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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**

10 STEVE M. JOHNSON

11 Plaintiff,

12 v.

13 LUNKERHUNT LP, AN ONTARIO, CANADA
14 LIMITED PARTNERSHIP; BGDM GROUP;
15 EBAY INC., A DELAWARE CORPORATION;
16 and GOOGLE LLC, A DELAWARE
CORPORATION

17 Defendants.
18

Case No:

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

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COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Steve M. Johnson (“Plaintiff” Or “Johnson”), For Its Complaint Against Defendant Lunkerhunt LP (“Lunkerhunt”), Defendant BGDM group (“BGDM”), Defendant Ebay inc. (“Ebay”) and Defendant Google LLC (“Google”) (collectively “Defendants”), hereby demands a jury trial and alleges as follows:

NATURE OF ACTION

1. This is an action for patent infringement of United States Patent No. 6,931,785 (“the ‘785 Patent”) (the “Patent-in-suit”), arising under the patent laws of the United States of America, Title 35 of the United States Code, and seeking damages and other relief under 35 U.S.C. § 271, *et seq.*

PARTIES

2. Plaintiff is a Tennessee based individual.

3. Upon information and belief, Defendant Lunkerhunt is a limited partnership organized and existing under the laws of the Ontario, Canada, with its principal place of business at 42 Laird Drive, Toronto, Ontario, Canada M4G 3T2. A screenshot from a search of Canada’s business registries at the website <https://beta.canadasbusinessregistries.ca/search/results?search=%7Blunkerhunt%7D&status=Active> is attached as Exhibit 1. A screenshot showing Lunkerhunt’s address at the website <https://lunkerhunt.com/pages/contact-us#:~:text=SEND%20US%20AN%20EMAIL,fill%20out%20the%20form%20below> is attached as Exhibit 2.

4. Upon information and belief, Defendant BGDM is organized under unknown laws, with its principal place of business at 42 Laird Drive, Toronto, Ontario, Canada M4G 3T2. A screenshot of this address from the website <https://www.bgdmgroup.com/contactus.html> is attached as Exhibit 3.

5. Defendant Ebay is a corporation organized and existing under the laws of the state of Delaware, with its principal place of business at 2145 Hamilton Avenue, San Jose, California 95125.

1 6. Defendant Google is a corporation organized and existing under the laws of the state of
2 Delaware, with its principal place of business at 1600 Amphitheatre Parkway, Mountain View,
3 California 94043.

4 7. On information and belief, there may be other corporate affiliates of Defendants who
5 participated in the infringing acts complained of herein. The identities of such affiliates are currently
6 unknown, because publicly available information does not permit the identification of each affiliate
7 who participated in the infringing acts. Plaintiff expects the identities of such affiliates to be revealed
8 in discovery. Plaintiff reserves the right to amend this Complaint to name such affiliates, if necessary,
9 once they have been revealed.

10 **JURISDICTION**

11 8. This is an action for infringement of claims of the ‘785 Patent, entitled “Simulated
12 Turtle Fishing Lure Apparatus”, which was duly issued by the United States Patent and Trademark
13 Office on August 23, 2005. A true and accurate copy of the ‘785 patent is attached as Exhibit 4 to this
14 Complaint.

15 9. This Court has subject matter jurisdiction over the parties pursuant to 28 U.S.C. §§1331
16 and 1338(a), because the claims arise under the patent laws of the United States, 35 U.S.C. §§1, *et*
17 *seq.*

18 10. This court has personal jurisdiction over Lunckerhunt because under Federal rule of civil
19 procedure 4(k)(2), foreign defendants are subject to personal jurisdiction in any state in which the
20 foreign defendant has had sufficient minimum contacts. Lunckerhunt has sufficient minimum contacts
21 because of its sales on its website Lunckerhunt.com and Lunckerhunt’s Amazon store at
22 <https://www.amazon.com/stores/page/229FB367-4549-42A4-BD22-3F643CBD453C> within
23 California, including within this judicial district.

24 11. This Court also has specific personal jurisdiction over Lunckerhunt because, on
25 information and belief, Lunckerhunt has directly infringed claim 1 of the ‘785 Patent by selling
26 products on Lunckerhunt.com and Lunckerhunt’s Amazon store at
27 <https://www.amazon.com/stores/page/229FB367-4549-42A4-BD22-3F643CBD453C> within
28 California, including within this judicial district. For the reasons set forth below, such sales directly

1 infringe the claim of the ‘785 Patent. Thus, Lunckerhunt is subject to specific personal jurisdiction in
2 this district, because it has committed acts of infringement in California, and because Plaintiff’s claim
3 arise out of such infringement.

