

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

<p>PEGASUS TECHNOLOGIES LTD. and LUIDIA, INC.,</p> <p style="text-align:center">Plaintiffs,</p> <p style="text-align:center">v.</p> <p>EPOS DEVELOPMENT LTD., WACOM CO. LTD., and WACOM TECHNOLOGY CORPORATION,</p> <p style="text-align:center">Defendants.</p>	<p>Case No.: _____</p> <p style="text-align:center">JURY TRIAL DEMANDED</p>
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COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs Pegasus Technologies Ltd. (“Pegasus”) and Luidia, Inc. (“Luidia”) allege as follows:

THE PARTIES

1. Pegasus is a corporation organized and existing under the laws of Israel, and has its headquarters at 8, Hahortim St., Holon Industrial Area, Holon, Israel.
2. Luidia is a corporation organized and existing under the laws of Delaware and has its headquarters at 125 Shoreway Road, Suite D, San Carlos, California 94070. Luidia joins as a plaintiff pursuant to Fed. R. Civ. P. 20(a).
3. Upon information and belief, EPOS Development Ltd. (“EPOS”) is a company organized and existing under the laws of Israel, and whose business address is 4 Haharash St., Hod Hasharon 45240, Israel. Upon information and belief, EPOS Development Ltd. was formerly known as EPOS Technologies Ltd.

4. Upon information and belief, Wacom Co. Ltd. is a company organized and existing under the laws of Japan, and has a principal place of business at Harmony Tower 21F, 1-32-2 Honcho, Nakano-ku, Tokyo 164-0012 Japan.

5. Upon information and belief, Wacom Technology Corporation is a company organized and existing under the laws of Washington, and has a principal place of business at 1311 SE Cardinal Court, Vancouver, WA 98683.

6. Upon information and belief, Wacom Technology Corporation is a wholly-owned subsidiary of Wacom Co. Ltd.

7. Pegasus and Luidia are global leaders in the development of digital pen products, including products for use in recording writing on paper and whiteboards.

8. As a result of Pegasus' and Luidia's continuous product development efforts, they have invented a number of digital pen product improvements, including those in U.S. Patent Numbers U.S. Patent Nos. 6,266,051 ("051 patent"), 6,326,565 ("565 patent"), 6,392,330 ("330 patent"), 6,501,461 ("461 patent"), 6,724,371 ("371 patent"), and 6,841,742 ("742 patent") (collectively, "patents-in-suit").

9. Upon information and belief, EPOS, Wacom Co. Ltd. and Wacom Technology Corporation (collectively "Wacom") design, develop, manufacture, market, distribute, sell, offer for sale, and/or import ultrasonic digital pen products, such as the Wacom Inkling.

10. Upon information and belief, Wacom has webpages (e.g. <http://www.wacom.com/en/products/inkling.aspx>) that advertise the Inkling in the United States.

11. Upon information and belief, EPOS and Wacom products are sold to retailers around the world, including online retailers such as Amazon.com, including in the United States and within the District of Columbia.

12. Upon information and belief, EPOS has contracted with Wacom to design, develop, manufacture, market, distribute, sell, offer for sale, and/or import infringing ultrasonic digital pen products, such as the Wacom Inkling, in the United States.

13. Upon information and belief, Wacom has contracted with retailers, such as Sears and Amazon.com, to sell infringing ultrasonic digital pen products, such as the Wacom Inkling, in the United States.

JURISDICTION AND VENUE

14. This is an action for patent infringement arising under the United States Patent laws, 35 U.S.C. § 1 *et seq.*

15. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

16. On information and belief, this Court has personal jurisdiction over Defendant EPOS pursuant to D.C. Code. Ann. § 13-423, the Due Process Clause of the Fourteenth Amendment of the United States Constitution, and because EPOS has submitted to the jurisdiction of this Court for purposes of determining infringement of the same patents in Case No. 1:07-cv-00416 (D.D.C.).

