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8 Attorneys for Plaintiff,  
9 YONDR, INC.

10  
11 **UNITED STATES DISTRICT COURT**  
12 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

13  
14 YONDR, INC., a Delaware corporation,

15  
16 Plaintiff,

17 vs.

18 WIN ELEMENTS LLC, a California  
19 limited liability company; JOHN  
20 NGUYEN, an individual; and DOES 1-  
21 10, inclusive,

22 Defendants.

Case No.: 5:21-cv-2105-JGB (KKx)

**PLAINTIFF’S FIRST AMENDED  
COMPLAINT FOR:**

- 1) **WILLFUL PATENT  
INFRINGEMENT UNDER 35  
U.S.C. § 271(A);**
- 2) **INDUCED PATENT  
INFRINGEMENT UNDER 35  
U.S.C. § 271(B);**
- 3) **CONTRIBUTORY PATENT  
INFRINGEMENT UNDER 35  
U.S.C. § 271(C);**
- 4) **UNFAIR COMPETITION  
UNDER CAL. BUS. & PROF.  
CODE § 17200 *et seq.*;**
- 5) **DECLARATION OF PATENT  
INVALIDITY**

**JURY TRIAL DEMAND**

1 PLAINTIFF YONDR, INC. (“Plaintiff”) hereby files this Complaint against  
2 DEFENDANTS WIN ELEMENTS LLC (“Win Elements”), JOHN NGUYEN  
3 (“Nguyen”), and DOES 1 to 10 (collectively, “Defendants”), and alleges as follows:

4 **SUMMARY OF THE ACTION**

5 1. Plaintiff is the sole owner of an innovative system and apparatus for  
6 selectively limiting user control of an electronic device, which is protected by United  
7 States Patent No. 9,819,788 (the “’788 Patent”). *See* **EXHIBIT A**.

8 2. Defendants have willfully and blatantly infringed the ‘788 Patent by  
9 offering for sale, and presumably selling, on at least its website  
10 www.winelements.com “Safe Pouch” products (“Infringing Products”) having every  
11 limitation of at least one claim of the ‘788 Patent. *See* **EXHIBIT C**.

12 3. Though Plaintiff has unsuccessfully attempted to address Defendants’  
13 infringement by reaching out to Defendants directly, Defendants have ignored such  
14 attempts and persist in their wrongful conduct. Thus, Plaintiff now seeks relief from  
15 this Court to resolve this dispute and be compensated for the injury caused by  
16 Defendants’ unlawful business practices.

17 **PARTIES**

18 4. Plaintiff Yondr, Inc. is now, and at all times relevant herein was, a  
19 Delaware corporation, having a principal place of business in Glendale, California.

20 5. Plaintiff is informed and believes, and on that basis alleges, that  
21 Defendant Win Elements LLC is, and at all times relevant herein was, a California  
22 limited liability company, having a principal place of business at 53233 Bonica St.,  
23 Lake Elsinore, California 92532.

24 6. Plaintiff is informed and believes, and on that basis alleges, that  
25 Defendant John Nguyen is, and at all times relevant herein was, an individual, over  
26 the age of eighteen, and residing in Lake Elsinore, California.

27 7. The true names and capacities, whether individual, corporate, associate,  
or otherwise, of Defendants DOES 1 through 10, inclusive (individual a “Doe

1 Defendant” and collectively, “Doe Defendants”), are unknown to Plaintiff at this  
2 time, and Plaintiff, therefore, sues Doe Defendants by such fictitious names. Plaintiff  
3 will ask leave of Court to amend this Complaint when the same shall have been  
4 ascertained. Plaintiff is informed and believes, and based thereon alleges that each  
5 Doe Defendant was responsible intentionally, or in some other actionable manner  
6 for the events and happenings referred to herein, which proximately caused injury  
7 and damage to Plaintiff, as hereafter alleged. Any reference to Defendants shall refer  
8 to each named Defendant and all Doe Defendants, and to each of them. Any  
9 reference to a particular Defendant shall refer to the named Defendant only.

10 8. Plaintiff is informed and believes, and on that basis alleges, that  
11 Defendants are responsible for their acts and for their conduct, which are the true  
12 legal causes of the damages herein alleged.

### 13 JURISDICTION AND VENUE

14 9. This Court has jurisdiction over the subject matter of this action under  
15 28 U.S.C. §§ 1331 (federal question), 1338(a) (patent infringement), and 1332  
16 (diversity of citizenship).

17 10. Personal jurisdiction as to these Defendants is conferred on this Court  
18 because Defendants have purposefully availed themselves of the benefits and  
19 privileges of transacting business within the State of California. In particular,  
20 Defendant Win Elements has its principal place of business in the State of California  
21 and Defendant Nguyen is a resident of the State of California.

22 11. This Court also has personal jurisdiction over Defendants because  
23 Defendants have caused injury to Plaintiff within the State of California and within  
24 this judicial district. Defendants have committed and continue to commit unlawful  
25 acts expressly aimed at Plaintiff in California, knowing that the brunt of the harm  
26 resulting from this conduct will be suffered by Plaintiff in California.

