DECLARATION OF PATRICK BUCKLEY

I, Patrick Buckley, declare:

1. My name is Patrick Buckley. This declaration consists of facts of which I have personal, first-hand knowledge at to which I could competently testify if called as a witness under oath.

2. On July 16, 2014, I filed the first provisional patent application (to which the Challenged Patents claim priority) *before* meeting with Google representatives (including Andrew Nartker) to discuss my inventions (while under then-existing non-disclosure agreements between Google and DODOcase).

3. On July 25, 2014, I sent a follow-up email to Google (including Mr. Nartker) with attached video clips showing a working prototype based on the embodiments of the first provisional patent application.

4. On July 26, 2014, Mr. Nartker responded: "That button looks really neat! Thanks for sharing."

5. On July 28, 2014, Alex Kauffmann responded: "That's an ingenious button! Does it work consistently on a variety of phones? I'd love to play with it."

6. On July 28, 2014, Clay Bavor responded: "That button is genius."

7. On or around September 17, 2014, DODOcase launched its own V1.2 VR Viewer, which included a capacitive/conductive touch button rather than Google's magnet switch (making it distinct from Google's original design).

8. On October 13, 2014, Mr. Nartker emailed me stating: "Congrats on the Fry's placement! We just received a [DODOcase] v1.2 as well; really neat."

9. In the Fall of 2014, I started a Kickstarter campaign for DODOcase titled "DIY Virtual Reality Open Source Future." The webpage was created under my Kickstarter account by me, or under my direction by a member of my company DODOcase, on or prior to the November 17, 2014 launch date of the Kickstarter campaign. In the Kickstarter campaign, DODOcase's VR Viewers were routinely identified as "Patent Pending."

10. On or around June 17, 2016, before any of the Challenged Patents issued (but after notice of allowance of the '075 Patent), MerchSource contacted DODOcase through its counsel, Henry Gabathuler, to inquire about a patent license.

11. DODOcase and MerchSource entered into a License Term Sheet on July 20, 2016, and then a Master License Agreement on October 3, 2016.

12. Around the same time, Google sought a license from DODOcase, but the parties could not reach agreement on terms, including Google's insistence that a license benefit all of its WWGC members.

13. On or around November 7, 2016, I had a phone call with Google in-house counsel Kevin Beach. During that call, Mr. Beach threatened to pursue an IPR challenge to the '075 Patent.

14. Google did not file any PTAB proceedings against any Challenged Patents in 2016.

15. In the Summer of 2017, MerchSource sought to renegotiate or terminate the Master License Agreement with DODOcase.

16. On October 27, 2017 at 11:00 am Pacific Time, I had a phone call with Adam Gromfin (President of MerchSource), which I memorialized with contemporaneous notes immediately thereafter. I noted that Mr. Gromfin threatened to try to invalidate DODOcase's patents and claimed to have spoken with Google.

17. DODOcase received business "leads" from Google to provide VR Viewers.

18. In 2014, no resistive touchscreen mobile phones were released. 2013 was the last year a resistive touchscreen mobile phone was released, the Plum Mouse (https://www.gsmarena.com/plum_mouse-5586.php) with a 2.75" screen (240x400 pixels). The largest resistive touchscreen mobile phone ever released was the Toshiba TG01 (https://www.gsmarena.com/toshiba_tg01-2662.php) with a 4.1" screen (480x800 pixels) released in June of 2009. The highest resolution resistive touchscreen mobile device ever released was the Sharp AQUOS 941SH (https://www.gsmarena.com/sharp_aquos__941sh-3142.php) with a 4" screen (480x1024 pixels), released January of 2010. Resistive touchscreen mobile devices were used on low-end mobile devices that would not have had the necessary

hardware components (screen size, screen resolution, display latency accelerometers, and graphic processing power) necessary for a mobile phone to be used in a VR headset.

