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9 Attorneys for Plaintiff,
10 QUIBI HOLDINGS, LLC.

11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA
13

14 QUIBI HOLDINGS, LLC.

15 Plaintiff,

16 v.

17 INTERLUDE US, INC. d/b/a EKO,

18 Defendant.
19
20
21
22

Case No.

**COMPLAINT FOR
DECLARATORY
JUDGMENT OF
(1) NON-INFRINGEMENT
OF U.S. PATENT
NO. 10,460,765; AND (2) NO
MISAPPROPRIATION OF
TRADE SECRETS**

**DEMAND FOR JURY
TRIAL**

PRELIMINARY STATEMENT

1
2 1. Plaintiff Quibi Holdings, LLC (“Quibi”) has developed a new digital
3 platform for delivering premium entertainment content to consumers — using
4 innovative technology that for the first time makes video beautiful on your phone.
5 Quibi’s streaming service features top talent and extraordinary storytelling,
6 designed for the small screen and delivered in episodes of 10 minutes or less.

7 2. Set to launch on April 6, 2020, Quibi’s mobile app is the product of
8 many months of tireless work by Quibi’s talented team of engineers, who designed,
9 engineered, tested, and refined the app. Quibi demonstrated key features of its app,
10 including its new Turnstyle technology, in a keynote address at the Consumer
11 Electronics Show (“CES”) on January 8, 2020. Unfortunately, with the advertised
12 launch of a high-profile new service, Quibi has already been targeted by a company
13 looking to make a name for itself and to capitalize on Quibi’s early acclaim by
14 making demonstrably false claims of intellectual property infringement.

15 3. Defendant Interlude US, Inc., d/b/a Eko (“Eko”) is a company that
16 promotes interactive video. After seeing Quibi’s keynote address at CES, Eko
17 embarked on a campaign of threats and harassment to coerce money or a licensing
18 deal from Quibi. Eko’s activities include wrongfully (1) accusing Quibi of
19 infringing an Eko patent, U.S. Patent No. 10,460,765 (“the ’765 patent”), and of
20 misappropriating trade secrets; (2) submitting a Notice of Complaint to the Apple
21 App Store in an attempt to derail the scheduled launch of Quibi’s app; and
22 (3) pitching to the *Wall Street Journal* and at least one other news outlet the false
23 narrative that Quibi infringes the ’765 patent and has misappropriated Eko’s trade
24 secrets.

25 4. As a result, an actual case and controversy exists between Quibi and
26 Eko, requiring Quibi to seek a declaratory judgment addressing the parties’ rights
27 and obligations, and to enjoin Eko from taking any further steps to improperly
28 tarnish Quibi’s brand or to interfere with Quibi’s highly anticipated launch.

NATURE OF THE ACTION

5. This is an action for declaratory judgment of non-infringement of all claims of U.S. Patent No. 10,460,765 under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, and the patent laws of the United States, 35 U.S.C. § 1, et seq., and for a declaratory judgment of no misappropriation of trade secrets under the Defend Trade Secrets Act (“DTSA”), 18 U.S.C. § 1839, and the California Uniform Trade Secrets Act (“CUTSA”), Cal. Civ. Code § 3426.1.

PARTIES

6. Plaintiff Quibi is a limited liability company organized and existing under the laws of Delaware with its principal place of business at 6555 Barton Avenue, Los Angeles, California 90038. Quibi is the creator and owner of its Turnstyle technology, which is incorporated in its app, available for pre-order at the Apple App Store and Google Play store.

7. Defendant Eko is a corporation formed under the laws of Delaware. Eko promotes itself as selling interactive video content, where users select the plot and endings of videos, and an associated platform for the delivery and viewing of such content. Eko’s principal place of business in the United States is 235 Park Avenue South, New York, New York 10003. Eko or its affiliate maintains its corporate headquarters at HaBarzel St 21, Tel Aviv, Yafo, Israel.

8. Eko claims to be the assignee and owner of the ’765 patent.

JURISDICTION AND VENUE

9. The Court has subject matter jurisdiction under 28 U.S.C. §§ 1331, 1338(a), 2201 and 2202 because the claims in this Complaint here are based on Quibi’s non-infringement of the ’765 patent and lack of trade secret misappropriation under the DTSA.

