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12 Attorneys for Total Recall Technologies

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA

15 Total Recall Technologies,
16 Plaintiff,

17 vs.

18 Palmer Luckey and Oculus VR, Inc.,
19 Defendants.

CASE NO. 15-cv-02281

COMPLAINT

DEMAND FOR JURY TRIAL

20 Plaintiff Total Recall Technologies ("TRT" or "Partnership") alleges as
21 follows:

22 **NATURE OF THE ACTION**

23 1. TRT brings this action for Defendants' breach of contract and wrongful
24 exploitation and conversion of TRT intellectual and personal property in connection
25 with TRT's development of affordable, immersive, virtual reality technology.

26 **PARTIES**

27 2. Plaintiff TRT is a partnership by and between individuals Ron Igra
28 ("Igra") and Thomas Seidl ("Seidl"), which conducts business in Hawaii.

1 3. Igra and Seidl were resident in the State of Hawaii at the formation of
2 the Partnership and have been for relevant times thereafter.

3 4. On information and belief, Defendant Oculus VR, Inc. ("Oculus") is a
4 Delaware corporation with its principal place of business in Menlo Park, California.
5 On information and belief, Oculus is the corporate successor to Oculus LLC, a
6 California limited liability company.

7 5. On information and belief, Defendant Palmer Luckey, a founder of
8 Oculus, is an individual who resides (or recently resided) in Long Beach, California,
9 and who may be served with process at his place of employment, Oculus.

10 **JURISDICTION AND VENUE**

11 6. The Court has jurisdiction in this Action pursuant to 28 U.S.C. § 1332
12 because there is diversity of citizenship amongst the parties to this action, and the
13 amount in controversy, without interest and costs, exceeds the sum or value
14 specified by 28 U.S.C. § 1332.

15 7. Venue is proper in this District because a substantial part of the events
16 giving rise to the claims occurred in this District, Oculus VR, Inc.'s principal place
17 of business is within the District, and the Defendants are otherwise subject to
18 personal jurisdiction in the District pursuant to 28 U.S.C. § 1391(b), (c).

19 **INTRADISTRICT ASSIGNMENT**

20 8. Pursuant to Civil L.R. 3-5(b) and Civil L.R. 3-2(c)-(d), there is a basis
21 for assigning this civil action to the San Francisco Division or Oakland Division, as
22 a substantial part of the events giving rise to the claims occurred in San Mateo
23 County, and Oculus VR, Inc.'s principal place of business is located in San Mateo
24 County.

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BACKGROUND

9. In 2010, Igra and Seidl began their partnership with the aim of developing immersive 3D technology, including cameras and head mounted displays.

10. In December 2010, Seidl met Luckey in connection with developing head mounted displays and began an exchange of information about TRT's project. Seidl informed Luckey that he wanted to keep their communications confidential.

11. On May 27, 2011, Igra and Seidl filed a patent application, entitled "System and method for creating a navigable, three-dimensional virtual reality environment having ultra-wide field of view." That application later issued as United States Patent No. 9,007,430.

12. In 2011, Seidl and Luckey continued their discussions with Seidl requesting that Luckey build a prototype to Seidl's specifications with parts paid for by the Partnership. Seidl explained to Luckey that with the Partnership's initial payment to Luckey, he expected exclusive rights to the design. Luckey agreed.

13. At all relevant times, the information provided to Luckey by TRT was confidential, and TRT expected the information to remain confidential.

14. On August 1, 2011, Luckey executed a written "Nondisclosure, exclusivity and payments agreement" contract with Seidl on behalf of the Partnership. Two witnesses also executed the agreement on behalf of Luckey at Luckey's direction: Tom Allan and Jeff Bacon.

15. Pursuant to the terms of the parties' contract, Luckey agreed, among other things, to maintain information received from Seidl in the strictest confidence and not to use confidential information received from Seidl for his own benefit.

16. On August 23, 2011, Luckey shipped a prototype head mounted display to Seidl.

1 17. Throughout the latter half of 2011 and into 2012, Seidl provided
2 confidential feedback and information to Luckey in order to improve the design of
3 the head mounted display.

4 18. Without informing the Partnership, on information and belief, Luckey
5 took the information he learned from the Partnership, as well as the prototype that
6 he built for the TRT using design features and other confidential information and
7 materials supplied by the Partnership, and passed it off to others as his own.

8 19. For instance, without informing the Partnership, in 2012 during the
9 term of the parties' agreement, Luckey pursued a Kickstarter campaign to promote a
10 highly immersive, wide field of view, stereoscopic headmounted display at an
11 affordable price – a device that Luckey named the Oculus Rift.

12 20. On June 12, 2012, Luckey formed Oculus LLC.

13 **CLAIMS FOR RELIEF**

14 **FIRST CAUSE OF ACTION**

15 **(Breach of Contract)**

16 **(As Against Luckey)**

17 21. TRT realleges and reincorporates by reference the allegations set forth
18 in paragraphs 1 through 20.

19 22. TRT entered into a contractual relationship with Luckey.

20 23. Luckey was obligated not to share any information, including
21 confidential information, provided to him by TRT or its partners with others or to
22 rely upon that information for his benefit.

23 24. Luckey was obligated not to use the property that was the subject
24 matter of the contract for his benefit.

25 25. Luckey was obligated not to work with others using Partnership
26 information during at least the first year of the contract.

27 26. TRT performed all conditions, covenants, and promises required to be
28 performed on its part.

1 27. Luckey breached the contract by, among other things, sharing
2 confidential information provided by TRT, using the property of the Partnership,
3 working with others instead of the Partnership, exploiting Partnership information
4 for his own gain, raising money for his own use based upon Partnership work and
5 material, and other acts of breach.

6 28. As a result of Luckey's contractual breach, TRT has been injured in an
7 amount to be determined.

8 29. TRT will suffer irreparable injury by reason of the acts, practices, and
9 conduct of Luckey alleged above until and unless the Court enjoins such acts,
10 practices, and conduct.

11 **SECOND CAUSE OF ACTION**

12 **(Breach of the Duty of Good Faith and Fair Dealing)**

13 **(As Against Luckey)**

14 30. TRT realleges and reincorporates by reference the allegations set forth
15 in paragraphs 1 through 29.

16 31. In addition to the breach of contract set forth above, Luckey has
17 breached the duty of good faith and fair dealing inherent in every contract through
18 his actions, including frustrating the purpose of the contract by using the
19 Partnership's prototype for his own purposes, misleading the Partnership, using
20 Partnership confidential information for his own purposes, and sharing such
21 information with third parties.

22 32. As a result of Luckey's breach of the covenant of good faith and fair
23 dealing, TRT has been injured in an amount to be determined.

24 **THIRD CAUSE OF ACTION**

25 **(Conversion)**

26 **(As Against All Defendants)**

27 33. TRT realleges and reincorporates by reference the allegations set forth
28 in paragraphs 1 through 32.

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