4 12. This court has personal jurisdiction over BGDM because under Federal rule of civil
5 procedure 4(k)(2), foreign defendants are subject to personal jurisdiction in any state in which the
6 foreign defendant has had sufficient minimum contacts. BGDM has sufficient minimum contacts
7 because BGDM owns Lunckerhunt. The website <https://www.bgdmgroup.com/> indicates that BGDM
8 owns Lunckerhunt. A screenshot of the website is attached as Exhibit 5. Therefore, the same reasons
9 listed above for Lunckerhunt apply to BGDM.

10 13. This court has personal jurisdiction over Ebay because Ebay resides in California. Ebay
11 resides in California because: (i) its principal place of business is in California, at 2145 Hamilton
12 Avenue, San Jose, California 95125.

13 14. This Court also has specific personal jurisdiction over Ebay because, on information
14 and belief, Ebay has directly infringed claim 1 (the “Asserted Claim”) of the ‘785 Patent by selling
15 products within California, including within this judicial district. On information and belief, Ebay has
16 sold products to individuals and businesses within California, and within this judicial district. For the
17 reasons set forth below, such use directly infringes the Asserted Claim. Thus, Ebay is subject to
18 specific personal jurisdiction in this district, because it has committed acts of infringement in
19 California, and because Plaintiff’s claims arise out of such infringement.

20 15. This court has personal jurisdiction over Google because Google resides in California.
21 Google resides in California because: (i) its principal place of business is in California, at 1600
22 Amphitheatre Parkway, Mountain View, California 94043.

23 16. This Court also has specific personal jurisdiction over Google because, on information
24 and belief, Google has directly infringed claim 1 of the ‘785 Patent by selling products within
25 California, including within this judicial district. On information and belief, Google has sold products
26 to individuals and businesses within California, and within this judicial district. For the reasons set
27 forth below, such use directly infringes the Asserted Claim. Thus, Google is subject to specific
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1 personal jurisdiction in this district, because it has committed acts of infringement in California, and
2 because Plaintiff's claims arise out of such infringement.

3
4 VENUE

5 17. Venue is proper over the Defendant in this judicial district under 28 U.S.C. §§1391
6 and/or 1400(b), for at least the following reasons:

7 18. Venue is proper over Lunckerhunt because: on information and belief, Lunckerhunt has
8 committed direct infringement in this district, including by selling Accused Instrumentalities in
9 connection with its provision of services to customers in this district, and/or by selling Accused
10 Instrumentalities directly within this district.

11 19. Venue is proper over BGDM Group for the same reasons listed above for Lunckerhunt.

12 20. Venue is proper over Ebay because Ebay resides in this district, because Ebay's
13 principal place of business is located in this district, at 2145 Hamilton Avenue, San Jose,
14 California 95125. See 28 U.S.C. § 1400(b).

15 21. Venue is also proper over Ebay because: (i) Ebay has regular and established places of
16 business in this district, including its principal place of business at at 2145 Hamilton Avenue, San
17 Jose, California 95125.; and (ii) on information and belief, Ebay has committed direct infringement in
18 this district, including by using Accused Instrumentalities in connection with its provision of services
19 to customers in this district, and/or by using Accused Instrumentalities directly within this district.

20 22. Venue is proper over Google because Google resides in this district, because Google's
21 principal place of business is located in this district, at 1600 Amphitheatre Parkway, Mountain View,
22 California. See 28 U.S.C. § 1400(b).

23 23. Venue is also proper over Google because: (i) Google has regular and established places
24 of business in this district, including its principal place of business at 1600 Amphitheatre Parkway,
25 Mountain View, California; and (ii) on information and belief, Google has committed direct
26 infringement in this district, including by using Accused Instrumentalities in connection with its
27 provision of services to customers in this district, and/or by using Accused Instrumentalities directly
28 within this district.

1 24. Thus, venue is proper over Defendants under 28 U.S.C. § 1400(b).

2
3 **INTRADISTRICT ASSIGNMENT**

4 25. This case is a patent infringement dispute that is appropriate for district-wide
5 assignment. Assignment to the San Jose Division is appropriate because a substantial part of
6 the events that gave rise to the claims asserted in this Complaint occurred in Santa Clara
7 County.
8

9 **THE '785 PATENT**

10 26. Plaintiff incorporates the above paragraphs herein by reference.

11 27. Steve M. Johnson is the sole named inventor of the '785 Patent.

