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9
10 Attorneys for DIALWARE
COMMUNICATIONS, LLC

11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

13
14 DIALWARE, COMMUNICATIONS
15 LLC, A CALIFORNIA LIMITED
LIABILITY COMPANY,

16 Plaintiff,

17 v.

18 HASBRO, INC.,

19 Defendant.

Case No. 2:16-cv-9012

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

20
21 Plaintiff, Dialware, Communications, LLC (“Dialware”), by and through its
22 undersigned counsel, files its Complaint and Demand for Jury Trial against Hasbro,
23 Inc. (“Hasbro”) for patent infringement pursuant to 35 U.S.C. § 100 et seq.

24 **PARTIES**

25 1. Dialware is a limited liability company organized under the laws of the
26 State of California, having a principal place of business at of 12100 Wilshire Blvd.
27 Suite 1950, Los Angeles, California 90025.
28

1 the infringing products and services will be used in the State of California and in
2 this Judicial District, and derive substantial revenue from interstate and international
3 commerce.

4 **THE PATENTS-IN-SUIT**

5 8. Hasbro infringes United States Patent Nos. 7,183,929 (the “‘929
6 Patent”), 7,383,297 (“the ‘297 Patent”), 7,568,963 (the “‘963 Patent”), 9,039,482
7 (the “‘482 Patent”), and 9,275,517 (the “‘517 Patent”) (collectively, the “Patents-in-
8 Suit”).

9 9. On February 27, 2007, the United States Patent and Trademark Office
10 duly and legally issued United States Patent No. 7,183,929 entitled “Control of Toys
11 and Devices by Sounds.” A true and correct copy of the ‘929 Patent is attached
12 hereto as Exhibit A. The ‘929 Patent relates generally to a method of controlling at
13 least one device by sound.

14 10. On June 3, 2008, after a full and fair examination, the United States
15 Patent and Trademark Office duly and legally issued United States Patent No.
16 7,383,297 entitled “Method to Use Acoustic Signals for Computer
17 Communications.” A true and correct copy of the ‘297 Patent is attached hereto as
18 Exhibit B. The ‘297 Patent relates generally to a method of communicating between
19 an electronic device and a computer, and particularly to methods that use acoustic
20 signals for such communications.

21 11. On August 4, 2009, the United States Patent and Trademark Office
22 duly and legally issued United States Patent No. 7,568,963 entitled “Interactive
23 Toys.” A true and correct copy of the ‘963 Patent is attached hereto as Exhibit C.
24 The ‘963 Patent relates generally to a toy kit having a first and second toy that
25 communicate using acoustic signals.

26 12. On May 26, 2015, the United States Patent and Trademark Office duly
27 and legally issued United States Patent No. 9,039,482 entitled “Interactive Toy
28 Apparatus and Method of Using Same.” A true and correct copy of the ‘482 Patent

1 is attached hereto as Exhibit D. The ‘482 Patent relates generally to a method for
2 interactive communication with a toy apparatus.

3 13. On March 1, 2016, the United States Patent and Trademark Office duly
4 and legally issued United States Patent No. 9,275,517 entitled “Interactive Toys.” A
5 true and correct copy of the ‘517 Patent is attached hereto as Exhibit E. The ‘517
6 Patent relates generally to a method of interactive play between a first toy apparatus
7 and a second toy apparatus.

8 14. Dialware is the assignee of all right, title, and interest in and to the
9 Patents-in-Suit and possesses all rights under the Patents-in-Suit, including the
10 exclusive right to recover for infringement. The Patents-in-Suit are valid and
11 enforceable.

12 15. The Patents-in-Suit provide inventive concepts and do not claim an
13 abstract idea. For example, inventive concepts of the Patents-in-Suit are directed to
14 technical solutions to solve problems unique to physical electronic devices,
15 including toys and computers. The Patents-in-Suit are directed to, for example,
16 controlling a device by creating and receiving sound waves – specific physical
17 waves, either encoded as carrier waves bearing digital information, or as analog
18 waves with specific physical properties. In still other Patents-in-Suit, the physical
19 actions of toys are controlled by sound or other types of wireless physical signals.
20 Whether by sound wave or other wireless signals with embedded codes, the
21 inventions create communications between an electronic device such as a toy, and a
22 computer or cell phone. Patents-in-Suit are directed to the physical sound wave or
23 other signal communicating between an electronic device and a computer; a toy kit
24 comprising a first and second toy with an acoustic sound transmitter, a microphone,
25 and an analyzer; interactive communication with a toy apparatus producing
26 responses in the toy or programming the toy; interactive play between a first toy
27 apparatus and a second toy apparatus. The Patents-in-Suit enable devices such as
28 cell phones or computers to control or program other electronic devices such as toys

1 remotely or through signals with embedded codes.

2 16. Such inventions improve the functioning of physical electronic devices
3 such as toys, for example by improving how the devices communicate and respond
4 to the user, to other toys or interact with other electronic devices.

5 17. The technologies claimed in the Patents-in-Suit presented new and
6 unique advantages over the state of the art at the time. Although the inventions
7 taught in the claims in the Patents-in-Suit have by today been widely adopted by
8 leading businesses such as Hasbro, at the time of the invention, the technologies
9 were innovative. For example, during prosecution of the application that issued as
10 the '297 Patent, the Applicant distinguished U.S. Patent No. 6,182,044 to Fong et
11 al., for example, on the basis that it relates to a system for analyzing a vocal
12 performance and receives an acoustic signal, not encoded with information, from a
13 human. The Applicant also distinguished Fong and U.S. Pat. No. 6,389,055 to
14 August et al. on the basis that the references do not disclose transmitting an encoded
15 signal in response to a first signal.