27 12. Venue is proper in the Central District of California under 28 U.S.C. §  
1400(a) and (b). Defendants reside in this district. Defendants have also committed

1 acts of infringement of the ‘788 Patent in this district by offering for sale the  
2 Infringing Products and have a regular and established place of business in this  
3 district at 53233 Bonica St., Lake Elsinore, California 92532.

4 **FACTUAL BACKGROUND**

5 13. On April 21, 2015, a utility patent application for “System and  
6 Apparatus for Selectively Limiting User Control of an Electronic Device” was filed  
7 with the United States Patent and Trademark Office (USPTO) and assigned  
8 Application No. 14/692,530. On November 14, 2017, the ‘788 Patent was duly and  
9 lawfully issued by the USPTO as 9,819,788. The ‘788 Patent claims priority to  
10 Provisional Patent Application Serial No. 61/982,789, filed on April 22, 2014. A  
11 true and correct copy of the ‘788 Patent is attached hereto as **EXHIBIT A**.

12 14. Graham Dugoni is the inventor of the ‘788 Patent but Plaintiff is the  
13 true owner of all rights, title, and interest in the ‘788 Patent. Indeed, on or around  
14 February 25, 2022, Graham Dugoni assigned all rights, title, and interest in the ‘788  
15 Patent to Plaintiff. Plaintiff, therefore, possesses the right to sue for and obtain  
16 equitable relief and damages for infringement of the ‘788 Patent.

17 15. Plaintiff exclusively markets, manufactures, and distributes the system  
18 and apparatus disclosed in the ‘788 Patent in an attempt to create phone-free spaces  
19 for artists, educators, organizations, and individuals. *See EXHIBIT B*. Plaintiff’s  
20 system comprises (and the ‘788 Patent discloses) a case sized to receive a mobile  
21 device and which has a locking means to secure the device and further comprises a  
22 means for unlocking the case. In many embodiments, the case may be unlocked upon  
23 the occurrence of a predetermined condition, such as the physical presence of the  
24 case outside of a defined geographical region or the passage of time.

25 16. Plaintiff’s innovative system and apparatus attracts customers from a  
26 variety of fields, including music, comedy, education, legal, as well as others.  
27 Notable individuals such as Dave Chappelle, Kanye West, Donald Glover/Childish  
Gambino, Madonna, Bruno Mars, Kevin Hart, Ali Wong, Joe Rogan, John Mayer,

1 Chris Rock, Jennifer Lawrence, and Aziz Ansari as among Plaintiff’s numerous  
2 satisfied customers.

3 17. To further demonstrate the extent of Plaintiff’s success and public  
4 recognition, Plaintiff has been featured in a number of publications and broadcasts  
5 with international readership and viewership, respectively, including *The New York*  
6 *Times*, *The Wall Street Journal*, CNBC, *The Guardian*, *The Atlantic*, *Forbes*,  
7 *Cosmopolitan*, *Chicago Tribune*, *Wired*, CBS, *Rolling Stone*, *Newsweek*, *The*  
8 *Washington Post*, and *Billboard*, and ABC News.

9 18. The success and novelty of the ‘788 Patent has prompted third parties,  
10 including Defendants, to manufacture and/or distribute blatant counterfeits of  
11 Plaintiff’s innovative system and apparatus to compete with and infringe the ‘788  
12 Patent.

13 19. At least as early as October 2021, Defendants began offering for sale,  
14 and presumably selling, a “Safe Pouch” for “creating phone-free classrooms.”  
15 Similarly, if not identically, to the ‘788 Patent, Defendants offer for sale, and  
16 presumably sell, a case sized to receive a mobile device and having a locking means  
17 for securing the device. Defendants’ system also comprises a means for unlocking  
18 the case, which may occur under a predetermined condition. *See EXHIBIT C* for  
19 examples of Defendants’ infringement of the ‘788 Patent.

20 20. Defendants’ Infringing Products satisfy each and every limitation of at  
21 least Claims 2 and 3 of the ‘788 Patent, as set forth in greater detail below.

22 21. Claim 2 of the ‘788 Patent is reproduced below:

23 A case for selectively limiting a user's ability to control such user's own  
24 mobile electronic device, comprising,

25 a shell defining a cavity sized to accommodate the user's mobile  
26 electronic device and having an opening to receive the user's mobile  
27 electronic device therein;

a locking means for at least partially securing the opening of the shell

1 so that the electronic device is rendered inaccessible to the user, the  
2 locking means being further non-disengageable by the user of the  
3 mobile electronic device;  
4 wherein the predetermined condition is the passage of time.

5 22. It is well-established that the preamble of a patent claim does not limit  
6 the claim. However, the Infringing Products satisfy the preamble of Claim 2 of the  
7 ‘788 Patent. Specifically, the Infringing Products selectively limit a user’s ability to  
8 control such user’s own mobile electronic device. As explained on Defendants’  
9 website, the Infringing Products’ “opening allows students access and control of  
10 their phones as needed and especially during an unexpected emergency.” *See*  
11 **EXHIBIT D**. In this manner, the Infringing Products selectively limit students’  
12 ability to control their own mobile electronic devices.