17. On information and belief, this Court has personal jurisdiction over Defendants Wacom Co. Ltd. and Wacom Technology Corporation pursuant to D.C. Code Ann. § 13-423 and the Due Process Clause of the Fourteenth Amendment of the United States Constitution because, *inter alia*, they conduct continuous and systematic business in the District of Columbia and/or sell or offer to sell products relevant to this Complaint in the District of Columbia.

18. Venue is proper in this Court under 28 U.S.C. §§ 1391 and 1400.

PATENTS-IN-SUIT

19. Pegasus and Luidia assert that EPOS and Wacom infringe certain claims of each of the patents-in-suit.

20. The '051 patent is entitled "Retrofittable Apparatus for Converting a Substantially Planar Surface into an Electronic Data Capture Device" and issued on July 24, 2001.

21. The '565 patent is entitled "Marking Device for Electronic Presentation Board" and issued on December 4, 2001.

22. The '330 patent is entitled "Cylindrical Ultrasound Receivers and Transceivers Formed from Piezoelectric Film" and issued on May 21, 2012.

23. The '461 patent is entitled "Retrofittable Apparatus for Converting a Substantially Planar Surface into an Electronic Data Capture Device" and issued on December 31, 2002.

24. The '371 patent is entitled "Presentation Board Digitizers" and issued on April 20, 2004.

25. The '742 patent is entitled "Presentation Board Digitizer Systems" and issued on January 11, 2005.

26. Copies of the '051, '565, '330, '461, '371, and '742 patents are attached as Exhibits A, B, C, D, E, and F, respectively.

27. Pegasus is the owner of the '330 patent and the '371 patent. Luidia is the owner of the '742 patent, the '565 patent, the '051 patent, and the '461 patent and Pegasus is a licensee of those four patents with the exclusive right to enforce those patents in the field of use in which Defendants' infringing activities have been conducted. Thus, Pegasus and Luidia together own all right, title and interest in the six patents-in-suit with full right to bring suit to enforce the patents, including the right to recover for past infringement.

FACTS

28. Defendants design, make, have made, use, sell, offer to sell, and and/or import ultrasonic digital pen products, including the Inkling.

29. Information on the Inkling can be seen in the United States by visiting <http://www.wacom.com/en/products/inkling.aspx>.

30. Upon information and belief, Defendants have offered their ultrasonic digital pen products for sale to residents of the United States, including residents of the District of Columbia.

31. Upon information and belief, ultrasonic digital pen products of the Defendants, such as the Inkling, have been sold throughout the United States at or through retailers such as Amazon.com and Sears (“Retailers”).

32. Upon information and belief, Defendants’ ultrasonic digital pen products are currently being offered for sale on the Amazon website at www.amazon.com.

33. The Wacom Inkling is currently being offered for sale on the Amazon website at www.amazon.com.

34. Upon information and belief, Defendants’ ultrasonic digital pen products which are currently being offered for sale on the Amazon website at www.amazon.com, are provided to Amazon by either EPOS Development Ltd., Wacom Co. Ltd., or Wacom Technology Corporation.

35. Upon information and belief, Defendants’ ultrasonic digital pen products which are currently being offered for sale on the Amazon website at www.amazon.com were manufactured by EPOS or manufactured at the direction of EPOS.

36. Upon information and belief, Defendants' ultrasonic digital pen products which are currently being offered for sale on the Amazon website at www.amazon.com were sold by EPOS to either Wacom Co. Ltd. or Wacom Technology Corporation.

37. Upon information and belief, Defendants' ultrasonic digital pen products which are currently being offered for sale on the Amazon website at www.amazon.com were sold by EPOS to either Wacom Co. Ltd. or Wacom Technology Corporation, with EPOS' knowledge that those ultrasonic digital pen products would be sold in the United States.

38. Upon information and belief, Defendants' ultrasonic digital pen products which are currently being offered for sale on the Amazon website at www.amazon.com were sold to either Wacom Co. Ltd. or Wacom Technology Corporation by EPOS, with EPOS' knowledge that those ultrasonic digital pen products would be sold in the United States, including to individuals within the District of Columbia.

