exhibit 4.

25. U.S. Patent No. 10,909,490 ("the '490 Patent") is entitled "Systems and Methods for Worker Resource Management" and was issued by the PTO on February 2, 2021. The face of the '490 Patent identifies that the application for the '490 Patent was filed on October 12, 2015 and identifies a foreign related application filed on October 15, 2014. The face of the '490 Patent identifies Vocollect as the assignee. A copy of the '490 Patent is attached as Exhibit 5. (The '669 Patent, the '419 Patent, the '219 Patent, the '290 Patent, and the '490 Patent are collectively referred to as the "Asserted Patents.")

ACTS GIVING RISE TO THIS ACTION

26. Although at the time the recorded assignee was Vocollect, William S. Munnerlyn, Chief Intellectual Property Counsel of Honeywell Intelligrated at Honeywell, sent a letter dated February 13, 2020 to Voxware ("the First Honeywell Letter"). The First Honeywell Letter stated that Vocollect owns the '669, '219, and '290 Patents and Honeywell's and Vocollect's belief that "Voxware is engaged in conduct that infringes Vocollect's patent rights." The First Honeywell Letter alleged that Voxware's VISE software at least contributes to or induces infringement of the '219 and '290 Patents and that use of that software by Voxware's customers directly infringes these patents.

27. The First Honeywell Letter attached a claim chart comparing claim 1 of the '219 Patent to the VISE software and a claim chart comparing claim 12 of the '290 Patent to the VISE software. Claim 1 of the '219 Patent recites:

1. A method for improving performance of a speech recognition system comprising:

operating a processor to determine a performance of the system based on either recognition of instances of a word or recognition of instances of various words among a set of words, and

determining a corrective action based on the performance, to improve the performance.

Claim 12 of the '290 Patent recites:

12. A method of communicating in a speech-based environment using a text-to-speech engine, the method comprising:

monitoring at least one environmental condition associated with a user that is related to intelligibility of an audible output of the text-to-speech engine by the user; and

modifying at least one adjustable operational parameter of the text-to-speech engine in response to the monitored at least one environmental condition to improve the intelligibility of an audible output of the text-to-speech engine.

28. The First Honeywell Letter demanded "that Voxware immediately cease its infringing activity, desist from such infringing activity in the future, recall and destroy all infringing materials, and produce an accounting of all sales resulting from such infringing activity." The First Honeywell Letter further asks that to the extent Voxware has any reason to believe that its VISE software does not infringe the '669 Patent, Honeywell requested that Voxware provide that reason in detail, supporting evidence, and documents sufficient to show the VISE software's functionality for determining the performance of a system and determining any corrective actions to improve the performance or alternatively to establish that any such features are not present in the VISE software. The First Honeywell Letter, however, did not identify any specific claims of the '669 Patent being infringed or provide a claim chart for the '669 Patent. A copy of the First Honeywell Letter is attached as Exhibit 6.

29. On March 13, 2020, Voxware sent a response letter to Honeywell ("the First Voxware Response"). The First Voxware Response noted that Honeywell's claims are baseless because the claim charts attached to the First Honeywell Letter were conclusory and that Honeywell had no reasonable, good faith basis to assert patent infringement.

30. The First Voxware Response noted that every independent claim of the ’219 Patent requires that the system evaluate how well it is recognizing certain words, and then based on that evaluation, determine how to improve its recognition performance, but the claim chart for the ‘219 Patent attached to the First Honeywell Letter effectively ignored these limitations, referencing only VISE’s “training experience.” The First Voxware Response explained that the “training experience” referenced in VISE’s documentation does not evaluate how well the system is recognizing words and based upon that evaluation determining how to improve its performance. The First Voxware Response also explained that Honeywell’s references to VISE’s noise-cancelling functions are equally inapplicable because “Voxware’s noise cancelling function does not determine performance of the system in any way, much less by evaluating successful recognition of particular words.”

31. In addition, the First Voxware Response noted that the ’290 Patent requires that the claimed system measure factors affecting the intelligibility of an output of the system and adjust parameters to improve the intelligibility of that output, but that the passages quoted in Honeywell’s claim chart make clear that the VISE software does not make any such adjustments; the user must manually input voice commands to adjust the volume of the headset’s output. The First Voxware Response also explained that Honeywell’s references to VISE’s noise-cancelling functions have no bearing on the matter as it does not establish measuring factors affecting the intelligibility of an output of the system or adjusting parameters to improve the intelligibility of that output.

32. The First Voxware Response also noted that the First Honeywell Letter set forth no good basis for asserting the ‘669 Patent.

33. Finally, the First Voxware Response identified that the Voxware’s VISE software predates the critical date of the ‘219, ‘290, and ‘669 Patents such that if Honeywell tries to interpret

those patents to cover the VISE software, the VISE software would invalidate those patents. As support, the First Voxware Response directed Honeywell to Voxware's U.S. Patent No. 6,662,163 ("the '163 Patent"), which was filed March 30, 2000 and issued December 9, 2003. The '163 Patent discusses Voxware's Integrated Speech Engine ("VISE") software. A copy of the First Voxware Response is attached as Exhibit 7, and a copy of the '163 Patent is attached as Exhibit 8.

34. In addition to being disclosed in the '163 Patent, Voxware's VISE software was sold and/or in public use in the United States by at least December 2001. The earliest possible priority dates for the '219, '290, and '669 Patents are February 4, 2005, May 20, 2011, and February 14, 2005, respectively.

35. Over 20 months later, in a letter dated December 22, 2021, William S. Munnerlyn (now Deputy Intellectual Property Counsel of Honeywell Safety & Productivity Solutions at Honeywell) responded to the First Voxware Response ("the Second Honeywell Letter"). In the Second Honeywell Letter, Honeywell stated that it disagrees with the First Voxware Response. The Second Honeywell Letter asserted that the '163 Patent (which describes the VISE software) does not teach or disclose the claimed features of the '219, '290, and '669 Patents, but did not dispute the VISE software was disclosed in the '163 Patent. Yet, the Second Honeywell Letter repeated its allegations of infringement from the First Honeywell Letter with respect to the '219 and '290 Patents. Furthermore, the Second Honeywell Letter repeated its assertion that the VISE software "directly and/or indirectly infringes" the '669 Patent, but, again, the Second Honeywell Letter did not identify any particular claims of the '669 Patent being infringed or provide a claim chart.