13 23. The Infringing Products comprise a shell defining a cavity sized to  
14 accommodate the user’s mobile electronic device and having an opening to receive  
15 the user’s mobile electronic device therein. The Infringing Products further comprise  
16 a locking means for at least partially securing the opening of the shell so that the  
17 electronic device is rendered inaccessible to the user, the locking means being  
18 further non-disengageable by the user of the mobile electronic device. The locking  
19 means of the Infringing Products is non-disengageable by the user as evidenced by  
20 the separate means for unlocking the case, which, according to Defendants, can be  
21 “any strong-enough magnet.” *See* **EXHIBIT D**. These elements are shown with  
22 reference to the image below (labeling added).



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9       24. The ‘788 Patent discloses that the “predetermined condition may relate  
10 to geographic location or timing” and that “the case may be used to render a mobile  
11 electronic device inaccessible during a communal event.” *See* ‘788 Patent, 3:1-4.  
12 Similarly, as explained on Defendants’ website, the Infringing Products also  
13 comprise “the predetermined condition is the passage of time” because users of the  
14 Infringing Products, namely, students, are unable to access their phone until “after  
15 school.” *See* **EXHIBIT D**. Because a school day is necessarily marked by a specified  
16 time period, the passage of time is a predetermined condition. Moreover, a class may  
17 be considered “a communal event” and thus, falls squarely within the scope of the  
18 ‘788 Patent.

19       25. The ‘788 Patent further teaches that “the case [] may be configured to  
20 selectively limit access to a mobile electronic device [] in response to various  
21 predetermined conditions.” *See* ‘788 Patent, 6:39-51. As one example,

22       the case may be outfitted with locking means [] comprising a manual,  
23 key-operated latch wherein means for unlocking comprise a  
24 corresponding key. In such an embodiment, the case [] may be  
25 manually locked or unlocked by venue staff or other members in  
26 possession of such a key. Thus, the system for selectively limiting user  
27 control of an electronic device may involve a predetermined condition  
requiring the user of the electronic device [] to locate venue staff or  
other members in possession of the key to manually unlock the  
case [] on user's behalf.

1 *See id.*

2 26. Equivalently, the Infringing Products are manually locked or unlocked  
3 by teachers or administrators of a school in possession of the means for unlocking,  
4 which may include “any strong-enough magnet.” Thus, the predetermined condition  
5 requires the student to locate a teacher or administrator in possession of such  
6 “magnet” to manually unlock the case.

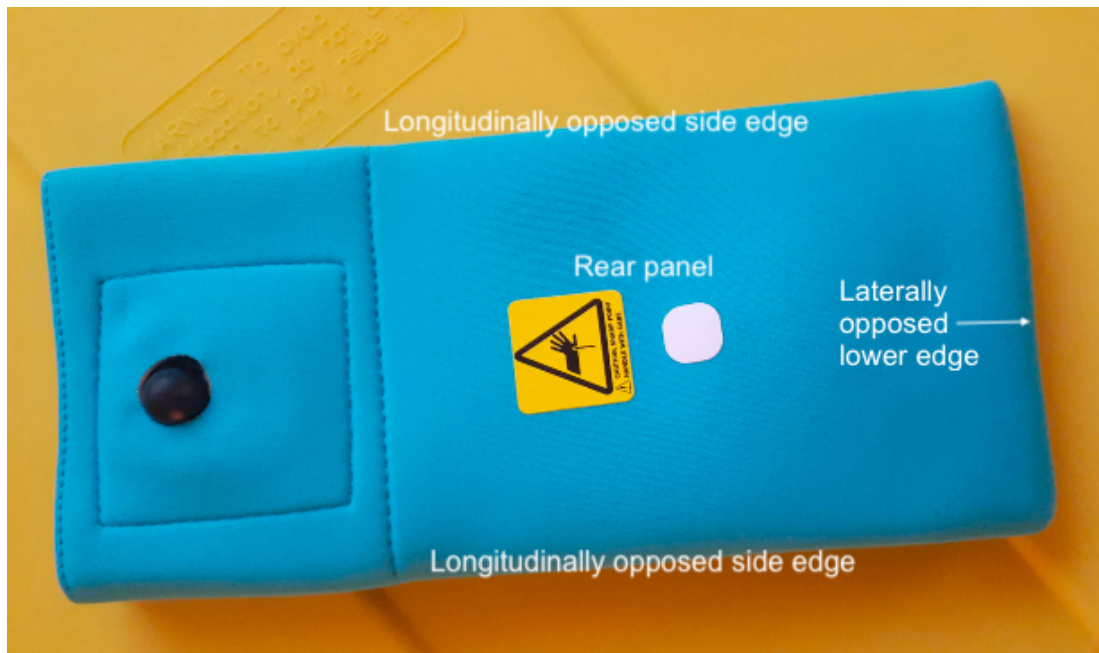
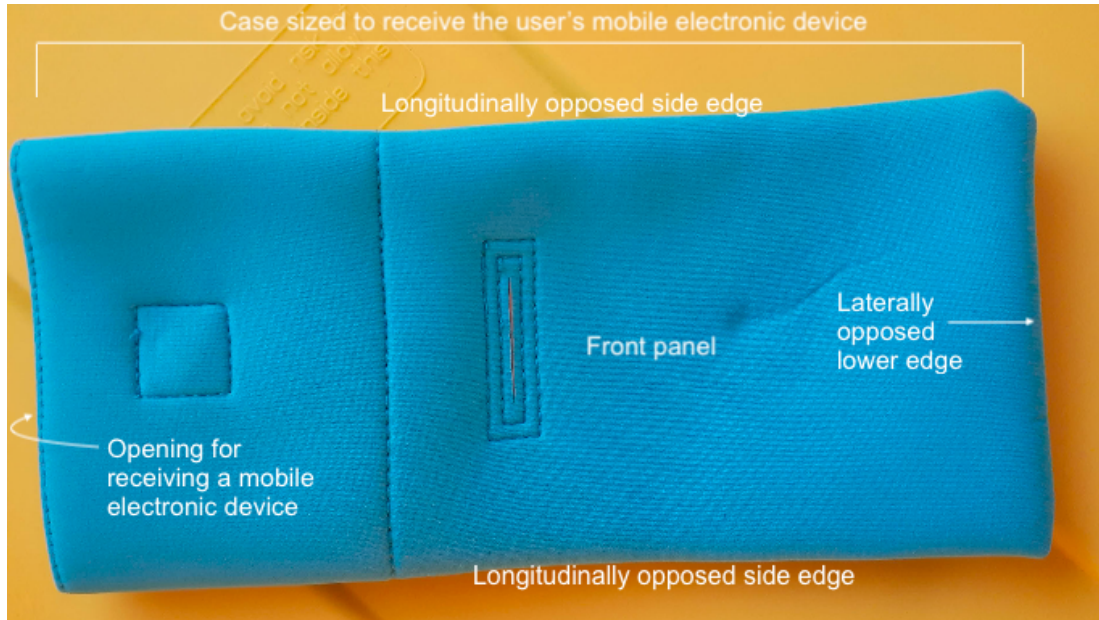
7 27. Claim 3 of the ‘788 Patent is reproduced below:

