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12 Attorneys for Plaintiff

13 **UNITED STATES DISTRICT COURT**  
 14 **CENTRAL DISTRICT OF CALIFORNIA**  
 15 **WESTERN DIVISION**

16 THE FAMOUS GROUP  
 17 TECHNOLOGIES INC., a Delaware  
 18 corporation

19 Plaintiff,

20 vs.

21 CUE AUDIO, INC., a Delaware  
 22 Corporation, and TONY RAGO, an  
 23 individual,

24 Defendants.

Case No. 2:23-cv-10072

**COMPLAINT FOR PATENT  
 INFRINGEMENT; TRADE  
 SECRET MISAPPROPRIATION**

**[DEMAND FOR JURY TRIAL]**

1 Plaintiff The Famous Group Technologies, Inc. (“TFG”) files this complaint  
2 against Tony Rago (“Defendant Rago”) and Cue Audio, Inc. (“Defendant Cue  
3 Audio”), for infringement of United States Patent No. 10,482,660 (“the ‘660 Patent”  
4 or the “First Asserted Patent”) and United States Patent No. 11,736,545 (the “545  
5 patent” or the “Second Asserted Patent), and for Trade Secret Misappropriation  
6 under Cal. Civil Code §§ 3426-3426.11, alleging, based on its own knowledge of  
7 certain matters and based on information and belief as to all other matters, as  
8 follows:

9 1. TFG is a corporation formed under the laws of the State of Delaware,  
10 with a principal place of business at El Segundo, California.

11 2. Upon information and belief, Defendant Rago is, and at all relevant  
12 times was, an individual residing in Riverside County, California.

13 3. Defendant Cue Audio is a company organized and existing under the  
14 laws of the State of Delaware, with a principal place of business in Texas. Upon  
15 information and belief, Defendant Cue Audio conducts business in and is doing  
16 business in California, in this District and elsewhere in the United States, including,  
17 without limitation, using, promoting, offering to sell, importing and/or selling a  
18 product often referred to as PostUp and/or FanSee (together "Accused Products").  
19 The Accused Products embody the patented technology and/or trade secrets, and  
20 enables end-user participants to use such products in this District. TFG is informed  
21 and believes, and thereon alleges, that Defendant Rago is owner, officer, and/or  
22 director of Defendant Cue Audio. Defendant Rago and Defendant Cue Audio are  
23 collectively referred to herein as “Defendants.”

24 **JURISDICTION AND VENUE**

25 4. This is an action for infringement of a United States patent arising  
26 under 35 U.S.C. §101 *et seq.*, including 35 U.S.C. §§271, 281, and 284-85, among  
27 others. This Court has subject matter jurisdiction over the action under 28 U.S.C.

1 §§1331, 1338(a), 1338(b), and 15 U.S.C. §1121. This Court has supplemental  
2 jurisdiction over trade secret misappropriation under the laws of the State of  
3 California pursuant to 28 U.S.C. §1367.

4 5. This Court has general personal jurisdiction over Defendants, as  
5 Defendant Rago resides in this District and Defendant Cue Audio regularly  
6 conducts and transacts business, including selling, offering to sell, using, and  
7 importing infringing products, in this judicial district. Further, Defendants' conduct  
8 directly affects Plaintiff which resides in this judicial district, Defendants' direct  
9 marketing and misconduct occurs in California, and this Court has long arm  
10 jurisdiction over Defendants pursuant to California Civil Procedure §410.10 *et seq.*

11 6. Venue is proper in this district under 28 U.S.C. §1400 because, upon  
12 information and belief, Defendant Cue Audio has committed acts of infringement  
13 within this district and because, upon information and belief, Defendant Cue Audio  
14 has a regular and established place of business in this district, including, but not  
15 limited to, through the residence of Defendant Rago who serves as Defendant's  
16 Senior Director of Innovation. Venue is proper in this district under 28 U.S.C.  
17 §1391 because Defendants are subject to personal jurisdiction in this District, a  
18 substantial part of the events giving rise to the claims occurred in this District,  
19 Defendant Rago is domiciled in this District, and Defendant Cue Audio's conducts  
20 business in this District.

21 **U.S. PATENT NOS. 10,482,660 and 11,736,545**

22 7. United States Patent No. 10,482,660 entitled "System and Method to  
23 Integrate Content in Real Time into a Dynamic Real-Time 3-Dimensional Scene."  
24 Attached hereto as **Exhibit A** is a true and correct copy of the '660 Patent.

