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10 *Attorneys for Plaintiff*
11 Ortiz & Associates Consulting, LLC

12 **IN THE UNITED STATES DISTRICT COURT**
13 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
14 **SOUTHERN DIVISION**

15 ORTIZ & ASSOCIATES
16 CONSULTING, LLC,

17 Plaintiff,

18 v.

19 EPSON AMERICA, INC.,

20 Defendant.
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Case No.: 8:24-cv-01660

**PLAINTIFF'S ORIGINAL
COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

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25 Ortiz & Associates Consulting, LLC (“Plaintiff” or “Ortiz”) files this Original
26 Complaint and demand for jury trial seeking relief from patent infringement of the
27 claims of U.S. Patent No. 9,549,285 (“the ’285 patent”) (referred to as the “Patent-in-
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1 Suit”) by Epson America, Inc. (“Defendant” or “Espon”).

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3 **I. THE PARTIES**

4 1. Plaintiff is a New Mexico Limited Liability Company with its principal place
5 of business located in Albuquerque, NM.

6 2. On information and belief, Defendant is a Domestic Business Corporation
7 organized and existing under the laws of the State of California, with a regular and
8 established place of business located at 3131 Katella Ave, Los Alamitos, CA 90720.

9 On information and belief, Defendant sells and offers to sell products and services
10 throughout California, including in this judicial district, and introduces products and
11 services that perform infringing methods or processes into the stream of commerce
12 knowing that they would be sold in California and this judicial district. Defendant is
13 registered to do business in California and has can be served with process through
14 their registered agent, Corporation CSC – Lawyers Incorporating Service, 2710
15 Gateway Oaks Drive, Sacramento, California 95833, at its place of business, or
16 anywhere else it may be found.

17 3. On information and belief, Defendant sells and offers to sell products and
18 services throughout California, including in this judicial district, and introduces
19 products and services that perform infringing methods or processes into the stream of
20 commerce knowing that they would be sold in California and this judicial district.
21 Defendant can be served with process through their registered agent, Incyourbiz
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1 Corp., 221 N Broad St., Middletown, New Castle, Delaware 19709, at its place of
2 business, or anywhere else it may be found.
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4 **II. JURISDICTION AND VENUE**

5 4. This Court has original subject-matter jurisdiction over the entire action
6 pursuant to 28 U.S.C. §§ 1331 and 1338(a) because Plaintiff's claim arises under an
7 Act of Congress relating to patents, namely, 35 U.S.C. § 271.
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9 5. This Court has personal jurisdiction over Defendant because: (i) Defendant is
10 present within or has minimum contacts within the State of California and this judicial
11 district; (ii) Defendant has purposefully availed itself of the privileges of conducting
12 business in the State of California and in this judicial district; and (iii) Plaintiff's cause
13 of action arises directly from Defendant's business contacts and other activities in the
14 State of California and in this judicial district.
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17 6. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and 1400(b).
18 Defendant has committed acts of infringement and has a regular and established place
19 of business in this District. Further, venue is proper because Defendant conducts
20 substantial business in this forum, directly or through intermediaries, including: (i) at
21 least a portion of the infringements alleged herein; and (ii) regularly doing or
22 soliciting business, engaging in other persistent courses of conduct and/or deriving
23 substantial revenue from goods and services provided to individuals in California and
24 this District.
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28 **III. INFRINGEMENT**

1 **A. Infringement of the '285 Patent**

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3 7. On January 17, 2017, U.S. Patent No. 9,549,285 (“the '285 patent”, included
4 as Exhibit A and part of this complaint) entitled “Systems, methods and apparatuses
5 for brokering data between wireless devices, servers and data rendering devices” was
6 duly and legally issued by the U.S. Patent and Trademark Office. Plaintiff owns the
7 '285 patent by assignment.
8

9 8. The '285 patent relates to novel and improved systems, methods and apparatus
10 for providing data, such as documents and video, to data rendering devices (DRDs)
11 including networked printers capable of printing documents and multimedia devices
12 (e.g., televisions, video monitors, and projectors) capable of displaying video data at
13 the request of wireless devices.
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16 9. Defendant maintains, operates, and administers systems, products, and services
17 that performs a method that infringes one or more of claims 1-13 of the '285 patent,
18 literally or under the doctrine of equivalents. Defendant put the inventions claimed by
19 the '285 Patent into service (i.e., used them); but for Defendant’s actions, the claimed-
20 inventions embodiments involving Defendant’s products and services would never
21 have been put into service. Defendant’s acts complained of herein caused those
22 claimed-invention embodiments as a whole to perform, and Defendant’s procurement
23 of monetary and commercial benefit from it. Defendant has known of the '285 patent
24 from at least June 23, 2023 when it was previously sued in the Eastern District of
25 Texas under cause number 2:23-cv-00308-JRG.
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1 10.Support for the allegations of infringement may be found in the the chart
2 attached as exhibit B. These allegations of infringement are preliminary and are
3 therefore subject to change.
4