8 A system for selectively limiting a user’s control of such user’s own electronic  
9 device, comprising

10 a case sized to receive the user's mobile electronic device having  
11 a front and a rear panel each having first and second  
12 longitudinally opposed side edges and laterally opposed lower  
13 edges,  
14 the first, second, and lower edges being secured together to  
15 define an opening for receiving a mobile electronic device, the  
16 case operative to become locked so that the user is unable to  
17 access his own mobile electronic device contained therein until  
18 a predetermined condition is met;  
19 a locking means for at least partially securing the opening; and  
20 means for unlocking the case.

21 28. The Infringing Products comprise a case sized to receive the user’s  
22 mobile electronic device having a front and a rear panel each having a first and  
23 second longitudinally opposed side edges and laterally opposed edges. The first,  
24 second, and lower edges of the Infringing Products are secured together to define an  
25 opening for receiving a mobile electronic device. Moreover, as explained with  
26 regard to Claim 2 of the ‘788 Patent, above, the Infringing Products are operative to  
27 become locked so that the user is unable to access his own mobile electronic device  
contained therein until a predetermined condition is met. For instance, the

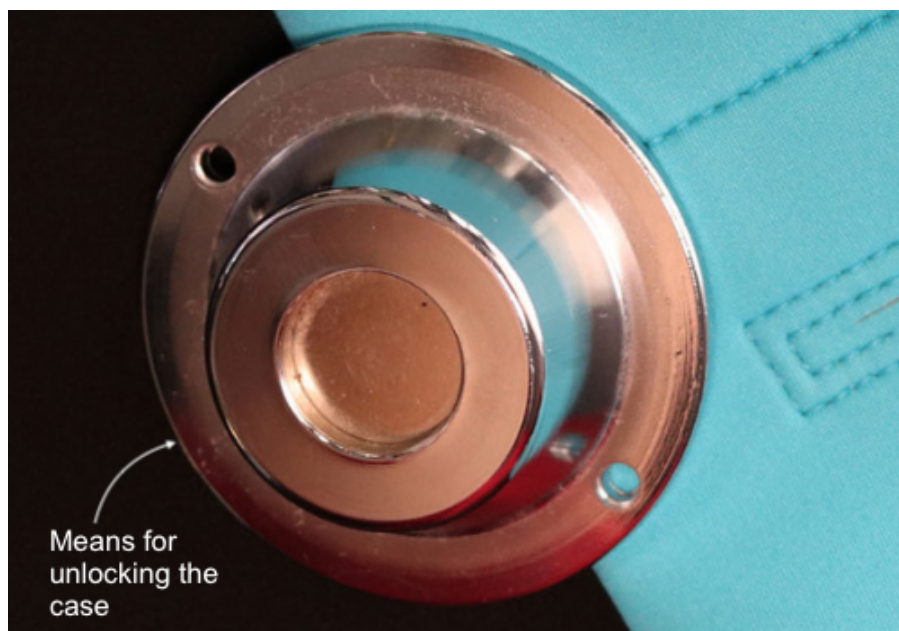
1 predetermined condition may be the passage of time, such as “after school.” These  
2 elements are shown with reference to the images below (labeling added).