16 18. As another example, during prosecution of the application that issued
17 as the '963 Patent, the Applicant distinguished U.S. Pat. No. 4,857,030 to Rose on
18 the basis that radio frequency signals are not acoustic signals. Similarly, in the same
19 application, the Applicant distinguished U.S. Pat. No. 6,110,000 to Ting on the basis
20 that infrared signals are not acoustic signals.

21 19. As another example, during prosecution of the application that issued
22 as the '482 Patent, the Applicant distinguished U.S. Pat. No. 5,387,108 to Crowell
23 and others on the basis that that these references, separately or in combination, did
24 not teach interactive communication including responding to a code, where the
25 response is selected from transmitting the code to another toy apparatus, decoding
26 data from the code and transmitting the decoded data to a person, activating a
27 coupon, transmitting the code to a remote location, processing the code to obtain a
28 coupon, initiating a game, acquiring additional programming, acquiring a service.

1 20. As another example, during prosecution of the application that issued
2 as the '482 Patent, the Applicant distinguished U.S. Pat. No. 5,746,602 to Kikinis on
3 the basis that it is toy that needs a computer to make decisions, whereas the
4 invention is directed to a programmable toy.

5 21. As another example, during prosecution of the application that issued
6 as the '929 Patent, the Examiner found that there were no prior art references that
7 teach or suggest the claimed inventions.

8 22. Furthermore, the claims of the Patents-in-Suit are not directed to a
9 “method of organizing human activity,” “fundamental economic practice long
10 prevalent in our system of commerce,” or “a building block of the modern
11 economy.” Instead, they are limited to the narrow set of systems and methods for
12 electronic devices, such as toys or computers.

13 23. The technologies of the Patents-in-Suit do not preempt all ways for a
14 computer or cell phone or other device to control a toy or device wirelessly or even
15 by sound; communicating between an electronic device and a computer; a toy kit
16 comprising a first and second toy with an acoustic sound transmitter, a microphone,
17 and an analyzer; interactive communication with a toy apparatus producing
18 responses in the toy or programming the toy; or interactive play between a first toy
19 apparatus and a second toy apparatus. For example, the claims apply only to
20 specific types of communications using, for example, acoustic or audio signals or
21 embedded codes, cell phone devices, or apply to specific responses to received
22 signals such as programming the remote devices or toys. An electronic device such
23 as a toy need not use these specific technologies but may use, for example, infrared
24 or radio frequency communications as was used in the prior art, or Bluetooth signals
25 as some do today. A toy may also communicate using signals that are not audio
26 signals, or may communicate with devices other than cell phones, or may respond in
27 ways other than by an acoustic, optical or display responses.

28 24. It follows that Hasbro could create devices that communicate and

1 respond without infringing the Patents-in-Suit. For example, the prior art cited on
2 the face of the Patents-in-Suit, such as Fong, August, Ting, Rose, Crowell, Kikinis
3 or any of the other cited references, remains available for practice by the Hasbro,
4 and the claims of the Patents-in-Suit do not preempt practice any of those prior art
5 systems or methods.

6 25. The claims of the Patents-in-Suit are directed to electronic devices and
7 toys, and therefore cannot be practiced by a human alone nor does there exists any
8 human analogue to the methods claimed in the Patents-in-Suit.

9 **THE FURBY 2012 AND FURBY APP**

10 26. Furby is an interactive toy that communicates with human users and
11 electronic devices. Furby was first introduced in 1998, but the original Furby seems
12 to have lacked the infringing features at issue here. In 2012, Hasbro re-introduced a
13 redesigned Furby to the market. The features of the redesigned 2012 Furby are
14 shared by other Furby devices such as “Furby Party Rockers,” “Furby Boom,”
15 “Furblings,” “Furby Boom Crystal,” “Furby Boom Crystal Furblings,” and
16 “Furbacca.” (Collectively, “Furby 2012.”)

17 27. Furby 2012 starts out speaking words and phrases in “Furbish,” an
18 invented language. As the user increasingly interacts with Furby 2012, the toy
19 begins to use words and phrases in English. Each Furby 2012 eventually develops
20 its own “personality” based on interactions with the user. Hasbro states in its
21 marketing material that no two Furby toys are alike.

22 28. We can learn about Furby 2012 from public sources. For example,
23 Hasbro employees who work on Furby have also provided information regarding
24 Furby’s features, including the features that infringe the Patents-in-Suit. *See, e.g.*
25 “Furby: 2012 (Longer video, with more details),” available at
26 <https://www.youtube.com/watch?v=ATewDrdidVE>) (“Furby 2012 Video”). The
27 Furby 2012 Video features Don Cameron, Sr. Product Engineer, Hasbro and
28 Alexander Sturke, Global Brand Manager, Hasbro.

1 29. One characteristic feature of all Furby devices is their animatronic
2 features that move its ears, body and mouth, and LCD eyes that display images.
3 (E.g., Furby 2012 Video at 0:10-0:20.)

4 30. Beginning in 2012, Hasbro has provided a Furby Application for both
5 iOS and Android devices (the “Furby App”).

