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7 *Attorneys for Plaintiff*

8  
9 **IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

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11 **WYOMING INTELLECTUAL  
12 PROPERTY HOLDINGS, LLC**

13 Plaintiff,

14 v.

15  
16 **ZEPP HEALTH CORPORATION  
17 and ZEPP NORTH AMERICA, INC.**

18 Defendants.

**Case No. 2:24-cv-1024**

**Jury Trial Demanded**

19 **COMPLAINT FOR PATENT INFRINGEMENT**

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21 Wyoming Intellectual Property Holdings, LLC (“Plaintiff” and/or  
22 “WIPH”) files this complaint against Zepp Health Corporation and Zepp North  
23 America, Inc. (collectively “Defendants” or “Zepp”) for infringement of U.S.  
24 Patent No. 10,565,888 (“the ’888 Patent”) and alleges as follows:

25 **PARTIES**

- 26 1. Plaintiff is a Wyoming limited liability company having an address at 1  
27 East Broward Boulevard, Suite 700, Ft. Lauderdale, FL 33301.  
28 2. Upon information and belief, Zepp Health Corporation is a company

1 organized and existing under the laws of China with its principal place of business at  
2 Huami Global Innovation Center, Building B2, Zhongan Chuanggu Science and  
3 Technology Park, No. 900 Wangjiang West Road, Hefei, 230088, People's Republic  
4 of China.

5 3. Upon information and belief, Zepp North America, Inc. is a company  
6 organized and existing under the laws of the State of Delaware and has a principal place  
7 of business at 1551 McCarthy Blvd., Ste 107, Milpitas, California 95035.

8  
9 **JURISDICTION AND VENUE**

10 4. This action arises under the patent laws of the United States, 35 U.S.C. §  
11 271 et seq. Plaintiff is seeking damages, as well as attorney fees and costs.

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13 5. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal  
14 Question) and 1338(a) (Patents).

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16 6. This Court has personal jurisdiction over Defendants. Defendants have  
17 continuous and systematic business contacts with the State. Defendants transact  
18 business within this District. Further, this Court has personal jurisdiction over  
19 Defendants based on its commission of one or more acts of infringement of Patents in  
20 this District and elsewhere in the State.

21  
22 7. More specifically, Defendants, directly and/or through intermediaries,  
23 ship, distribute, use, offer for sale, sell, and/or advertise products and services in the  
24 United States, the State of California, and the Central District of California including  
25 but not limited to the Products as detailed below. Upon information and belief,  
26 Defendants have committed patent infringement in the State of California and in the  
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Central District of California. Defendants solicit and have solicited customers in the State of California and in the Central District of California. Defendants have paying customers, who are residents of the State of California and the Central District of California, who each use and have used the Defendants' products and services in the State of California and in the Central District of California.

8. On information and belief, Defendants maintain physical brick-and-mortar business locations in the State and within this District, retains employees specifically in this District for the purpose of servicing customers in this District, and generates substantial revenues from its business activities in this District.

9. Venue is proper in this judicial district as to Zepp Health Corporation pursuant to 28 U.S.C. §§ 1391(c)(3) because Zepp Health Corporation is not a resident of the United States and therefore may be sued in any judicial district.

10. Venue is also proper in this district as to Defendants pursuant to at least 28 U.S.C. §§ 1391(c)(2) and 1400(b). As noted above, Defendants maintain a regular and established business presence in this District. See Figures 1 and 2 below.