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24 29. The Infringing Products further comprise a means for unlocking the  
25 case. For instance, on Defendants’ website, it is explained that the means for  
26 unlocking the case can be “any strong-enough magnet.” See **EXHIBIT D**. This  
27 element is shown with reference to the image below (labeling added).



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11 30. The operation of Defendants’ Infringing Products can be further  
12 understood with reference to a video posted on Vimeo.com by Defendants at the  
13 following link: <https://vimeo.com/552199052>. See **EXHIBIT E**.

14 31. On or around October 1, 2021, Plaintiff, through counsel, sent a letter  
15 to Defendants that informed Defendants of their infringement of the ‘788 Patent and  
16 demanded that Defendants cease and desist further infringement. See **EXHIBIT F**  
17 for a true and correct copy of that letter, which was transmitted via United States  
18 Postal Service Priority Mail.

19 32. Plaintiff is informed and believes, and on that basis alleges, that at least  
20 on or before October 2021, Defendants had actual notice of Plaintiff’s intellectual  
21 property rights. Defendants’ use and infringement is therefore willful.

22 33. Because no response was received in reply to Plaintiff’s October 1,  
23 2021 letter, on or around November 16, 2021, Plaintiff, through counsel, resent the  
24 same letter to Defendants. This time, the letter was transmitted via electronic mail  
25 as well as via United States Postal Service Priority Mail. The letter was sent via  
26 electronic mail to [info@winelements.com](mailto:info@winelements.com), an address provided on Defendants’  
27 website. Because this message was successfully transmitted in that it did not produce  
any indication of a lack of transmittal, Plaintiff is informed and believes, and on that

1 basis alleges, that Defendants received Plaintiff’s November 16, 2021  
2 communication.

3 34. As a result of Defendants’ receipt of Plaintiff’s November 16, 2021  
4 communication, Plaintiff is informed and believes, and on that basis alleges, that at  
5 least on or before November 2021, Defendants had actual notice of Plaintiff’s  
6 intellectual property rights. Defendants’ use and infringement is therefore willful.

7 35. As of the current date, no response to Plaintiff’s October 1, 2021 letter  
8 has been received.

9 36. Defendants’ Infringing Products were, and have continued to be,  
10 marketed, manufactured, distributed, and/or offered for sale in a manner that  
11 infringes Plaintiff’s ‘788 Patent.

12 37. Defendants have unjustly benefited from copying Plaintiff’s  
13 technology for which Plaintiff took risks and made substantial investment to  
14 develop.

15 38. Defendants’ infringement of the ‘788 Patent and other improper  
16 conduct has and continues to cause substantial damage and irreparable harm to  
17 Plaintiff.

18 39. Nguyen purports to be the sole inventor and applicant of U.S. Patent  
19 No. 10,980,324 for a “receptacle with multiple openings for concealing a screen of  
20 a mobile electronic device and permitting a user to access and control the mobile  
21 electronic device housing inside the pouch at the discretion of the user” (the “‘324  
22 Patent”). *See EXHIBIT G.*

23 40. Claim 1, the sole claim, of the ‘324 Patent, is reproduced below:

24 A pouch to house a mobile electronic device, the pouch comprising:

25 a shell constructed of a fabric and defining an interior space, the shell  
26 further defining an outer wall with through access openings for a user  
27 to access and manually control operation of the mobile electronic  
device when the device is inserted inside the interior space of the shell;

1 a locking mechanism including a tag and a pin, the locking mechanism  
2 disposed on the shell at a defined insertion opening of the shell between  
3 opposite wall portions of the shell, the insertion opening allows  
4 insertion of the mobile electronic device into the shell;  
5 the locking mechanism including a locking assembly with a passage in  
6 the tag to receive an elongated rod of the pin, insertion of the elongated  
7 rod into the passage will lock the pin to the tag and secure the opposite  
8 wall portions of the shell to each other to partially close the defined  
9 opening and leaving two smaller openings of the defined opening on  
10 opposite sides of the locking mechanism, the smaller openings  
11 preventing removal of the mobile electronic device from the shell, but  
12 allowing appropriately smaller accessories to be inserted through the  
13 smaller openings into the interior space of the shell.