12 28. On March 25, 2004, Steve M. Johnson filed with the United States Patent and
13 Trademark Office ("USPTO") Non-Provisional Patent Application no. 10/809,007 (the '007
14 application) directed to his inventions. On August 23, 2005, the USPTO issued the '785
15 Patent from the '007 application.

16 29. The '785 Patent is valid and enforceable. The '785 Patent claims patent-eligible matter.

17 30. The Asserted Claim of the '785 Patent is an independent apparatus claim. Claim 1 is
18 reproduced below:

19 A fishing lure apparatus, comprising:

20 a simulated turtle body which includes a simulated turtle bottom portion and a simulated
21 turtle shell portion supported by said simulated turtle bottom portion,

22 simulated turtle legs connected to said simulated turtle body,

23 a simulated turtle tail connected to said simulated turtle body,

24 a simulated turtle head connected to said simulated turtle body, and

25 one or more fish hooks connected to at least one of said simulated turtle body, said

26 simulated turtle legs, and said simulated turtle tail,

27 wherein said simulated turtle tail includes:

28 a tail hook of said one or more fish hooks, and

1 a simulated turtle tail covering attached to said tail hook.

2 31. Lunkerhunt and BGDM had actual knowledge of the '785 patent at least as of
3 November 14, 2023 when an email regarding this patent was sent to info@lunkerhunt.com and
4 info@bgdmgroup.com.

5 32. A copy of this November 14, 2023 emails is attached as Exhibit 6 to this Complaint.

6 33. On November 16, 2023, Amazon was informed of the infringement of the '785 Patent
7 by Lunkerhunt through Amazon's reporting tool at
8 <https://www.amazon.com/report/infringement>. These reports are attached to this Complaint as
9 Exhibit 7. However, the reports did not result in Amazon removing any Accused Products.

10 34. Ebay had actual knowledge of the '785 patent at least as of November 25, 2023 when
11 an email regarding this patent was sent to monscott@ebay.com.

12 35. A copy of this November 25, 2023 emails is attached as Exhibit 8 to this Complaint.

13 36. Google had actual knowledge of the '785 patent at least as of November 14, 2023 when
14 an email regarding this patent was sent to olaolu@google.com.

15 37. A copy of this November 14, 2023 emails is attached as Exhibit 9 to this Complaint.

16
17 **DEFENDANTS' INFRINGING USE**

18 38. On information and belief, Lunkerhunt, BGDM Group, Ebay, Google and/or their
19 affiliates, have directly infringed each Asserted Claim of the '785 patent, by making, using,
20 selling and offering to sell, and by inducing and contributing to others' infringement through
21 their sales, offers for sale, and use of , and other products depicted on Defendants' websites and
22 sold on third party websites ("the Accused Products") within the United States, all without
23 authorization or license from Plaintiff within the United States, less than six years before the
24 filing of this Complaint, and prior to the March 25, 2024 expiration date of the '785 patent (the
25 "Relevant Time Period").

26 39. One example of Lunkerhunt's sale of infringing products is the "prop turtle" on
27 <https://lunkerhunt.com/products/prop-turtle>. Screenshots of this website are attached to this
28

1 Complaint as Exhibits 10 and 11 to this Complaint. A claim chart explaining infringement of
2 the ‘785 Patent is attached as Exhibit 12.

3 40. Another example of Lunckerhunt’s sale of infringing products is the on its Amazon store
4 at <https://www.amazon.com/stores/page/229FB367-4549-42A4-BD22-3F643CBD453C>. A
5 screenshot of this website providing exemplary evidence of infringement of the ‘785 Patent is
6 attached to this Complaint as Exhibit 13. The infringing product is the “Lunckerhunt prop series
7 combo” and the site indicates it is a best seller.

8 41. There are potentially other infringing products being sold by Lunckerhunt, which may be
9 uncovered in discovery. Plaintiff reserves the right to amend this Complaint to name such
10 infringing products, if necessary, once they have been revealed.

11 42. BGDM’s infringing use is the same as Lunckerhunt’s infringing use, explained above.

12 43. A list of websites showing examples of Ebay’s sale of infringing products is attached as
13 Exhibit 14. A screenshot of each website providing exemplary evidence of infringement of the
14 ‘785 Patent is attached to this Complaint as Exhibits 15-17.

15 44. There are potentially other infringing products being sold by Ebay, which may be
16 uncovered in discovery. Plaintiff reserves the right to amend this Complaint to name such
17 infringing products, if necessary, once they have been revealed.