36. The Second Honeywell Letter then asserted "that Voxware's Intellestra at least contributes to or induces infringement" of the '490 Patent and that the use of Intellestra by

Voxware's customers directly infringes the '490 Patent. The Second Honeywell Letter included a claim chart comparing claim 17 of the '490 Patent to Voxware's Intellestra product. Claim 17 of the '490 Patent recites:

> 17. A method for managing worker resources, comprising:
>
> transmitting task data from a server computer to a voice-directed mobile terminal in communication with the server computer;
>
> providing speech-based instructions associated with task data to a user using the voice-directed mobile terminal, wherein the user is assigned a picking task in one of multiple warehouse regions and each warehouse region has a delivery vehicle with a scheduled departure time;
>
> recording a voice communication between the user and the voice-directed mobile terminal with a corresponding timestamp based at least in part upon the voice communication received from the voice-directed mobile terminal over a communication link;
>
> recording user activity information from the voice-directed mobile terminal based on recorded voice communication at the time the voice communication occurred, wherein the user activity information comprises of at least one of a break duration, a user idle time after sign-in, a user idle time before sign-off, a user idle time before beginning break activity, and a user idle time after returning from break activity;
>
> analyzing user activity information to
>
> (i) identify user productivity patterns,
>
> (ii) provide work assessment predictions;
>
> (iii) provide an alert corresponding to the work assessment predictions at predefined intervals based on the break duration taken by the user and a predefined break period;
>
> (iv) provide a report of a projected departure time of the delivery vehicle from each of the multiple warehouse regions relative to the scheduled departure time based on a function of an amount of work remaining in the warehouse region, number of users operating in the warehouse region, current rate of work being accomplished, and current projected time of work completion; and
>
> implementing worker resource decisions in response to the analysis of the user activity information.

37. The Second Honeywell Letter then offers to engage in licensing discussions, but notes that they are also exploring licensing opportunities with Voxware's competitors and will

offer more favorable terms to the first party to enter into a licensing agreement. A copy of the Second Honeywell Letter is attached as Exhibit 9.

38. Voxware discontinued its Intellestra product several years before the '490 Patent issued, and, therefore, Voxware has not infringed the '490 Patent. That is, Voxware has not made, used, offered to sell, sold, or imported into the United States Intellestra since the '490 Patent has issued.

39. On January 26, 2022, Voxware sent an email responding to the Second Honeywell Letter ("Second Voxware Response"). The Second Voxware Response noted that Vocollect has failed to set forth a good faith basis to assert any patents. The Second Voxware Response noted that the Second Honeywell Letter did not provide any new positions but merely repeated its positions from the First Honeywell Letter. The Second Voxware Response noted that the Second Honeywell Letter failed to explain how creating a voice profile or eliminating background noise meets the claim limitations of the '219 Patent requiring determining the performance of the system and determining corrective action based on that performance. The Second Voxware Response also noted that the Second Honeywell Letter failed to explain how eliminating background noise meets the claim limitations of the '290 Patent requiring monitoring conditions relating to the intelligibility of an audible output and modifying an operational parameter to improve the intelligibility of the audible output.

40. The Second Voxware Response again noted that, like the First Honeywell Letter, the Second Honeywell Letter did not identify the basis for the allegation that Voxware infringes the '669 Patent.

41. Finally, the Second Voxware Response noted that the identified claim of the '490 Patent in the Second Honeywell Letter requires recording a voice communication with a time

stamp and then parsing the recorded voice communication to determine user activity, but that the Second Honeywell Letter failed to identify any good faith basis to assert that Intellestra records a voice communication with a time stamp and parses any such recorded voice communication as required by claim 17 of the '490 Patent; and Intellestra was used and sold well prior to the '490 Patent's filing date. A copy of the Second Voxware Response is attached as Exhibit 10.

42. Intellestra is the cloud-based version of Voxware's VoxPilot, which was originally branded VoxConsole, and shared many of the same features as VoxPilot/VoxConsole. Voxware's VoxPilot/VoxConsole software was sold and/or in public use in the United States by at least 2012 (well prior than the '490 Patent's foreign priority date of October 15, 2014).

43. Over 10 months later, in a letter dated December 1, 2022, Adam Doane, IP Litigation Counsel for Honeywell Safety & Productivity Solutions at Honeywell, responded to the Second Voxware Response ("the Third Honeywell Letter"). With respect to the '219 and '290 Patents, the Third Honeywell Letter merely repeats that the allegations from the previous letter and does not address the fact that the accused product, the VISE software, predates these patents.

44. With respect to the '669 Patent, the Third Honeywell Letter no longer alleges that the VISE software infringes the '669 Patent, but instead alleges that Voxware's VoxConnect software infringes the '669 Patent. The Third Honeywell Letter includes a claim chart comparing claim 19 of the '669 Patent to the Voxware's VoxConnect product. Claim 19 of the '669 Patent recites:

> 19. A method for delivering a message in a speech-enabled work environment that includes a plurality of users with terminal devices that perform applications using speech, the method comprising the steps of:
>
> executing at least one application, using user speech and speech recognition, through a terminal device that is communicating with a communications network;
>
> receiving the message, at the terminal device of a user, over the communications network;

outputting the message as audio output to the user of the terminal device;

receiving verbal confirmation spoken by the user that the audio output was at least one of accessed or understood; and

transmitting an acknowledgement message from the terminal device over the communications network, the acknowledgement message being reflective of the receipt of the spoken verbal confirmation for indicating that the audio output was at least one of accessed or understood by the user.

45. With respect to the '490 Patent, the Third Honeywell Letter repeated its allegations from the Second Honeywell Letter and further alleged that the '490 Patent claims foreign priority to an application filed on October 15, 2014.

46. The Third Honeywell Letter also alleged that Voxware infringes the '419 Patent and included a claim chart comparing claim 8 of the '419 Patent to Voxware's BTH430 product. Claim 8 of the '419 Patent recites:

8. A headset comprising:

a headband assembly for spanning across the head of a user;

an earcup assembly coupled proximate one end of the headband assembly and including a housing with a speaker and a microphone boom assembly with a microphone;

a retainer being secured in the housing and including a plurality of snaps positioned around the retainer;

the boom assembly including a flange that is captured by the snaps so that the boom assembly snaps configured for snapping together with the housing for rotatably coupling the boom assembly in the earcup assembly to rotate on an axis.

47. The Third Honeywell Letter stated that "Vocollect is offering a license to the above-identified patents in exchange for a 9% royalty on the sales of Voxware's voice (software and hardware) solutions." The Third Honeywell Letter further stated that Vocollect continues to investigate whether Voxware infringes additional "Honeywell or Vocollect patents." The Third Honeywell Letter also noted that "Honeywell and Vocollect recently enforced several voice-related patents" and identified a publicly reported $360M settlement in Honeywell's favor. The

Third Honeywell Letter stated that the resolution of that matter "has provided Honeywell and Vocollect the time and resources to focus attention on other parties infringing Honeywell's technology, such as Voxware. If necessary, Honeywell and Vocollect are similarly prepared to seek legal redress for Voxware's infringement of Honeywell's patents." A copy of the Third Honeywell Letter is attached as Exhibit 11.

