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8 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**

9 **IN THE COUNTY OF SAN MATEO**

11 **MONSTER, LLC, a Nevada limited liability corporation; and**

12 **NOEL LEE, individually and as TRUSTEE OF THE NOEL LEE LIVING TRUST,**

14 **Plaintiffs,**

15 **v.**

16 **BEATS ELECTRONICS LLC, a Delaware corporation;**

18 **ANDRE YOUNG a/k/a Dr. DRE;**

19 **JIMMY IOVINE;**

20 **PAUL D. WACHTER;**

21 **HTC AMERICA HOLDING, INC., a Washington corporation; and**

22 **DOES 1 - 25,**

23 **Defendants.**

Case No. **CV 531991**

COMPLAINT FOR:

- 1. **FRAUD AND DECEIT;**
- 2. **AIDING AND ABETTING FRAUD AND DECEIT;**
- 3. **BREACH OF DUTY OF TRUST AND CONFIDENCE;**
- 4. **AIDING AND ABETTING BREACH OF DUTY OF TRUST AND CONFIDENCE;**
- 5. **BREACH OF FIDUCIARY DUTY;**
- 6. **AIDING AND ABETTING BREACH OF FIDUCIARY DUTY;**
- 7. **UNFAIR COMPETITION; and**
- 8. **VIOLATIONS OF THE CALIFORNIA CORPORATIONS CODE.**

DEMAND FOR JURY TRIAL

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COMPLAINT

TABLE OF CONTENTS

	Page
I. <u>INTRODUCTION</u>	1
A. BACKGROUND ON LEE AND MONSTER	3
B. LEE AND MONSTER ENGINEER THE “BEATS BY DR. DRE” SUCCESS	5
C. DEFENDANTS CONSPIRE TO BETRAY LEE AND MONSTER	8
D. ELIMINATING LEE AS A BEATS SHAREHOLDER	12
E. APPLE ACQUIRES BEATS FOR \$3.2 BILLION	14
F. DEFENDANTS IMPROPERLY ERASE LEE AND MONSTER FROM HISTORY	14
II. <u>PARTIES</u>	16
A. PLAINTIFFS	16
B. DEFENDANTS	19
C. DOE DEFENDANTS	21
D. AGENCY; AIDING AND ABETTING; AND CONSPIRACY	21
III. <u>JURISDICTION AND VENUE</u>	22
IV. <u>STATEMENT OF FACTS</u>	24
A. LEE ENGINEERS AND PROTOTYPES HIGH-PERFORMANCE HEADPHONES IN SEARCH OF THE PERFECT SOUND	24
1. DEVELOPING HIGH-PERFORMANCE HEADPHONES	24
2. THE STATE OF HEADPHONES AS OF 2008	27
B. MONSTER APPROACHES IOVINE AND DRE TO PARTNER WITH MONSTER TO BRING HIGH-PERFORMANCE HEADPHONES TO MARKET	27
C. IOVINE AND DRE ABSCOND WITH MONSTER’S IDEA FOR HIGH-PERFORMANCE HEADPHONES	28

1	D.	LACKING THE ENGINEERING ACUMEN AND PRODUCTION AND DISTRIBUTION NETWORK TO COMMERCIALIZE “BEATS BY DR. DRE,” IOVINE AND DRE REALIZE THEY NEED A PARTNERSHIP WITH MONSTER.....	29
2			
3	E.	TO STRENGTHEN THE MONSTER-BEATS PARTNERSHIP, LEE PURCHASES A 5% INTEREST IN BEATS	38
4			
5	F.	DEFENDANTS ORCHESTRATE A SHAM ACQUISITION BY HTC IN ORDER TO DIVEST BEATS FROM MONSTER.....	38
6			
7	G.	DEFENDANTS MAKE SIGNIFICANT MISREPRESENTATIONS DURING THE NEGOTIATIONS SURROUNDING THE HTC TRANSITION.....	41
8			
9	H.	BEATS TAKES AGGRESSIVE STEPS TO ELIMINATE LEE’S 5% INTEREST IN THE COMPANY BEFORE FINALIZING APPLE’S \$3 BILLION ACQUISITION	46
10			
11	I.	DEFENDANTS’ MISDEEDS ARE PART OF A COURSE OF CONDUCT BY BEATS, IOVINE, DRE, AND WACHTER OF DEFRAUDING ENTREPRENEURS AND SMALL BUSINESSES.....	48
12			

FIRST CAUSE OF ACTION

13	FRAUD AND DECEIT.....	50
----	------------------------------	-----------

SECOND CAUSE OF ACTION

14	FRAUD AND DECEIT.....	52
----	------------------------------	-----------

THIRD CAUSE OF ACTION

15	AIDING AND ABETTING FRAUD AND DECEIT.....	54
----	--	-----------

FOURTH CAUSE OF ACTION

16	BREACH OF DUTY OF TRUST AND CONFIDENCE	55
----	---	-----------

FIFTH CAUSE OF ACTION

17	AIDING AND ABETTING BREACH OF DUTY OF TRUST AND CONFIDENCE	57
----	---	-----------

SIXTH CAUSE OF ACTION

18	BREACH OF FIDUCIARY DUTY	58
----	---------------------------------------	-----------

SEVENTH CAUSE OF ACTION

19	AIDING AND ABETTING BREACH OF FIDUCIARY DUTY	60
----	---	-----------

EIGHTH CAUSE OF ACTION

20	UNFAIR COMPETITION	61
----	---------------------------------	-----------

NINTH CAUSE OF ACTION

21	VIOLATIONS OF CALIFORNIA CORPORATIONS CODE §§ 25400 AND 25500.....	62
----	---	-----------

1 **TENTH CAUSE OF ACTION**
2 **VIOLATIONS OF CALIFORNIA CORPORATIONS CODE §§ 25401 AND 25501.....63**
3 **ELEVENTH CAUSE OF ACTION**
4 **VIOLATIONS OF CALIFORNIA CORPORATIONS CODE § 25504.163**
5 **PRAYER FOR RELIEF64**
6 **DEMAND FOR JURY TRIAL64**

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
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1 **I. INTRODUCTION**

2 1. This case arises out of deliberate acts of corporate betrayal in the consumer
3 electronics industry. Defendants, including **Jimmy Iovine** and **Andre Young, a/k/a Dr. Dre**
4 (“Dre”), engaged in a conspiracy and course of conduct to improperly control Monster’s
5 incredibly successful engineering, manufacturing, marketing, distributing, and sales channels of
6 the “Beats By Dr. Dre” headphones, as well as Monster’s intellectual property.

7 2. In **January 2008**, Iovine and Dre, acting as Beats, entered into a partnership with
8 Monster to develop and promote Monster’s “Beats By Dr. Dre” product line.

9 3. In **September 2011**, months before Monster’s agreement with Beats was set to
10 expire, Defendants improperly terminated the arrangement through a “Change of Control”
11 provision, claiming a 51% interest in Beats had been purchased by HTC. By exercising their
12 “Change of Control” rights in a sham transaction with HTC, Defendants fraudulently acquired
13 Monster’s “Beats By Dr. Dre” product line, including all development, engineering,
14 manufacturing, marketing, distributing, and retail rights. Had the partnership expired on its own
15 terms, there would have been no transfer of Monster’s “Beats By Dr. Dre” product line,
16 including all development, engineering, manufacturing, marketing, distributing, and retail rights.
17 Defendants also absconded with Monster’s global distribution chain, key retail relationships, and
18 intellectual property.

19 4. In **July 2012**, less than thirty days after Beats took over Monster’s “Beats By Dr.
20 Dre” product line, Beats repurchased the shares that had allowed the sham “Change of Control”
21 transition to occur. At that point, Defendants had improperly acquired a company that had been
22 built in a partnership with Monster. Beats set about to deceptively re-write history by claiming
23 sole responsibility for the success of Monster’s “Beats By Dr. Dre” product line. Beats
24 manufactured a false narrative to erase the contributions of Monster and Noel Lee in the eyes of
25 the public, including dealers, Beats consumers, Monster consumers, and eventually Apple
26 shareholders. As a result of their corporate betrayal, Defendants were able to make hundreds of
27 millions of dollars on the sale of Monster’s “Beats By Dr. Dre” product line to Apple for **\$3.2**
28 **billion** in **2014**, all to the monetary and reputational damage of Plaintiffs.

1 5. As a company, Monster started when Lee recognized that not all audio cables
2 sound the same. Lee formed Monster to bring better audio cables to the market, improving the
3 sounds of all speakers, recording consoles, and video systems. Lee has proven his audio
4 expertise as a recording engineer and producer; he has been praised throughout the world by
5 internationally-recognized engineers, producers, and recording artists. Monster created ground
6 breaking, critically acclaimed audio products like the Turbine Pro In-Ear headphones.

7 6. Monster and Lee operated in good faith in their dealings with Defendants about
8 Monster's "Beats By Dr. Dre" product line and then found themselves the victims of
9 Defendants' scheme to misappropriate Monster's "Beats By Dr. Dre" know-how, engineering,
10 manufacturing, marketing, distributing, and sales channels that had been developed by Lee and
11 Monster. Monster designed and engineered Monster's "Beats By Dr. Dre" product line; Monster
12 developed the sound and technology; Monster educated Defendants about developing,
13 engineering, manufacturing, marketing, distributing, and selling headphones; and Monster
14 leveraged all of its domestic and global distribution and retail relationships to successfully sell
15 Monster's "Beats By Dr. Dre" product line. When Defendants had everything they needed, they
16 severed all ties with Monster and sold the Beats brand to Apple for \$3.2 billion. Defendants
17 made millions off the work of Lee and Monster. Because Defendants misappropriated the
18 "Beats By Dr. Dre" technology and manufacturing and distribution channels, Monster and Lee
19 lost millions of dollars.

20 7. This is not the first time Iovine, Dre, and others have engaged in this course of
21 conduct. These misdeeds are not isolated transgressions; rather, they exemplify a pattern and
22 practice whereby – taking the lead from Iovine and Dre-Defendants: (a) lure entrepreneurs,
23 musicians, and electronic product developers with promises of growing a business as partners;
24 (b) then extract the intellectual property, production, and supply mechanisms that underlie the
25 venture and that create value; (c) then, immediately before the enterprise is about to take-off,
26 squeeze the trusting partner out of the equation; and (d) finally, sell the venture and take an
27 unfair share of the profits for themselves. This scenario is exactly what happened to Monster
28

1 and Lee. Defendants have engaged in these practices and been sued on numerous occasions for
2 the same behavior set forth herein.