18 45. The website showing multiple examples of Google’s sale of infringing products is
19 attached as Exhibit 18. A screenshot of different parts of the website providing exemplary
20 evidence of infringement of the ‘785 Patent is attached to this Complaint as Exhibits 19-22.

21 46. There are potentially other infringing products being sold by Defendants, which may be
22 uncovered in discovery. Plaintiff reserves the right to amend this Complaint to name such
23 infringing products, if necessary, once they have been revealed.

24
25 **FIRST CLAIM FOR RELIEF**

26 **(Infringement of the ‘785 Patent)**

27 47. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1-46
28 above as if fully set forth herein and further alleges:

1 48. Defendants have committed direct infringement of each Asserted Claim of the ‘785
2 patent, in violation of 35 U.S.C. § 271(a), by performing all the steps of each Asserted Claim in
3 the U.S., during the Relevant Time Period.

4 49. Defendant has infringed and continue to infringe one or more of the claims of the ‘785
5 Patent by making, using, selling and offering to sell, and by inducing and contributing to
6 others’ infringement through their sales, offers for sale, and use of the Accused Products, all
7 without authorization or license from Plaintiff.

8 50. On information and belief, Plaintiff alleges Defendant has been, and is currently,
9 infringing the ‘785 patent in violation of 35 U.S.C. § 271. Defendant’s acts of infringement
10 include direct infringement and infringement under the Doctrine of Equivalents.

11 51. Defendant has continued their infringement despite having notice of the ‘785 Patent.
12 Defendant has committed and is committing willful and deliberate patent infringement. On
13 information and belief Plaintiff alleges Defendant’s acts of willful and deliberate infringement
14 will continue after service of this Complaint, rendering this case appropriate for treble damages
15 under 35 U.S.C. §284 and making this an exceptional case under 35 U.S.C. §285.

16 52. Defendant has indirectly infringed and continues to infringe at least claim 1 of the ‘785
17 patent by inducement under 35 U.S.C. 271(b). Defendant has induced and continues to induce
18 users and retailers of the Accused Products to directly infringe at least claim 1 of the ‘785
19 patent.

20 53. Upon information and belief, Defendant knowingly induced customers to use its
21 Accused Products, including, for example, by promoting such products online (e.g.,
22 www.Alphabet.com) and/or providing customers with instructions and/or manuals for using the
23 Accused Products. Likewise, Defendant knowingly induced retailers to market and sell the
24 Accused Products.

25 54. On information and belief, Defendant has contributed to the infringement of at least
26 claim 1 of the ’785 patent by the use and/or importation of the Accused Products in violation of
27 35 U.S.C. § 271(c).

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1 55. Plaintiff is informed and believes, and on that basis alleges, that Defendant has gained
2 profits by virtue of their infringement of the ‘785 Patent.

3 56. Defendant’s acts of infringement are and have been without Plaintiff’s permission,
4 consent, authorization or license. Defendant’s acts of infringement have caused and continue
5 to cause damage to Plaintiff. Plaintiff is entitled to recover from Defendant the damages
6 sustained by Plaintiff as a result of Defendant’s wrongful acts, together with interest and costs
7 as fixed by this Court under 35 U.S.C. §284.

8 57. As a direct and proximate result of Defendant’s infringement of the ‘785 Patent,
9 Plaintiff has, and will suffer, monetary damages and irreparable injury. Plaintiff’s monetary
10 damages include, without limitation, lost profits, or at a minimum, the right to recover a
11 reasonable royalty. Furthermore, unless Defendant is enjoined by this Court from continuing its
12 infringement of the ‘785 Patent, Plaintiff has, and will suffer, additional irreparable damages
13 and impairment of the value of its patent rights. Thus, an injunction against further
14 infringement is appropriate.

15
16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff prays judgment against each Defendant as follows:

- 18 A. That each Defendant has infringed and is infringing the ‘785 Patent;
- 19 B. That such infringement is willful;
- 20 C. That defendant be ordered to pay Plaintiff damages caused by said Defendant’s
21 infringement of the ‘785 Patent and that such damages be trebled in accord with 35
22 U.S.C. § 284, together with interest thereon;
- 23 D. That this case be declared exceptional pursuant to 35 U.S.C. § 285 and that Plaintiff be
24 awarded reasonable attorney’s fees and costs; and
- 25 E. That Plaintiff shall have such other and further relief as this Honorable Court may deem
26 just and proper.

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DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff, Safety Direct LLC, hereby demands a jury trial on *all* of his claims, causes of action and issues that are triable by jury.

Dated: December 18, 2023

MURTHY PATENT LAW INC.

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