48. Voxware's VoxConnect is software that provides templates and implements the interface between Voxware and its customers. VoxConnect is not the type of software claimed in the '669 Patent, *e.g.,* a method for delivering a message in a speech-enabled work environment. The claim chart attached to the Third Honeywell Letter also referenced Voxware's Voice Management Suite ("VMS"). VMS is a later version of Voxware's VoiceLogistics suite of products, and the VMS features identified in the claim chart were also present in Voxware's VoiceLogistics suite of products. Voxware's VoiceLogistics suite of products was sold and/or in public use in the United States by at least December 2001, over a year before the earliest possible priority date for the '669 Patent of February 14, 2005.

49. The Defendants' past actions demonstrate the existence of an actual controversy between Voxware and the Defendants regarding the Asserted Patents under 28 U.S.C. §§ 2201 and 2202. The Defendants past actions are also a violation of United States antitrust laws, Delaware's Deceptive Trade Practices Act, unfair competition, and tortious interference with prospective business. The Defendants' actions have created uncertainty over Voxware's products and business. Absent a declaration of non-infringement, invalidity, and unenforceability and enjoinment of Defendant's illegal, anti-competitive, deceptive, unfair, and tortious actions, Voxware will continue to suffer harm. For example, the Defendants will continue to wrongfully allege that Voxware infringes the Asserted Patents, and thereby cause a restraint on Voxware's

business and business opportunities, including the ability to sell non-infringing products and services.

COUNT I

(Declaratory Judgment of Non-Infringement of the '219 Patent)

50. Voxware hereby re-alleges and incorporates by reference, as if fully set forth herein, the allegations of Paragraphs 1 through 49.

51. As a result of the acts described in the preceding paragraphs, there exists an actual and judiciable controversy as to whether Voxware's VISE software infringes the '219 Patent.

52. The claims of the '219 Patent require a system to "determine a performance of the system based on either recognition of instances of word or recognition of instances of various words among a set of words" and determine "a corrective action" based on the performance, to improve the performance. Voxware's VISE software does not determine how well the system is recognizing words and then based on that determination determine how to improve its performance. Therefore, Voxware's VISE software has not infringed and does not infringe the claims of the '219 Patent literally or under the doctrine of equivalents. And because Voxware's VISE software does not directly infringe any claim of the '219 Patent, Voxware has not induced others to infringe or contributorily infringed any claims of the '219 Patent.

53. Voxware is entitled to a declaratory judgment that it does not and has not infringed, either literally or under the doctrine of equivalents, directly or indirectly, any valid and enforceable claim of the '219 Patent under 35 U.S.C. § 1 *et seq*. Absent a declaration and order as sought by Voxware, the Defendants will continue to wrongfully assert that Voxware has infringed the Defendants' patent rights, including any rights in, or to, any valid and enforceable claim of the '219 Patent, thereby causing Voxware irreparable injury and harm.

COUNT II

(Declaratory Judgment of Invalidity of the '219 Patent)

54. Voxware hereby re-alleges and incorporates by reference, as if fully set forth herein, the allegations of Paragraphs 1 through 53.

55. As a result of the acts described in the preceding paragraphs, there exists an actual and judiciable controversy as to whether Voxware's VISE software infringes the '219 Patent.

56. The claims of the '219 Patent are invalid for failure to meet the requirements of the U.S. patent laws, 35 U.S.C. §§ 101, *et. seq.*, including but not limited to 35 U.S.C. §§ 101, 102, 103, and/or 112. The claims of the '219 Patent are directed to a patent-ineligible concept, namely an abstract idea, and have no inventive concept, such as an element or combination of elements, sufficient to transform the abstract idea of the claims into patent-eligible subject matter. Instead, the claims of the '219 Patent are merely an implementation of an abstract idea with conventional components, software, and equipment. Thus, the claims of the '219 Patent are invalid for failing to recite patent eligible subject matter. To the extent the Voxware's VISE software is determined to infringe any claim of the '219 Patent, the VISE software would invalidate that claim as it was sold and in public use over a year prior to the earliest possible critical date of the '219 Patent. Namely, Voxware's VISE software has been sold and/or in public use since at least December 2001. The earliest application to which the '219 Patent claims priority to was filed on February 4, 2005. In addition, Voxware's VISE software was also disclosed in the '163 Patent, which was filed on March 30, 2000 and issued on December 9, 2003, over a year prior to the earliest possible critical date of the '219 Patent. Moreover, on information and belief, the claims of the '219 Patent are anticipated and/or rendered obvious by one or more prior art references.

57. Voxware is entitled to a declaratory judgment that the claims of the '219 Patent are invalid under 35 U.S.C. § 1 *et seq*. Absent a declaration and order as sought by Voxware, the Defendants will continue to wrongfully assert that Voxware has infringed the Defendants' patent rights, thereby causing Voxware irreparable injury and harm.

COUNT III

(Declaratory Judgment of Unenforceability Due to Patent Misuse of the '219 Patent)

58. Voxware hereby re-alleges and incorporates by reference, as if fully set forth herein, the allegations of Paragraphs 1 through 57.

59. As a result of the acts described in the preceding paragraphs, there exists an actual and judiciable controversy as to whether the '219 Patent is enforceable due to patent misuse.

60. Voxware's VISE software does not infringe the '219 Patent. Furthermore, Voxware's VISE software has been sold and/or in public use since at least December 2001, which is over a year before the '219 Patent was filed. Voxware's VISE software was also disclosed in the '163 Patent, which issued over a year prior to the earliest possible priority date of the '219 Patent.

61. Defendants knew or should have known that Voxware's VISE software does not infringe the '219 Patent. Defendants are impermissibly broadening the scope of the claims of the '219 Patent by making objectively baseless claims of infringement against Voxware's VISE software alleging that Voxware has infringed one or more claims of the '219 Patent. In addition, Defendants knew or should have known that Voxware's VISE software predates the '219 Patent. Nevertheless, Defendants asserted and continued to assert that Voxware's VISE software infringes the '219 Patent. Defendant continued its assertions even after Voxware explained why the VISE software did not infringe and provided evidence that the VISE software predated the '219 Patent.

Defendants did not conduct a reasonable investigation and made baseless allegations. As such, Defendants' actions were made in bad faith. This conduct constitutes patent misuse.

62. Voxware is entitled to a declaratory judgment that the '219 Patent is not enforceable due to patent misuse. Absent a declaration and order as sought by Voxware, the Defendants will continue to wrongfully assert that Voxware's VISE software has infringed the Defendants' patent rights, including any rights in, or to, any valid and enforceable claim of the '219 Patent, thereby causing Voxware irreparable injury and harm.

COUNT IV

(Declaratory Judgment of Non-Infringement of the '290 Patent)

63. Voxware hereby re-alleges and incorporates by reference, as if fully set forth herein, the allegations of Paragraphs 1 through 62.

64. As a result of the acts described in the preceding paragraphs, there exists an actual and judiciable controversy as to whether Voxware's VISE software infringes the '290 Patent.

