

1 WHITNEY E. PETERSON (BAR NO. 159630)
wpeterson@madcatz.com
2 TYSON E. MARSHALL (BAR NO. 222488)
tmarshall@madcatz.com
3 MAD CATZ, INC.
7480 Mission Valley Road, Suite 101
4 San Diego, CA 92108
Telephone: (619) 683-9830
5 Facsimile: (619) 683-2813

6 Attorneys for Plaintiff
MAD CATZ INTERACTIVE, INC.
7

8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
10

11 MAD CATZ INTERACTIVE, INC., an Ontario
corporation,

12 Plaintiff,

13 v.

14 RAZER USA, LTD, a Delaware corporation,

15 Defendants.
16

Case No.: '13CV2371 GPC WMC

JURY TRIAL DEMANDED

**COMPLAINT FOR PATENT
INFRINGEMENT**

17 Plaintiff Mad Catz Interactive, Inc. ("Mad Catz"), by and through its undersigned
18 counsel, files this Complaint for Patent Infringement against Defendant Razer USA, Ltd.
19 ("Razer"), and alleges as follows:

20 **PARTIES**

21 1. Plaintiff Mad Catz is a corporation organized and existing under and by virtue of
22 the laws of Ontario, Canada and maintains its principle operating office at 7480 Mission Valley
23 Road, Suite 101, San Diego, California 92108. Mad Catz designs, manufactures (through third
24 parties), markets, sells and distributes accessories and peripherals for all major videogame
25 platforms, personal computers, smart phones, and other smart devices. Mad Catz also develops
26 flight simulation software, and publishes, markets and sells videogames.
27
28

1 2. Upon information and belief, Defendant Razer USA, Ltd. is a corporation
2 organized and existing under and by virtue of the laws of the state of Delaware and maintains its
3 principal place of business at Carlsbad, California. Upon information and belief, Defendant
4 develops, manufactures, markets, and sells gaming peripherals and accessories within the United
5 States and in direct competition to Mad Catz.

6 3. Unless specifically stated otherwise, the acts complained of herein were committed
7 by, on behalf of, and/or for the benefit of Defendant.

8 **JURISDICTION AND VENUE**

9 4. This is an action for patent infringement arising under the patent laws of the
10 United States, Title 35, United States Code.

11 5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and
12 1338(a).

13 6. Upon information and belief, Defendant is subject to personal jurisdiction in this
14 Court, consistent with the principles of due process, traditional notions of fair play and
15 substantial justice, and California's Long Arm Statute, because, at a minimum, Defendant
16 conducts business and maintains its principle place of business in California, a substantial portion
17 of the wrongdoing alleged in the Complaint took place in California, Defendant has sufficient
18 contacts with California, and/or has otherwise intentionally availed itself of the markets in
19 California through the promotion, marketing, and sale of its products in California.

20 7. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)-(d) and/or 28
21 U.S.C. § 1400(b) because Defendant regularly conducts business in the Southern District of
22 California, maintains its principle place of business in this judicial district, and Defendant has
23 committed and continues to commit infringing acts in this judicial district.

24 **FACTUAL ALLEGATIONS**

25 8. U.S. Patent No. 6,157,370 (hereinafter, the "'370 Patent'"), entitled "Ergonomic
26 Mouse Extension," duly issued on December 5, 2000. A true and correct copy of the '370 Patent
27 is attached hereto as Exhibit "A."
28

1 9. Humanscale Corporation (formerly known as Software Computer Products Corp.)
2 (“Humanscale”) is the owner by assignment of the entire interest in the ‘370 Patent.

3 10. Effective October 1, 2012, Humanscale granted to Mad Catz an exclusive license,
4 within the United States of America, to make, use, sell, offer for sale, import, gift or otherwise
5 dispose of the any products falling within the scope of one or more claims of the ‘370 Patent,
6 including all right, power and interest to enforce the ‘370 Patent against any and all third parties
7 and the exclusive standing to bring suit against any third party infringing the ‘370 Patent.

8 11. The exclusive license granted to Mad Catz by Humanscale operates as a transfer
9 of all substantial rights in the ‘370 Patent to Mad Catz.

10 12. Mad Catz has complied with the marking requirements of 35 U.S.C. § 287(a) with
11 respect to the ‘370 Patent.