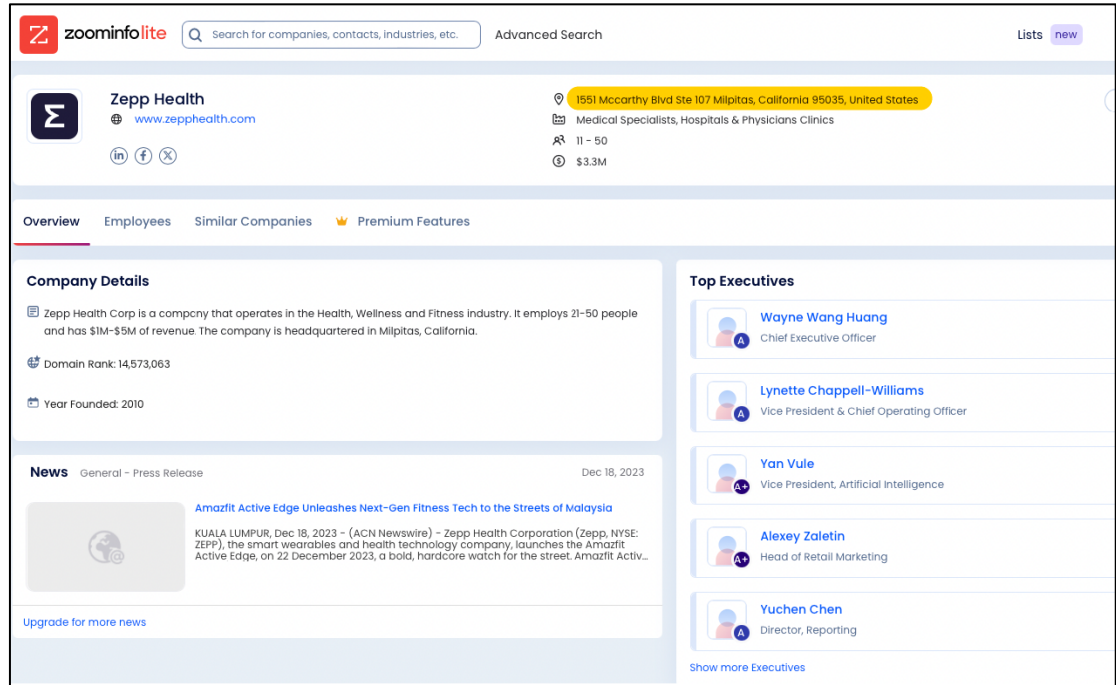


Figure 1

(source: <https://apps.zoominfo.com/zi-lite/#/profile/company/1308718241/overview>)

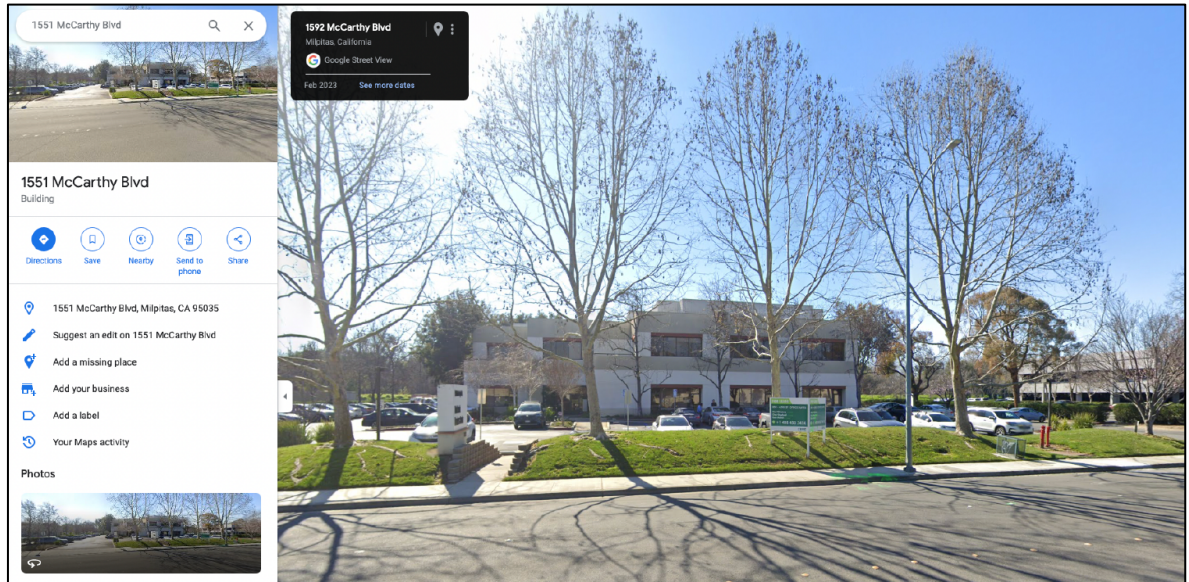


Figure 2

(source: Google Maps)

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**PATENT-IN-SUIT**

11. On July 5, 2016, the United States Patent and Trademark Office (“USPTO”) duly and legally issued the ’888 Patent, entitled “Instruction Production.” The ’888 Patent is attached as Exhibit A.

12. Plaintiff is the sole and exclusive owner, by assignment, of the ’888 Patent.

13. Plaintiff possesses all rights of recovery under the ’888 Patent, including the exclusive right to recover for past, present and future infringement.

14. The ’888 Patent contains twenty claims including three independent claims (claims 1, 5 and 17) and seventeen dependent claims.

15. The priority date of the ’888 Patent is at least as early as February 17, 2013. As of the priority date, the inventions as claimed were novel, non-obvious, unconventional, and non-routine.