65. The claims of the '290 Patent require monitoring "at least one environmental condition associated with a user that is related to intelligibility of an audible output of the text-to-speech engine" and modifying the "at least one adjustable operational parameter of the text-to-speech engine in response to the monitored at least one environmental condition." The VISE software does not monitor such information and then make modifications based on it. Therefore, Voxware's VISE software has not infringed and does not infringe the claims of the '290 Patent literally or under the doctrine of equivalents. And because Voxware's VISE software does not directly infringe any claim of the '290 Patent, Voxware has not induced others to infringe or contributorily infringed any claims of the '290 Patent.

66. Voxware is entitled to a declaratory judgment that it does not and has not infringed, either literally or under the doctrine of equivalents, directly or indirectly, any valid and enforceable claim of the '290 Patent under 35 U.S.C. § 1 *et seq*. Absent a declaration and order as sought by Voxware, the Defendants will continue to wrongfully assert that Voxware has infringed the Defendants' patent rights, including any rights in, or to, any valid and enforceable claim of the '290 Patent, thereby causing Voxware irreparable injury and harm.

COUNT V

(Declaratory Judgment of Invalidity of the '290 Patent)

67. Voxware hereby re-alleges and incorporates by reference, as if fully set forth herein, the allegations of Paragraphs 1 through 66.

68. As a result of the acts described in the preceding paragraphs, there exists an actual and judiciable controversy as to whether Voxware's VISE software infringes the '290 Patent.

69. The claims of the '290 Patent are invalid for failure to meet the requirements of the U.S. patent laws, 35 U.S.C. §§ 101, *et. seq*., including but not limited to 35 U.S.C. §§ 101, 102, 103, and/or 112. The claims of the '290 Patent are directed to a patent-ineligible concept, namely an abstract idea, and have no inventive concept, such as an element or combination of elements, sufficient to transform the abstract idea of the claims into patent-eligible subject matter. Instead, the claims of the '290 Patent are merely an implementation of an abstract idea with conventional components, software, and equipment. Thus, the claims of the '290 Patent are invalid for failing to recite patent eligible subject matter. To the extent the Voxware's VISE software is determined to infringe any claim of the '290 Patent, the VISE software would invalidate that claim as it was sold and in public use over a year prior to the earliest possible critical date of the '290 Patent. Namely, Voxware's VISE software has been sold and/or in public use since at least December

2001. The earliest application to which the '290 Patent claims priority to was filed a provisional application filed on May 20, 2011 and a non-provisional application filed on May 18, 2012. In addition, Voxware's VISE software was also disclosed in the '163 Patent, which was filed on March 30, 2000 and issued on December 9, 2003, over a year prior to the earliest possible critical date of the '290 Patent. Moreover, on information and belief, the claims of the '290 Patent are anticipated and/or rendered obvious by one or more prior art references.

70. Voxware is entitled to a declaratory judgment that the claims of the '290 Patent are invalid under 35 U.S.C. § 1 *et seq*. Absent a declaration and order as sought by Voxware, the Defendants will continue to wrongfully assert that Voxware has infringed the Defendants' patent rights, thereby causing Voxware irreparable injury and harm.

COUNT VI

(Declaratory Judgment Unenforceability Due to Patent Misuse of the '290 Patent)

71. Voxware hereby re-alleges and incorporates by reference, as if fully set forth herein, the allegations of Paragraphs 1 through 70.

72. As a result of the acts described in the preceding paragraphs, there exists an actual and judiciable controversy as to whether the '290 Patent is enforceable due to patent misuse.

73. Voxware's VISE software does not infringe the '290 Patent. Furthermore, Voxware's VISE software has been sold and/or in public use since at least December 2001, which is over a year before the '290 Patent was filed. Voxware's VISE software was also disclosed in the '163 Patent, which was issued over a year prior to the earliest possible priority date of the '290 patent.

74. Defendants knew or should have known that Voxware's VISE software does not infringe the '290 Patent. Defendants are impermissibly broadening the scope of the claims of the

'290 Patent by making objectively baseless claims of infringement against Voxware's VISE software alleging that Voxware has infringed one or more claims of the '290 Patent. In addition, Defendants knew or should have known that Voxware's VISE software predates the '290 Patent. Nevertheless, Defendants asserted and continued to assert that Voxware's VISE software infringes the '290 Patent. Defendant continued its assertions even after Voxware explained why the VISE software did not infringe and provided evidence that the VISE software predated the '290 Patent. Defendants did not conduct a reasonable investigation and made baseless allegations. As such, Defendants' actions were made in bad faith. This conduct constitutes patent misuse.

75. Voxware is entitled to a declaratory judgment that the '290 Patent is not enforceable due to patent misuse. Absent a declaration and order as sought by Voxware, the Defendants will continue to wrongfully assert that Voxware's VISE software has infringed the Defendants' patent rights, including any rights in, or to, any valid and enforceable claim of the '290 Patent, thereby causing Voxware irreparable injury and harm.

COUNT VII

(Declaratory Judgment of Non-Infringement of the '490 Patent)

76. Voxware hereby re-alleges and incorporates by reference, as if fully set forth herein, the allegations of Paragraphs 1 through 75.

77. As a result of the acts described in the preceding paragraphs, there exists an actual and judiciable controversy as to whether Voxware's Intellestra infringes the '490 Patent.

78. Voxware has not made, used, offered to sell, sold or imported Intellestra since the '490 Patent issued. Therefore, Intellestra has not infringed and does not infringe the claims of the '490 Patent.

79. Furthermore, claim 17 of the '490 Patent requires at least the step of implementing worker resource decisions in response to the analysis of user information. Neither Intellestra, nor the earlier VoxPilot/VoxConsole performed this step.

80. Therefore, Voxware's Intellestra and VoxPilot/VoxConsole software have not infringed and do not infringe the claims of the '490 Patent literally or under the doctrine of equivalents. And because Voxware's Intellestra and VoxPilot/VoxConsole products do not directly infringe any claim of the '490 Patent, Voxware has not induced others to infringe or contributorily infringed any claims of the '490 Patent.

81. Voxware is entitled to a declaratory judgment that it does not and has not infringed, either literally or under the doctrine of equivalents, directly or indirectly, any valid and enforceable claim of the '490 Patent under 35 U.S.C. § 1 *et seq*. Absent a declaration and order as sought by Voxware, the Defendants will continue to wrongfully assert that Voxware has infringed the Defendants' patent rights, including any rights in, or to, any valid and enforceable claim of the '490 Patent, thereby causing Voxware irreparable injury and harm.

COUNT VIII

(Declaratory Judgment of Invalidity of the '490 Patent)

82. Voxware hereby re-alleges and incorporates by reference, as if fully set forth herein, the allegations of Paragraphs 1 through 81.

83. As a result of the acts described in the preceding paragraphs, there exists an actual and judiciable controversy as to whether Voxware's Intellestra and VoxPilot/VoxConsole software infringe the '490 Patent.