39. Upon information and belief, Defendants' ultrasonic digital pen products which are currently being offered for sale on the Amazon website at www.amazon.com were sold by either Wacom Co. Ltd. or Wacom Technology Corporation to Amazon, with the seller's knowledge that those ultrasonic digital pen products would be sold in the United States.

40. Upon information and belief, Defendants' ultrasonic digital pen products which are currently being offered for sale on the Amazon website at www.amazon.com were sold by either Wacom Co. Ltd. or Wacom Technology Corporation to Amazon, with the seller's knowledge that those ultrasonic digital pen products would be sold in the United States, including to individuals within the District of Columbia.

41. Upon information and belief, residents of the District of Columbia can purchase and have purchased ultrasonic digital pen products of the Defendants.

42. Upon information and belief, residents of the District of Columbia can purchase and have purchased Wacom Inkling pens.

43. Plaintiff Pegasus sells its own ultrasonic digital pen products which compete with the ultrasonic digital pen products of the Defendants in the United States.

COUNT I

Infringement of the '051 Patent

44. Plaintiffs incorporate by reference Paragraphs 1 through 43 as if fully set forth herein.

45. Upon information and belief, in violation of 35 U.S.C. § 271, Defendants have infringed and are continuing to infringe, literally and/or under the doctrine of equivalents, the '051 patent by practicing one or more claims of the '051 patent by manufacturing, using, selling, offering to sell, and/or importing ultrasonic pen products, including the Inkling.

46. Upon information and belief, in violation of 35 U.S.C. § 271, Defendants have infringed and are continuing to infringe the '051 patent by contributing to and/or actively inducing the infringement by others of the '051 patent by, *inter alia*, the manufacture, use, sale, offering for sale, and/or importation of ultrasonic pen products, including the Inkling.

47. Defendants have had actual notice of the '051 patent.

48. Upon information and belief, Defendants have willfully infringed the '051 patent.

49. Upon information and belief, Defendants' acts of infringement of the '051 patent will continue after service of this Complaint unless enjoined by the Court.

50. As a result of Defendants' infringement, Plaintiffs have suffered and will suffer damages.

51. Plaintiffs are entitled to recover from Defendants the damages sustained by Plaintiffs as a result of Defendants' wrongful acts in an amount subject to proof at trial.

52. Unless Defendants are enjoined by this Court from continuing its infringement of the '051 patent, Plaintiffs will suffer additional irreparable harm and impairment of the value of their patent rights. Thus, Plaintiffs are entitled to a preliminary and permanent injunction against further infringement.

COUNT II

Infringement of the '565 Patent

53. Plaintiffs incorporate by reference Paragraphs 1 through 52 as if fully set forth herein.

54. Upon information and belief, in violation of 35 U.S.C. § 271, Defendants have infringed and are continuing to infringe, literally and/or under the doctrine of equivalents, the '565 patent by practicing one or more claims of the '565 patent by manufacturing, using, selling, offering to sell, and/or importing ultrasonic pen products, including the Inkling.

55. Upon information and belief, in violation of 35 U.S.C. § 271, Defendants have infringed and are continuing to infringe the '565 patent by contributing to and/or actively inducing the infringement by others of the '565 patent by, *inter alia*, the manufacture, use, sale, offering for sale, and/or importation of ultrasonic pen products, including the Inkling.

56. Defendants have had actual notice of the '565 patent.

57. Upon information and belief, Defendants have willfully infringed the '565 patent.

58. Upon information and belief, Defendants' acts of infringement of the '565 patent will continue after service of this Complaint unless enjoined by the Court.

59. As a result of Defendants' infringement, Plaintiffs have suffered and will suffer damages.

60. Plaintiffs are entitled to recover from Defendants the damages sustained by Plaintiffs as a result of Defendants' wrongful acts in an amount subject to proof at trial.

61. Unless Defendants are enjoined by this Court from continuing its infringement of the '565 patent, Plaintiffs will suffer additional irreparable harm and impairment of the value of their patent rights. Thus, Plaintiffs are entitled to a preliminary and permanent injunction against further infringement.