19. Google's own Android specification from 2016-2017 sets forth specific hardware requirements for a smartphone to be VR ready, "The display MUST measure between 4.7" and 6" diagonal" and "The device implementation MUST have an embedded screen, and its resolution MUST be at least be FullHD(1080p)" which is 1920x1080 pixels. No resistive touchscreen mobile phone was ever commercially available that would meet these requirements. The largest and highest resolution resistive screen mobile phones ever commercially available were 4.1" and 480x1024 pixel resolution having been released in early 2010.

20. On June 25, 2014, Google launched a VR viewer known as Google Cardboard V1 ("GCV1 Viewer") at its 2014 I/O Conference.

21. Google's GCV1 Viewer was a rudimentary VR viewer that attempted to improve upon older VR viewers for smartphones that had either no means for a user to interact with a touchscreen or simply allowed a user to insert their fingers into the VR viewer to interact directly with the touchscreen.

22. Google's purported improvement involved a *magnetic switch* to interact with the magnetometer/compass of a smartphone to *simulate* a touch event (an inferior design that worked unreliably on a small number of mobile devices).

23. During its demonstration of the GCV1 Viewer at the 2014 I/O Conference, Google described its *magnet* interaction technique and the state of the art in VR viewer development at that time.

24. Google recognized, before Spring of 2014, that there was a need for a VR viewer with an improved input mechanism.

25. Rather than develop a VR viewer with a conductive/capacitive *button* input (as disclosed in the '075 Patent), Google opted for a *magnet* input.

26. Despite many different available VR viewer types, no VR viewer existed with a capacitive/conductive touch mechanism to interact with the touchscreen of a smartphone (and possessing its corresponding advantages).

27. Google highlighted DODOcase at that conference as the first company to sell a VR viewer based on the GCV1 Viewer design (only four or five hours after Google posted its GCV1 Viewer designs on its website for manufacturers to use).

28. During manufacture and assembly of the first commercially available GCV1 Viewer, I immediately recognized flaws in Google's design and set out to improve on the GCV1 Viewer by adding a capacitive/conductive touch button.

29. After filing my first provisional, I set out to manufacture and assemble a VR viewer with the inventive improvement.

30. The video clips I sent to Google on July 25, 2014, showed a working prototype, based on the embodiments disclosed in my first provisional application that later issued as the ’075 Patent.

31. In the following months, I worked to refine the DODOcase V1.2 Viewer to produce a commercially salable product on the open market, including through the manufacture of several different prototypes that tested various capacitive/conductive materials (including nickel/copper polyester fabric).

32. The V1.2 Viewer was available for sale at www.dodocase.com, and readily accessible to Google and its Cardboard team members who were in regular communication with me (through my dodocase.com email address) regarding DODOcase’s product development.

33. In October of 2014, Regan Arts published a book titled Beginner’s Guide to Virtual Reality, which was packaged with the V1.2 Viewer, resulting in 50,000 units shipped to customers across the United States. My present recollection is that these V1.2 Viewers were identified as “Patent Pending.”

34. DODOcase (through me) made numerous public disclosures regarding the V1.2 Viewer through videos posted to YouTube, speeches, and news articles.

35. DODOcase became recognized globally in the industry.

36. While DODOcase experienced initial success with its V1.2 Viewer in 2014 and 2015, it was forced to abandon the production and sale of its V1.2 Viewer

that embodied the inventions claimed in the Asserted Patents in 2016 due to severe price pressures resulting from a saturated market of unauthorized sellers.

37. I have never seen a person use a resistive touchscreen mobile phone in any smartphone VR accessory and don't believe there was ever a smartphone or mobile phone with a resistive touchscreen commercially available that could be used in a VR application.

38. My understanding of the foregoing information in this declaration is based upon my decade-plus experience running a business that manufactured and sold mobile phone accessories, and demoing smartphone-based VR accessories for thousands of consumers at tradeshows such as Comic Con, Engadget, VRLA and SFVR. I also hold a BS degree and an MS degree from the Massachusetts Institute of Technology, both in engineering.

39. In signing this declaration, I recognize that the declaration will be filed as evidence in a contested case before the Patent Trial and Appeal Board of the United States Patent and Trademark Office.

40. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

Executed on this 25th day of July 2023,
in Boise, ID

Patrick Buckley