84. The claims of the '490 Patent are invalid for failure to meet the requirements of the U.S. patent laws, 35 U.S.C. §§ 101, *et. seq.*, including but not limited to 35 U.S.C. §§ 101, 102,

103, and/or 112. The claims of the '490 Patent are directed to a patent-ineligible concept, namely an abstract idea, and have no inventive concept, such as an element or combination of elements, sufficient to transform the abstract idea of the claims into patent-eligible subject matter. Instead, the claims of the '490 Patent are merely an implementation of an abstract idea with conventional components, software, and equipment. Thus, the claims of the '490 Patent are invalid for failing to recite patent eligible subject matter. To the extent the Voxware's Intellestra and/or VoxPilot/VoxConsole are determined to infringe any claim of the '490 Patent, the VoxPilot/VoxConsole software would invalidate that claim as it was sold and in public use over a year prior to the earliest possible critical date of the '490 Patent. Namely, Voxware's VoxPilot/VoxConsole software has been sold and/or in public use since at least 2012. The earliest foreign application to which the '490 Patent claims priority to was filed on October 15, 2014. Moreover, on information and belief, the claims of the '490 Patent are anticipated and/or rendered obvious by one or more prior art references.

85. Voxware is entitled to a declaratory judgment that the claims of the '490 Patent are invalid under 35 U.S.C. § 1 *et seq*. Absent a declaration and order as sought by Voxware, the Defendants will continue to wrongfully assert that Voxware has infringed the Defendants' patent rights, thereby causing Voxware irreparable injury and harm.

COUNT IX

(Declaratory Judgment of Unenforceability Due to Patent Misuse of the '490 Patent)

86. Voxware hereby re-alleges and incorporates by reference, as if fully set forth herein, the allegations of Paragraphs 1 through 85.

87. As a result of the acts described in the preceding paragraphs, there exists an actual and judiciable controversy as to whether the '490 Patent is enforceable due to patent misuse.

88. Voxware's Intellestra and VoxPilot/VoxConsole products do not infringe the '490 Patent. Furthermore, Voxware's VoxPilot/VoxConsole product has been sold and/or in public use since at least 2012, which is over a year before the earliest possible priority date of the '490 Patent.

89. Defendants knew or should have known that Voxware's Intellestra and VoxPilot/VoxConsole products do not infringe the '490 Patent. Defendants are impermissibly broadening the scope of the claims of the '490 Patent by making objectively baseless claims of infringement against Voxware's Intellestra and VoxPilot/VoxConsole products alleging that Voxware has infringed one or more claims of the '490 Patent. In addition, Defendants knew or should have known that Voxware's VoxPilot/VoxConsole product predates the '490 Patent. Nevertheless, Defendants asserted and continued to assert that Voxware's products infringe the '490 Patent. Defendant continued its assertions even after Voxware explained why Intellestra did not infringe. Defendants did not conduct a reasonable investigation and made baseless allegations. As such, Defendants' actions were made in bad faith. This conduct constitutes patent misuse.

90. Voxware is entitled to a declaratory judgment that the '490 Patent is not enforceable due to patent misuse. Absent a declaration and order as sought by Voxware, the Defendants will continue to wrongfully assert that Voxware's Intellestra software has infringed the Defendants' patent rights, including any rights in, or to, any valid and enforceable claim of the '490 Patent, thereby causing Voxware irreparable injury and harm.

COUNT X

(Declaratory Judgment of Non-Infringement of the '669 Patent)

91. Voxware hereby re-alleges and incorporates by reference, as if fully set forth herein, the allegations of Paragraphs 1 through 90.

92. As a result of the acts described in the preceding paragraphs, there exists an actual and judiciable controversy as to whether Voxware's VoxConnect infringes the '669 Patent.

93. The claims of the '669 Patent requires receiving a message, outputting a message as audio to a user, receiving verbal confirmation spoken by the user of the message, and transmitting acknowledgement of that message. VoxConnect does not have any of these features. Voxware's VoxConnect has templates and implements the interface between Voxware and its customers. Therefore, Voxware's VoxConnect software has not infringed and does not infringe the claims of the '669 Patent literally or under the doctrine of equivalents. And because Voxware's VoxConnect software does not directly infringe any claim of the '669 Patent, Voxware has not induced others to infringe or contributorily infringed any claims of the '669 Patent.

94. Voxware is entitled to a declaratory judgment that it does not and has not infringed, either literally or under the doctrine of equivalents, directly or indirectly, any valid and enforceable claim of the '669 Patent under 35 U.S.C. § 1 *et seq*. Absent a declaration and order as sought by Voxware, the Defendants will continue to wrongfully assert that Voxware has infringed the Defendants' patent rights, including any rights in, or to, any valid and enforceable claim of the '669 Patent, thereby causing Voxware irreparable injury and harm.

COUNT XI

(Declaratory Judgment of Invalidity of the '669 Patent)

95. Voxware hereby re-alleges and incorporates by reference, as if fully set forth herein, the allegations of Paragraphs 1 through 94.

96. As a result of the acts described in the preceding paragraphs, there exists an actual and judiciable controversy as to whether Voxware's VoxConnect software infringes the '669 Patent.

97. The claims of the '669 Patent are invalid for failure to meet the requirements of the U.S. patent laws, 35 U.S.C. §§ 101, *et. seq*., including but not limited to 35 U.S.C. §§ 101, 102, 103, and/or 112. The claims of the '669 Patent are directed to a patent-ineligible concept, namely an abstract idea, and have no inventive concept, such as an element or combination of elements, sufficient to transform the abstract idea of the claims into patent-eligible subject matter. Instead, the claims of the '669 Patent are merely an implementation of an abstract idea with conventional components, software, and equipment. Thus, the claims of the '669 Patent are invalid for failing to recite patent eligible subject matter. To the extent the features of the VMS software identified in the Defendants' claim chart of VoxConnect is determined to infringe any claim of the '669 Patent, Voxware's VoiceLogistics software would invalidate that claim as it was sold and in public use over a year prior to the critical date of the '669 Patent. Namely, Voxware's VoiceLogistics software has been sold and/or in public use since at least December 2001. The '669 Patent was filed on February 14, 2005. Moreover, on information and belief, the claims of the '669 Patent are anticipated and/or rendered obvious by one or more prior art references.

98. Voxware is entitled to a declaratory judgment that the claims of the '669 Patent are invalid under 35 U.S.C. § 1 *et seq*. Absent a declaration and order as sought by Voxware, the Defendants will continue to wrongfully assert that Voxware has infringed the Defendants' patent rights, thereby causing Voxware irreparable injury and harm.

COUNT XII

(Declaratory Judgment of Unenforceability Due to Patent Misuse of the '669 Patent)

99. Voxware hereby re-alleges and incorporates by reference, as if fully set forth herein, the allegations of Paragraphs 1 through 98.