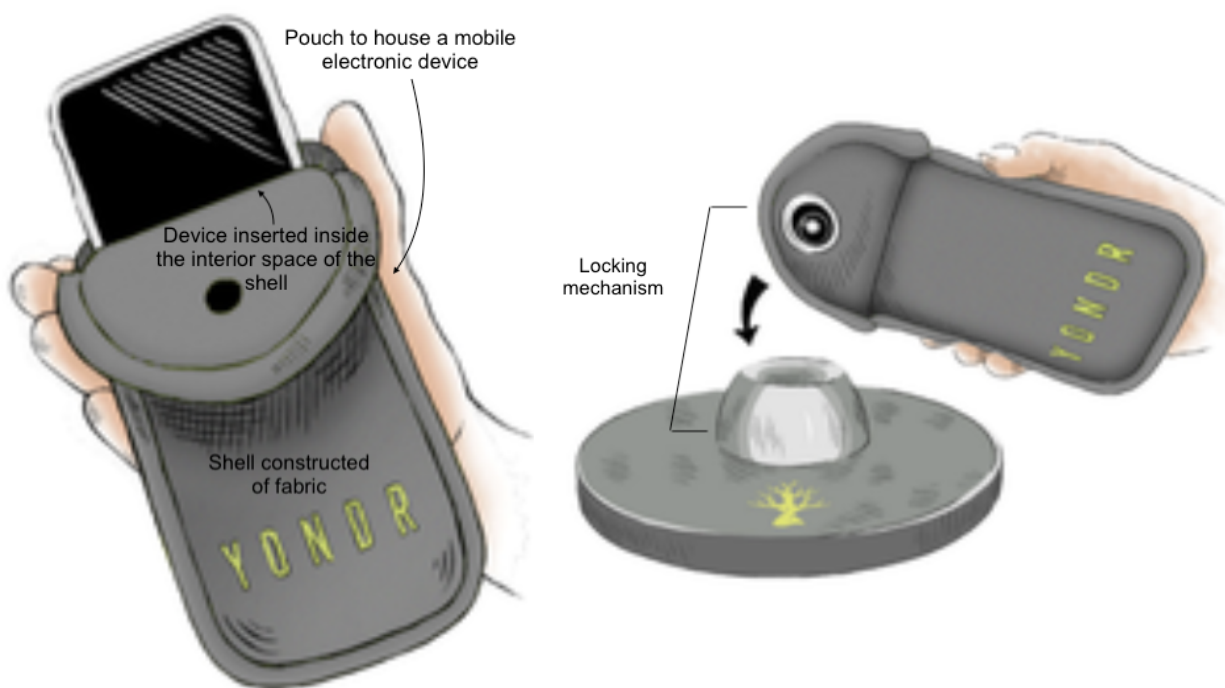
14 41. Claim 1 of the ‘324 Patent is invalid as being anticipated and/or non-  
15 obvious over the ‘788 Patent, as described in greater detail below. The ‘324 Patent  
16 was filed on December 12, 2019. The ‘788 Patent was filed on April 21, 2015, but  
17 claims priority to a provisional patent application filed on April 22, 2014, both of  
18 which predate the filing date of the ‘324 Patent.

19 42. The “shell” of Claim 1 of the ‘324 Patent is equivalent to the “shell” or  
20 “case,” respectively, of Claims 2 and 3 of the ‘788 Patent. In particular, both shells  
21 and the case are sized to receive a mobile electronic device, that is, both comprise  
22 an interior space through which a mobile electronic device is inserted.

23 43. The “locking mechanism” of Claim 1 of the ‘324 Patent is equivalent  
24 to the “locking means” of Claims 2 and 3 of the ‘788 Patent. In particular, the  
25 “locking means” of the ‘788 Patent “at least partially secur[es] the opening” of the  
26 shell/case. The only mention of the “locking mechanism” of the ‘324 Patent in the  
27 specification thereof provides that “a locking mechanism, which focus on sealing  
and securing an opening...” Further, the “locking means” of the ‘788 Patent is not

1 limited to any particular mechanism and therefore encompasses the tag and pin  
2 mechanism disclosed in the ‘324 Patent.

3 44. Claim 1 of the ‘324 Patent is further invalid as being anticipated and/or  
4 non-obvious over Plaintiff’s “Yondr” system and apparatus. The ‘324 Patent was  
5 filed on December 12, 2019. Years prior, in or around 2014, Plaintiff introduced its  
6 “Yondr” system and apparatus. The similarities between Plaintiff’s “Yondr” system  
7 and apparatus and Claim 1 of the ‘324 Patent are shown with reference to the image  
8 below.



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21 45. Nguyen is also the owner and chief executive officer of Win Elements.  
22 Plaintiff is informed and believes, and on that basis alleges, that Nguyen is  
23 responsible for directing and controlling the activities and business affairs of Win  
24 Elements. Indeed, Nguyen holds himself out as the inventor of the Infringing  
25 Products.

