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10 Attorneys for Plaintiff, Opus One Corporation.

11 **UNITED STATES DISTRICT COURT**  
12 **NORTHERN DISTRICT OF CALIFORNIA, THE OAKLAND DIVISION**

13 Opus One Corporation dba Contest Factory, a  
14 California corporation,

15 Plaintiff,

16 v.

17 Votigo, Inc., a Delaware corporation,

18 Defendant.

**Civil Action No. 16-1061**

**COMPLAINT FOR PATENT  
INFRINGEMENT**

**DEMAND FOR JURY TRIAL**

1 1. Plaintiff, by and through its attorneys of record, alleges as follows:

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3 **PARTIES**

4 2. Plaintiff Opus One Corporation dba Contest Factory (“Opus One”), is a  
5 corporation organized and existing under the laws of the State of California, with a place of  
6 business at 12841 Newport Avenue, Tustin, CA 92780, USA.

7 3. Upon information and belief, Defendant Votigo, Inc. (“Votigo” or “the  
8 Defendant”) is a wholly owned corporation organized and existing under the laws of the State of  
9 Delaware, with its principal place of business at 251 Lafayette Circle Suite 330, Lafayette, CA  
10 94549.

11  
12 **SUBJECT MATTER JURISDICTION**

13 4. This is an action for patent infringement arising under the patent laws of the  
14 United States, 35 U.S.C. §§ 1, et seq. This Court has subject matter jurisdiction over this action  
15 pursuant to 28 U.S.C. §§ 1331 and 1338(a).

16  
17 **BACKGROUND**

18 5. Opus One protects its technologies through a broad range of intellectual property  
19 rights. Among the patents that Opus One has been awarded are the utility patents listed below to  
20 which Opus One owns all rights, title, and interest.

<b>Patent Number</b>	<b>Title</b>
7,162,433 (the '433 patent)	System and method for interactive contests
8,019,641 (the '641 patent)	System and method for interactive contests
8,655,715 (the '715 patent)	System and method for interactive contests

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26 **COUNT ONE: INFRINGEMENT OF THE '433 PATENT BY VOTIGO**

27 6. Plaintiff re-alleges and incorporates the allegations of paragraphs 1-5.

1           7.     The ‘433 patent is valid and enforceable.

2           8.     Upon information and belief, and in violation of 35 U.S.C. § 271, Votigo has  
3 infringed the ‘433 patent through direct infringement and infringement under the doctrine of  
4 equivalents. Since at least January 4, 2007, Votigo has offered for sale, sold, designed, operated,  
5 or administered infringing contests in the United States, including offering for sale and designing  
6 contests based on a template that infringes the ‘433 patent.

7           9.     Votigo has also offered for sale, sold, designed, operated, or administered at least  
8 the following infringing contests in the United States: the Modelo Especial Real Authentic  
9 Craftsman Contest (operating since at least July 15, 2015), the Walmart Associate Talent Search  
10 (operating since at least February 6, 2015), and the AARP Superstar Contest (operating since at  
11 least January 5, 2015) (hereinafter “the Contests”). Specifically, the Contests infringe the subject  
12 matter protected by claim 1 of the ‘433 patent.

13          10.    Some of Votigo’s acts constituting infringement of claim 1 of the ‘433 patent are  
14 detailed in Exhibit 1, attached.

15          11.    Upon information and belief and in violation of 35 U.S.C. § 271, the Defendant  
16 also contributed to or induced infringement of claim 1 of the ‘433 patent.

17          12.    As a direct and proximate result of the Defendant’s acts of infringement, Plaintiff  
18 suffered damages in an amount according to proof at trial. Plaintiff is entitled to recover  
19 compensatory damages totaling no less than a reasonable royalty.

20          13.    Votigo continues to offer for sale, sell, design, operate, or administer contests  
21 based on a template that infringes the ‘433 patent.

22          14.    Unless the Defendant is enjoined by this Court from continuing its infringement  
23 of the ‘433 patent, Plaintiff will suffer additional irreparable harm and impairment of the value of  
24 its patent rights. Thus, Plaintiff is entitled to an injunction against further infringement.

25          15.    Upon information and belief, the Defendant had constructive notice of the ‘433  
26 patent as of the date of issuance, January 9, 2007. In addition, Opus One has practiced the  
27 patented technology on its website, [www.makeastar.com](http://www.makeastar.com), since at least the date of issuance of  
28 the ‘433 patent.

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2           **COUNT TWO: INFRINGEMENT OF THE ‘641 PATENT BY VOTIGO**

3           16. Plaintiff re-alleges and incorporates the allegations of paragraphs 1-5.

4           17. The ‘641 patent is valid and enforceable.

5           18. Upon information and belief, and in violation of 35 U.S.C. § 271, Votigo has  
6 infringed the ‘641 patent through direct infringement and infringement under the doctrine of  
7 equivalents. Since at least January 4, 2007, Votigo has offered for sale, sold, designed, operated,  
8 or administered infringing contests, including offering for sale and designing contests based on a  
9 template that infringes the ‘641 patent.

10           19. Votigo has also offered for sale, sold, designed, operated, or administered at least  
11 the following infringing contests in the United States: the Modelo Especial Real Authentic  
12 Craftsman Contest (operating since at least July 15, 2015), the Walmart Associate Talent Search  
13 (operating since at least February 6, 2015), and the AARP Superstar Contest (operating since at  
14 least January 5, 2015). Specifically, the Contests infringe the subject matter protected by at least  
15 claim 1 of the ‘641 patent.