10. The Court has personal jurisdiction over Eko by virtue of its contacts with this District, which include at least (a) conducting business meetings in the District, including an informational meeting with Quibi, (b) sending an

1 infringement demand letter to Quibi, a resident of this District, (c) causing a Notice
2 of Complaint alleging patent infringement and misappropriation of trade secrets to
3 be sent to Quibi through the Apple App Store, and (d) promoting, selling, and
4 offering to sell content available on its digital platform to residents in this District.

5 11. Venue in this District is proper under 28 U.S.C. §§ 1391(b) and
6 1391(c). Eko is subject to suit in this District by virtue of its commercial activities
7 in this District, and based on its specific contacts with Quibi that give rise to the
8 claims alleged in this complaint. Venue in this District also is proper because a
9 substantial part of the events giving rise to the claims in this action occurred in this
10 District. Quibi has its principal place of business in this District, its development
11 activities took place here, and Quibi sells and offers for sale the service targeted by
12 Eko from Quibi's corporate headquarters and place of business in Los Angeles.

13 **THE PATENT-IN-SUIT**

14 12. The '765 patent, entitled "Systems and Methods for Adaptive and
15 Responsive Video," states on its face that it issued on October 29, 2019. A true and
16 correct copy of the '765 patent is attached as Exhibit A.

17 **STATEMENT OF FACTS**

18 **A. BACKGROUND RE: QUIBI'S DEVELOPMENT**

19 13. Founded in 2018 by Jeffrey Katzenberg, Quibi was created to deliver
20 exclusive short-form premium video content to subscribers on a single-purpose
21 mobile platform. Quibi has engaged with top talent and directors to develop
22 content to be launched through the Quibi app.

23 14. Early in Quibi's development, Quibi's team of product designers and
24 engineers knew that it was important to enhance and optimize the customer-viewing
25 experience regardless of whether the phone was being held in "portrait" or
26 "landscape" mode, and that an opportunity existed to create new technology that
27 delivered a more elegant means of streaming video content that seamlessly adapted
28 to those changes in orientation.

1 15. With that task in mind, beginning in September 2018, Quibi undertook
2 development of an app feature known as Turnstyle for determining the orientation
3 of a user's phone and seamlessly switching content and displaying it based on
4 orientation. This is one of the features Quibi displayed at CES, and the feature that
5 Eko's letters and false statements to the press now target. As explained in the
6 following sections, Eko's allegations are entirely without merit.

7 **B. QUIBI AND ITS FOUNDER'S LIMITED CONTACTS WITH EKO**

8 16. In late March 2017, Quibi's founder, Mr. Katzenberg, held an
9 informational meeting with Eko's CEO, Yoni Bloch. The purpose of the meeting
10 was for Eko to pitch Mr. Katzenberg for an investment in Eko, which by then had a
11 publicly available digital platform and content that was being actively marketed by
12 Eko.¹ The meeting was not conducted under a non-disclosure agreement or any
13 other expectation of confidentiality. No confidential information was requested or
14 provided to Mr. Katzenberg.

15 17. While Mr. Katzenberg barely remembers the meeting, an email sent on
16 March 23, 2017, by Mr. Bloch to Mr. Katzenberg reflects that Eko's focus was in
17 pitching its choice-driven, interactive entertainment model, as discussed in an article
18 published in *The New Yorker* that Mr. Bloch forwarded via a link in his email.
19 Mr. Katzenberg ultimately thanked Mr. Bloch for his visit and decided not to invest.

20 18. In July 2018, Mr. Katzenberg formed Quibi based on an idea he had
21 generated several years earlier for a "quick bites" entertainment service. Quibi
22 developed its service and technology during 2018 and 2019 entirely independently
23 — without any input, reference to, or materials or information from Eko.

24 19. In February 2019, well after development of Quibi's app was
25 underway, two Quibi employees held a breakfast meeting with Eko at a Beverly
26

27 ¹ As noted below, by that point, the U.S. Patent and Trademark office had
28 published the application for the Eko patent at issue in this lawsuit, mooted any
claim of confidentiality in that application's material as a matter of law.

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