6 31. One feature of the Furby App is the “Pantry,” which allows users to
7 “Choose from over 100 different foods items for your FURBY to eat!” The feature
8 allows users to “[g]et to know [their] FURBY better by figuring out what foods
9 items it likes and dislikes to eat.” Using the Pantry feature, users can “feed” their
10 Furby food by aiming the microphone of their computing device in the direction of
11 the Furby and flicking food at the toy.

12 32. Hasbro’s employees indicate that the “feeding” is accomplished using
13 “sound codes,” as shown for example in the Furby 2012 Video at 5:30-6:20.



23 33. In the above example, Mr. Cameron feeds Furby a can of sardines, and
24 Furby sends back a code that is interpreted to show an empty can of sardines.

25
26 34. Another feature of the Furby App is the “Deli,” which allows users to
27 “[c]ustomize a special meal for [their] FURBY with over 60 different ingredients for
28 making a sandwich.”

1 35. Another feature of the Furby App is the “Translator,” which allows
2 users to “[t]ranslate FURBY’s Furbish in real time using the Translator. Hold your
3 app device close to FURBY’s mouth when it speaks. When the speech bubbles
4 appear, simply tap either the Furbish or English phrase to hear it said aloud.

5 36. The Translator feature uses an exchange of codes. For example, the
6 Furby App undertakes an initialization sequence which sends audio signals to the
7 Furby. Furby 2012 responds by sending codes back to the device. This is shown for
8 example in the Furby 2012 Video at 5:54-6:00.



19 37. As explained in the Furby 2012 Video by Hasbro’s employees, Furby
20 2012 and the Furby App use “sound codes” to communicate. The sound codes are
21 acoustic signals encoded with information. It is further evident that Furby uses
22 audio signals to communicate because Hasbro instructs users that for “optimal
23 performance” of the Furby App, users should make sure their device’s “microphone
24 is facing Furby” and “volume is turned all the way up.” This is to ensure that the
25 sound codes are properly communicated. Hasbro’s Furby FAQ includes the
26 question “There is a high pitched tone coming from Furby and/or my iOS device,”
27 to which it responds “The noise you are hearing is how Furby communicates with
28 the mobile device and other Furbys.” The FAQ further explains that “Furbys. Some

1 people may hear it, others will not.”

2 38. While not published by Hasbro, the protocol Furby 2012 and the Furby
3 App uses to communicate has been discovered by third parties and made public.
4 (See, e.g., <https://github.com/iafan/Hacksby>;
5 <https://poppopret.org/2013/12/18/reverse-engineering-a-furby/>.) Based on such
6 efforts, it has been determined that Furby 2012 uses an audio protocol that employs
7 high-pitch frequencies to encode and decode unique commands, which take the form
8 of integer numbers between 0 and 1023. Thus, there may be up to at least 1024
9 different commands that are understood by Furby and the Furby App. The central
10 frequency used for communication is believed to be 17,500 Hz, or 17.5 kHz. The
11 total frequency range is believed to be between about 16.4 kHz and 18.6 kHz.
12 Furby 2012 employs a frequency modulation scheme in which digital information is
13 transmitted through changes in the frequency of an audio signal.

14 39. Furby 2012 can also respond to acoustic signals in the form of spoken
15 voice and music. For example, Furby 2012 responds to voice, as shown in for
16 example in the Furby 2012 Video at 1:07-1:23:



25
26 40. In the above example, Mr. Cameron says “Hey Furby,” and Furby 2012
27 responds (in Furbish) with “what? Say more.”
28

1 41. Furby 2012 also dances to the beat of music, such as music played on
2 mobile device, as shown for example in the Furby 2012 Video at 1:29-1:34.



11
12 42. In the above example, Furby 2012 is dancing to the beat of a sound
13 recording. The Furby FAQ states “Can Furby Dance? Yes; Furby will dance to any
14 type of music.”

15 43. Furby 2012 also communicates with other Furby devices using audio
16 signals, as shown for example in the Furby 2012 Video at 4:14-5:02; 6:20-6:30.



25
26 44. Hasbro’s Furby FAQ states that if the Furby will not communicate with
27 other Furbys, “1. Be sure that both Furbys are facing each other 2. It is easy for
28 Furby to be distracted, be sure that background noise is minimal.” This is further

1 evidence that the Furby communicates via sound codes.

2 45. The above-described features of the Furby 2012 and Fuby App are
3 relevant to infringement, as alleged below.

4 **FURBY CONNECT AND THE FURBY CONNECT WORLD APP**

5 46. In July 2016, Hasbro introduced the Furby Connect, a new version of
6 Furby. (See, e.g., “Furby Connect July 2016,” available at
7 https://www.youtube.com/watch?v=9GEAIgOgy_o (“Furby Connect Video”).)



16 47. Furby Connect has many of the same features as Furby 2012, such as
17 animatronic control of ears, eyes, and body and mouth, dancing to music, digital
18 eyes, and responding to sound and touch.

19 48. One difference between Furby Connect and Furby 2012 is that Fuby
20 Connect communicates via Bluetooth with a new app called the Furby Connect
21 World app. Furby Connect can be “updated frequently with new surprises, like
22 songs.” (Furby Connect Video at 0:15-0:20.) “When the antenna glows, that means
23 Furby has something new to show you in the Furby Connect World app.” (*Id.* at
24 0:20-0:25.) The Furby Connect World app also includes games, such as the “food
25 cannon.”

26 49. The Furby Connect receives sound, and can be controlled by sound.
27 For example, Furby Connect dances and moves to sound. But on information and
28 belief, it may not communicate with the Furby Connect World App using sound

1 codes.