100. As a result of the acts described in the preceding paragraphs, there exists an actual and judiciable controversy as to whether the '669 Patent is enforceable due to patent misuse.

101. Voxware's VoxConnect software does not infringe the '669 Patent. Furthermore, Voxware's VoiceLogistics suite of products has the same features of the VMS software identified in the Defendants' claim chart of VoxConnect. Voxware's VoiceLogistics suite of products has been sold and/or in public use since at least December 2001, which is over a year before the '669 Patent was filed.

102. Defendants made baseless infringement allegations against Voxware's VISE software with respect to the '699 Patent. Defendants also knew or should have known that Voxware's VoxConnect product does not infringe the '669 Patent. Defendants are impermissibly broadening the scope of the claims of the '669 Patent by making objectively baseless claims of infringement against Voxware's VoxConnect and VISE products alleging that Voxware has infringed one or more claims of the '669 Patent. In addition, Defendants knew or should have known that Voxware's VISE software and VoiceLogistics suite of products predate the '669 Patent. Nevertheless, Defendants asserted and continued to assert that Voxware's products infringe the '669 Patent. Defendants did not conduct a reasonable investigation and made baseless allegations. As such, Defendants' actions were made in bad faith. This conduct constitutes patent misuse.

103. Voxware is entitled to a declaratory judgment that the '669 Patent is not enforceable due to patent misuse. Absent a declaration and order as sought by Voxware, the Defendants will continue to wrongfully assert that Voxware's products have infringed the Defendants' patent rights, including any rights in, or to, any valid and enforceable claim of the '669 Patent, thereby causing Voxware irreparable injury and harm.

COUNT XIII

(Declaratory Judgment of Non-Infringement of the '419 Patent)

104. Voxware hereby re-alleges and incorporates by reference, as if fully set forth herein, the allegations of Paragraphs 1 through 103.

105. As a result of the acts described in the preceding paragraphs, there exists an actual and judiciable controversy as to whether Voxware's BTH430 headset infringes claim 8 of the '419 Patent.

106. Claim 8 of the '419 Patent requires a headset with a retainer including a plurality of snaps positioned around the retainer and a boom assembly including a flange that is captured by the snaps so that the boom assembly snaps configured for snapping together with the housing.

107. As seen in the photos below, the BTH430 does not have a plurality of snaps, or a boom assembly with a flange that is captured by the snaps so that the boom assembly is configured for snapping together with the housing. Instead, also as seen in the photos below, in the BTH430, the boom assembly is placed in the housing and secured into place by tightening a knob on the headset against the boom assembly.

Figure 1 – boom assembly (side view)

Figure 2 – boom assembly (top view)

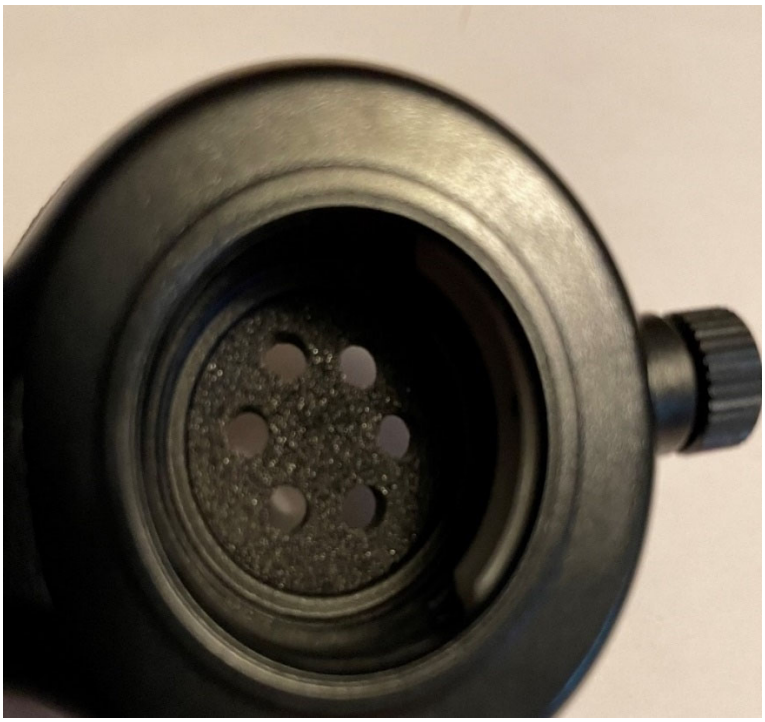

Figure 3 – retainer (top view)

Figure 4 – retainer (angle view)

108. Therefore, Voxware's BTH430 has not infringed and does not infringe claim 8 of the '419 Patent literally or under the doctrine of equivalents. And because Voxware's BTH430 does not directly infringe claim 8 of the '419 Patent, Voxware has not induced others to infringe or contributorily infringed claim 8 of the '419 Patent.

109. Voxware is entitled to a declaratory judgment that it does not and has not infringed, either literally or under the doctrine of equivalents, directly or indirectly, claim 8 of the '419 Patent under 35 U.S.C. § 1 *et seq*. Absent a declaration and order as sought by Voxware, the Defendants will continue to wrongfully assert that Voxware has infringed the Defendants' patent rights, including any rights in, or to claim 8 of the '419 Patent, thereby causing Voxware irreparable injury and harm.

COUNT XIV

(Declaratory Judgment of Invalidity of the '419 Patent)

110. Voxware hereby re-alleges and incorporates by reference, as if fully set forth herein, the allegations of Paragraphs 1 through 109.

111. As a result of the acts described in the preceding paragraphs, there exists an actual and judiciable controversy as to whether Voxware's BTH430 product infringes the '419 Patent.

112. The claims of the '419 Patent are invalid for failure to meet the requirements of the U.S. patent laws, 35 U.S.C. §§ 101, *et. seq.*, including but not limited to 35 U.S.C. §§ 101, 102, 103, and/or 112. On information and belief, the claims of the '419 Patent are anticipated and/or rendered obvious by one or more prior art references.

113. Voxware is entitled to a declaratory judgment that the claims of the '419 Patent are invalid under 35 U.S.C. § 1 *et seq*. Absent a declaration and order as sought by Voxware, the

Defendants will continue to wrongfully assert that Voxware has infringed the Defendants' patent rights, thereby causing Voxware irreparable injury and harm.

COUNT XV

(Declaratory Judgment of Unenforceability Due to Patent Misuse of the '419 Patent)

114. Voxware hereby re-alleges and incorporates by reference, as if fully set forth herein, the allegations of Paragraphs 1 through 113.

115. As a result of the acts described in the preceding paragraphs, there exists an actual and judiciable controversy as to whether the '419 Patent is enforceable due to patent misuse.