3 8. Defendants not only stole Monster’s “Beats By Dr. Dre” product line, but they
4 also set about covering up the role of Lee and Monster and falsely claimed that Beats, through
5 Iovine and Dre, successfully spearheaded all of the designing, engineering, manufacturing,
6 production, marketing, and distributing of “Beats By Dr. Dre” products. Originally, “Beats By
7 Dr. Dre” was a licensed marketing label for a line of Monster headphones. Defendants set about
8 recreating the history of the “Beats By Dr. Dre” brand by misinforming the public and taking
9 credit for the fundamental work done by Lee and Monster. Photographs showing the similarity
10 between Monster’s “Beats By Dr. Dre” product line and the Beats Studio 2.0 are attached hereto
11 as **Exhibit 1**.

12 9. Beats, through Defendants Iovine, Dre, **Paul Wachter**, and **Luke Wood**, have
13 attempted to create the false public view that the company Beats, not Lee and Monster, was
14 responsible for designing, engineering, manufacturing, producing, marketing, and distributing
15 the “Beats By Dr. Dre” product line. Beats, through Iovine, Dre, Wachter, and Wood, asserts
16 that the entire success of the product line was due to Beats, giving no credit to Lee or Monster.
17 Beats, through Iovine, Dre, Wachter, Wood, and others, convinced Apple that Beats, not Lee and
18 Monster, was solely responsible for the success of the “Beats By Dr. Dre” product line.

19 10. Beats, through Iovine, Dre, Wachter, and Wood, has also engaged in unreasonable
20 and false “Monster-bashing.” In statements to Monster’s dealers, distributors, and retailers,
21 Beats has disparaged Lee and Monster, blaming them for issues concerning product development
22 and delivery. Beats did this to drive a wedge between Monster and its dealers, distributors, and
23 retailers for headphones and related audio products. As a direct result of Defendants’ improper
24 conduct and misrepresentations, Monster and Lee have sustained millions of dollars in damages.

25 **A. BACKGROUND ON LEE AND MONSTER**

26 11. Plaintiff **Noel Lee**, Manager of Plaintiff **Monster, LLC** (“Monster”), based in
27 Brisbane, CA, is a musician, audiophile, and creator of various game changing technologies.
28 Lee has a love of music and a passion for the importance of sound. As an inventor of

1 transformative technology, Lee is similar to Steve Wozniak and Ray Dolby. Lee started by
2 developing cables that put out incredible sound, and bringing better cables to market that
3 improved the sounds of all speakers, recording consoles, and video systems.

4 12. According to five-time Grammy winner Bruce Swedien, “I won’t make a
5 recording without Monster cables. I was knocked out by the truly dramatic enhancement in
6 sonic quality, the outstanding clarity, the marked increase in dynamic range and the deep, tight
7 bass. When we heard the difference Monster made - the separation, the transparency, really, it
8 sounded as if Windex had been put on a filmy window.” First publicly recognized in 1962 with
9 a Grammy nomination for Frankie Valli and the Four Seasons’ “Big Girls Don’t Cry,” Bruce
10 went on to record and mix Michael Jackson’s “Thriller,” the best-selling album in the history of
11 recorded music.

12 13. In 1977, tinkering in his garage in San Francisco, CA, Lee discovered that copper
13 wires of different construction and material produced varying degrees of audio performance
14 when hooked up to loudspeakers. This insight resulted in a momentous breakthrough in audio
15 technology, from which Lee developed the first Monster Cable. The Monster Cable
16 revolutionized the global audio market and changed the way producers, musicians, and the
17 public consumed music. For his efforts, Lee has been praised by internationally-recognized
18 recording engineers and producers.

19 14. Lee founded Monster 35 years ago with his premium audio cables, creating a new
20 category of products for distribution that focused on putting the consumer and the retailer first
21 through innovation and education. He repeated the feat with power products, transforming the
22 category and making them an essential part of every home theater. Lee’s most recent
23 accomplishment was to disrupt the headphone industry when Monster launched “Beats By Dr.
24 Dre” headphones, endowing the Beats line with Monster designing, engineering, and
25 manufacturing know-how—and leveraging Monster’s relationships and proven track record with
26 retailers to bring premium headphones to retail stores. Lee is an industry icon and innovator,
27 leading the way in marketing, designing products, and helping retailers reach profitability, while
28 simultaneously changing the way consumers listen to music. He also brought live music to the

1 International Consumer Electronics Show (“CES”), sponsoring an annual CES awards show and
2 concert featuring music legends including James Brown, Ray Charles, Rod Stewart, Diana Ross,
3 Fleetwood Mac, Earth, Wind and Fire, John Legend, Alicia Keys, and Mary J. Blige. Lee
4 founded Monster based on the mantra, “Always Lead, Never Follow.”

5 15. In 2006, Lee and Monster again revolutionized the audio market by redefining the
6 high-performance headphone industry. Lee had a vision of how to design and engineer
7 headphones that delivered exceptional sound quality and could reproduce today’s music, like hip
8 hop, rock, and dance. Lee also wanted headphones that could handle the power and bass, while
9 still having the audio precision of a recording studio. Through breakthroughs in engineering,
10 Lee and Monster developed the technology that ultimately became the acclaimed “Beats by Dr.
11 Dre” headphones, with the first headphone line aptly named “Studio.”

12 **B. LEE AND MONSTER ENGINEER THE “BEATS BY DR. DRE” SUCCESS**

13 16. As early as 2005, the success Lee and Monster engineered for headphones came
14 about as a result of Monster working with music labels on surround sound music. In parallel,
15 Lee and Monster had been developing ground breaking audio products like the critically
16 acclaimed Turbine Pro In-Ear headphones. The reviews for Monster’s Turbine Pro were viewed
17 as a breakthrough by consumers, audio reviewers, engineers, and producers and established Lee
18 and Monster as the “go-to” company for headphones.

19 17. In October 2005, Iovine and Dre approached Lee in Brisbane, CA about
20 developing speaker technology. Lee convinced Iovine and Dre that speakers were dead and the
21 future was high-end headphones. Photographs of the first meeting of Lee, Iovine, Dre, Kevin
22 Lee, and Monster employees at Monster’s offices in Brisbane in October 2005 are attached
23 hereto as Exhibit 2.

24 18. In November 2005, Lee and his son Kevin went to Santa Monica to give Iovine
25 and Dre an “education in sound,” explaining why it was not a big speaker world anymore. After
26 months of discussions, Iovine and Dre abandoned Monster to pursue a partnership with SLS
27 International, Inc., Pentagram California, and Jibe Audio in Los Angeles, CA. After the SLS
28

1 arrangement fell apart due to the conduct of Iovine and Dre, they returned to Monster to see if
2 they could resurrect the partnership.

3 19. Iovine and Dre presented Lee with an SLS Pentagonam design drawing for
4 headphones, but no viable headphone technology. Lee informed them the SLS headphones, as
5 designed, would not work: they were too big, bulky, and boxy, with extremely poor sound
6 quality. Saddling the company with extraordinary risk, Lee agreed to take his years of
7 headphone research and speaker development and committed the Monster engineering team to a
8 massive headphone technology research and development effort. The Monster team working on
9 the “Beats By Dr. Dre” product line grew to 100 employees at the Company’s Brisbane offices.
10 Monster hired the internationally famous product designer and former Apple employee, Robert
11 Brunner, to develop the industrial design with Monster. Monster financed the entire effort and,
12 working on both audio engineering and industrial mockups, Monster built more than 30
13 handcrafted and tuned prototypes before the final version was ready to test. The final version
14 was able to successfully reproduce for the first time what today’s music artists and producers,
15 like Dr. Dre and will.i.am, wanted the listener to hear. For the first time a headphone had the
16 accuracy of a music studio, with the power of a nightclub or a live concert venue. There was
17 literally nothing like it before in the headphone market.

18 20. When Dre put on the newly-designed final version of the Monster headphones
19 and listened to them, Dre shouted out to everyone available, “That’s the shit!” A photo of Dre
20 wearing the Monster-designed Studio headphones is attached hereto as **Exhibit 3**. These
21 headphones went on to become the “Beats By Dr. Dre” Studio line of high-end headphones.

22 21. In **January 2008**, as a result of Monster’s development efforts and discussions
23 with Iovine and Dre, Monster entered into a License and Promotion Agreement with Iovine and
24 Dre. However, this case is not about a breach of the 2008 License and Promotion Agreement.
25 After the deal was struck, Monster handled all designing, engineering, manufacturing,
26 production, marketing, and distribution of “Beats By Dr. Dre” headphones in exchange for a
27 license to the Beats brand and some celebrity marketing by Iovine and Dre. Simply put, Monster
28 did all the work, financed the entire effort, and paid Iovine and Dre a royalty for their marketing

1 efforts. At the time, Iovine and Dre had **no** employees, **no** engineers for headphone technology,
2 and had **no** role in engineering or developing the “Beats By Dr. Dre” high-end headphone line.
3 Lee and his Monster team did all the engineering and provided all the financing behind the
4 “Beats By Dr. Dre” sound.

5 22. Also in **January 2008**, at the CES in Las Vegas, Monster announced its
6 partnership with Iovine and Dre and introduced the Monster line of “Beats By Dr. Dre” Studio
7 headphones. Photos of Lee, Iovine, and Dre at the 2008 Monster CES press conference are
8 attached hereto as **Exhibit 4**.

9 23. In **July 2008**, the Studio headphones arrived at retail stores. A photo of
10 Monster’s “Beats By Dr. Dre” Studio headphones is attached hereto as **Exhibit 5**.

11 24. Later, Monster introduced additional lines of “Beats By Dre” headphones,
12 including:

- 13 a. **“Beats Tour”** – in-ear headphones (introduced at CES);
- 14 b. **“Beats Solo”** (introduced in New York);
- 15 c. **“HeartBeats by Lady Gaga”** – the first artist line of headphones
16 (introduced in New York);
- 17 d. **“Beats Solo Justin Bieber Edition”**;
- 18 e. **“Beats PRO,” “Beats Solo HD Product (RED),”** and **“Diddy Beats”** (all
19 introduced at CES);
- 20 f. **“Beats Solo HD Yao Ming”** and **“Beats Studio Yao Ming”** (introduced
21 in Asia);
- 22 g. **“Powerbeats”** – created with LeBron James; and
- 23 h. **“iBeats.”**

24 A photograph showing displays for Monster’s “Beats By Dr. Dre” product line is attached hereto
25 as **Exhibit 6**.

26 25. In **August 2009**, the License and Promotion Agreement was amended and
27 restated to add **Beats Electronics LLC** (“Beats”) as a party and to add products to the license.
28 Over the ensuing two years, “Beats By Dr. Dre” headphones became a phenomenal success and

1 market-leader in the lifestyle, high-performance headphone industry, generating significant
2 revenue to Defendants. Monster revolutionized how headphones were made, sold, and marketed.
3 While a product line for Monster, “Beats By Dr. Dre” gained over 60% of the market in the
4 \$100+ headphone category. A chart showing that, as of **February 2012**, over 60% of the \$100+
5 headphones were Monster’s “Beats By Dr. Dre” product line is attached hereto as **Exhibit 7**.