2 50. Collectively, the Furby 2012 (and related products incorporated into
3 that definition), Furby Connect, Furby App and Furby Connect World App are
4 referred to herein as the “Furby Products.”

5 **HASBRO’S PRIOR KNOWLEDGE OF THE DIALWARE PATENTS**

6 51. Hasbro was given notice that its conduct in using and offering the
7 above-mentioned products and services to its customers, constitutes direct
8 infringement of the Patents-in-Suit.

9 52. For example, Dialware business development personnel first notified
10 engineers at Hasbro of patents and patent applications beginning as early July 2009,
11 and culminating in a meeting on October 18, 2009. At the October 18th meeting,
12 Dialware presented Leif Askelund, Vice President of Engineering at Hasbro, with
13 demonstrations of Dialware inventions, patents, and pending patent applications.
14 Dialware followed up on this meeting in January 2010 at the annual Consumer
15 Electronics Show. Since then, Dialware has continued to provide Hasbro with
16 regular updates of its patent grants and applications. Following these meetings and
17 with knowledge of Dialware’s patented technology, Hasbro incorporated Dialware’s
18 technology into the Furby line of products.

19 **COUNT I**

20 **INFRINGEMENT OF U.S. PATENT NO. 7,183,929**

21 53. All preceding paragraphs are incorporated herein by reference.

22 54. Hasbro infringes the ‘929 Patent, for example independent claim 45,
23 among other claims.

24 55. Claim 45 of the ‘929 Patent recites “A method of controlling at least
25 one device by sound, comprising: generating a sound; receiving the sound by the at
26 least one device; analyzing the received sound for at least one parameter of a
27 distance from the at least one device to a source of the sound, whether the source of
28 the sound is approaching or moving away, an amplitude of the sound and a pitch of

1 the sound; and responding by the at least one device with different physical
2 responses to sounds with different values of the at least one parameter.”

3 56. The preamble of claim 45 recites “A method of controlling at least one
4 device by sound.” To the extent this preamble is limiting, Furby 2012 is a device
5 controlled by sound.

6 57. Claim 45 further recites “generating a sound.” The sounds that control
7 Furby 2012 are generated, for example by the Furby 2012 user (either by voice,
8 playing music, or by some other means), by another Furby device, or by the Furby
9 App.

10 58. Claim 45 further recites “receiving the sound by the at least one
11 device.” The Furby 2012 receives the generated sound with its built-in microphone.

12 59. Claim 45 further recites “analyzing the received sound for at least one
13 parameter of a distance from the at least one device to a source of the sound,
14 whether the source of the sound is approaching or moving away, an amplitude of the
15 sound and a pitch of the sound.” Furby 2012 analyzes the received sound for
16 parameters including but not limited to an amplitude of the sound and a pitch of the
17 sound. This occurs, for example, when Furby 2012 receives sound codes, which use
18 specific frequencies and amplitudes.

19 60. Claim 45 further recites “responding by the at least one device with
20 different physical responses to sounds with different values of the at least one
21 parameter.” Furby 2012 responds with different physical responses based on the
22 received sound codes. For example, based on the received sound codes, Furby 2012
23 may engage its animatronic features – e.g. moving its body, ears or mouth in the
24 process of dancing, saying words, or otherwise responding to the sound code.
25 Moreover, different sound codes have different frequencies or amplitudes.

26 61. The Furby 2012 programmed with Hasbro’s software practices each
27 and every element of claim 45 of the ‘929 Patent. Infringement may optionally
28 include the user device and Furby App software, in the case of sound generated by

1 the Furby App. Acts of infringement occur when a user operates Furby 2012
2 (optionally including the Furby App) in the manner describe above.

3 62. Furby Connect also infringes the ‘929 Patent, for example claim 65,
4 which recites “A method of controlling at least one device by sound, comprising:
5 generating a sound; receiving the sound by the at least one device; analyzing the
6 received sound for a parameter of a sound production rate of the received sound; and
7 responding by a physical response, which has a speed which is a function of the
8 sound production rate.”

9 63. Claim 65 recites “A method of controlling at least one device by
10 sound.” Furby Connect is a device that can be controlled by sound.

11 64. Claim 65 further recites “generating a sound.” The sounds that control
12 Furby Connect are generated, for example by the Furby Connect user (either by
13 voice, playing music, or by some other means) or by another Furby device.

14 65. Claim 65 further recites “receiving the sound by the at least one
15 device.” The Furby Connect receives the sound.

16 66. Claim 65 further recites “analyzing the received sound for a parameter
17 of a sound production rate of the received sound; and responding by a physical
18 response, which has a speed which is a function of the sound production rate.”
19 Furby Connect analyzes the received sound for a sound production rate of the
20 received sound. For example, music has a beat, which is a sound production rate,
21 and when played Furby Connect responds by dancing to the beat of the music.
22 Dancing is a physical response with a speed that is a function of the beat of the
23 music.

24 67. Hasbro is liable for direct infringement under 35 U.S.C. § 271(a) by,
25 for example, practicing all method steps during testing or other use.