26 46. In addition, Nguyen has personally marketed the Infringing Products.  
27 As one example, throughout Defendants’ website, Nguyen promotes the Infringing  
Products through his own personal testimony regarding their purported advantages:

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2 *After the death of a boy from my feeder middle school, I spent*  
3 *hundreds hours inventing Safe Pouch to stop cyberbullying and*  
4 *bullying in school. However, it is more. Safe Pouch solve many other*  
5 *challenging problems that forever transforms learning and school*  
6 *cultures*

7 *There are no social or academic benefits higher than our students’*  
8 *safety. Safe Pouch’s opening allow students access and control of*  
9 *their phones as needed and especially during an unexpected*  
10 *emergency*

11 *Educators are not phone polices. We are influencers, motivators,*  
12 *and agent of changes. There are no Lock and Key; instead, it uses*  
13 *any strong-enough magnet to release the dividing mechanism.*  
14 *Students’ safety is our highest priority*

15 *See* **EXHIBIT D.**

16 47. Nguyen has also personally marketed the Infringing Products through  
17 his appearance in the aforementioned video appearing on Vimeo.com. *See*  
18 **EXHIBIT E.**

19 48. Nguyen has further personally marketed the Infringing Products by  
20 writing and publishing the song, “Pouch It Up,” which can be found on his personal  
21 YouTube channel at <https://www.youtube.com/watch?v=w9AGNxY1410>. *See*  
22 **EXHIBIT H.**

23 49. Plaintiff is informed and believes, and on that basis alleges, that Nguyen  
24 has and continues to utilize Win Elements for the transfer of assets for his own  
25 personal benefit. At all times relevant hereto, Nguyen had a personal material  
26 financial interest in Win Elements. As a result, there exists a unity of interest and  
27 ownership between Nguyen and Win Elements such that any individuality and  
separateness between Nguyen and Win Elements has ceased, and Win Elements is  
nothing more than a shell entity acting as the alter ego of Nguyen.

50. Plaintiff is informed and believes, and on that basis alleges, that

1 adherence to the fiction of the separate existence of Nguyen, on the one hand, and  
2 Win Elements, on the other, as distinct from one another would permit an abuse of  
3 the corporate privilege and would sanction fraud or promote injustice.

4 51. Plaintiff is informed and believes, and on that basis alleges, that Nguyen  
5 utilized the corporate form of Win Elements to perpetrate a fraud, circumvent  
6 statutory law, and accomplish a wrongful and inequitable purpose. In particular,  
7 Nguyen has utilized the corporate form of Win Elements to make, offer for sale, and  
8 presumably sell, the Infringing Products, despite Nguyen’s actual knowledge that  
9 the Infringing Products infringe the ‘788 Patent. In such circumstances, this Court  
10 should ignore the corporate entity, under the alter ego doctrine, and deem Win  
11 Elements’ acts to be those of persons or organizations (namely, Nguyen) actually  
12 controlling the corporation.

13 **FIRST CLAIM FOR RELIEF**

14 **Willful Patent Infringement – 35 U.S.C. § 271(a)**

15 52. Plaintiff hereby restates and realleges the allegations set forth in  
16 paragraphs 1 through 51 above and incorporates them by reference.

17 53. On November 14, 2017, the USPTO duly and legally issued the ‘788  
18 Patent, entitled “System and Apparatus for Selectively Limiting User Control of an  
19 Electronic Device.” The claims of the ‘788 Patent carry a presumption of validity  
20 under 35 U.S.C. § 282(a) and are enforceable.

21 54. Plaintiff is the owner of the entire right, title and interest in the ‘788  
22 Patent and possesses the right to sue for and obtain equitable relief and damages for  
23 infringement of the ‘788 Patent.

24 55. Defendants have directly infringed and continue to directly infringe the  
25 ‘788 Patent by making, using, selling, and offering for sale in the United States,  
26 and/or importing into the United States the Infringing Products, referred to by  
27 Defendants as the “safe pouch,” which embodies the invention defined by one or  
more claims of the ‘788 Patent, without authority or license from Plaintiff. More

1 particularly, upon information and belief, Defendants have infringed and continue  
2 to infringe at least Claims 2 and 3 of the ‘788 Patent because the Infringing Products  
3 includes every limitation of at least Claims 2 and 3, as explained in greater detail  
4 above.

5 56. Plaintiff has complied with the marking and notice requirements of 35  
6 U.S.C. § 287.

7 57. Plaintiff is informed and believes, and on that basis alleges, that  
8 Defendants had actual knowledge of Plaintiff’s rights in the invention claimed in the  
9 ‘788 Patent. Defendants’ actions constitute reckless disregard for Plaintiff’s patent  
10 rights or otherwise willful and intentional infringement of the ‘788 Patent.

11 58. As a direct and proximate result of Defendants’ acts of infringement,  
12 Defendants have derived and received gains, profits, and advantages in an amount  
13 that is not presently known to Plaintiff.

14 59. Pursuant to 35 U.S.C. § 284, Plaintiff is entitled to damages for  
15 Defendants’ infringing acts and treble damages together with interest and cost as  
16 fixed by this Court.

17 60. Pursuant to 35 U.S.C. § 285, Plaintiff is entitled to recover Defendants’  
18 total profits from Defendants’ infringement.

19 61. Pursuant to 35 U.S.C. § 289, Plaintiff is entitled to recover Defendants’  
20 total profits from Defendants’ infringement.