6 26. In **August 2009**, to strengthen the Monster-Beats partnership and to further align
7 Lee’s interests with Iovine, Dre, and Wachter – all of whom owned interests in Beats – Lee was
8 offered a 5% interest in Beats. In purchasing that 5% interest, Lee reposed a great deal of trust
9 and confidence in Iovine, Dre, and Wachter. As a minority member of Beats, Lee expected that
10 Iovine, Dre, and Wachter would fulfill their fiduciary duties, including the duties of loyalty,
11 candor, and good faith and fair dealing. What ensued was a series of covert acts designed to
12 steal away the value created by the Monster-Beats partnership to the exclusive benefit of Beats,
13 Iovine, Dre, and Wachter, and to the detriment of Monster and Lee.

14 **C. DEFENDANTS CONSPIRE TO BETRAY LEE AND MONSTER**

15 27. From the beginning of their relationship with Lee and Monster, Iovine, Dre, and
16 Wachter intended to build a company, Beats, that they would then sell to a major technology
17 corporation for billions of dollars, to the exclusion of Monster and Lee. To succeed at that plan,
18 Iovine, Dre, and Wachter had to create an event (real or not) that would trigger Monster turning
19 all the technology and the product line over to Beats. In other words, if the contractual
20 arrangements between Beats and Monster terminated without a change of control, Beats would
21 not have gained control of Monster’s headphone engineering, manufacturing, and marketing
22 efforts, as well as Monster’s supplier, distribution, and sales networks. If Iovine and Dre entered
23 into an agreement that resulted in a Change of Control, then that event would allow Beats to
24 assume complete manufacturing, promotion, distribution, and sales of the “Beats By Dr. Dre”
25 product line, without any compensation to Monster or Lee.

26 28. On **August 10, 2011**, without first consulting Monster, Beats announced a
27 supposed strategic partnership and investment in Beats by **HTC Corporation, HTC Europe**
28 **Co., LTD.**, and **HTC America Holding, Inc.** (collectively, “HTC”), whereby HTC allegedly

1 acquired a 51% membership interest in Beats, supposedly for \$309 million. Conveniently, the
2 transaction triggered a “Change of Control” provision in the License and Promotion Agreement
3 that divested Monster of its license and business relationship with Beats, requiring Monster to
4 transfer virtually all intellectual property to Beats, and costing Monster millions in transition
5 costs and lost revenue.

6 29. Neither Monster nor Lee were made aware of the Beats/HTC strategic partnership
7 and investment before it was consummated, nor was Lee given the right to vote on or invest
8 further in Beats, when Lee had been told that he would have a first right of refusal for any new
9 investment opportunities.

10 30. On **September 9, 2011**, one month later, Beats gave notice that it was terminating
11 the incredibly successful Amended License Agreement with Monster. Conveniently, the
12 Beats/HTC transaction had triggered the “Change of Control” provision in the Amended License
13 Agreement that allowed Beats to assume complete manufacturing, promotion, distribution, and
14 sales of the “Beats By Dr. Dre” product line. Iovine explained the HTC transaction as one where
15 HTC supposedly agreed to purchase a 51% membership interest in Beats for \$300 million,
16 payable in stages.

17 31. The timing of the Beats/HTC transaction that triggered the “Change of Control”
18 provision is significant: it occurred months before the Amended License Agreement was set to
19 expire. If Beats had not exercised the “Change of Control” provision in the Amended License
20 Agreement, the Amended License Agreement would have expired on its own terms and Beats
21 would have lost its ability to assume complete manufacturing, promotion, distribution, and sales
22 of the “Beats By Dr. Dre” product line.

23 32. Since **2008**, Monster had devoted a majority of the Company’s resources to
24 developing, engineering, manufacturing, marketing, and distributing Beats products, as well as
25 growing the Beats brand. During the **2008-2012** timeframe, Monster put development,
26 distribution, and marketing of its own Monster-branded headphones as a low priority and
27 leveraged its research, development, manufacturing, marketing, and distribution networks to
28 make Beats successful. Under the agreement with Beats, Monster was restricted in its ability to

1 market and sell non-“Beats By Dr. Dre” Monster-branded headphones that had certain design
2 features (*e.g.*, on-ear, over-ear, *etc.*) and were sold within certain price points.

3 33. On **October 6, 2011**, Lee met with Beats representatives TJ Grewal, Denise
4 Morales, and Luke Wood in London to discuss cooperation between Beats and Monster on sales
5 and channel issues, including co-approval of all new dealers, as well as domestic and
6 international distributors. It also was agreed that there would be partnership team meetings
7 between Monster and Beats every two weeks. Finally, it was agreed that Beats would not solicit
8 Monster employees.

9 34. In the meetings and conference calls, the Beats representatives present often
10 stated that the transition issue also needed the approval of HTC.

11 35. During the Monster-Beats separation – taking advantage of the fact that Monster
12 relied on Beats for over 60% of its annual revenue and made its other standalone headphone
13 product lines a low priority – Beats strong-armed Monster into concessions that compromised
14 Monster’s relationships with contract manufacturers, distributors, and retailers. Beats took
15 Monster’s development efforts, patents, manufacturing contacts, distribution and retail channels
16 – everything necessary to promote the “Beats By Dr. Dre” product line – all the while cutting
17 Monster out of the revenue stream.

18 36. Beats demanded that Monster deliver immediate control of a majority of the
19 Monster accounts receivables for the “Beats By Dr. Dre” product line and the dealer list ahead of
20 schedule. Representatives of Beats told Monster that Beats needed Monster’s accounts
21 receivables for the “Beats By Dr. Dre” product line to secure bank financing, because Beats had
22 no money (despite the supposed infusion of capital from HTC) and HTC claimed it was not
23 willing to provide Beats with a loan. Representatives of Beats stated the Monster accounts
24 receivables of the “Beats By Dr. Dre” product line were necessary for Beats to stay in business
25 and without these receivables, Beats would suffer great harm.

26 37. From **November 29 to December 1, 2011**, Wachter and Iovine put intense
27 pressure on Lee to close on the transition plan, including stating that Matthew Costello of Beats
28

1 and HTC was in San Francisco to “CLOSE this deal.” Included in Iovine’s emails on this issue
2 were statements such as:

- 3 a. “I don’t know what to say. I’m meeting with peter the ceo of htc what do
4 I say to him???? (sic)”
- 5 b. “I’m in Taiwan (sic) met with peter ceo of htc...this is me talking we have
6 to get this deal done Friday if we don’t it all could unravel” (sic);
- 7 c. “I really have had enough...we have to close today nothing else is
8 acceptable..” (sic); and
- 9 d. “[I]t has to close has to..”

10 38. In **December 2011**, the transition sheet was signed by representatives of Beats
11 and Monster at Monster’s offices in Brisbane, CA, with threats that, if Monster did not sign,
12 serious problems would arise with HTC.

13 39. In **January 2012**, the Monster-Beats split was announced to the press at CES.
14 What Beats failed to tell Lee or Monster was that Beats engaged in the “Change of Control”
15 transaction solely to exclude Monster and Lee from future profits from the sale of the “Beats By
16 Dr. Dre” product line and, ultimately, the sale of Beats as a company, to Apple.

17 40. On **May 2, 2012**, there was a significant transition plan meeting at Monster’s
18 headquarters in Brisbane, CA. Among the issues discussed were:

- 19 a. Account logistic setup;
- 20 b. Account transfers, including Amazon, InMotion, and Target Canada;
- 21 c. Account transfer fees;
- 22 d. Pricing;
- 23 e. Payment terms;
- 24 f. Inventory buy-back;
- 25 g. Channel issues, including Monster’s ability to continue sales online; and
- 26 h. Product allocation.

27 41. In **June 2012**, almost nine months after Beats exercised the “Change of Control”
28 provision and relying on the legitimacy of the HTC “Change of Control” transaction, Monster

1 executed a series of agreements memorializing the terms of the transition and separation from
2 Beats.

3 42. As part of the transition, Lee had to travel to China with Beats executives to
4 introduce Beats to the various Chinese companies and to authorize Beats to take over the supply
5 relationships for Monster's "Beats By Dr. Dre" product line.

6 43. Incredibly, on **July 25, 2012**, less than a month after signing the transition and
7 separation agreements, the founding members of Beats bought back half of the interest that HTC
8 had just purchased from Beats (approximately 25.5% of the Company), thereby making the
9 "Change of Control" excuse a complete sham.

10 44. During the **July 2012** time-frame, Monster also learned that HTC had provided
11 Beats with a \$224 million loan, contrary to representations that Costello (acting on behalf of
12 HTC) made to Monster in the previous Brisbane meetings.

13 45. The Beats/HTC supposed "Change of Control" transaction was a complete sham,
14 put in place so that Beats could acquire the entire "Beats By Dr. Dre" product line from Monster.

15 46. In a **May 27, 2014** conversation in Cambridge, Massachusetts, with Harvard
16 Business School Professor and HTC Corporation Board Member **David Yoffie**, David Tognotti
17 (Monster's General Counsel, General Manager, and Vice President of Operations) and Leo Lin
18 (Monster's Chief Financial Officer), learned that Beats orchestrated the HTC deal with one
19 purpose: to trigger the "Change of Control" provision and eliminate Monster and Lee from the
20 partnership. Yoffie stated words to the effect: "Irvine, Dre, and Wachter took advantage of Lee
21 and Monster utilizing HTC in a sham transaction to trigger the 'Change of Control' provision to
22 get out of the relationship with Monster."

23 **D. ELIMINATING LEE AS A BEATS SHAREHOLDER**

24 47. Beats took aggressive steps to eliminate Lee's 5% interest in Beats. By
25 **September 2012**, on the heels of the HTC "Change of Control" transaction and sudden 25%
26 buyback by Beats, Lee was concerned that he was being kept in the dark by Beats about material
27 aspects of the business. Fearful that he did not have the required transparency vis-à-vis his
28

1 investment in Beats, Lee reduced his interest in Beats from 5% to approximately 1.25% as he
2 was pushed out.

3 48. In **September 2013**, Lee learned that Iovine, Dre, and Wachter had enlisted
4 Carlyle Group LP (“Carlyle”), the world’s second-largest manager of alternative assets, such as
5 private equity and property, to buyout HTC’s remaining 25% interest in Beats. Simultaneously
6 and unbeknownst to Lee or Monster, Iovine, Dre, and Wachter were talking to Apple about a
7 potential sale. Carlyle paid \$501 million for a 31 percent stake in Beats. Carlyle also invested
8 \$13 million for a 5 percent interest in Beats Music, the company’s subscription music-streaming
9 service. Thus, Carlyle effectively replaced HTC. In public filings concerning the transaction,
10 HTC disclosed that it received \$265 million for its remaining 25% interest in Beats and that
11 Beats also repaid a \$150 million note held by HTC.