26 68. Hasbro is also liable for indirect infringement under 35 U.S.C. §
27 271(b), by knowingly and actively inducing infringement. Hasbro has known about
28 the Patents-in-Suit and their infringement prior to the filing of this Complaint, and in

1 between an electronic device and a computer, the method comprising: providing
2 said computer with an audible sound receiving and generating sub-system including
3 a microphone and a loudspeaker; transmitting from the electronic device at least one
4 first acoustic signal, encoded with information, to said computer; receiving said at
5 least one first acoustic signal by said microphone, to be detected by said computer;
6 processing said at least one first acoustic signal, by the computer, to extract said
7 encoded information; and transmitting to said electronic device from the computer,
8 using said loudspeaker, at least a second acoustic signal, encoded with information,
9 in response to said detected at least one first acoustic signal.”

10 75. The preamble of claim 1 recites “A method of communicating between
11 an electronic device and a computer.” To the extent this preamble is limiting, the
12 Furby 2012 is an electronic device that communicates with a computer, for example
13 a computer such as an iOS or Android computing device on which the Furby App is
14 installed.

15 76. By way of further infringement, dependent claim 24 (which depends
16 from claim 1) recites “wherein the electronic device comprises a toy,” and
17 dependent claim 13 (which also depends from claim 1) recites “wherein said
18 computer comprises a portable computer.” Furby 2012 is also a toy and the
19 electronic device on which the Furby App is installed may comprise a portable
20 computer. Therefore these dependent claims – among other claims – are also
21 infringed.

22 77. Claim 1 further recites “providing said computer with an audible
23 sound receiving and generating sub-system including a microphone and a
24 loudspeaker.” The computer on which the Furby App runs has a microphone that
25 can receive audible sound, and a loudspeaker that can generate audible sound. The
26 microphone and speaker are part of a sub-system on the computer.

27 78. Claim 1 further recites “transmitting from the electronic device at least
28 one first acoustic signal, encoded with information, to said computer.” The Furby

1 2012 transmits acoustic signals to the computer. The acoustic signals are encoded
2 with information, such as command in the form of integer numbers between 0 and
3 1023.

4 79. Claim 1 further recites “receiving said at least one first acoustic signal
5 by said microphone, to be detected by said computer.” The computer on which the
6 Furby App runs uses the microphone to receive a first acoustic signal from the
7 Furby 2012.

8 80. Claim 1 further recites “processing said at least one first acoustic
9 signal, by the computer, to extract said encoded information.” The computer on
10 which the Furby App runs processes the acoustic signal to extract the encoded
11 information sent by the Furby 2012.

12 81. Lastly, Claim 1 recites “transmitting to said electronic device from the
13 computer, using said loudspeaker, at least a second acoustic signal, encoded with
14 information, in response to said detected at least one first acoustic signal.” In
15 response to the first signal sent by Furby 2012, the computer on which the Furby
16 App runs uses the loudspeaker to transmit to the Furby 2012 a second acoustic
17 signal.

18 82. The Furby 2012 programmed with Hasbro’s software together with the
19 user device with Furby App software practices each and every element of claim 1 of
20 the ‘297 Patent. Acts of infringement occur when a user operates Furby 2012
21 (optionally including the Furby App) in the manner describe above.

22 83. Hasbro is liable for direct infringement under 35 U.S.C. § 271(a) by,
23 for example, practicing all method steps during testing or other use.

24 84. Hasbro is also liable for indirect infringement under 35 U.S.C. §
25 271(b), by knowingly and actively inducing infringement. Hasbro has known about
26 the Patents-in-Suit and their infringement prior to the filing of this Complaint, and in
27 any event as of the filing of this Complaint. Defendants have knowingly and
28 actively induced infringement of the ‘297 Patent, for example, through the foregoing

1 activities including, without limitation, importing, offering to sell and/or selling the
2 Furby 2012 and Furby App, and by instructing, aiding, assisting and encouraging
3 the offer for sale, sale, and use of the Furby 2012 and Furby App in a manner that
4 infringes the ‘297 Patent. The direct infringers that are being induced by Hasbro
5 include, without limitation, their customers, resellers, distributors, or users.

6 85. Hasbro is also liable for indirect infringement under 35 U.S.C. §
7 271(c), offering to sell or selling within the United States or importing into the
8 United States the Furby 2012, which is an apparatus for use in practicing the
9 patented process of the ‘929 Patent, constituting a material part of the invention,
10 knowing the same to be especially made or especially adapted for use in an
11 infringement of such patent, and not a staple article or commodity of commerce
12 suitable for substantial noninfringing use.

13 86. Hasbro’s direct infringement, inducement to infringe and contributory
14 infringement of the ‘297 Patent have injured Dialware, and Dialware is entitled to
15 recover damages adequate to compensate it for such infringement, and an award of
16 enhanced damages.

17 87. Hasbro’s infringing activities will continue to injure Dialware unless
18 and until this Court enters an injunction prohibiting further infringement and,
19 specifically, enjoining further direct infringement, inducement to infringe and
20 contributory infringement of the ‘297 Patent.

21 **COUNT III**

22 **INFRINGEMENT OF U.S. PATENT NO. 7,568,963**

23 88. All preceding paragraphs are incorporated herein by reference.

24 89. Hasbro infringes the ‘963 Patent, for example independent claim 1,
25 among other claims.

26 90. Claim 1 of the ‘963 Patent recites “A toy kit comprising: a first toy
27 having a first function, which includes an acoustic sound transmitter which
28 generates acoustic signals for play; and at least one second toy, which includes: a

1 microphone adapted to receive the acoustic signals for play; an analyzer adapted to
2 analyze the received acoustic signal and decide a response to the received signals for
3 play based upon an outcome of the analysis; and an actuator adapted to control the
4 at least one second toy to perform a second function responsive to the decision of
5 the analyzer, whereby the acoustic signals for play generated by the first toy are
6 suitable both for playing purposes and for analysis by the analyzer of the second
7 toy.”