16. Plaintiff alleges infringement on the part of Defendants of the ’888 Patent.

17. The ’888 Patent teaches systems and methods for identifying a difference between an actual action of a user and a standard action for the user, and for producing an instruction to instruct the user to change from the action of the user to the standard action for the user. The systems and methods of the ’888 Patent can be used to monitor how a golfer swings his or her golf club, automatically compare the golfer’s swing against a preferred golf swing (such as the swing of a professional golfer), and produce an instruction to the golfer. *See* ’888 Patent, Abstract and 2:43-54. In some

1 embodiments, the systems and methods take into account the physical health and/or the  
2 physical attributes of the user. *See* '888 Patent, 16:11-45

3 18. The '888 Patent was examined by Primary United States Patent Examiner  
4 Jerry-Daryl Fletcher. During the examination of the '888 Patent, the United States  
5 Patent Examiner searched for prior art in the following US Classifications: G09B 5102  
6 (2013.01).  
7

8 19. After conducting a search for prior art during the examination of the '888  
9 Patent, the United States Patent Examiner identified and cited 261 U.S. patents, 82  
10 published U.S. patent applications, and the following articles: (1) Tony Olivero, Say  
11 Goodbye to Boxing Judges, Jun. 25, 2012, [http://online.wsj.com/article/SB1000\\_1](http://online.wsj.com/article/SB1000_1)  
12 [424052702304782404577488863709341\\_728.html](http://online.wsj.com/article/SB1000_1424052702304782404577488863709341_728.html); and (2) Associated Press,  
13 Tiger Woods swing app available, Mar. 23, 2011,  
14 <http://sports.espn.go.com/golf/news/story?id=6249863>, Orlando, Florida; Tony  
15 Olivero, Say Goodbye to Boxing Judges, Jun. 25, 2012, <http://online.wsj>  
16 [.com/article/SB1000\\_1424052702304782404577488863709341\\_728.html](http://online.wsj.com/article/SB1000_1424052702304782404577488863709341_728.html).  
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21 20. After giving full proper credit to the prior art and having conducted a  
22 thorough search for all relevant art and having fully considered the most relevant art  
23 known at the time, the United States Patent Examiner allowed all of the claims of the  
24 '888 Patent to issue. In so doing, it is presumed that Examiner Utama used his  
25 knowledge of the art when examining the claims. *K/S Himpp v. Hear-Wear Techs.,*  
26 *LLC*, 751 F.3d 1362, 1369 (Fed. Cir. 2014). It is further presumed that Examiner Utama  
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1 had experience in the field of the invention, and that the Examiner properly acted in  
2 accordance with a person of ordinary skill. *In re Sang Su Lee*, 277 F.3d 1338, 1345  
3 (Fed. Cir. 2002). In view of the foregoing, the claims of the '888 Patent are novel and  
4 non-obvious, including over all non-cited art which is merely cumulative with the  
5 referenced and cited prior art. Likewise, the claims of the '888 Patent are novel and  
6 non-obvious, including over all non-cited contemporaneous state of the art systems and  
7 methods, all of which would have been known to a person of ordinary skill in the art,  
8 and which were therefore presumptively also known and considered by Examiner  
9 Utama.

12  
13 21. The claims of the '888 Patent were all properly issued, and are valid and  
14 enforceable for the respective terms of their statutory life through expiration, and are  
15 enforceable for purposes of seeking damages for past infringement even post-  
16 expiration. *See, e.g., Genetics Institute, LLC v. Novartis Vaccines and Diagnostics,*  
17 *Inc.*, 655 F.3d 1291, 1299 (Fed. Cir. 2011) (“[A]n expired patent is not viewed as  
18 having ‘never existed.’ Much to the contrary, a patent does have value beyond its  
19 expiration date. For example, an expired patent may form the basis of an action for  
20 past damages subject to the six-year limitation under 35 U.S.C. § 286”) (internal  
21 citations omitted).

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25 22. The nominal expiration date for the claims of the '888 Patent is no earlier  
26 than July 8, 2034.  
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**ACCUSED INSTRUMENTALITIES**

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2       23. On information and belief, Defendant sells, advertises, offers for sale,  
3 uses, or otherwise provides exemplary products, including at least a Zepp app, that  
4 comprises a feature of Zepp Coach, an AI-powered software, that acts as a digital fitness  
5 coach and works along with Amazfit smartwatches and wearable devices to create  
6 personalized training programs. The foregoing are referred to as the “Accused  
7 Instrumentalities.”  
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10                                   **COUNT I**  
11                                   **(INFRINGEMENT OF UNITED STATES PATENT NO. 10,565,888)**

12       24. Plaintiff refers to and incorporates the allegations in Paragraphs 1 - 23, the  
13 same as if set forth herein.  
14

15       25. This cause of action arises under the patent laws of the United States and,  
16 in particular under 35 U.S.C. §§ 271, *et seq.*  
17

18       26. Defendant have knowledge of its infringement of the '888 Patent, at least  
19 as of the service of the present complaint.