116. Voxware's BTH430 does not infringe claim 8 of the '419 Patent.

117. As evident by the photos above, any reasonable inspection of the BTH430 would plainly show that it is missing several elements of claim 8 of the '419 Patent. Defendants knew or should have known that Voxware's BTH430 product does not infringe claim 8 of the '419 Patent. Defendants are impermissibly broadening the scope of the claims of the '419 Patent by making objectively baseless claims of infringement against Voxware's BTH430 product alleging that Voxware has infringed claim 8 of the '419 Patent. Defendants did not conduct a reasonable investigation and made baseless allegations. As such, Defendants' actions were made in bad faith. This conduct constitutes patent misuse.

118. Voxware is entitled to a declaratory judgment that the '419 Patent is not enforceable due to patent misuse. Absent a declaration and order as sought by Voxware, the Defendants will continue to wrongfully assert that Voxware's products have infringed the Defendants' patent rights, including any rights in, or to, any valid and enforceable claim of the '419 Patent, thereby causing Voxware irreparable injury and harm.

COUNT XVI

(Monopolization and Attempted Monopolization)

119. Voxware hereby re-alleges and incorporates by reference, as if fully set forth herein, the allegations of Paragraphs 1 through 118.

120. Defendants have attempted to monopolize and/or monopolized the Voice Logistics Market in the United States using inappropriate methods.

121. Defendants' infringement allegations of the Asserted Patents against Voxware and the threats of an imminent lawsuit were and are objectively baseless such that no reasonable litigant could realistically expect success on the merits. As discussed above, no reasonable litigant could reasonably allege infringement or realistically expect success on the merits because the Asserted Patents are clearly not infringed, invalid, unenforceable, and/or the accused products were sold and in public use years before the priority date of the Asserted Patents. As a competitor, the Defendants knew or should have known about the existence of the Voxware products predating the filing of the Asserted Patents.

122. Defendants' infringement allegations of the Asserted Patents against Voxware and the threats of an imminent lawsuit were and are motivated by a subjective intent to abuse the litigation process for anticompetitive purposes such as interfering with Voxware's business, rather than obtain judicial relief.

123. For example, Defendants improperly threatened legal action against Voxware for the purpose of demanding a license agreement from Voxware, based, at least in part, on avoidance of litigation and disruption of Voxware's business. Moreover, Defendants' licensing demand was directed at all Voxware's voice products even though Defendants have not alleged that all of Voxware's voice products are infringing.

124. On several occasions, Defendants made infringement allegations without any support or without conducting a reasonable investigation into whether there was a basis to make an infringement allegation. And when Voxware identified obvious flaws in Defendants' allegations, Defendants ignored them. For example, Defendants twice alleged that Voxware's VISE software infringed the '669 Patent without providing any basis, and when Defendants finally provided a claim chart for the '669 Patent, it did not identify the VISE software, but a different product, VoxConnect. And any reasonable investigation would have easily indicated that VoxConnect not only does not infringe the '669 Patent, but it is even not the same type of product discussed in the '669 Patent. Likewise, any reasonably investigation of the BTH430 product would clearly show that it does not have the features of the '419 Patent that Defendants have alleged. Similarly, Voxware identified to Defendants that its VISE software predates the critical date of all the Asserted Patents. On information and belief, Defendants known or should have known that Voxware's VoiceLogistics suite of products predates the critical dates of all the Asserted Patents, Voxware's VoxPilot/VoxConsole software predates the critical date of the '490 Patent, and that the identified claims were also invalid, for example, as anticipated or obvious in view of prior art, and/or unenforceable.

125. Defendants' threatened lawsuit constitutes sham litigation and subjects them to the United States antitrust laws.

126. The Asserted Patents, as construed by Defendants in their letters to Voxware, are so broad that they would cover products of each company in the Voice Logistics Market, including technology that existed well before the priority date of the Asserted Patents, such that each company in the Voice Logistics Market would need a license under the Asserted Patents or risk being sued by the Defendants. Indeed, even though Defendants only identified some of Voxware's

products in its infringement allegations, it demanded a license and royalty on all Voxware products. Accordingly, as construed by Defendants, the Asserted Patents would dominate the Voice Logistics Market in the United States.

127. On information and belief, Defendants possess and currently exercise monopoly power in the Voice Logistics Market as demonstrated by their high market share, barriers to entry, exclusion of competition, and their access to nearly unlimited resources, including funding. For example, on information and belief, Honeywell is a Fortune 100 company with over $34 billion in annual revenues and over $5 billion in annual profits.

128. On information and belief, Defendants have wrongfully threatened infringement with the specific intent of acquiring and/or maintaining monopoly power within the Voice Logistics Market in the United States.

129. On information and belief, Defendants have ignored the scope, validity, and enforceability of the claims of the Asserted Patents while asserting companies like Voxware infringe in an attempt to establish a significant barrier to entry of or continuing business in the Voice Logistics Market in the United States, and thus, Defendants have improperly exhibited market power in the Voice Logistics Market in the United States. By threatening costly and frivolous patent infringement litigations in the Voice Logistics Market in the United States, without regard to the scope of the Asserted Patents, Defendants have been engaged in anticompetitive and predatory conduct designed to illegally maintain and or/extend their market power in the Voice Logistics Market in the United States by attempting to and/or suppressing competition and producing anticompetitive effects.

130. On information and belief, Defendants' are aware of Voxware's market share in the Voice Logistics Market, which is significantly less than Defendants' market share in the Voice

Logistics Market. On information and belief, Defendants are aware that patent litigation is expensive due to attorneys' fees, experts, and other related expenses and that because of Voxware's limited size, defending a patent infringement litigation will be difficult for Voxware to afford and will put a significant strain on Voxware's resources. On information and belief, Defendants' threat of baseless patent litigation, regardless of the outcome of any such litigation, has and will continue to have anticompetitive effects in the Voice Logistics Market. In addition, Defendants' threat of baseless patent litigation, has and/or will make it more difficult for Voxware to obtain capital and that will have a negative impact on its ability to compete in the Voice Logistics Market. Moreover, Defendants' threat of baseless patent litigation prevented a Voxware business opportunity that would have likely negatively affected Defendants' market share by bolstering the ability of Defendants' competitors to compete in the Voice Logistics Market against Defendants. On information and belief, the Defendants are using the threat of baseless patent litigation for anticompetitive purposes.

131. Through their illegal anticompetitive conduct, Defendants have monopolized and/or attempted to monopolize the Voice Logistics Market in the United States, in violation of 15 U.S.C. § 2.

132. Defendants' illegal anticompetitive conduct has caused and will continue to cause injury to Voxware in the form of, for example, damage to the reputation of Voxware's business and products, potential lost profits, lost business opportunities, attorney's fees, and other costs associated with frivolous litigation.

133. Accordingly, a valid and justiciable controversy has arisen and exists between Voxware and Defendants with respect to Defendants' anticompetitive practices. Voxware hereby seeks judgment in its favor that such anticompetitive practices are in violation of 15 U.S.C. § 2.