25 8. On November 19, 2019, the '660 patent, was duly and legally issued by  
26 the USPTO.

27 9. By assignment, TFG is the owner of all rights, title and interest in and  
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1 to the '660 Patent, including all rights to recover any and all past infringements  
2 thereof.

3 10. Upon information and belief, Defendants have had actual notice of the  
4 '660 Patent since at least November 2019.

5 11. Plaintiff has given notice to the public of its patent by marking its own  
6 products and/or services with the '660 patent in conformity with 35 U.S.C. §287(a).

7 12. United States Patent No. 11,736,545 entitled “Client User Interface for  
8 Virtual Fan Experience.” Attached hereto as **Exhibit B** is a true and correct copy of  
9 the '545 Patent.

10 13. On August 22, 2023, the '545 Patent, was duly and legally issued by  
11 the United States Patent and Trademark Office (the “USPTO”).

12 14. By assignment, TFG is the owner of all rights, title and interest in and  
13 to the '545 Patent, including all rights to recover any and all-past infringement  
14 thereof.

15 15. Plaintiff has given notice to the public of its patent by marking its own  
16 products and/or services with the '545 Patent in conformity with 35 U.S.C. §287(a).

17 16. TFG invented, developed, markets, offers and sells Vixi Live and Vixi  
18 Social products, which practice the inventions of the '660 Patent and/or the '545  
19 Patents.

20 **TFG TRADE SECRETS**

21 17. Plaintiff has been developing, utilizing, and protecting the trade secrets  
22 associated with the Vixi Social and Vixi Live offerings, which significantly  
23 contribute to the unique features and competitive edge of the platform.

24 18. Such trade secrets associated with Vixi Social and Vixi Live include:  
25 methodologies for integrating various software programs within the Vixi Platform,  
26 strategic processes for selecting third-party software, advanced algorithms for  
27 filtering and curating content, ensuring relevance and engagement, algorithms

1 dictating how content is displayed to users, infrastructure designs including server  
2 configurations for platform efficiency and scalability; tracking techniques for  
3 metrics and analytical methods developed to assess user engagement and overall  
4 platform performance, key business partnerships, and internal processes for  
5 platform updates emphasizing continuous improvement and adaptation.

6 19. Plaintiff's innovative approach and proprietary technology,  
7 encompassing both patented inventions and trade secrets, have received extensive  
8 recognition, driving public exposure, publicity, and achieving renown among the  
9 trade and the relevant public throughout the United States and globally.

10 20. Plaintiff took extensive measures to protect its trade secrets: access  
11 controls measures including password protection and authentication protocol,  
12 employee education and instruction not to share proprietary methodologies, such as  
13 content aggregation methodologies, physical security for equipment rooms and  
14 servers under lock and key, accessible only to authorized personnel, information  
15 regarding pricing, client lists, and contacts were kept confidential and only shared  
16 with necessary employees, and confidentiality policies expressly stated in the  
17 employee handbook.

18 21. Defendant Rago, a former employee of TFG, is employed as the  
19 "Senior Director of Innovation" at Cue Audio, a direct competitor of Plaintiff.

20 22. During Defendant Rago's tenure at TFG, Defendant Rago as part of  
21 his job responsibilities, had access to confidential and proprietary information,  
22 including but not limited to software configurations, content retrieval methods,  
23 selection and evaluation of third-party software solutions, user engagement metrics,  
24 design of the user interface, business partnerships, vendor relations, and  
25 optimization strategies and algorithms used in the Vixi Social and Vixi Live  
26 platforms.

27 23. Defendants have misappropriated and used Plaintiff's trade secrets for  
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1 the benefit of Defendants, thereby causing significant harm to Plaintiff's business  
2 interests.

3 **FIRST CAUSE OF ACTION**  
4 **INFRINGEMENT OF U.S. PATENT NO. 10,482,660**  
5 **(Against Cue Audio)**

6 24. Plaintiff realleges each and every allegation set forth in paragraphs 1  
7 through 23 above, and incorporates them herein.

8 25. Defendant Cue Audio made, has made, used, imported, provided,  
9 supplied, distributed, sold, and/or offered for sale the PostUp Accused Product.

10 26. The PostUp Accused Product practices every element of at least one  
11 claim. See **Exhibit C** demonstrating how the PostUp Accused Product infringes at  
12 least Claim 1 of the '660 Patent.