8 91. The preamble of claim 1 recites “A toy kit.” To the extent this
9 preamble is limiting, Hasbro sells toys such as Furby 2012. Multiple Furby 2012
10 devices can be purchased or used together, comprising a toy kit. Alternately, the
11 user’s device on which the Furby App is installed is a toy to be used with the Furby
12 2012 device, comprising a toy kit.

13 92. Claim 1 further recites “a first toy having a first function, which
14 includes an acoustic sound transmitter which generates acoustic signals for play.” A
15 first toy may be a Furby 2012 device, which includes an acoustic sound transmitter
16 (e.g. a speaker) that generates acoustic signals (e.g. sound codes) for playing with
17 the Furby 2012. Alternately, the first toy may be the user’s device on which the
18 Furby App is installed, which includes an acoustic sound transmitter (e.g. a speaker)
19 that generates acoustic signals (e.g. sound codes) for playing with the Furby 2012
20 and Furby App.

21 93. Claim 1 further recites “at least one second toy, which includes: a
22 microphone adapted to receive the acoustic signals for play.” A second toy may be
23 a Furby 2012, which includes a microphone that is adapted to receive the acoustic
24 signals from the first toy, i.e. the other Furby 2012 or the user’s device on which the
25 Furby App is installed.

26 94. Claim 1 further recites that the second toy includes “an analyzer
27 adapted to analyze the received acoustic signal and decide a response to the received
28 signals for play based upon an outcome of the analysis.” The Furby 2012 includes

1 an analyzer that is adapted to analyze the received acoustic signal from the first toy,
2 and decide a response. For example, based on the received sound codes, Furby
3 2012 may move its body, ears or mouth in the process of dancing, saying words, or
4 otherwise responding to the sound code.

5 95. Claim 1 further recites that the second toy includes “an actuator
6 adapted to control the at least one second toy to perform a second function
7 responsive to the decision of the analyzer.” Furby 2012 includes an actuator that
8 engages its animatronic features, e.g. by moving its body, ears or mouth in the
9 process of dancing, saying words, or otherwise responding to the sound code.

10 96. Claim 1 further recites “whereby the acoustic signals for play generated
11 by the first toy are suitable both for playing purposes and for analysis by the
12 analyzer of the second toy.” The acoustic signals for play generated by the first toy,
13 i.e. the first Furby 2012 or the user’s device on which the Furby App is installed, are
14 suitable for playing purposes and for analysis by the analyzer of the second toy. For
15 example, the sound codes may appear as “chirps” to the user.

16 97. Two or more Furby 2012 devices programmed with Hasbro’s software
17 practice each and every element of claim 1 of the ‘963 Patent. Infringement may
18 optionally include the user device and Furby App software.

19 98. Hasbro is liable for direct infringement under 35 U.S.C. § 271(a) by,
20 for example, making, using, selling, offering for sale, or importing Furby 2012
21 devices. Hasbro is also liable for direct infringement by operating a Furby 2012
22 devices with the Furby App in the manner describe above.

23 99. Hasbro is also liable for indirect infringement under 35 U.S.C. §
24 271(b), by knowingly and actively inducing infringement. Hasbro has known about
25 the Patents-in-Suit and their infringement prior to the filing of this Complaint, and in
26 any event as of the filing of this Complaint. Defendants have knowingly and
27 actively induced infringement of the ‘963 Patent, for example, through the foregoing
28 activities including, without limitation, making, using, importing, offering to sell

1 and/or selling the Furby 2012 and Furby App, and by instructing, aiding, assisting
2 and encouraging the offer for sale, sale, and use of the Furby 2012 and Furby App in
3 a manner that infringes the ‘963 Patent. The direct infringers that are being induced
4 by Hasbro include, without limitation, their customers, resellers, distributors, or
5 users.

6 100. Hasbro is also liable for indirect infringement under 35 U.S.C. §
7 271(c), offering to sell or selling within the United States or importing into the
8 United States the Furby 2012, which is a component of a patented machine,
9 manufacture, combination or composition, constituting a material part of the
10 invention, knowing the same to be especially made or especially adapted for use in
11 an infringement of the ‘963 Patent, and not a staple article or commodity of
12 commerce suitable for substantial noninfringing use.

13 101. Hasbro’s direct infringement, inducement to infringe and contributory
14 infringement of the ‘963 Patent have injured Dialware, and Dialware is entitled to
15 recover damages adequate to compensate it for such infringement, and an award of
16 enhanced damages.

17 102. Hasbro’s infringing activities will continue to injure Dialware unless
18 and until this Court enters an injunction prohibiting further infringement and,
19 specifically, enjoining further direct infringement, inducement to infringe and
20 contributory infringement of the ‘929 Patent.

21 **COUNT IV**

22 **INFRINGEMENT OF U.S. PATENT NO. 9,039,482**

23 103. All preceding paragraphs are incorporated herein by reference.

24 104. Hasbro infringes the ‘482 Patent, for example independent claim 7,
25 among other claims.

26 105. Claim 7 of the ‘482 Patent recites “A method for interactive
27 communication with a toy apparatus, the method comprising: receiving by the toy
28 apparatus at least one first signal including an embedded code; analyzing by the toy

1 apparatus the code; determining by the toy apparatus at least one response to the
2 code, said at least one response selected from transmitting the code to another toy
3 apparatus, decoding data from the code and transmitting the decoded data to a
4 person, activating a coupon, transmitting the code to a remote location, processing
5 the code to obtain a coupon, initiating a game, acquiring additional programming,
6 acquiring a service; and producing by the toy apparatus at least one response.”