5 11.Defendant has caused Plaintiff damage by direct infringement of the claims of
6 the '285 patent.
7

8 **IV. CONDITIONS PRECEDENT**

9 12. Plaintiff has never sold a product. Upon information and belief, Plaintiff
10 predecessors-in-interest have never sold a product. Plaintiff is a non-practicing entity,
11 with no products to mark. Plaintiff has pled all statutory requirements to obtain pre-
12 suit damages. Further, all conditions precedent to recovery are met. Under the rule
13 of reason analysis, Plaintiff has taken reasonable steps to ensure marking by any
14 licensee producing a patented article.
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16
17 13. Plaintiff and its predecessors-in-interest have entered into settlement
18 licenses with several defendant entities, but none of the settlement licenses were to
19 produce a patented article, for or under the Plaintiff's patents. Duties of confidentiality
20 prevent disclosure of settlement licenses and their terms in this pleadimng but
21 discovery will show that Plaintiff and its predecessors-in-interest have substantially
22 complied with Section 287(a). Furthermore, each of the defendant entities in the
23 settlement licenses did not agree that they were infringing any of Plaintiff's patents,
24 including the Patents-in-Suit, and thus were not entering into the settlement license to
25 produce a patented article for Plaimntiff or under its patents. Further, to the extent
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1 necessary, Plaintiff has limited its claims of infringement to method claims and
2 thereby remove any requirement for marking.
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4 14. To the extent Defendant identifies an alleged unmarked product
5 produced for Plaintiff or under Plaintiff's patents, Plaintiff will develop evidence in
6 discovery to either show that the alleged unmarked product does not practice the
7 Patents-in-suit and that Plaintiff has substantially complied with the marking statute.
8 Defendant has failed to identify any alleged patented article for which Section 287(a)
9 would apply. Further, Defendant has failed to allege any defendant entity produce a
10 patented article.
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13 15. The policy of § 287 serves three related purposes: (1) helping to avoid
14 innocent infringement; (2) encouraging patentees to give public notice that the article
15 is patented; and (3) aiding the public to identify whether an article is patented.
16 These policy considerations are advanced when parties are allowed to freely settle
17 cases without admitting infringement and thus not require marking. All settlement
18 licenses were to end litigation and thus the policies of §287 are not violated. Such a
19 result is further warranted by 35 U.S.C. §286 which allows for the recovery of
20 damages for six years prior to the filing of the complaint.
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24 16. For each previous settlement license, Plaintiff understood that (1) the
25 settlement license was the end of litigation between the defendant entity and Plaintiff
26 and was not a license where the defendant entity was looking to sell a product under
27 any of Plaintiff's patents; (2) the settlement license was entered into to terminate
28

1 litigation and prevent future litigation between Plaintiff and defendant entity for
2 patent infringement; (3) defendant entity did not believe it produced any product that
3 could be considered a patentable article under 35 U.S.C. §287; and, (4) Plaintiff
4 believes it has taken reasonable steps to ensure compliance with 35 U.S.C. §287 for
5 each prior settlement license.
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8 17. Each settlement license that was entered into between the defendant entity and
9 Plaintiff was negotiated in the face of continued litigation and while Plaintiff believes
10 there was infringement, no defendant entity agreed that it was infringing. Thus, each
11 prior settlement license reflected a desire to end litigation and as such the policies of
12 §287 are not violated.
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15 **V. JURY DEMAND**

16 Plaintiff hereby requests a trial by jury on issues so triable by right.

17 **VI. PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff prays for relief as follows:
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- 20 a. enter judgment that Defendant has infringed the claims of the patent-in-suit;
21 b. award Plaintiff damages in an amount sufficient to compensate it for
22 Defendant's infringement of the Patent-in-Suit in an amount no less than a
23 reasonable royalty or lost profits, together with pre-judgment and post-
24 judgment interest and costs under 35 U.S.C. § 284;
25 c. award Plaintiff an accounting for acts of infringement not presented at trial and
26 an award by the Court of additional damage for any such acts of infringement;
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- 1 d. declare this case to be “exceptional” under 35 U.S.C. § 285 and award Plaintiff
2 its attorneys’ fees, expenses, and costs incurred in this action;
3
4 e. declare Defendant’s infringement to be willful and treble the damages,
5 including attorneys’ fees, expenses, and costs incurred in this action and an
6 increase in the damage award pursuant to 35 U.S.C. § 284; and,
7
8 f. award Plaintiff such other and further relief as this Court deems just and
9 proper.

10 Dated: July 30, 2024

Respectfully submitted,

11
12 RAMEY LLP

13 /s/ Susan S.Q. Kalra

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