13 27. By so doing, Defendant Cue Audio and its end users have directly  
14 infringed (literally and/or under the doctrine of equivalents) at least Claim 1 of the  
15 '660 Patent. Defendants' infringement in this regard is ongoing.

16 28. Defendant Cue Audio also indirectly infringes the '660 Patent both  
17 contributorily and by inducement.

18 29. Defendant Cue Audio has actual knowledge of TFG's rights in the '660  
19 Patent.

20 30. Defendant Cue Audio makes, has made, uses, imports, provides,  
21 supplies, distributes, sells and/or offers for sale the PostUp Accused Product, with  
22 knowledge of or willful blindness to the fact that its actions will induce Defendant  
23 Cue Audio's partners and end users to infringe one or more claims of the '660  
24 Patent by at least using and/or selling the PostUp Accused Product in violation of  
25 35 U.S.C. §271.

26 31. TFG has been damaged because of the infringing conduct by  
27 Defendant Cue Audio alleged above. Thus, Defendant Cue Audio is liable to TFG

1 in an amount that adequately compensates TFG for such infringements, including  
2 lost profits and which, by law, cannot be less than a reasonable royalty, together  
3 with interest and costs as fixed by this Court under 35 U.S.C. §284.

4 32. TFG is entitled to injunctive relief and damages in accordance with 35  
5 U.S.C. §§271, 281, 283 and 284.

6 33. TFG has satisfied all statutory obligations required to collect pre-filing  
7 damages for the full period allowed by law for infringement of the '660 Patent.

8 34. TFG has been damaged in an amount to be determined at trial, but  
9 which is no less than a reasonable royalty, and has been irreparably injured by  
10 Defendant Cue Audio's infringing activities. TFG will continue to be so damaged  
11 and irreparably injured unless such infringing activities are enjoined by this Court.

12 **SECOND CAUSE OF ACTION**

13 **INFRINGEMENT OF U.S. PATENT NO. 11,736,545**

14 (Against Defendant Cue Audio)

15 35. Plaintiff realleges each and every allegation set forth in paragraphs 1  
16 through 34 above, and incorporates them herein.

17 36. Defendant Cue Audio made, has made, used, imported, provided,  
18 supplied, distributed, sold, and/or offered for sale the FanSee Accused Product,  
19 which infringes one or more claims of the '545 Patent.

20 37. The FanSee Accused Products practices every element of at least one  
21 claim. See **Exhibit D** demonstrating how the FanSee Accused Product infringes at  
22 least Claim 1 of the '545 Patent.

23 38. By doing so, Defendant Cue Audio and its end users have directly  
24 infringed (literally and/or under the doctrine of equivalents) at least Claim 1 of the  
25 '660 Patent. Defendant Cue Audio's infringement in this regard is ongoing.

26 39. Defendant Cue Audio also indirectly infringes the '545 Patent both  
27 contributorily and by inducement.

1 40. Defendant Cue Audio has actual knowledge of TFG's rights in the '545  
2 Patent.

3 41. Defendant Cue Audio makes, has made, uses, imports, provides,  
4 supplies, distributes, sells, and/or offers for sale the Fansee Accused Product, with  
5 knowledge of or willful blindness to the fact that its actions will induce Defendant  
6 Cue Audio's partners and end users to infringe one or more claims of the '545  
7 Patent by at least using and/or selling the FanSee Accused Product in violation of  
8 35 U.S.C. § 271.

9 42. TFG has been damaged as a result of the infringing conduct by  
10 Defendant Cue Audio alleged above. Thus, Defendant Cue Audio is liable to TFG  
11 in an amount that adequately compensates TFG for such infringements, including  
12 lost profits and which, by law, cannot be less than a reasonable royalty, together  
13 with interest and costs as fixed by this Court under 35 U.S.C. § 284.

14 43. TFG is entitled to injunctive relief and damages in accordance with 35  
15 U.S.C. §§271, 281, 283 and 284.

16 44. TFG has satisfied all statutory obligations required to collect pre-filing  
17 damages for the full period allowed by law for infringement of the '545 Patent.

18 45. TFG has been damaged in an amount to be determined at trial,  
19 including lost profits but which is no less than a reasonable royalty, and has been  
20 irreparably injured by Defendant Cue Audio's infringing activities. TFG will  
21 continue to be so damaged and irreparably injured unless, such infringing activities  
22 are enjoined by this Court.