7 106. The preamble of claim 7 recites “A method for interactive
8 communication with a toy apparatus.” To the extent this preamble is limiting, Furby
9 2012 is a toy apparatus capable of communication using codes. Additionally, Furby
10 Connect is a toy apparatus capable of communication via Bluetooth.

11 107. Claim 7 further recites “receiving by the toy apparatus at least one first
12 signal including an embedded code.” Furby 2012 is a receives sound codes. Sound
13 codes are signals with embedded codes. Additionally, Furby Connect receives
14 Bluetooth signals with embedded codes.

15 108. Claim 7 further recites “analyzing by the toy apparatus the code.”
16 Furby 2012 analyzes sound codes it receives. Additionally, Furby Connect analyzes
17 the Bluetooth codes it receives.

18 109. Claim 7 further recites “determining by the toy apparatus at least one
19 response to the code, said at least one response selected from transmitting the code
20 to another toy apparatus, decoding data from the code and transmitting the decoded
21 data to a person, activating a coupon, transmitting the code to a remote location,
22 processing the code to obtain a coupon, initiating a game, acquiring additional
23 programming, acquiring a service.” Furby 2012 determines a response to sound
24 codes, which may include initiating a game such as the various games used by the
25 Furby App. Additionally, Furby Connect determines a response to the Bluetooth
26 codes, which includes acquiring additional programming.

27 110. Claim 7 further recites “producing by the toy apparatus at least one
28 response.” Furby 2012 produces the response that is determined in the previous

1 claim element. This may include, for example, playing a game. Additionally, Furby
2 Connect produces at least one response, such as responding to the new programming
3 that was downloaded via Bluetooth.

4 111. The Furby 2012 programmed with Hasbro's software practices each
5 and every element of one or more claims of the '482 Patent, including but not
6 limited to claim 7. Acts of infringement occur when a user operates Furby 2012 or
7 Furby Connect in the manner describe above.

8 112. Hasbro is liable for direct infringement under 35 U.S.C. § 271(a) by,
9 for example, practicing all method steps during testing or other use.

10 113. Hasbro is also liable for indirect infringement under 35 U.S.C. §
11 271(b), by knowingly and actively inducing infringement. Hasbro has known about
12 the Patents-in-Suit and their infringement prior to the filing of this Complaint, and in
13 any event as of the filing of this Complaint. Defendants have knowingly and
14 actively induced infringement of the '929 Patent, for example, through the foregoing
15 activities including, without limitation, importing, offering to sell and/or selling the
16 Furby Products, and by instructing, aiding, assisting and encouraging the offer for
17 sale, sale, and use of the Furby Products in a manner that infringes the '482 Patent.
18 The direct infringers that are being induced by Hasbro include, without limitation,
19 their customers, resellers, distributors, or users.

20 114. Hasbro is also liable for indirect infringement under 35 U.S.C. §
21 271(c), offering to sell or selling within the United States or importing into the
22 United States the Furby Products, which are apparatuses for use in practicing the
23 patented process of the '482 Patent, constituting a material part of the invention,
24 knowing the same to be especially made or especially adapted for use in an
25 infringement of such patent, and not a staple article or commodity of commerce
26 suitable for substantial noninfringing use.

27 115. Hasbro's direct infringement, inducement to infringe and contributory
28 infringement of the '482 Patent have injured Dialware, and Dialware is entitled to

1 recover damages adequate to compensate it for such infringement, and an award of
2 enhanced damages.

3 116. Hasbro’s infringing activities will continue to injure Dialware unless
4 and until this Court enters an injunction prohibiting further infringement and,
5 specifically, enjoining further direct infringement, inducement to infringe and
6 contributory infringement of the ‘482 Patent.

7 **COUNT V**

8 **INFRINGEMENT OF U.S. PATENT NO. 9,275,517**

9 117. All preceding paragraphs are incorporated herein by reference.

10 118. Hasbro infringes the ‘517 Patent, for example independent claims 1 and
11 19, among other claims.

12 119. Claim 1 of the ‘517 Patent recites “A method for interactive
13 communication with a toy apparatus, said method comprising: programming the toy
14 apparatus transmitting a machine-originated signal by a cellphone; receiving the
15 signal by the toy apparatus; and producing by the toy apparatus at least one response
16 to the signal, wherein said toy apparatus is programmed by the signal.”

17 120. The preamble of claim 1 recites “A method for interactive
18 communication with a toy apparatus.” To the extent this preamble is limiting, the
19 Furby Connect is a toy apparatus and is capable of interactive communication.

20 121. Claim 1 further recites “programming the toy apparatus transmitting a
21 machine-originated signal by a cellphone.” Furby Connect is programmed via
22 Bluetooth using the Fuby Connect World App, which runs on the user’s cell phone.

23 122. Claim 1 further recites “receiving the signal by the toy apparatus.”
24 Furby Connect receives the Bluetooth signal from the Furby Connect World App.

25 123. Claim 1 further recites “producing by the toy apparatus at least one
26 response to the signal, wherein said toy apparatus is programmed by the signal.”
27 Furby Connect responds to the additional programming from the Furby Connect
28 World App, for example by playing content or other programming.