21 62. Plaintiff has suffered injury, including irreparable injury, as a result of  
22 Defendants’ infringement. Plaintiff is therefore entitled to preliminary and  
23 permanent injunctive relief restraining and enjoining Defendants from infringing the  
24 ‘788 Patent.

25 63. By reason of Defendants’ infringement, Plaintiff is suffering and will  
26 continue to suffer substantial damages in an amount to be determined at trial.

27 **SECOND CLAIM FOR RELIEF**

**Induced Patent Infringement – 35 U.S.C. § 271(b)**



1 Infringing Products is not a staple article nor a commodity of commerce suitable for  
2 substantial use that does not infringe at least one of the claims of the ‘788 Patent.

3 71. Defendants’ customers directly infringe (literally or under the doctrine  
4 of equivalents) at least one of the claims of the ‘788 Patent when they make, use,  
5 offer for sale, or sell an Infringing Products. The limitations of at least one claim of  
6 the ‘788 Patent are met by the Infringing Products, as illustrated in the images in  
7 paragraphs 23, 28, and 29 above.

8 72. Defendants had actual knowledge of the ‘788 Patent and its  
9 infringement thereof since at least the time it received Plaintiff’s October 1, 2021  
10 letter, attached as **EXHIBIT F** and described in paragraph 31 above. Defendants  
11 have offered to sell, sold, or imported into the United States the Infringing Products  
12 knowing (or should have known or were willfully blind) that such products were  
13 especially made or especially adapted for use in an infringement of the ‘788 Patent  
14 and not a staple article or a commodity of commerce suitable for substantial non-  
15 infringing use.

16 **FOURTH CLAIM FOR RELIEF**

17 **Unfair Competition – Cal. Bus. & Prof. Code § 17200 *et seq.***

18 73. Plaintiff hereby restates and realleges the allegations set forth in  
19 paragraphs 1 through 72 above and incorporates them by reference.

20 74. California Business and Professions Code, Section 17200 states, in  
21 pertinent part: “...unfair competition shall mean and include any unlawful, unfair or  
22 fraudulent business act or practice and unfair, deceptive, untrue or misleading  
23 advertising and any act prohibited by Chapter 1 (commencing with Section 17500)  
24 of Part 3 of Division 7 of the Business and Professions Code.”

25 75. At all times mentioned herein, Defendants have engaged in “unfair”  
26 business practices. Defendants have maliciously disrupted Plaintiff’s business by  
27 offering for sale and selling the Infringing Products, which infringe Plaintiff’s ‘788  
Patent. Such acts by Defendants are unlawful.



1 A. Entry of a judgment that Defendants have infringed one or more claims  
2 of U.S. Patent No. 9,819,788;

3 B. Entry of a judgment that Defendants willfully and deliberately  
4 infringed U.S. Patent No. 9,819,788;

5 C. Entry of a judgment that Claim 1 of U.S. Patent No. 10,980,324 is  
6 invalid;

7 D. An order preliminarily and permanently restraining and enjoining  
8 Defendants, its officers, agents, attorneys and employees, and those acting in privity  
9 or concert with Defendants, from engaging in the manufacture, use, offer for sale or  
10 sale within the United States, or importation into the United States, of the Infringing  
11 Products until after the expiration date of the '788 Patent;

12 E. An order requiring Defendants to deliver and be impounded during the  
13 pendency of this action all material in Defendants' possession, custody, or control  
14 that includes or incorporates products that infringe Plaintiff's patent rights, including  
15 but not limited to, any products, containers, packages, labels, and advertisements in  
16 their possession or under their control utilizing Plaintiff's '788 Patent, or any  
17 simulation, reproduction, counterfeit, copy, or colorable imitation thereof;

18 F. An order of an independent accounting of all of Defendants' financial  
19 records relating to their infringing activities in order to determine the sums of money  
20 owed to Plaintiff;

21 G. An order requiring Defendants to pay to Plaintiff all damages or other  
22 monetary relief, including but not limited to all gains, profits, and advantages  
23 derived by Defendants as a result of Defendants' infringement of the '788 Patent;

24 H. An order requiring Defendants to pay to Plaintiff treble damages and/or  
25 exemplary damages because of Defendants' willful conduct pursuant to 35 U.S.C. §  
26 284;

27 I. Costs and reasonable attorneys' fees relating to this action pursuant to  
35 U.S.C. § 285;

1 J. Pre-judgment and post-judgment interest and costs in bringing this  
2 action against Defendants; and

3 K. Such other and further relief as the Court may deem just and proper.

4 **DEMAND FOR A JURY TRIAL**

5 Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff  
6 requests a jury trial of all issues that may be tried to a jury in this action.

7  
8 RESPECTFULLY SUBMITTED this 8<sup>th</sup> day of March, 2022.

9  
10 **OMNI LEGAL GROUP**

11  
12 /s/ Omid E. Khalifeh

13 Omid E. Khalifeh

14 Ariana Santoro

15 Lara A. Petersen

16 Attorneys for Plaintiff,

17 Yondr, Inc.  
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