12 49. On **September 13, 2013**, as part of the Carlyle acquisition, Wachter advised Lee
13 of his obligations as a 1.25% shareholder. Wachter informed Lee that, pursuant to a promissory
14 note from Lee to HTC as part of the “Change of Control” deal, Lee would have to immediately
15 pay HTC \$3 to \$5 million to retain his 1.25% in Beats. In truth, Wachter knew any payment by
16 Lee under the promissory note was much closer to \$3 million, not \$5 million. Wachter offered
17 Lee an alternative: Lee could cause Beats to purchase Lee’s remaining shares for gains of
18 approximately \$5.5 million. Lee asked Wachter whether Beats had any liquidity events on the
19 horizon. Wachter responded: “There will be no liquidity event in the next year or two; nothing is
20 on the horizon.” This statement was false and Wachter knew it was false when he made it.

21 50. On **September 30, 2013**, Lee asked **Luke Wood** – Beats’ President – whether
22 Beats had any liquidity events on the horizon. Echoing Wachter, Wood similarly responded that
23 there was nothing big in the near future. Wood said that his time was completely occupied by
24 working on Beats’ supply chain.

25 51. Based on these representations, Lee sold his remaining 1.25% interest in Beats
26 back to Beats.

1 **E. APPLE ACQUIRES BEATS FOR \$3.2 BILLION**

2 52. In May 2014, less than eight months later, Lee learned that Apple was acquiring
3 Beats for a reported **\$3.2 billion**, Apple’s largest acquisition as of that date. Lee’s interest in
4 Beats would have been worth in the tens of millions of dollars. Monster also would have shared
5 in the purchase price of the Apple-Beats transaction.

6 53. The investment of more than \$500 million by the Carlyle Group resulted in
7 Carlyle nearly doubling its investment for its timely, albeit short, stint as a Beats investor.

8 54. Iovine and Dre made hundreds of millions of dollars as a result of the Beats-
9 Apple deal. Dre is now listed by Forbes Magazine as having an annual income of “an
10 astronomical \$620 million – not only the best year of his career and tops among the names on
11 this year’s Celeb 100, but the highest yearly earnings total of any entertainer ever evaluated by
12 FORBES.” Had Lee retained his original 5% interest in Beats, his total stake in the Beats-Apple
13 deal would have been worth over **\$100 million**. Iovine, Dre, Wachter, and Wood made hundreds
14 of millions of dollars on the Apple-Beats transaction.

15 55. On May 28, 2014, belying the September 2013 statements by Wachter and Wood,
16 Apple Senior Vice President Eddy Cue and Iovine stated the Apple-Beats deal was **several years**
17 **in the making**. In fact, Iovine publicly said he was working on the Apple deal in **2012**: “I know
18 I can achieve this at Apple.” The deal negotiations, including extensive due diligence by Apple,
19 were underway in September 2013 and Wachter and Wood – a Beats Board Member and Beats
20 President, respectively – knew and actively participated in the Apple-Beats purchase, from
21 inception to execution.

22 **F. DEFENDANTS IMPROPERLY ERASE LEE AND MONSTER FROM HISTORY**

23 56. Not only did Defendants seek to steal Monster’s “Beats By Dr. Dre” product line,
24 they also set about **covering up** the role of Lee and Monster in successfully spearheading all of
25 the designing, engineering, manufacturing, production, marketing, and distributing of “Beats By
26 Dr. Dre” products. Originally, “Beats By Dr. Dre” was essentially a marketing label for a line of
27 Monster headphones. Defendants set about to re-create the history of the “Beats By Dr. Dre”
28 brand without giving appropriate credit to Lee or Monster, all the while using Monster’s funds to

1 support their marketing effort. Defendants built the Beats name on Monster's back, and then
2 attempted to re-write history by erasing Lee and Monster's names from the product's history.
3 Photographs showing the similarity between Monster's "Beats By Dr. Dre" product line and the
4 Beats Studio 2.0 are attached hereto as **Exhibit 1**.

5 57. Trying to change history, Iovine, Dre, Wachter, and Wood have attempted to
6 create the false public view that the company Beats, not Lee and Monster, was responsible for
7 designing, engineering, manufacturing, producing, marketing, and distributing the "Beats By Dr.
8 Dre" product line. In public statements and interviews, including on the American Idol TV
9 show, Iovine, Dre, Wachter, and Wood have asserted that the entire success of the "Beats By Dr.
10 Dre" product line was due to Beats, giving no credit to Lee or Monster. Beats, through Iovine,
11 Dre, Wachter, Wood, and others, attempted to convince Apple that Beats, not Lee and Monster,
12 was solely responsible for the success of the "Beats By Dr. Dre" product line.

13 58. Not satisfied with removing Monster's names from the products' successful
14 history, Defendants have constantly engaged in unreasonable and false "Monster-bashing." At
15 CES in **2012** and **2013**, Defendants directly, and through their agents, attacked Monster in
16 meetings with Monsters' sales representative and dealers. Beats told Monster's distributors and
17 retailers to drop Monster headphones as a product line, forcing them to choose between Beats
18 and Monster. These sales representatives and dealers were the same distributors and retailers
19 that Monster had introduced to Beats. A senior Beats executive announced: "We are going to
20 take Monster down!"

21 59. Based on the feedback Monster received from dealers, distributors, and retailers,
22 Beats also was making unreasonable stocking and sales demands, as well as unrealistic forecasts.
23 These dealers, distributors, and retailers grew to distrust Beats. This lack of trust came to
24 damage the sales channels for Monster's other products.

25 60. Beats, through Iovine, Dre, Wachter, and Wood, are not telling the truth to the
26 public, dealers, Beats' consumers, Monster consumers, and Apple shareholders. In interviews
27 with publications like the Wall Street Journal and on NBC News with Special Anchor, Maria
28 Shriver, and in speeches before consumer electronics groups, Beats, through Iovine, Dre,

1 Wachter, and Wood are improperly claiming that they developed not only the “Beats By Dr.
2 Dre” headphones, but also the supply, dealer, and retail relationships necessary to make the
3 product line a success.

4 61. Beats, through Iovine, Dre, Wachter, and Wood, made material misstatements to
5 Monster and Lee to substantially increase their personal profits. HTC, also driven by greed,
6 aided and abetted Beats and the Individual Defendants with full knowledge of the fraud. The
7 Beats/HTC transaction was a sham so that Beats could acquire the “Beats By Dr. Dre” product
8 line from Monster. Lee and Monster were deceived and kept in the dark about important,
9 pending Beats corporate transactions. As a direct result of Defendants’ improper conduct and
10 misrepresentations, Monster and Lee have sustained millions of dollars in damages. They have
11 brought this action to right the wrongs Defendants have committed against them.

12 **II. PARTIES**

13 **A. PLAINTIFFS**

14 62. Plaintiff **Monster, LLC** is a Nevada limited liability corporation established in
15 2002, registered to do business in California, with its primary place of business at 455 Valley
16 Drive, Brisbane, CA.

17 63. Plaintiff **Noel Lee** is a resident of the County of San Mateo, California. At all
18 times alleged herein, Lee was the Manager of Monster. Further, at all times alleged herein, Lee
19 served as the sole Trustee for the Noel Lee Living Trust.

20 64. Lee is an audio and sound genius. When Lee was 9, he realized he was a total
21 equipment geek, building his own amplifiers and speakers. At the age of 16, Lee started playing
22 the drums. In 1971, after graduating with a Bachelor of Science degree in engineering from
23 California Polytechnic State University in San Luis Obispo, CA, Lee went to work at Lawrence
24 Livermore National Laboratory, a government nuclear research center, as a laser-fusion engineer.
25 In addition to his work in engineering, Lee was an audiophile and musician. In 1974, after
26 several years at Lawrence-Livermore Labs, following his passion for music, Lee left the
27 laboratory and toured with his band, Asian Wood. When the band broke up, Lee followed his
28 other passion: audio technology.

1 65. In 1977, working in his garage in San Francisco, CA, Lee discovered that copper
2 wires of different constructions produced varying degrees of audio performance when hooked up
3 to loudspeakers. Lee found and proved that the distortion could be generated in a cable that was
4 not only due to questions of resistance or induction but that was due to the time domain. Lee
5 then worked on developments to the power supply, especially concerning the protection of
6 overvoltage and clean power filters. From this discovery, Lee developed a high performance
7 speaker cable: Monster Cable. Prior to Monster Cable, most stereo systems were wired with
8 ordinary “zip-cord,” the same cable used for electrical household and lamp wire. The invention
9 of Monster Cable created a market where none existed, a new product category that
10 revolutionized the audio market. Lee began producing the cables in his San Francisco garage in
11 anticipation of the first public appearance of Monster Cable: the 1979 CES in Chicago.

12 66. In 1978, to commercialize the invention of the Monster Cable, Lee founded what
13 was then known as Audio Sales Associates, Inc. (“Audio Sales”). Audio Sales later changed its
14 name, first to Monster Cable Products, Inc., and later to Monster, Inc., a California corporation.

15 67. In 1983, Monster received its first U.S. patent for the innovative Xterminator
16 electrical connector.

17 68. Thirty-six years later, Lee and Monster have reinvented power management
18 technology with their Monster Power line of products, consumer electronic cleaning with
19 Monster Screen Clean, fire-proof surge protectors, and the high-performance “Beats By Dr. Dre”
20 headphones. In 2012, Lee received the lifetime achievement award and 9 innovative technology
21 awards at the Plus X awards. The only other recipients of the award were Dr. Amar Bose of
22 Bose Corporation and Sir James Dyson of Dyson Vacuums. Attached hereto as Exhibit 8 is a
23 timeline summarizing Monster’s business history.

24 69. Lee has a unique ability to take his understanding of the world of technology and
25 determine what products will revolutionize the industry. First, it was Monster Cables, starting
26 with advanced audio cables based on advanced technology and design. In 1985, Monster
27 introduced the world’s first computer speaker: the MacSpeaker, designed for the Apple Mac.
28 Next was Monster Power, where Lee revolutionized the world of power management (e.g., surge

1 protectors, power conditioners, *etc.*). Monster Screen Clean followed, making a huge impact on
2 the way consumers understood how to clean their digital screens (*e.g.*, TV screens, smartphone
3 screens, laptop screens, camera lenses, *etc.*). In 2000, Monster devised Monster Game products,
4 a whole new product line for the PS2, XBOX, and Gamecube, along with 3 new line level
5 interconnect cables designed for powered subwoofers, earning Lee the prestigious “Entrepreneur
6 of the Year” award from Ernst & Young.

7 70. Now holding over 540 U.S. and international patents, with over 100 applications
8 pending, Monster, under Lee’s leadership, continually strives to discover and develop advanced
9 and innovative technologies to meet the needs of the consumer electronics industry. Monster
10 now offers more than 5,000 products in over 160 countries worldwide.