16           20. Some of Votigo’s acts constituting infringement of claim 1 of the ‘641 patent are  
17 detailed in Exhibit 2, attached.

18           21. Upon information and belief and in violation of 35 U.S.C. § 271, Votigo also  
19 contributed to or induced infringement of one or more of the claims of the ‘641 patent.

20           22. As a direct and proximate result of Votigo’s acts of infringement, Plaintiff has  
21 suffered damages in an amount according to proof at trial. Plaintiff is entitled to recover  
22 compensatory damages totaling no less than a reasonable royalty.

23           23. Votigo continues to offer for sale, sell, design, operate, or administer contests  
24 based on a template that infringes the ‘641 patent.

25           24. Unless Votigo is enjoined by this Court from continuing its infringement of the  
26 ‘641 patent, Plaintiff will suffer additional irreparable harm and impairment of the value of its  
27 patent rights. Thus, Plaintiff is entitled to an injunction against further infringement.

1           25.     Upon information and belief, the Defendant had constructive notice of the ‘641  
2 patent as of the date of issuance, September 13, 2011. In addition, Opus One has practiced the  
3 patented technology on its website, [www.makeastar.com](http://www.makeastar.com), since at least the date of issuance of  
4 the ‘641 patent.

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6           **COUNT THREE: INFRINGEMENT OF THE ‘715 PATENT BY VOTIGO**

7           26.     Plaintiff re-alleges and incorporates the allegations of paragraphs 1-5.

8           27.     The ‘715 patent is valid and enforceable.

9           28.     Upon information and belief, and in violation of 35 U.S.C. § 271, Votigo has  
10 infringed the ‘715 patent through direct infringement and infringement under the doctrine of  
11 equivalents. Since at least January 4, 2007, Votigo has offered for sale, sold, designed, operated,  
12 or administered infringing contests, including offering for sale and designing contests based on a  
13 template that infringes the ‘715 patent.

14          29.     Votigo has also offered for sale, sold, designed, operated, or administered at least  
15 the following infringing contests in the United States: the Modelo Especial Real Authentic  
16 Craftsman Contest (operating since at least July 15, 2015), the Walmart Associate Talent Search  
17 (operating since at least February 6, 2015), and the AARP Superstar Contest (operating since at  
18 least January 5, 2015) (hereinafter “the Contests”). Specifically, the Contests infringe the subject  
19 matter protected by at least claim 1 of the ‘715 patent.

20          30.     Some of Votigo’s acts constituting infringement of claim 1 of the ‘715 patent are  
21 detailed in Exhibit 3, attached.

22          31.     Upon information and belief and in violation of 35 U.S.C. § 271, the Defendant  
23 also contributed to or induced infringement of one or more of the claims of the ‘715 patent.

24          32.     As a direct and proximate result of the Defendant’s acts of infringement, Plaintiff  
25 has suffered damages in an amount according to proof at trial. Plaintiff is entitled to recover  
26 compensatory damages totaling no less than a reasonable royalty.

27          33.     Votigo continues to offer for sale, sell, design, operate, or administer contests  
28 based on a template that infringes the ‘715 patent.

1 34. Unless the Defendant is enjoined by this Court from continuing its infringement  
2 of the '715 patent, Plaintiff will suffer additional irreparable harm and impairment of the value of  
3 its patent rights. Thus, Plaintiff is entitled to an injunction against further infringement.

4 35. Upon information and belief, the Defendant had constructive notice of the '715  
5 patent as of the date of issuance, February 18, 2014. In addition, Opus One has practiced the  
6 patented technology on its website, [www.makeastar.com](http://www.makeastar.com), since at least the date of issuance of  
7 the '715 patent.

### 8 PRAYER FOR RELIEF

9 Plaintiff Opus One prays for judgment and relief as follows:

- 10 A) Judgment that the '433, '641, and '715 patents are valid and enforceable;  
11  
12 B) Judgment that the Defendant, its directors, officers, employees, attorneys, and agents,  
13 and all those persons acting in active concert or in participation with them, and their  
14 successors and assigns, be enjoined from further acts that infringe, contributorily  
15 infringe, or induce infringement of the '433, '641, and '715 patents pursuant to 35  
16 U.S.C. § 283;  
17 C) Judgment the Defendant be ordered to pay damages adequate to compensate Opus  
18 One for infringement of the '433, '641, and '715 patents pursuant to 35 U.S.C. § 284,  
19 together with interest, including pre-judgment interest from the date infringement of  
20 the '433, '641, and '715 patents began;  
21 D) Judgment that the Defendant directly committed, induced, or contributed to willful  
22 infringement of the '433, '641, and '715 patents and that the Defendant be ordered to  
23 pay treble damages pursuant to 35 U.S.C. § 284;  
24 E) Judgment that the Defendant be ordered to pay all costs and expenses incurred by  
25 Opus One associated with this action pursuant to 35 U.S.C. § 284;  
26 F) Judgment that this case is exceptional, and that the Defendant be ordered to pay all of  
27 Opus One's attorney fees associated with this action pursuant to 35 U.S.C. § 285; and  
28

1 G) Judgment that Opus One be granted any other relief as this Court finds just and  
2 proper.

3  
4 **DEMAND FOR JURY TRIAL**

5 36. Pursuant to Rule 38 of the Federal Rules of Civil Procedure, the Plaintiff demands  
6 trial by jury in this action of all issues so triable.

7  
8 Respectfully submitted,

9 FISH & TSANG, LLP

10 Dated: March 2, 2016

11 By: /s/Mei Tsang  
12 Mei Tsang, Esq.  
13 Attorneys for Plaintiff  
14 Opus One, Inc.