COUNT III

Infringement of the '330 Patent

62. Plaintiffs incorporate by reference Paragraphs 1 through 61 as if fully set forth herein.

63. Upon information and belief, in violation of 35 U.S.C. § 271, Defendants have infringed and are continuing to infringe, literally and/or under the doctrine of equivalents, the '330 patent by practicing one or more claims of the '330 patent by manufacturing, using, selling, offering to sell, and/or importing ultrasonic pen products, including the Inkling.

64. Upon information and belief, in violation of 35 U.S.C. § 271, Defendants have infringed and are continuing to infringe the '330 patent by contributing to and/or actively inducing the infringement by others of the '330 patent by, *inter alia*, the manufacture, use, sale, offering for sale, and/or importation of ultrasonic pen products, including the Inkling.

65. Defendants have had actual notice of the '330 patent.

66. Upon information and belief, Defendants have willfully infringed the '330 patent.

67. Upon information and belief, Defendants' acts of infringement of the '330 patent will continue after service of this Complaint unless enjoined by the Court.

68. As a result of Defendants' infringement, Plaintiffs have suffered and will suffer damages.

69. Plaintiffs are entitled to recover from Defendants the damages sustained by Plaintiffs as a result of Defendants' wrongful acts in an amount subject to proof at trial.

70. Unless Defendants are enjoined by this Court from continuing its infringement of the '330 patent, Plaintiffs will suffer additional irreparable harm and impairment of the value of their patent rights. Thus, Plaintiffs are entitled to a preliminary and permanent injunction against further infringement.

COUNT IV

Infringement of the '461 Patent

71. Plaintiffs incorporate by reference Paragraphs 1 through 70 as if fully set forth herein.

72. Upon information and belief, in violation of 35 U.S.C. § 271, Defendants have infringed and are continuing to infringe, literally and/or under the doctrine of equivalents, the '461 patent by practicing one or more claims of the '461 patent by manufacturing, using, selling, offering to sell, and/or importing ultrasonic pen products, including the Inkling.

73. Upon information and belief, in violation of 35 U.S.C. § 271, Defendants have infringed and are continuing to infringe the '461 patent by contributing to and/or actively inducing the infringement by others of the '461 patent by, *inter alia*, the manufacture, use, sale, offering for sale, and/or importation of ultrasonic pen products, including the Inkling.

74. Defendants have had actual notice of the '461 patent.

75. Upon information and belief, Defendants have willfully infringed the '461 patent.

76. Upon information and belief, Defendants' acts of infringement of the '461 patent will continue after service of this Complaint unless enjoined by the Court.

77. As a result of Defendants' infringement, Plaintiffs have suffered and will suffer damages.

78. Plaintiffs are entitled to recover from Defendants the damages sustained by Plaintiffs as a result of Defendants' wrongful acts in an amount subject to proof at trial.

79. Unless Defendants are enjoined by this Court from continuing its infringement of the '461 patent, Plaintiffs will suffer additional irreparable harm and impairment of the value of their patent rights. Thus, Plaintiffs are entitled to a preliminary and permanent injunction against further infringement.

COUNT V

Infringement of the '371 Patent

80. Plaintiffs incorporate by reference Paragraphs 1 through 79 as if fully set forth herein.

81. Upon information and belief, in violation of 35 U.S.C. § 271, Defendants have infringed and are continuing to infringe, literally and/or under the doctrine of equivalents, the '371 patent by practicing one or more claims of the '371 patent by manufacturing, using, selling, offering to sell, and/or importing ultrasonic pen products, including the Inkling.

82. Upon information and belief, in violation of 35 U.S.C. § 271, Defendants have infringed and are continuing to infringe the '371 patent by contributing to and/or actively inducing the infringement by others of the '371 patent by, *inter alia*, the manufacture, use, sale, offering for sale, and/or importation of ultrasonic pen products, including the Inkling.

