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8 Attorneys for Plaintiff
9 FACEDOUBLE, INC.

10 UNITED STATES DISTRICT COURT
11 SOUTHERN DISTRICT OF CALIFORNIA

12 FACEDOUBLE, INC., a California corporation,)

13 Plaintiff,)

14 vs.)

15 VIZI LABS, INC. dba FACE.COM, an Israeli)
16 corporation.)

17 Defendant.)

Case No. '12CV1584 WQHMD

**COMPLAINT FOR PATENT
INFRINGEMENT AND DEMAND FOR
JURY TRIAL**

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1 Plaintiff, FACEDOUBLE, INC., for its complaint against Defendant VIZI LABS, INC.,
2 states and alleges as follows:

3 **JURISDICTION AND VENUE**

4 1. This Court has subject matter jurisdiction of this action pursuant to 28 U.S.C.
5 § 1338(a) because this is a civil action for patent infringement.

6 2. This Court has personal jurisdiction over the VIZI LABS because they are present
7 in this District and/or have continuous and systematic contacts with this District, including but
8 not limited to making sales of the infringing product in this District through their respective
9 channels of distribution.

10 3. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b) and (c) and
11 1400(b).

12 **PARTIES**

13 4. Plaintiff FACEDOUBLE, INC. (“FACEDOUBLE”) is a corporation incorporated
14 under the laws of the State of California and does business in this district and has a mailing
15 address of Box 8829, La Jolla, California 92038.

16 5. Defendant VIZI LABS, INC. (“VIZI LABS”) is, on information and belief, an Israeli
17 corporation which operates a business on the world wide web under the name FACE.COM and
18 has a principal place of business at 548 Market Street #45134, San Francisco, California 94104.

19 **GENERAL ALLEGATIONS**

20 6. Charles A. Myers and Alex Shah are the inventors of U.S. Patent No. 7,587,070,
21 which was filed on June 13, 2008, issued on September 8, 2009, and is entitled Image
22 Classification and Information Retrieval Over Wireless Digital Network and the Internet (‘070
23 Patent”), a true and correct copy of which is attached hereto as Exhibit A.
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1 7. FACEDOUBLE is the assignee of the '070 Patent and owns all right and title
2 thereto.

3 8. FACEDOUBLE has asserted its patent rights previously and obtained a
4 permanent injunction in this Court for a facial recognition application connected to Facebook,
5 similar to the VIZI LABS application described hereinafter.
6

7 9. FACE.COM was established in 2009. FACE.COM has created several
8 applications which rely on facial recognition technology.

9 10. VIZI LABS is and uses FACE.COM as a dba for VIZI LABS activities.

10 11. VIZI LABS has made, used, sold, offered to sell, imported or caused others to use
11 within the United States products which are proprietary to it, including but not limited to Klik.
12

13 12. Klik is connected to Facebook and matches photos taken with a phone with the
14 names of persons previously identified.

15 13. Alex Shah ("Shah") and Charles A. Myers ("Myers"), founders of
16 FACEDOUBLE, developed software face matching applications in the social networking context
17 that identify, compare, contrast, search, tag and identify photographic images of individuals
18 using wireless devices, wireless networks and the internet.

19 14. The software applications include FACEDOUBLE® and FaceDouble Twins™
20 ("FACEDOUBLE Applications"), which are commercialized software programs.
21

22 15. FACEDOUBLE invested millions of dollars in project labor and capital, and in
23 July of 2006, incorporated a business to commercialize the FACEDOUBLE Applications.

24 16. The FACEDOUBLE Applications, among other features, match images and
25 assigns a weight to the match. A person is identified from a database which may be accessed
26 from a wireless device, cell phone or other network connected device over the internet.
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1 17. The FACEDOUBLE Applications allow the user to engage in several activities
2 facilitated by the application, including the ability to cast votes for the best matches in an online
3 user community, including a wireless device, cell phone or other network connected device.
4 Various combinations of people may be weighted using a variety of techniques, including human
5 perception. The photos with the most points based on the voting from the website are listed
6 separately on the website for all users to view.
7

8 18. Beginning in 2004, the FACEDOUBLE Applications were placed on popular
9 social networking websites, including Facebook and MySpace and were approved by numerous
10 wireless carriers.
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12 19. Since 2005, the FACEDOUBLE Applications have achieved substantial
13 commercial success and acclaim as a social networking application having twenty five (25)
14 million users.
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FIRST CLAIM FOR RELIEF – INFRINGEMENT OF U.S. PAT. NO. 7,587,070

16 For its First Claim for Relief against Defendant VIZI LABS, FACEDOUBLE alleges as
17 follows:
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19 20. The allegations contained in paragraphs 1 –19 above are incorporated by
20 reference as though set forth fully herein.
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22 21. Upon information and belief, VIZI LABS has infringed one of more claims of the
23 ‘070 Patent within the United States without authority of FACEDOUBLE by making, using,
24 selling, offering to sell and/or importing the Klik product and/or has engaged in acts of
25 contributory infringement and/or have induced others to infringe the ‘070 Patent pursuant to 35
26 U.S.C. § 271 (a), (b), and/or (c).
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28 22. Upon information and belief, VIZI LABS had actual knowledge of the ‘070
Patent and that the Klik product infringed the ‘070 Patent.

1 acting in privity or in concert with them from infringing, actively inducing infringement, or
2 contributing to infringement of the '070 Patent;

3 C. That this Court declare all claims of the '070 Patent valid and infringed by VIZI
4 LABS;

5 D. That FACEDOUBLE have an accounting of all damages to FACEDOUBLE,
6 including the profits, revenues and costs of VIZI LABS arising from the infringement of the '070
7 Patent;

8 E. That this Court award to FACEDOUBLE damages adequate to compensate it for
9 VIZI LABS' acts of infringement, inducement of infringement, and contributing to the
10 infringement by others of the '070 Patent complained of herein, together with pre- and post-
11 judgment interest thereon, but in no event less than a reasonable royalty for the use made of the
12 '070 Patent;
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14 F. That the Court finds that the infringement of the '070 Patent by VIZI LABS is
15 willful, and that this Court award enhanced damages up to and including treble damages against
16 VIZI LABS;
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18 G. That the Court order VIZI LABS to pay FACEDOUBLE's reasonable attorneys'
19 fees for this action;

20 H. That the Court order VIZI LABS to pay FACEDOUBLE's costs for this action;

21 I. That pre- and post-judgment interest be awarded by the Court in the highest
22 amount and at the highest rate allowed by law;

23 J. That the Court grant FACEDOUBLE such other and further relief as it may deem
24 just and equitable.
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26 **PLAINTIFF'S JURY DEMAND**

27 Plaintiff FACEDOUBLE hereby demands a jury trial of all issues triable to a jury.
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FACEDOUBLE, INC.

By its Attorneys,

Date: June 26, 2012

/s/ Gregg I. Anderson
Gregg I. Anderson, Esq.