11 71. In 2006, Lee realized that, due to the MP3 revolution, there were hundreds of
12 millions of portable media players (*e.g.*, iPods, iPhones, Android devices, *etc.*) that were attached
13 with white earbuds, delivering terrible sound quality. Lee recognized the headphone
14 opportunity: make high performance headphones with the best sound and design. Lee’s
15 realization of this dream, and the resulting misappropriation of his engineering developments by
16 Defendants, form the basis of this lawsuit.

17 72. Lee was nominated for three Grammys, including the George/Benson Al Jarreau
18 “Givin’ It Up” Surround Sound/CD release for 2006. Lee won two Grammys. Lee is executive
19 producer on all of the following releases:

- 20 a. Vince Guaraldi Trio – A Charlie Brown Christmas (2006)
- 21 b. Various Artists – 40 Years: Charlie Brown Christmas (2006)
- 22 c. 3 Doors Down – Away from The Sun (2006)
- 23 d. Anjulie – Anjulie (2007)
- 24 e. Lee Ritenour – Six String Theory (2008)
- 25 f. George Benson – Songs and Stories (2010)
- 26 g. Tron Legacy – Movie Soundtrack w/Daft Punk (2010)
- 27 h. Miles Davis – Sketches of Spain (2011)

1 **B. DEFENDANTS**

2 73. Defendant **Beats Electronics LLC** is, and at all times herein alleged was, a
3 limited liability company duly organized and existing under the laws of the State of Delaware,
4 registered to do business in California, and having its principal place of business in Santa
5 Monica, CA. In perpetrating the misdeeds complained of herein, Beats acted in the county of
6 San Mateo, California, including at 455 Valley Drive, Brisbane, CA 94005.

7 74. Defendant **Andre Young a/k/a Dr. Dre** is, and at all times herein alleged was, a
8 resident of the County of Los Angeles, California. In perpetrating the misdeeds complained of
9 herein, Dre acted in the county of San Mateo, California, including at 455 Valley Drive,
10 Brisbane, CA 94005.

11 75. Dre is a rapper and record producer, credited with producing albums for and
12 overseeing the careers of many A-list rappers, including Snoop Dogg, Eminem, Xzibit, 50 Cent,
13 The Game, and Kendrick Lamar. Other than his celebrity status as a rapper, Dre’s primary
14 contribution was to bless Monster’s headphones when he exclaimed: “That’s the shit!”

15 76. Defendant **James “Jimmy” Iovine** is, and at all times herein alleged was, a
16 resident of the County of Los Angeles, California. In perpetrating the misdeeds complained of
17 herein, Iovine acted in the county of San Mateo, California, including at 455 Valley Drive,
18 Brisbane, CA 94005.

19 77. Iovine is a respected but ruthless music mogul, a man who helped mastermind the
20 works of Bruce Springsteen and 50 Cent alike and co-produced the blockbuster movie 8 Mile.
21 Iovine was the most senior executive of Beats, was employed by UMG Recordings, Inc., and sat
22 as the Chairman and most senior executive of media empire Interscope Geffen A&M Records
23 (“Interscope”), a subsidiary of Universal Music Group.

24 78. Defendant **Paul D. Wachter** is, and at all times herein alleged was, a resident of
25 the County of Los Angeles, California. In perpetrating the misdeeds complained of herein,
26 Wachter acted in the county of San Mateo, California, including at 455 Valley Drive, Brisbane,
27 CA 94005.

28

1 79. Defendant **HTC America Holding, Inc.** is, and at all times herein alleged was, a
2 Washington corporation, with its California principal place of business in San Francisco, CA.
3 HTC America Holding, Inc. is an overseas subsidiary of HTC Europe Co., Ltd. In perpetrating
4 the misdeeds complained of herein, HTC America Holding, Inc. acted in the county of San
5 Mateo, California, including at 455 Valley Drive, Brisbane, CA 94005.

6 80. While not named as a defendant, at all times herein alleged, **HTC Corporation**
7 acted as an agent, representative, and co-conspirator of HTC America Holding, Inc. HTC
8 Corporation is, and at all times herein alleged was, a Taiwanese company with its California
9 principal place of business in San Francisco, CA. HTC Corporation, formerly High-Tech
10 Computer Corporation, is a Taiwanese manufacturer of smartphones and tablets. In perpetrating
11 the misdeeds complained of herein, HTC Corporation acted in the County of San Mateo, CA,
12 including at 455 Valley Drive, Brisbane, CA 94005. HTC Corporation is not named as a
13 Defendant herein.

14 81. While not named as a defendant, at all times herein alleged, **HTC Europe Co.,**
15 **Ltd.** acted as an agent, representative, and co-conspirator of HTC America Holding, Inc. HTC
16 Europe Co., Ltd. is, and at all times herein alleged was, a corporation registered under the laws
17 of the United Kingdom, with its California principal place of business in San Francisco, CA.
18 HTC Europe Co., Ltd. is an overseas subsidiary of HTC Corporation. In perpetrating the
19 misdeeds complained of herein, HTC Europe Co., Ltd. acted in the county of San Mateo, CA,
20 including at 455 Valley Drive, Brisbane, CA 94005. HTC Europe Co., Ltd. is not named as a
21 Defendant herein.

22 82. HTC America Holding, Inc., HTC Europe Co., Ltd., and HTC Corporation are
23 collectively referred to herein as “HTC.” At all times relevant to this Complaint, HTC Europe
24 Co., Ltd. and HTC Corporation, and each of them, were acting as the agents, employees, and/or
25 representatives of HTC America Holding, Inc., and were acting within the course and scope of
26 their agency and employment with the full knowledge, consent, permission, authorization, and
27 ratification, either express or implied, of each of the other Defendants in performing the acts
28 alleged in this Complaint.

1 83. As members of the conspiracies alleged more fully below, HTC America
2 Holding, Inc., HTC Europe Co., Ltd., and HTC Corporation participated and acted with or in
3 furtherance of said conspiracy, or aided or assisted in carrying out the purposes of the
4 conspiracy, and have performed acts and made statements in furtherance of the conspiracy and
5 other violations of California law.

6 84. HTC America Holding, Inc., HTC Europe Co., Ltd., and HTC Corporation acted
7 both individually and in alignment with the other Defendants with full knowledge of their
8 respective wrongful conduct. As such, HTC America Holding, Inc., HTC Europe Co., Ltd., and
9 HTC Corporation conspired together with the other Defendants, building upon each other's
10 wrongdoing, in order to accomplish the acts outlined in this Complaint.

11 **C. DOE DEFENDANTS**

12 85. The true names and capacities of the defendants named herein as Does 1 through
13 25, inclusive, whether individual, corporate, associate, or otherwise, are unknown to Plaintiffs
14 who therefore sue such defendants by fictitious names. Plaintiffs are informed and believe that
15 Doe Defendants are California residents, or individuals over whom this Court nevertheless has
16 jurisdiction. Plaintiffs will amend this Complaint to show such true names and capacities when
17 they are ascertained. Plaintiffs are also informed and believe, and based on such information and
18 belief, allege that defendants sued as Does 1 through 25, and each of them, are liable in whole or
19 part for the wrongful acts alleged herein.

20 **D. AGENCY; AIDING AND ABETTING; AND CONSPIRACY**

21 86. At all times relevant to this Complaint, Defendants, and each of them, were acting
22 as the agents, employees, and/or representatives of each other, and were acting within the course
23 and scope of their agency and employment with the full knowledge, consent, permission,
24 authorization, and ratification, either express or implied, of each of the other Defendants in
25 performing the acts alleged in this Complaint.

26 87. As members of the conspiracies alleged more fully below, each of the Defendants
27 participated and acted with or in furtherance of said conspiracy, or aided or assisted in carrying
28

1 out the purposes of the conspiracy, and have performed acts and made statements in furtherance
2 of the conspiracy and other violations of California law.

3 88. Each Defendant acted both individually and in alignment with the other
4 Defendants with full knowledge of their respective wrongful conduct. As such, Defendants
5 conspired together, building upon each other's wrongdoing, in order to accomplish the acts
6 outlined in this Complaint.

7 89. Defendants are individually sued as principals, participants, aiders and abettors,
8 and co-conspirators in the wrongful conduct complained of and the liability of each arises from
9 the fact that each has engaged in all or part of the improper acts, plans, schemes, conspiracies, or
10 transactions complained of herein.

11 **III. JURISDICTION AND VENUE**

12 90. Defendants are subject to personal jurisdiction in California arising out of their
13 systematic and continuous contacts with this State and their purposeful acts and/or transactions
14 directed toward California. Such contacts include, without limitation, their past
15 misrepresentations to Monster and Lee that were made in California, such as the exercise of
16 "Change of Control" rights and the statements to induce Lee to sell his interests in Beats, and, on
17 information and belief, their presence and conduct of business in this State.

18 91. Venue is proper in San Mateo County Superior Court pursuant to Code of Civil
19 Procedure sections 395 and 395.5 because a substantial part of the events giving rise to the claim
20 occurred in this County. Defendants' course of conduct, as alleged herein, was to steal the
21 results of years of work by Plaintiffs in designing, engineering, manufacturing, producing,
22 marketing, and distributing the "Beats By Dr. Dre" product line. Defendants never intended to
23 honor their duties of trust and confidence that they owed to Plaintiffs. Defendants, and each of
24 them, were present in the County of San Mateo, including at 455 Valley Drive, Brisbane, CA
25 94005, for the following:

- 26 • In **October 2005**, Iovine and Dre met with Monster and Lee in Brisbane, CA for deal
27 negotiations that ultimately proved unsuccessful.

- 1 • In **June 2006**, Iovine, Dre, and Wachter returned to Brisbane, CA to convince Monster
2 and Lee to partner with Iovine and Dre.
- 3 • In **Fall and Winter of 2011**, to effectuate the sham HTC change in control, the following
4 representatives of Beats and HTC were present to negotiate and execute the transition
5 deal sheet: Costello, Wachter, Scott Henry (Beats' CFO), Scott Galer (Beats' outside
6 counsel), Louis Wharton (Beats' outside counsel), Denise Morales (Beats' Vice President
7 of Sales), and T.J. Grewal (Beats' Vice President of Products). The Beats representatives
8 stated that Beats needed a substantial infusion of funds in order to successfully
9 accomplish the transition. As part of the negotiations, Costello and Wachter each stated
10 that HTC would not loan any funds to Beats. For example, Costello (then a member of
11 Beat's Board of Directors and COO of HTC Corporation) unequivocally stated that HTC
12 was not a bank and the HTC Board would not approve lending any funds to Beats. These
13 statements, made in Brisbane, CA, were untrue and Defendants knew they were untrue
14 when they made them.
- 15 • In **December 2011**, Beats and Monster signed a transition deal sheet, premised on the
16 veracity of the sham HTC change in control, which set forth the preliminary duties of the
17 parties during the transition period. This transition deal sheet was executed by both Beats
18 and Monster at Brisbane, CA.
- 19 • In the **Summer of 2012**, again with Monster relying on the veracity of the sham HTC
20 change in control, Monster and Beats met in Brisbane, CA for negotiations to finalize the
21 Monster-Beats transition and separation.
- 22 • On **June 30, 2012**, Monster and Beats executed a series of agreements memorializing the
23 terms of the final Monster-Beats transition and separation. These agreements were
24 executed by both Beats and Monster at Brisbane, CA.

