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Katten KaterMuchinitosemmanuz		5 6	Attorney for Plaintiff Tobii Technology AB	
		7		
		8	UNITED STATES DISTRICT COURT	
		9	NORTHERN DISTRICT OF CALIFORNIA	
		10		
		11	TOBII TECHNOLOGY AB,	) Case No.
		12	Plaintiff,	) COMPLAINT FOR PATENT ) INFRINGEMENT
		13	V.	) ) DEMAND FOR JURY TRIAL
		14	THE EYE TRIBE APS,	)
		15	Defendant.	)
		16		
		17	Plaintiff Tobii Technology AB ("Tobii") hereby brings this action against The Eye Tribe	
			Aps ("The Eye Tribe") for infringement of United States Patent No. 6,659,611, and alleges as	
			follows:	
		20	PARTIES	
		21	1. Tobii is a corporation organized and existing under the laws of Sweden with its	
			principal place of business in Danderyd, Sweden. Tobii is the world leader in eye tracking and	
			gaze interaction. Its technology makes it possible for computers to know exactly where users are	
		24 25	<ul><li>looking.</li><li>2. On information and belief, The Eye Tribe is a corporation organized and existing</li></ul>	
			under the laws of Denmark with its principal place of business at Amagerfaelledvej 56, Box 34,	
			2300 Copenhagen S, Denmark.	
		28		
		20		

As further described below, The Eye Tribe uses, sells, offers to sell and/or imports
 into the United States an eye tracker that infringes a Tobii patent.

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# JURISDICTION AND VENUE

4 4. This action arises under the patent laws of the United States, 35 U.S.C. § 100, *et*5 *seq.* This court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and
6 1338(a).

5. This court has personal jurisdiction over The Eye Tribe and venue is proper in the Northern District of California pursuant to 28 U.S.C. § 1391(b) and (c) and § 1400(b). The Eye Tribe transacts business involving infringing products within this District, and offers infringing products for sale in this District. On information and belief, The Eye Tribe derives significant revenue from the sale of infringing products distributed and used within this District, and/or expects or should reasonably expect its actions to have consequences within this District, and derives substantial revenue from interstate and international commerce.

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# INTRADISTRICT ASSIGNMENT

15 6. This is an Intellectual Property Action to be assigned on a district-wide basis
16 pursuant to Civil Local Rule 3-2(c).

17

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## THE '611 PATENT

7. 18 On December 9, 2003, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 6,659,611 ("the '611 Patent"), entitled "System and Method for Eye 19 Gaze Tracking Using Corneal Image Mapping," to Arnon Amir, Myron Dale Flickner, David 20 21 Bruce Koons and Carlos Hitoshi Morimoto, who assigned all of their rights and interests in the 22 611 Patent to International Business Machines Corporation ("IBM"). IBM subsequently assigned all of its rights and interests in the '611 Patent to IPG Healthcare 501 Limited, which subsequently 23 assigned all of its rights and interests in the '611 Patent to Tobii. Thus, Tobii is the owner of the 24 611 Patent. A true and correct copy of the '611 Patent is attached as Exhibit A to this Complaint. 25

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### **INFRINGEMENT BY THE EYE TRIBE**

8. The products manufactured, imported, offered for sale and sold by The Eye Tribe
that infringe one or more claims of the '611 Patent include, but are not limited to, The Eye Tribe's

1 eye tracking device, which, on information and belief, is called the Tracker. The identification of 2 products in this Complaint is by way of example only, and on information and belief, the 3 exemplary product identified in this Complaint is representative of all The Eye Tribe products 4 with reasonably similar features, functionality and/or architecture, whether discontinued, current 5 or future.

9. The Eye Tribe Tracker has no substantial non-infringing use.

7 10. According to The Eye Tribe's website and other publicly available documents, and
8 on information and belief, The Eye Tribe's Tracker is used in the United States, and offered for
9 sale and sold to customers in the United States. Use, sale and offer for sale of The Eye Tribe's
10 Tracker constitutes direct infringement of the '611 Patent.

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### **COUNT I – PATENT INFRINGEMENT**

12 11. Tobii incorporates and realleges the allegations of the preceding paragraphs as13 though set forth in full herein.

14 12. The Eye Tribe has directly infringed and continues to directly infringe one or more
15 claims of the '611 Patent, including claim 14, by making, using, importing, offering for sale or
16 selling The Eye Tribe Tracker in the United States.

17 13. Members of the public, including those within the United States and this District,
18 can pre-order The Eye Tribe's Tracker from The Eye Tribe's website (<u>https://theeyetribe.com</u>).
19 Specifically, there is an order page (<u>https://theeyetribe.com/order</u>) listing the price of The Eye
20 Tribe Tracker with fields for entering billing information. *See* Exhibit B.

14. Further, The Eye Tribe has offered the Tracker for pre-sale at trade shows,
including within this District. For example, on or about September 11, 2013, The Eye Tribe had a
booth at Disrupt SF 2013 at The Concourse at San Francisco Design Center, San Francisco,
California, at which The Eye Tribe advertised that attendees could "PRE-ORDER [the Tracker]
NOW" for \$99. *See* Exhibit C.

26 15. The Eye Tribe's actions are in violation of one or more of the provisions of 35
27 U.S.C. § 271.

1 16. Tobii has been damaged and irreparably injured by The Eye Tribe's infringing
 2 activities and will continue to be so damaged and irreparably injured unless The Eye Tribe's
 3 infringing activities are enjoined by this Court.