83. Defendants have had actual notice of the ‘371 patent.

84. Upon information and belief, Defendants have willfully infringed the ‘371 patent.

85. Upon information and belief, Defendants’ acts of infringement of the ‘371 patent will continue after service of this Complaint unless enjoined by the Court.

86. As a result of Defendants’ infringement, Plaintiffs have suffered and will suffer damages.

87. Plaintiffs are entitled to recover from Defendants the damages sustained by Plaintiffs as a result of Defendants’ wrongful acts in an amount subject to proof at trial.

88. Unless Defendants are enjoined by this Court from continuing its infringement of the ‘371 patent, Plaintiffs will suffer additional irreparable harm and impairment of the value of their patent rights. Thus, Plaintiffs are entitled to a preliminary and permanent injunction against further infringement.

COUNT VI

Infringement of the ‘742 Patent

89. Plaintiffs incorporate by reference Paragraphs 1 through 88 as if fully set forth herein.

90. Upon information and belief, in violation of 35 U.S.C. § 271, Defendants have infringed and are continuing to infringe, literally and/or under the doctrine of equivalents, the ‘742 patent by practicing one or more claims of the ‘742 patent by manufacturing, using, selling, offering to sell, and/or importing ultrasonic pen products, including the Inkling.

91. Upon information and belief, in violation of 35 U.S.C. § 271, Defendants have infringed and are continuing to infringe the ‘742 patent by contributing to and/or actively

inducing the infringement by others of the ‘742 patent by, *inter alia*, the manufacture, use, sale, offering for sale, and/or importation of ultrasonic pen products, including the Inkling.

92. Defendants have had actual notice of the ‘742 patent.

93. Upon information and belief, Defendants have willfully infringed the ‘742 patent.

94. Upon information and belief, Defendants’ acts of infringement of the ‘742 patent will continue after service of this Complaint unless enjoined by the Court.

95. As a result of Defendants’ infringement, Plaintiffs have suffered and will suffer damages.

96. Plaintiffs are entitled to recover from Defendants the damages sustained by Plaintiffs as a result of Defendants’ wrongful acts in an amount subject to proof at trial.

97. Unless Defendants are enjoined by this Court from continuing its infringement of the ‘742 patent, Plaintiffs will suffer additional irreparable harm and impairment of the value of their patent rights. Thus, Plaintiffs are entitled to a preliminary and permanent injunction against further infringement.

DEMAND FOR JURY TRIAL

98. Plaintiffs hereby demand a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for a judgment against Defendants as follows:

(a) that Defendants have infringed the ‘330 patent, the ‘371 patent, the ‘742 patent, the ‘565 patent, the ‘051 patent, and the ‘461 patent by making, using, offering to sell, selling, marketing, or importing ultrasonic digital pen products and/or have actively induced infringement, and/or contributed to the infringement of these patents;

(b) permanently enjoining Defendants, and their affiliates and subsidiaries, and each of their officers, agents, servants, employees and attorneys, and all persons in active concert or participation with any of them, from making, using, offering to sell and/or selling within the United States, and/or importing into the United States, any ultrasonic digital pen products or other products that infringe or induce or contribute to the infringement of the '330 patent, the '371 patent, the '742 patent, the '565 patent, the '051 patent, and the '461 patent pursuant to 35 U.S.C. § 283;

(c) awarding Plaintiffs damages adequate to compensate for Defendants' infringement of the '330 patent, the '371 patent, the '742 patent, the '565 patent, the '051 patent, and the '461 patent, together with interest and costs as fixed by the Court 35 U.S.C. § 284;

(d) declaring this case an exceptional case pursuant to 35 U.S.C. § 285;

(e) ordering that Defendants be ordered to pay treble damages for willful infringement of each of the '330 patent, the '371 patent, the '742 patent, the '565 patent, the '051 patent, and the '461 patent pursuant to 35 U.S.C. § 284;

(f) awarding Plaintiffs their costs and attorneys' fees pursuant to 35 U.S.C. § 285;

and

(g) granting such other relief as the Court deems just and proper.

Dated: September 21, 2012

Respectfully submitted,

By: s/ William P. Atkins

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