23 **THIRD CAUSE OF ACTION**

24 **TRADE SECRET MISAPPROPRIATION**

25 Cal. Civil Code § § 3426-3426.11

26 (Against All Defendants)

27 46. Plaintiff repeats and realleges, each and every allegation set forth in  
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1 paragraphs 1 through 45 above, and incorporates them herein.

2 47. The trade secrets described above were developed by Plaintiff at  
3 significant expense and effort and provide Plaintiff with a competitive advantage in  
4 the market.

5 48. Plaintiff undertook reasonable measures under the circumstances to  
6 protect the secrecy of the trade secrets.

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8 49. The trade secrets have independent economic value, actual or  
9 potential, from not being generally known to the public or to other persons who can  
10 obtain economic value from its disclosure or use.

11 50. Defendants misappropriated these trade secrets by using them without  
12 authorization in the development and operation of the Accused Products.

13 51. As a result of Defendants' actions, Plaintiff has suffered and will  
14 continue to suffer irreparable harm for which there is no adequate remedy at law.

15 52. Plaintiff is entitled to damages in an amount to be proven at trial,  
16 including but not limited to lost profits and unjust enrichment. Defendants'  
17 misappropriation was a substantial factor in causing harm resulting in damages to  
18 Plaintiff.

19 53. Plaintiff is further entitled to injunctive relief to prevent the ongoing  
20 and future use of its misappropriated trade secrets. Defendants' actual or threatened  
21 misappropriation justifies the imposition of an injunction to prevent the future  
22 unauthorized use or disclosure of Plaintiff's trade secrets. Plaintiff has no adequate  
23 remedy at law, and the equities favor issuing an injunction to prevent the further  
24 misappropriation of Plaintiff's trade secrets.

25 54. Defendants' misappropriation of the trade secrets was willful and  
26 malicious. Defendants have engaged in such misconduct with a conscious,  
27 deliberate, intentional and/or reckless disregard of the rights of Plaintiff and the

1 public. Plaintiff is entitled to exemplary damages to deter Defendants and others  
2 from again engaging in such misconduct in an amount to be established at trial.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, TFG respectfully requests:

5 A. That Judgment be entered that Defendant Cue Audio has infringed at  
6 least one or more claims of the '660 Patent and the '545 Patent, directly and/or  
7 indirectly, literally and/or under the doctrine of equivalents.

8 B. That, in accordance with 35 U.S.C. §283, Defendant Cue Audio and  
9 all affiliates, employees, agents, officers, directors, attorneys, successors, and  
10 assigns and all those acting on behalf of or in active concert or participation with  
11 any of them, be preliminarily and permanently enjoined from infringing the '545  
12 Patent and the '660 Patent, and making, using, selling and offering for sale the  
13 Accused Products.

14 C. An award of damages sufficient to compensate TFG for Defendants'  
15 infringement under 35 U.S.C. §284, together with prejudgment interest and costs,  
16 said damages to be trebled by reason of the intentional and willful nature of  
17 Defendants' infringement, as provided by 35 U.S.C. §284;

18 D. An injunction restraining Defendants, their officers, agents, servants,  
19 employees, attorneys, and all persons in active concert or participation with them  
20 from further misappropriation or use of Plaintiff's trade secrets.

21 E. An award of damages in an amount to be proven at trial for  
22 Defendants' misappropriation of Plaintiff's trade secrets.

23 F. An award of exemplary damages due to Defendants' willful and  
24 malicious misappropriation of Plaintiff's trade secrets.

25 G. An order requiring Defendants to return or destroy all materials  
26 containing Plaintiff's trade secrets.

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H. An award of Plaintiff’s costs and attorneys’ fees incurred in this action as provided by California Civil Code §3426.4.

I. That the case be found exceptional under 35 U.S.C. §285 and that TFG be awarded its reasonable attorneys' fees;

J. Costs and expenses in this action; and

K. Such other and further relief as the Court may deem just and proper.

DATED: November 29, 2023

BUCHALTER  
A Professional Corporation

By: /s/ Willmore F. Holbrow III  
WILLMORE F. HOLBROW III  
JOSE LUIS PATINO  
Attorneys for Plaintiff

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**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury of all claims triable by jury.

DATED: November 29, 2023

BUCHALTER  
A Professional Corporation

By: /s/Willmore F. Holbrow III  
WILLMORE F. HOLBROW III  
JOSE LUIS PATINO  
Attorneys for Plaintiff