4 17. Tobii has not licensed or otherwise authorized The Eye Tribe to make, use, offer
5 for sale, sell, or import into the United States any products that embody the inventions of the '611
6 Patent.

7 18. Tobii is entitled to recover from The Eye Tribe the damages sustained by Tobii as a
8 result of The Eye Tribe's wrongful acts in an amount subject to proof at trial, which, by law,
9 cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court
10 under 35 U.S.C. § 284.

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### **PRAYER FOR RELIEF**

12 19. Tobii respectfully requests that the Court find in its favor and against The Eye
13 Tribe, and that the Court grant Tobii the following relief:

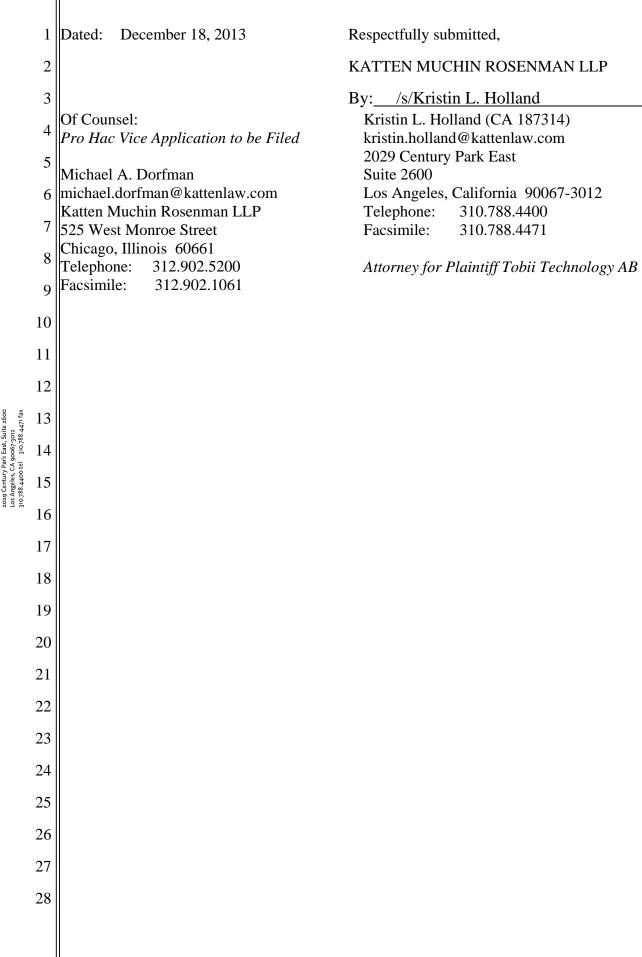
A. An adjudication that one or more claims of the '611 Patent have been infringed,
either literally and/or under the doctrine of equivalents, by The Eye Tribe;

B. An award to Tobii of damages adequate to compensate Tobii for The Eye Tribe's
acts of infringement together with pre-judgment and post-judgment interest;

18 C. That this Court declare this to be an exceptional case and award Tobii its
19 reasonable attorneys' fees and costs in accordance with 35 U.S.C. § 285; and

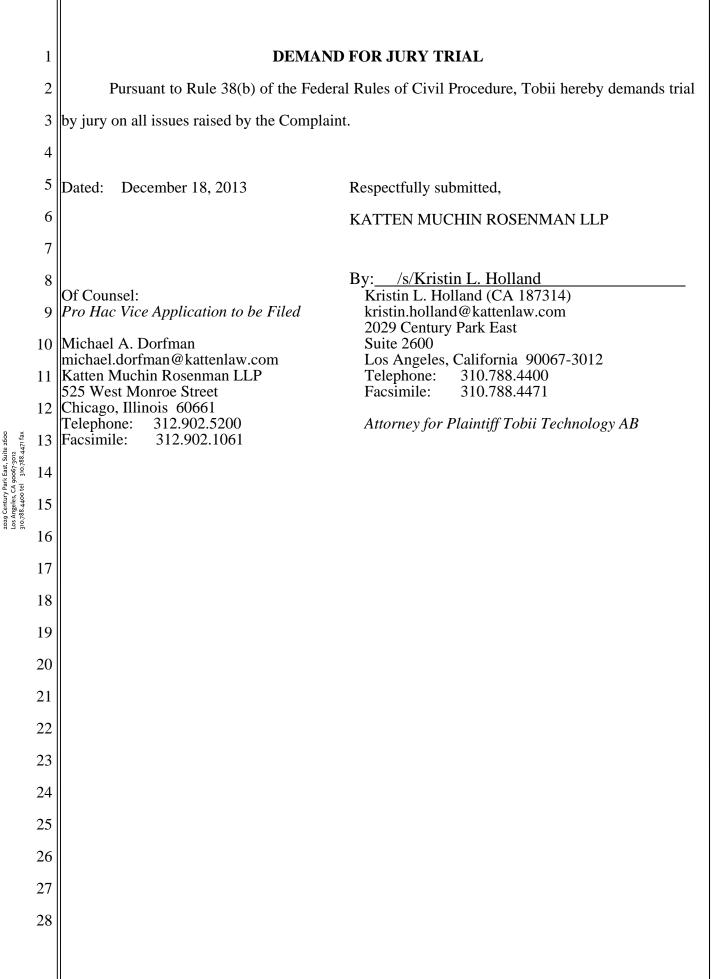
D. Any further relief that this Court deems just and proper.

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Complaint For Patent Infringement



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