20       27. The '888 Patent is valid, enforceable, and was duly issued in full  
21 compliance with Title 35 of the United States Code.  
22

23       28. Upon information and belief, Defendants have infringed and continues to  
24 infringe one or more claims, including at least Claim 5, 9, 10, 11 and 17 of the '888  
25 Patent by manufacturing, using, importing, selling, offering for sale, and/or providing  
26 (as identified in the Claim Chart attached hereto as Exhibit B) the Accused  
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1 Instrumentalities which infringe at least Claims 5, 9, 10, 11 and 17 of the '888 Patent.  
2 Defendants have infringed and continue to infringe the '888 patent either directly or  
3 through acts of contributory infringement or inducement in violation of 35 U.S.C. §  
4  
5 271.

6 29. Defendants also have and continue to directly infringe, literally or under  
7 the doctrine of equivalents, at least Claims 5, 9, 10, 11 and 17 of the '888 Patent, by  
8  
9 having its employees internally test and use these exemplary Accused Instrumentalities.

10 30. The service of this Complaint, in conjunction with the attached claim chart  
11 and references cited, constitutes actual knowledge of infringement as alleged here.  
12

13 31. Despite such actual knowledge, Defendants continue to make, use, test,  
14 sell, offer for sale, market, and/or import into the United States, products that infringe  
15 the '888 Patent. On information and belief, Defendants have also continued to sell the  
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17 exemplary Accused Instrumentalities and distribute product literature and website  
18 materials inducing end users and others to use its products in the customary and  
19  
20 intended manner that infringes the '888 Patent. *See* Exhibit B (extensively referencing  
21 these materials to demonstrate how they direct end users to commit patent  
22 infringement).

23 32. At least since being served by this Complaint and corresponding claim  
24  
25 chart, Defendants have actively, knowingly, and intentionally continued to induce  
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27 infringement of the '888 Patent, literally or by the doctrine of equivalents, by selling  
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1 exemplary Accused Instrumentalities to their customers for use in end-user products in  
2 a manner that infringes one or more claims of the '888 Patent.

3 33. Exhibit B includes at least one chart comparing the exemplary '888 Patent  
4 Claims to the exemplary Accused Instrumentalities. As set forth in this chart, the  
5 exemplary Accused Instrumentalities practice the technology claimed by the '888  
6 Patent. Accordingly, the exemplary Accused Instrumentalities incorporated in this  
7 chart satisfy all elements of at least Claims 5, 9, 10, 11 and 17 of the '888 Patent.  
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9  
10 34. Plaintiff therefore incorporates by reference in its allegations herein the  
11 claim chart of Exhibit B.  
12

13 35. Plaintiff is entitled to recover damages adequate to compensate for  
14 Defendants' infringement.  
15

16 36. Defendants' actions complained of herein will continue unless Defendants  
17 are enjoined by this court.

18 37. Defendants' actions complained of herein are causing irreparable harm  
19 and monetary damage to Plaintiff and will continue to do so unless and until Defendants  
20 are enjoined and restrained by this Court.  
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22 38. Plaintiff is in compliance with 35 U.S.C. § 287.  
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**DEMAND FOR JURY TRIAL**

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2 39. Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a  
3 trial by jury of any issues so triable by right.  
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**PRAYER FOR RELIEF**

5  
6 WHEREFORE, Plaintiff asks the Court to:

7 (a) Enter judgment for Plaintiff on this Complaint on all causes of action  
8 asserted herein;  
9

10 (b) Enter an Order enjoining Defendants, their agents, officers, servants,  
11 employees, attorneys, and all persons in active concert or participation with Defendant  
12 who receive notice of the order from further infringement of United States Patent No.  
13 10,565,888 (or, in the alternative, awarding Plaintiff running royalties from the time of  
14 judgment going forward);  
15

16 (c) Award Plaintiff damages resulting from Defendants’ infringement in  
17 accordance with 35 U.S.C. § 284;  
18

19 (d) Award Plaintiff pre-judgment and post-judgment interest and costs; and  
20

21 (e) Award Plaintiff such further relief to which the Court finds Plaintiff  
22 entitled under law or equity.  
23

24  
25 Dated: February 6, 2024

Respectfully served,  
GARTEISER HONEA, PLLC

26  
27 /s/ Randall Garteiser

Randall Garteiser  
CA State Bar No. 231821

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