12 **Count 1**
13 **(Infringement of the ‘370 Patent)**

14 13. Mad Catz incorporates by reference the allegations in paragraphs 1 through 12, as
15 if set forth fully herein.

16 14. Defendant has infringed (both directly and indirectly) and continues to infringe
17 the ‘370 Patent by making, using, offering for sale, selling, and/or importing in the United States
18 certain products covered by one of more claims of the ‘370 Patent, including, by way of example
19 and not limitation, the “Ouroboros” computer mouse.

20 15. Upon information and belief, due to Defendant’s infringement of the ‘370,
21 Defendant has made, and continues to make, unlawful gains and profits, and Mad Catz, due to
22 the same infringing conduct by Defendant, has been deprived of, and continues to be deprived of,
23 rights and remunerations that would have otherwise come to Mad Catz, but for the infringement.

24 16. In addition, upon information and belief, Defendant has induced, and continues to
25 induce, infringement of the ‘370 Patent and/or committed and continues to commit acts of
26 contributory infringement of the ‘370 Patent.

1 17. Further, during at least a portion of the period of time that Defendant engaged in
2 the infringing acts alleged herein, Defendant had actual knowledge of the ‘370 Patent and of Mad
3 Catz’ claims of infringement by Defendant, having been notified of the foregoing by Mad Catz
4 on or about November 1, 2012.

5 18. During at least a portion of the period of time that Defendant engaged in the
6 infringing acts alleged herein, Defendant knew or should have known that its acts constituted
7 infringement of the ‘370 Patent.

8 19. In view of the facts set forth herein and further upon information and belief,
9 Defendant’s infringement of the ‘370 Patent is and has been deliberate and willful and
10 Defendant’s conduct warrants an award of treble damages pursuant to 35 U.S.C. § 284 and a
11 finding that this is an exceptional case justifying an award of attorneys’ fees to Mad Catz
12 pursuant to 35 U.S.C. § 285.

13 20. By its wrongful acts, Defendant has caused, and unless restrained by the Court,
14 will continue to cause serious irreparable injury and damage to Mad Catz, including but not
15 limited to, diversion of customers, lost sales, and lost profits.

16 21. Mad Catz is without an adequate remedy at law.

17 22. Mad Catz is seeking both monetary damages and injunctive relief for the
18 aforementioned acts.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, by reason of the foregoing, Mad Catz prays for the following relief:

21 A. A judgment that Defendant has infringed, contributorily infringed, and/or induced
22 infringement of one or more claims of the ‘370 Patent;

23 B. An order and judgment preliminarily and permanently enjoining Defendant and its
24 officers, directors, agents, servants, employees, affiliates, attorneys, and all others acting in
25 privity or in concert with them, and their parents, subsidiaries, divisions, successors and assigns
26 from further acts of infringement of the ‘370 Patent;

27
28

1 C. A judgment awarding Mad Catz all damages adequate to compensate for
2 Defendant's infringement of the '370 Patent, in an amount to be determined at trial, and in no
3 event less than a reasonable royalty for Defendant's acts of infringement, including all pre-
4 judgment and post-judgment interest at the maximum rate permitted by law;

5 D. A judgment awarding Mad Catz all damages, including treble damages, based on
6 any infringement found to be willful, pursuant to 35 U.S.C. § 284, together with prejudgment
7 interest;

8 E. A judgment awarding Mad Catz all of Defendant's profits, pursuant to 35 U.S.C.
9 § 289 together with prejudgment interest;

10 F. Actual damages suffered by Mad Catz as a result of Defendant's unlawful
11 conduct, in an amount to be proven at trial, as well as prejudgment interest as authorized by law;

12 G. A judgment that this is an exceptional case and an award to Mad Catz of its costs
13 and reasonable attorneys' fees incurred in this action as provided by 35 U.S.C. § 285; and

14 H. Such other relief as this Court deems just and proper.

15 **JURY DEMAND**

16 Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Mad Catz hereby
17 demands trial by jury of all issues properly triable by jury.

18
19 DATED: October 3, 2013

MAD CATZ INTERACTIVE, INC.

20
21 By: s/ Tyson E. Marshall

22 Whitney E. Peterson
23 Tyson E. Marshall
24 Attorneys for Plaintiff
MAD CATZ INTERACTIVE, INC.