25 92. The gravamen of this Complaint is Defendants' fraud and deceit and the aiding
26 and abetting thereof in Brisbane, CA, both in orchestrating and executing the HTC sham change
27 in control and in coercing Lee to sell his 5% stake in Beats before the liquidity event known to
28 Defendants. But for Defendants' unabashed and repeated misstatements in Brisbane, CA,

1 Monster would not have executed the transition and separation agreements, all of which
2 depended on the veracity of the sham HTC “Change in Control” transaction. Likewise, but for
3 Defendants’ unabashed and repeated misstatements in Brisbane, CA, Lee would not have sold
4 his 5% stake in Beats and would have shared in the proceeds from the Apple acquisition of
5 Beats.

6 93. Despite HTC America Holding Inc.’s systematic and continuous contacts with
7 California and the County of San Mateo, it has not filed a statement with the California Secretary
8 of State that designates a principal office in California. Accordingly, venue is proper in any
9 county in the state, including San Mateo County. Plaintiffs’ motives for filing in San Mateo
10 County are immaterial. *Easton v. Superior Court* (1970) 12 Cal.App.3d 243, 246-247 (“Nothing
11 shows [HTC America Holding Inc.][] ever designated the location and address of its principal
12 office in this State . . . [It’s][] status is that of a foreign corporation only. As such, it may be sued
13 in any county in the state”) (internal citations omitted).

14 94. Where, as here, the relevant agreements were “affected by fraud, undue influence,
15 or overweening bargaining power,” and where, as here, “enforcement would be unreasonable
16 and unjust,” any forum selection clauses are null and void. *Hayes Children Leasing Co. v. NCR*
17 *Corp.* (1995) 37 Cal.App.4th 775, 787 fn. 5; *see also Alan v. Superior Court* (2003) 111
18 Cal.App.4th 217, 230. Venue in this Court is just and proper.

19 **IV. STATEMENT OF FACTS**

20 **A. LEE ENGINEERS AND PROTOTYPES HIGH-PERFORMANCE HEADPHONES IN** 21 **SEARCH OF THE PERFECT SOUND**

22 **1. DEVELOPING HIGH-PERFORMANCE HEADPHONES**

23 95. Determining superior sound is more difficult with headphones than with speakers.
24 Each ear is different, and even details that seem relatively insignificant, like ear cup fit, can
25 dramatically influence the results. In order to understand the difficulty in developing
26 headphones, there are some absolute terms that can be used to describe the listening experience
27 that go beyond just numbers, like measuring frequency response, which is common among many
28 manufacturer’s headphone design. If it were that simple, two headphones that measured

1 similarly would sound the same. This is why headphones come in so many types and varieties
2 and sound so different. With so many choices, which one is the right one?

3 96. High quality headphones will reproduce all music accurately and allow the
4 listener to enjoy the music as if they were transparent. They do not sound like headphones, but
5 like live music. The sound feels and sounds lifelike. Unfortunately, extraordinary headphones
6 are extremely rare. When Lee was in search of the perfect sound, and learning how to achieve it
7 in a headphone, he had to combine engineering and art.

8 97. Headphones, speakers, and microphones are the same in that they are all
9 transducers. In other words, they turn mechanical energy into electrical signals, and vice versa.
10 Headphones are similar to speakers in that they are both transducers on the reproduction end.
11 Their job is to recreate the music signal, without adding sounds of their own. But that is almost
12 impossible since every mechanical device has sounds, resonances, and distortions of their own.
13 For example, when reproducing a bass kick drum, the recorded sound may stop, but because of
14 the inertia of the speaker or headphone diaphragm, it keeps on going. This is known as “decay”
15 over a period of time. Think of decay like a tuning fork that keeps on ringing. This is bad. It is
16 easily measured today in the form of a “waterfall” graph. The “speed” at which the music signal
17 occurs is also important to create a sense of realism. In real life, when a guitar pick hits the
18 string, or when one hits a triangle, how fast is the initial impact? It is immediate. But, in the
19 same way a speaker or headphone has trouble stopping, it can also have trouble accelerating fast
20 enough to accurately capture the initial impact of the music.

21 98. The microphone is a speaker in reverse. It captures the music as the airwaves hit
22 its diaphragm. This also has a stop and start factor, as well as frequency response. That is why
23 recording engineers are fanatic over their selection of microphones for various instruments.
24 Likewise, singers choose among different microphones to reproduce their voice in the way they
25 want to hear it.

26 99. Various technologies have been invented over the years to optimize some of these
27 parameters. Dynamic speakers with huge magnets help bass speakers stop and start accurately,
28 along with different cone materials that stiffen the speaker. On the high end, metalized mid-

1 range speakers and tweeters help rapid stop and starting of the signal, but may have “ringing”
2 distortions of their own. Electrostatic speakers with extremely light diaphragms are the reference
3 used by many headphone and speaker listeners because of their ability to start and stop, but
4 because they do not move great distances, they may lack power and dynamic range.

5 100. In headphones there are designs that help one parameter, but they are often at the
6 expense of another. Electrostatic headphones are considered the best, but they cannot move a lot
7 of air so they lack bass response. Dynamic headphones are all over the map in their ability to
8 accurately reproduce music, but represent a good compromise if designed properly. Balanced
9 armatures are fast in reacting, but are bad in stopping and producing resonances and sounds of
10 their own as can be seen in their waterfall measurements.

11 101. There is one last difference between speakers and headphones. Everyone knows
12 that a speaker sounds best in a tuned room that is designed for the speaker. That is how many
13 recording studios are designed. However, in a headphone, everyone’s ear is slightly different.
14 Obviously there is no room, but there is an ear cup on over-ear headphones, and an ear tip on in-
15 ear headphones. Both can dramatically affect the sound. Both are an “ecosystem” where a
16 number of parameters depend on one another to get the best results. That is why designing a
17 great headphone is knowing how to balance all of the parameters of the ecosystem to get the best
18 reproduction in sound. That is where the “art” and the “ear” are part of the design process.

19 102. Two headphones that measure the same in frequency response can sound very
20 different. It is a combination of tests that will give us an indication of how a headphone will
21 sound. This is a simplified explanation. Headphone housing, materials, driver design, and ear
22 cup design are only some of the other considerations in making a great headphone.

23 103. The final analysis is how it sounds to the critical human ear. How to “tune” all of
24 the parameters is the “art” in the design. Years of experience in knowing what to do and a
25 critical ear is a rare combination indeed. Lee has that rare combination of both years of
26 experience and a critical ear.

27
28

1 **2. THE STATE OF HEADPHONES AS OF 2008**

2 104. As of **2008**, most people listened to music through some type of portable music
3 device, primarily headphones. The consumer was spending more money and time on their
4 portable music experience than on home or car audio. The devices that were driving the portable
5 music experience were iPods and mobile phones. For example, in **2007**, over 40 million iPods
6 were sold. As part of this portable music experience, speaker sales were down and headphone
7 sales were growing dramatically.

8 105. In late **2005**, having pioneered the high-performance speaker cable and led the
9 market for high-performance power management technology, Lee – ever driven by the
10 entrepreneurial itch – sought to achieve new advancements in sound.

11 106. Lee brainstormed potential improvements to conventional speakers to increase
12 sound quality at low, medium, and high frequencies. First, Lee conceived of putting high-
13 definition speakers at critical points around a room to enhance the listening experience:
14 surround-sound. Still dissatisfied with the grandeur of the sound experience, the “eureka”
15 moment occurred when Lee envisioned surrounding the ear with rich, clear sound: high-
16 performance headphones. As with his development of the Monster Cable, Lee believed
17 headphones could be more than a conduit for sound, rather, they could be part of the music
18 experience.

19 107. To separate Monster from the competition, Lee envisioned a high-performance
20 headphone with superior sound and a “cool” factor with popular appeal. Lee immediately set
21 himself to prototyping high-performance headphones and surround-sound speakers. He
22 dispatched his son and Monster Vice President, Kevin Lee, to Los Angeles to find potential
23 celebrity product marketing and branding partners in rock, pop, and hip-hop for the projected
24 line of Monster Music.

25 **B. MONSTER APPROACHES IOVINE AND DRE TO PARTNER WITH MONSTER TO**
26 **BRING HIGH-PERFORMANCE HEADPHONES TO MARKET**

27 108. In the second half of **2005**, making the rounds in the upper echelons of the Los
28 Angeles popular music scene, Kevin pitched Monster’s ideas for surround-sound music to Steve

1 Berman of Interscope. After meeting with Kevin, Berman conveyed the business proposition to
2 Iovine and Dre. At the time, Dre was considering a line of *sneakers*. Iovine told him, “Don’t do
3 sneakers, do speakers!” Iovine and Dre then learned about Monster and became fascinated by
4 Kevin’s description of the Monster surround-sound concept. Iovine and Dre expressed interest
5 in “getting into” speakers and meeting in person with Lee at Monster.

6 109. In **October 2005**, Iovine and Dre flew to Brisbane, CA, to discuss speaker
7 products. Lee explained: “Speakers are dead; headphones are the new speakers.” Lee described
8 his vision to Iovine and Dre: “The future is not studio speakers. The future is headphones. Let’s
9 build headphones together.”

10 110. In **November 2005**, Kevin and Lee visited Iovine and Dre at Interscope’s offices
11 in Santa Monica to make a presentation on the future of speaker and headphone technology and
12 about how Iovine and Dre should partner with Monster, starting with headphones. Captivated by
13 Lee’s vision and the sheer sound quality of the Monster headphone prototypes, Iovine and Dre
14 were sold on the profitability of high-performance headphones. With the combination of Lee’s
15 engineering prowess, Monster’s entrenched production and distribution networks, and Iovine and
16 Dre’s A-list music, Hollywood, and sports connections, Lee, Dre, and Iovine sought to
17 revolutionize the way people consume music.

18 111. In **January 2006**, at CES in Las Vegas, Monster introduced a line of Monster-
19 branded headphones that did not involve either Iovine or Dre.