1 124. Additionally, claim 19 of the ‘517 Patent recites “19. A method of
2 interactive play between a first toy apparatus and a second toy apparatus,
3 comprising: programming a first toy apparatus; generating a first signal by a first toy
4 apparatus; transmitting the first signal by the first toy apparatus to the second toy
5 apparatus; receiving the first signal by the second toy apparatus; and producing by
6 the second toy apparatus a response to the first signal; wherein said response
7 produced by the second toy apparatus is selected from an acoustic response, an
8 optical response, and a message displayed on a portion of the second toy apparatus.”

9 125. The preamble of claim 19 recites “A method of interactive play
10 between a first toy apparatus and a second toy apparatus.” To the extent this
11 preamble is limiting, a first toy may be a Furby 2012 device, or alternately, the first
12 toy may be the user’s device on which the Furby App is installed. The second toy
13 may be a Furby 2012 device, different from the first toy.

14 126. Claim 19 further recites “programming a first toy apparatus.” The
15 Furby 2012 is programmed by Hasbro during manufacture. Alternately, the user’s
16 device on which the Furby App is installed is programmed with Hasbro software
17 when the Furby App is installed.

18 127. Claim 19 further recites “generating a first signal by a first toy
19 apparatus.” Both Furby 2012 and the user’s device on which the Furby App is
20 installed generate signals, for example sound codes.

21 128. Claim 19 further recites “transmitting the first signal by the first toy
22 apparatus to the second toy apparatus.” The first signal is transmitted by the first
23 toy (i.e. a Furby 2012 or the user’s device on which the Furby App is installed) to
24 the second toy, which is, for example, a Furby 2012 device different from the first
25 toy.

26 129. Claim 19 further recites “receiving the first signal by the second toy
27 apparatus.” The second toy, which is, for example, a Furby 2012 device different
28 from the first toy, receives the signal, for example a sound code.

1 130. Claim 19 further recites “producing by the second toy apparatus a
2 response to the first signal.” The second toy, which is, for example, a Furby 2012
3 device different from the first toy, produces a response to the sound code.

4 131. Claim 19 further recites “wherein said response produced by the second
5 toy apparatus is selected from an acoustic response, an optical response, and a
6 message displayed on a portion of the second toy apparatus.” The Furby 2012 may
7 respond by making a sound (an acoustic response), by changing the image on its
8 eyes (an optical response, or a message displayed on the eyes).

9 132. Two Furby 2012s programmed with Hasbro’s software practice each
10 and every element of one or more claims of the ‘517 Patent, including but not
11 limited to claim 19. Alternately, one Furby 2012 and the the user’s device
12 programmed with the Furby App practice each and every element of one or more
13 claims of the ‘517 Patent, including but not limited to claim 19. Acts of
14 infringement occur when a user operates the Furby 2012s (or Furby 2012 and
15 Mobile App) in the manner describe above.

16 133. Hasbro is liable for direct infringement under 35 U.S.C. § 271(a) by,
17 for example, practicing all method steps during testing or other use.

18 134. Hasbro is also liable for indirect infringement under 35 U.S.C. §
19 271(b), by knowingly and actively inducing infringement. Hasbro has known about
20 the Patents-in-Suit and their infringement prior to the filing of this Complaint, and in
21 any event as of the filing of this Complaint. Defendants have knowingly and
22 actively induced infringement of the ‘929 Patent, for example, through the foregoing
23 activities including, without limitation, importing, offering to sell and/or selling the
24 Furby Products, and by instructing, aiding, assisting and encouraging the offer for
25 sale, sale, and use of the Furby 2012 in a manner that infringes the ‘517 Patent. The
26 direct infringers that are being induced by Hasbro include, without limitation, their
27 customers, resellers, distributors, or users.

28 135. Hasbro is also liable for indirect infringement under 35 U.S.C. §

1 271(c), offering to sell or selling within the United States or importing into the
2 United States the Furby Products, which are apparatuses for use in practicing the
3 patented process of the '517 Patent, constituting a material part of the invention,
4 knowing the same to be especially made or especially adapted for use in an
5 infringement of such patent, and not a staple article or commodity of commerce
6 suitable for substantial noninfringing use.

7 136. Hasbro's direct infringement, inducement to infringe and contributory
8 infringement of the '517 Patent have injured Dialware, and Dialware is entitled to
9 recover damages adequate to compensate it for such infringement, and an award of
10 enhanced damages.

11 137. Hasbro's infringing activities will continue to injure Dialware unless
12 and until this Court enters an injunction prohibiting further infringement and,
13 specifically, enjoining further direct infringement, inducement to infringe and
14 contributory infringement of the '517 Patent.

15 **PRAYER FOR RELIEF**

16 Wherefore, in consideration of the foregoing, Plaintiff prays for judgment
17 against Defendant Hasbro as follows:

- 18 1. That Defendant has infringed the Patents-in-Suit;
- 19 2. That Defendant and any of its affiliates, subsidiaries, officers, directors,
20 employees, agents, representatives, licensees, successors, assigns, and
21 all those acting for any of them or on any of their behalf, or acting in
22 concert with any of them directly or indirectly, be enjoined from
23 infringing the Patents-in-Suit;
- 24 3. A permanent injunction enjoining Defendant and its officers, directors,
25 agents, servants, affiliates, employees, divisions, branches, subsidiaries,
26 parents, and all others acting in active concert or participation with
27 Defendant, from infringing the Patents-in-Suit;
- 28 4. That Defendant be ordered to pay damages to Dialware, together with