COUNT XVII

(Deceptive Trade Practices)

134. Voxware hereby re-alleges and incorporates by reference, as if fully set forth herein, the allegations of Paragraphs 1 through 133.

135. Voxware and Defendants are direct competitors in the Voice Logistics Market in the United States, including Delaware.

136. On information and belief, Defendants knew or should have known that the Asserted Patents were not infringed by, invalid, and/or unenforceable against Voxware.

137. On information and belief, Defendants knew or should have known that its action with respect to the Asserted Patents were also in violation of the antitrust law of the United States, as discussed above.

138. On information and belief, Defendants have and continue to assert that Voxware has infringed and continues to infringe the Asserted Patents when Defendants knew or should have known the Asserted Patents were not infringed by, invalid, and/or unenforceable against Voxware, and/or in violation of Federal Antitrust laws.

139. Third parties in the Voice Logistics Market are aware of Defendants' false, misleading, and/or disparaging acts described above, which have harmed Voxware's business through, at least, lost business opportunities.

140. On information and belief, Defendants' allegations of infringement against Voxware, as described above, were made in bad faith.

141. On information and belief, Defendants' actions, as described above, were false, misleading, and/or disparaging and, thus, violated Delaware's Deceptive Trade Practices Act, 6 Del. C. § 2532.

142. Defendants' actions, as described above, unfairly interfere with Voxware's ability to compete with Defendants on the merits of their products and unfairly interferes with Voxware's business opportunities with respect to its products in violation of 6 Del. C. § 2532.

143. Voxware has suffered and will continue to suffer harm because of Defendants' deceptive trade practices.

COUNT XVIII

(Common Law Unfair Competition)

144. Voxware hereby re-alleges and incorporates by reference, as if fully set forth herein, the allegations of Paragraphs 1 through 143.

145. Voxware reasonably expected to sell and continue to sell its non-infringing products, enter into business relationships related to its non-infringing products, and explore business opportunities related to its non-infringing products. Defendants' actions have wrongfully interfered with Voxware's legitimate expectancy and has caused it harm by interfering with Voxware's business, including lost business opportunities.

146. On information and belief, Defendants knew or should have known that the Asserted Patents were not infringed by, invalid, and/or unenforceable against Voxware.

147. On information and belief, Defendants knew or should have known that its action with respect to the Asserted Patents were also in violation of the antitrust laws of the United States, as discussed above.

148. On information and belief, Defendants have and continue to assert that Voxware has infringed and continues to infringe the Asserted Patents when Defendants knew or should have known the Asserted Patents were not infringed by, invalid, and/or unenforceable against Voxware, and/or in violation of Federal Antitrust laws.

149. Because of Defendants' actions, Voxware lost at least one significant business opportunity.

150. On information and belief, Defendants' allegations of infringement against Voxware, as described above, were made in bad faith.

151. On information and belief, Defendants' actions, as described above, constitute unlawful and/or unfair business practices in an effort to gain an unfair competitive advantage over Voxware that have wrongfully interfered with Voxware's business in violation of unfair competition under Delaware law.

152. Voxware has suffered and will continue to suffer harm because of Defendants' unfair competition in the form of lost business, lost profits, and lost business opportunities.

COUNT XIX

(Tortious Interference with Prospective Business Relations)

153. Voxware hereby re-alleges and incorporates by reference, as if fully set forth herein, the allegations of Paragraphs 1 through 152.

154. As part of Voxware's business, Voxware conducts business and/or has business relations with other entities in or that support the Voice Logistics Market, which provides a likelihood of future economic benefit for Voxware.

155. As a result of Defendants' action, as described above, Voxware's business relations with these other entities were disrupted, including lost business opportunities. On information and belief, Defendants were aware of Voxware's business and relations, including business opportunities. On information and belief, Defendants intentionally induced or caused disruption to Voxware's business and relations, including business opportunities by the actions described

above. On information and belief, Defendants disrupted Voxware's business and relations with an intent to harm Voxware.

156. On information and belief, Defendants disrupted Voxware's business and relations by improper means, by asserting and continuing to that Voxware has infringed and continues to infringe the Asserted Patents when Defendants knew or should have known the Asserted Patents were not infringed by, invalid, and/or unenforceable against Voxware, and/or in violation of Federal Antitrust laws.

157. For example, Voxware had one significant reasonable probability of a business opportunity that was lost as a result of Defendants' conduct. On information and belief, Defendants were aware of and/or anticipated this business opportunity and sent the Third Honeywell Letter for the purpose of interfering with this business opportunity. On information and belief, Defendants' conduct with respect to that business opportunity was intentional interference. Because of Defendants' conduct, Voxware was harmed because it lost this business opportunity and incurred attorney's fees, reputational damage, lost time, and lost profits.

158. On information and belief, Defendants' actions, as described above, constitute tortious interference with prospective business of Voxware in violation of Delaware law.

159. Voxware has suffered and will continue to suffer harm because of Defendants' tortious interference with prospective business relations in the form of lost business, lost profits, and lost business opportunities.

PRAYER FOR RELIEF

WHEREFORE, Voxware respectfully requests the following relief:

A. judgement in favor of Voxware and against Defendants;

B. declaring that Voxware has not infringed and does not infringe any valid and enforceable claim of the Asserted Patents;

C. declaring that the Asserted Patents are invalid;

D. declaring that the Asserted Patents are unenforceable due to patent misuse;

E. find Defendants violated 15 U.S.C. § 2 and award damages and/or restitution to Voxware sufficient to compensate Voxware for Defendants violation of 15 U.S.C. § 2, in an amount to be proven at trial pursuant to 15 U.S.C. § 15, including trebled damages, attorney's fees and prejudgment interest and enjoin Defendants, pursuant to 15 U.S.C. § 26, from making any further allegations that Voxware's products have infringed or are infringing the Asserted Patents;

F. find Defendants violated 6 Del. C. § 2532 and award damages to Voxware in an amount to be proven at trial, attorney's fees, costs, and enjoin Defendants from making any further allegations that Voxware's products have infringed or are infringing the Asserted Patents;

G. find Defendants engaged in unfair competition under Delaware law and award damages to Voxware in an amount to be proven at trial, attorney's fees, costs, and enjoin Defendants from making any further allegations that Voxware's products have infringed or are infringing the Asserted Patents;

H. find Defendants engaged in tortious interference with prospective business relations under Delaware law and award damages to Voxware in an amount to be proven at trial, attorney's fees, costs, and enjoin Defendants from making any further allegations that Voxware's products have infringed or are infringing the Asserted Patents;

I. declaring that this case is exceptional under 35 U.S.C. § 285 and awarding Voxware its attorney's fees and expenses in this action;

J. awarding Voxware its costs in this action; and

K. such other relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(b), Voxware demands a trial by jury on all claims and issues on which a jury trial is available under applicable law.

/s/ Kelly E. Farnan

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