20 **C. IOVINE AND DRE ABSCOND WITH MONSTER’S IDEA FOR HIGH-PERFORMANCE**
21 **HEADPHONES**

22 112. In the first quarter of **2006**, after successfully agreeing on the vision for high-
23 performance headphones, Monster, Iovine, and Dre sat down at the negotiating table to discuss
24 terms. From the outset, Iovine and Dre proposed onerous terms that put all the upfront risk on
25 Monster, while simultaneously purporting to give Iovine and Dre controlling rights to the front
26 end of the business *and* the vast majority of potential profits. Indeed, based on Iovine and Dre’s
27 negotiating posture, it was clear they did not intend to strike a deal with Monster.

1 113. Using Monster’s disagreement to outlandish proposed terms as a pretext, Iovine
2 and Dre severed negotiations with a phone call: “We hate to do this to you, but we’re going with
3 someone else.”

4 114. Iovine and Dre had abandoned Monster to pursue a deal with SLS International,
5 Inc., Pentagram California, Steve Lamar, and Jibe Audio, LLC (collectively the “SLS Group”) in
6 Los Angeles, CA. Starting in **June 2006**, using Lee’s blueprint and proposed business model,
7 Iovine and Dre enlisted the SLS Group to attempt to jumpstart their own high-performance
8 headphone business. To that end, Iovine and Dre trademarked “Beats By Dr. Dre” and
9 commissioned the design of a prototype headphone with giant ear cups, a thick, streamlined
10 headband, and enough gloss for a Formula 1 car. Unfortunately, this prototype and attempted
11 venture into high-performance headphones failed because Iovine, Dre, and the SLS Group lacked
12 Lee’s industrial design, mechanical engineering, and acoustical and electrical engineering
13 prowess and Monster’s manufacturing and distribution network.

14 115. In **October 2006**, Iovine and Dre were sued by the SLS Group over their
15 improper attempt to take control of the headphone product.

16 116. After the SLS deal fell apart, Iovine and Dre returned to Monster. Iovine and Dre
17 presented Lee with the SLS Group’s design drawing for headphones, but no viable headphone
18 technology. Lee told them the SLS Group’s headphones, as designed, would not work: they
19 were too big, bulky, and boxy, with extremely poor sound quality.

20 **D. LACKING THE ENGINEERING ACUMEN AND PRODUCTION AND DISTRIBUTION**
21 **NETWORK TO COMMERCIALIZE “BEATS BY DR. DRE,” IOVINE AND DRE**
22 **REALIZE THEY NEED A PARTNERSHIP WITH MONSTER**

23 117. Starting in the fourth quarter of **2006**, Iovine and Dre had only the “Beats By Dr.
24 Dre” trademark and a mammoth, garish, very rough drawing of a “Beats By Dr. Dre” headphone.
25 To make matters worse, the prototype headphones had abysmal audio. Further, Iovine and Dre
26 had no engineering, production, or distribution network. Having unsuccessfully attempted to
27 commercialize Lee and Monster’s vision independently, Iovine and Dre returned to Monster to
28 convince Monster to partner with Iovine and Dre on audio, starting with headphones.

1 118. On **January 7, 2008**, after extensive negotiations dominated by Iovine and
2 Interscope, Dre, and Wachter, Monster, Iovine, and Dre entered into the original License and
3 Promotion Agreement (the “License Agreement”) whereby Monster agreed to handle
4 engineering, production, and distribution of “Beats By Dr. Dre” headphones in exchange for a
5 license to the Beats brand and certain marketing obligations by Iovine and Dre. Through their
6 celebrity connections, Iovine and Dre were going to infuse Monster’s “Beats By Dr. Dre”
7 product line with the glamor of sports and hip hop. The term of the License Agreement was five
8 years. Plaintiffs are not suing for any breach of the License Agreement.

9 119. Saddling Monster with extraordinary risk, Lee took years of headphone research
10 and speaker development and committed the Monster engineering team to a massive headphone
11 technology research and development effort. The Monster team working on the “Beats By Dr.
12 Dre” product line grew over time to 100 employees at the Company’s Brisbane offices. Monster
13 also hired the internationally famous product designer and former Apple employee, Robert
14 Brunner, to develop the industrial design with Monster. Monster financed the entire effort.
15 Working on both audio engineering and industrial mockups, Monster built more than 30
16 handcrafted and tuned prototypes before the final version was ready to test. Various prototypes
17 did not result in successful versions. For example, in **February 2007**, Monster worked on a “Dr.
18 Dre In Ear” earphone design. A copy of that design documentation is attached as **Exhibit 9**.

19 120. The final version of the initial “Beats By Dr. Dre” headphones was able to
20 successfully reproduce for the first time the sound that today’s music artists and producers, like
21 Dr. Dre and will.i.am, wanted the listener to hear. For the first time a headphone had the
22 accuracy of a music studio, with the power of a nightclub or a live concert venue. There had
23 been literally nothing like the initial “Beats By Dr. Dre” product line in the headphone market.

24 121. Using the rough “Beats By Dr. Dre” headphone prototype – essentially a hollow
25 protruding shell – the Monster engineering team developed and inserted cutting edge audio,
26 including unprecedented bass to cater to sports and hiphop music consumers. Monster created
27 and designed the “Monster Red” cable, which became iconic. To scale down and refine the
28 “Beats By Dr. Dre” headphone design, Monster worked with Robert Brunner. Lee and Monster

1 took the Brunner design and did all the acoustical, mechanical, and electrical engineering in
2 order to make the headphones realistic to manufacture. Finally, after more than 8 months of
3 work, more than 30 painstakingly handcrafted, tuned, and retuned headphone prototypes were
4 prepared, analyzed, and improved upon. As a result, the Monster team produced the first
5 production model: Beats Studio. Monster had brought the “Beats By Dr. Dre” product concept
6 to reality.

7 122. When Dre put on the newly-designed final version of the Monster headphones
8 and listened to them, Dre shouted, “That’s the shit!” A photo of Dre wearing the Monster-
9 designed Studio headphones is attached hereto as **Exhibit 3**. These headphones went on to
10 become part of Monster’s “Beats By Dr. Dre” Studio line of high-end headphones.

11 123. In his book *Ninja Innovation*, published **January 8, 2013**, New York Times
12 bestselling author and Leader of the Consumer Electronics Association, Gary Shapiro, wrote:

13 “Before Monster arrived, people connected their component audio
14 and video equipment with cheap, unbranded, generic cables. Noel
15 believed that consumers did not recognize that their entertainment
16 systems were only as good as their weakest link, the cheap cables,
17 so he set out to upend the market with several innovations. First,
18 relying on his physics background and high quality raw materials,
19 he created a line of cables that promised better, clearer sound and
20 images. Second, he created a business model that enables retailers
21 to earn much more by selling his cables compared to the generic
22 ones. Third, Noel and his team (who are all available twenty-four
23 hours a day) invest heavily in training retail salespeople on the
24 benefits to consumers of using Monster cables.”

25 “The results have been spectacular—for the company, its
26 customers, its team, and its retailers. In fact, it’s not much of an
27 exaggeration to say that Monster retailers love Noel, his brand, and
28 his merchandising wizardry, which includes a live rock concert for
them at every International CES show in Las Vegas. (Some
dreams should never die.) Among Noel’s triumphs is that he was
the first to partner with the famous Dr. Dre to launch the large-
headphone craze that has swept the world.”

“Also amazing is that Noel became disabled by a spinal condition
that requires him to use a Segway to get around, but it doesn’t stop
him from traveling the world and navigating vastly different
international cities, most of which are not as disabled-friendly as

1 the United States. And he generously supports a foundation that
2 provides Segways to our military veterans.”

3 124. Monster’s “Beats By Dr. Dre” audio technology developed by Lee and his team at
4 Monster had a precise set of specifications for features and functionality to maximize audio
5 performance across mobile, laptop, and standalone applications. Monster’s “Beats By Dr. Dre”
6 audio technology processing system had seven major components that needed to work together:

- 7 a. Equalization: to overcome and correct for the deficiencies in the
8 sound reproduction chain to yield the desired response to the
9 listener’s ears;
- 10 b. Compressor/Limiter: to ensure that the heavy loads on the drivers
11 and electronics of the playback system produced by big sound stay
12 within safe limits;
- 13 c. Bass Enhancement: a powerful algorithm that allows the speaker to
14 make real bass, right up to the limits of the driver, extending the
15 bandwidth by well over an octave with rich, clean bass output;
- 16 d. Transient Expansion: properly tuned, allows the system to
17 reproduce a signal close to the 24-bit master;
- 18 e. Spatial Enhancement: restores the original width of the recording,
19 even when using closely spaced drivers, by separating and
20 independently processing the time, level, and spectral differences
21 that create the spatial field;
- 22 f. Noise Cancellation: traditionally, noise cancellation destroyed
23 deep bass and high octaves. Monster developed the art of getting a
24 headphone to achieve noise cancellation without damaging the
25 bass or high octaves; and
- 26 g. High-Powered Digital Amplifier: to reproduce both the power and
27 the bass.

1 124. In **January 2008**, Monster, Lee, Iovine, and Dre announced their
2 partnership at the CES in Las Vegas, where they debuted the Monster line of “Beats By
3 Dr. Dre” Studio headphones. Attached hereto as **Exhibit 4** are photographs from the
4 unveiling of Monster’s “Beats By Dr. Dre” Studio headphones at the **2008** Monster CES
5 Press Conference.

6 123. In **July 2008**, the Studio headphones arrived at retail stores with an initial price of
7 over \$300.

8 124. The plan was to create excitement around the “Beats By Dr. Dre” brand of
9 Monster headphones by mobilizing Monster’s massive retail distribution and deep sales floor
10 relationships, along with leveraging cross-merchandising and promotion across product
11 categories and distribution channels. Monster, Iovine, and Dre also would use the celebrity
12 assets of Monster and Interscope as endorsers, advocates, and product reviewers across retail,
13 media, and viral marketing.

14 125. Starting in **January 2009**, Monster introduced additional lines of “Beats By Dr.
15 Dre” headphones, including the “Beats Tour” – in-ear headphones (introduced at CES). Monster
16 also invented the tangle-free cable and, acting in good faith towards Beats, chose to use the
17 tangle-free cable on the “Beats By Dr. Dre” product line before using it on Monster’s other
18 products.

19 126. Monster also spent substantial time and money developing a relationship with
20 their distribution channel and retailers to change the way headphones were sold. Monster trained
21 its distributors and retailers that the headphone experience began with the name, reinforced by
22 the packaging, both working to create an emotion. For example, the first Monster product,
23 “Monster Cable,” had evoked an emotion of “Big,” “Powerful,” and “It’s gonna make a
24 difference!”

25 127. Monster’s “Beats By Dr. Dre” product line had a huge influence on the
26 headphone market. For example, sports figures are constantly seen getting off the team bus
27 wearing headphones. Monster went to great lengths to develop the sell-through channels at the
28 retail level for the “Beats By Dr. Dre” product line. Monster built off its strong relationship with

1 distributors, dealers, and retailers worldwide. These relationships had taken decades to build and
2 nurture. During the years Monster was developing its “Beats By Dr. Dre” product line, Monster
3 made developing, manufacturing, and marketing of its other, Monster-branded headphones a low
4 priority.

5 128. Retailers were skeptical about the ability to sell premium headphones. Due to
6 trust in Monster to successfully create new categories of products in the past, these retailers
7 supported the launch of “Beats By Dr. Dre” because Monster promised it would stand behind the
8 product line. Lee stood before the Best Buy National Sales Conference and announced that the
9 Monster/Beats partnership would result in Best Buy customers discovering that premium
10 headphones allowed sound to really matter. Photographs of Lee making his announcements are
11 attached hereto as **Exhibit 10**. Lee also brought Iovine to retailer meetings and introduced
12 Iovine as Monster’s partner in the “Beats By Dr. Dre” product line. A photograph of Lee
13 introducing Iovine at a national sales conference is attached hereto as **Exhibit 11**.

14 129. To market headphones, Monster sought to promote the tuning of the unique sound
15 offered by the headphones, a sound previously found only in-person. Monster advertised that its
16 headphones were better because of:

- 17 a. Technology/Sound;
- 18 b. State of the Art Driver Materials, including PEN Diaphragms (additional
19 stiffness to eliminate distortion); and
- 20 c. Monster Cable with XLM Extra Low Noise Technology.

21 A photograph showing banners prepared by Monster for its “Beats By Dr. Dre” product line is
22 attached hereto as **Exhibit 12**.

23 130. As a result, the Monster brand, an established name in high performance audio,
24 was extended from cable products to headphones.

25 131. When the “Beats By Dr. Dre” headphones were first introduced, Monster had
26 several lines of headphones and related products. Monster initially marketed the “Beats By Dr.
27 Dre” line of Monster headphones by emphasizing that this was Dre’s first product endorsement.
28 Monster also utilized Dre’s dedication to sound quality and big bass. Monster developed

1 materials to show that Monster’s PEN Diaphragm Technology delivered unequalled transient
2 response. Working with Lee’s ground breaking inventions concerning a deep bass sound,
3 Monster promoted the remarkably natural sound of “Beats By Dr. Dre.”

4 132. Monster also promoted “Beats By Dr. Dre” with a membership in “Beats Club,”
5 an in-store technology hub including access to VIP events, free downloads, and eligibility for
6 promotions.

7 133. On August 20, 2009, Monster and Beats entered into the Amended and Restated
8 License and Promotion Agreement (the “Amended License Agreement”). In addition to adding
9 Beats to the partnership, the Amended License Agreement granted Beats the right, *subject to the*
10 *covenant of good faith and fair dealing*, to terminate the relationship with Monster upon the
11 closing of a transaction that resulted in a bona fide change of control (the “Change of Control
12 Provision”). The Amended License Agreement was further amended and restated on February
13 28, 2010 and April 30, 2011, respectively, in order to add additional products to the license.

14 Plaintiffs are not suing for any breach of the Amended License Agreement.

15 134. In September 2009, Monster and Beats announced the Beats Solo model
16 headphones in New York. Photos of the Beats Solo headphones are attached hereto as Exhibit
17 13. That same month, Monster and Beats also announced the First Artist Line HeartBeats by
18 Lady Gaga in New York.

19 135. In October 2009, the Just Beats Solo Justin Bieber Edition arrived in stores.
20 Photos of the Just Beats Solo headphones are attached hereto as Exhibit 14.

21 136. In January 2010, Monster and Beats introduced the Beats PRO, Beats Solo HD
22 Product (RED), and Diddy Beats at the CES in Las Vegas. Photos of the Beats PRO headphones
23 and packaging are attached hereto as Exhibit 15.

24 137. Diddy Beats had new, cutting edge engineering allowing users to play music at
25 low volumes with extreme clarity. An April 17, 2010 email from Lee to Diddy and copying
26 Iovine on the “superior low level listening” of Diddy Beats is attached hereto as Exhibit 16.

27 138. Lee and several Monster engineers spent months developing a BeatBox speaker
28 with an iPod dock. A photograph showing the Monster team working on the BeatBox speaker is

1 attached hereto as **Exhibit 17**. Also in **January 2010**, Iovine and Susan Paley of Beats were
2 aware that buyers at Apple loved the Monster-produced BeatBox speaker with an iPod dock,
3 believing it could replace the Bose SoundDock in all stores.

4 139. In **January 2010**, Iovine and Susan Paley of Beats also learned that buyers at
5 Apple wanted to sell the Beats Solo HD Product (RED). A **January 20, 2010** email from Iovine
6 to Lee and Kevin, among others, about the meeting at Apple is attached hereto as **Exhibit 18**.

7 140. In **February 2010**, Monster and Beats introduced the “Beats Solo HD Yao Ming”
8 and “Beats Studio Yao Ming” in Asia. Photos of the “Beats Solo HD Yao Ming” and “Beats
9 Studio Yao Ming” headphones are attached hereto as **Exhibit 19**.

10 141. In addition to headphones, Monster made breakthroughs in portable speakers for
11 Beats. For example, in **April 2010**, Monster demoed a sound dock for Dre and Iovine. At the
12 conclusion of the demo, Dre and Iovine said words to the effect: “Build it just like it is; we want
13 it to sound just like this one.” By **August 2010**, Monster had a prototype ready for market. Dre
14 and Iovine were like kids with new toys. They loved the sound. A photograph of Iovine
15 relishing the Monster sound dock is attached hereto as **Exhibit 20**.

16 142. In **September 2010**, Monster and Beats introduced THE NEXT GENERATION
17 OF SOUND at the Best Buy Theater in New York City, including:

- 18 a. BeatBox;
- 19 b. PowerBeats with LeBron James;
- 20 c. Beats PRO;
- 21 d. iBeats; and
- 22 e. JustBeats with Justin Bieber.

23 143. Developing a new line of headphones required months of work by numerous
24 Monster engineers. For example, in **May 2010**, Monster worked on the Gaga HeartBeats v. 2. A
25 copy of design documentation for the Gaga HeartBeats v. 2 is attached hereto as **Exhibit 21**. It
26 was not until **June 2011** that Monster and Beats introduced the Gaga HeartBeats v. 2 into stores.

27 144. Modifying an existing line of headphones also required months of careful design
28 review and planning. For example, in **November 2010**, Monster was working on changes to the

1 PowerBeats line, created with LeBron James. A copy of the OPG Changing Request design
 2 documentation for the LeBron PowerBeats headphone is attached hereto as **Exhibit 22**.

3 145. From **2008-2012**, “Beats By Dr. Dre” headphones became a huge success and
 4 market-leader in the lifestyle, high-performance headphone category, generating approximately
 5 **\$1.5 billion** in revenue. Attached hereto as **Exhibit 23** are images showing a selection of the
 6 products that Monster made for the “Beats By Dr. Dre” product line during **2008-2012**.

7 146. Set forth below is a list of honors awarded to Monster from **2006-2013** in the
 8 headphone and audio categories:

<u>YEAR</u>	<u>HONOREE/WINNER</u>	<u>AWARD/CATEGORY</u>	<u>PRODUCT</u>
2006	Honoree	Innovation Awards/ High Performance Audio	Monster Music Presents: Away From The Sun Live From Houston
2007	Winner	Plus X Awards	Monster Music Concept
2008	Honoree	Innovation Awards/ Headphones	Monster iFreePlay(tm) for iPod Shuffle
2010	Winner	Stuff Magazine Award “Best Of CES”	Monster’s Miles Davis In-Ear Headphones
2012	Winner	Accessories	Nokia Purity™ Pro Wireless Stereo Headset by Monster
2012	Winner	Plus X Award	Noel Lee
2012	Winner	Plus X Award (Design)	Beats
2012	Winner	Plus X Award (Design)	NCredible NTune
2012	Winner	Plus X Award (Design)	Gratitude
2012	Winner	Plus X Award (Design)	Harajuku Lovers
2012	Winner	Plus X Award (Design)	VEKTR
2012	Winner	Plus X Award (Design)	Purity
2012	Winner	Plus X Award (Design)	Diamond Tears
2012	Winner	Plus X Award (Design)	Inspiration

<u>YEAR</u>	<u>HONOREE/WINNER</u>	<u>AWARD/CATEGORY</u>	<u>PRODUCT</u>
2012	Winner	Techlicious “Best of CES”	NCredible Line
2012	Winner	Black Enterprise “Best New Device for Entertainment”	NCredible Ntune Line

E. TO STRENGTHEN THE MONSTER-BEATS PARTNERSHIP, LEE PURCHASES A 5% INTEREST IN BEATS

147. In August 2009, to strengthen the Monster-Beats partnership and to further align his interests with Iovine (an approximately 15% Member in Beats and Beats’ then Chief Executive Officer), Dre (an approximately 15% Member in Beats and Beats’ co-founder), and Wachter (an approximately 1% Member in Beats and a Beats Board Member), Lee, through his personal trust, purchased 5,000 Class B membership units in Beats, representing 5% of the Company. Lee’s interest in Beats vested over three years, and would be accelerated in the event of a bona fide change in control. Further, Lee was given the right to make additional investments in Beats if further membership units were offered for sale in order to retain his 5% interest in the Company (and to avoid dilution).

148. By investing in Beats, Lee reposed a great deal of trust in Iovine, Dre, and Wachter and, as a minority member, expected that Iovine, Dre, Wachter, and Wood (Beats’ President) would fulfill their fiduciary duties to him, including their duties of loyalty, candor, and good faith and fair dealing. As described *infra*, Lee’s trust was misplaced as Defendants conspired in the shadows to abscond with the value created by the Monster-Beats partnership to the exclusive benefit of Beats and the Individual Defendants.

F. DEFENDANTS ORCHESTRATE A SHAM ACQUISITION BY HTC IN ORDER TO DIVEST BEATS FROM MONSTER

149. It is now clear that, all along, Iovine, Dre, Wachter, and Wood intended to build a company, Beats, that they would then sell to a major corporation for billions of dollars to the exclusion of Lee and Monster. To succeed at that plan, Iovine, Dre, Wachter, and Wood had to create an event (real or not) that would trigger Monster turning everything over to Beats. In other words, if the contractual arrangements between Beats and Monster terminated without a

1 change of control, Beats would not have gained control of Monster’s pioneering engineering
2 efforts, as well as Monster’s distribution and sales networks. However, if Iovine, Dre, Wachter,
3 and Wood closed a transaction that resulted in a “Change of Control,” then that event would
4 allow Beats to assume rights to complete manufacture, market, distribute, and sell the “Beats By
5 Dr. Dre” product line, without compensation to Monster or Lee.

6 150. In **January 2011**, Beats started this process by recruiting away Monster
7 employees. **On January 3, 2011**, Denise Morales, then Vice President of Sales and Channel
8 Marketing of Monster, unexpectedly quit Monster to join Beats. Morales had been at Monster
9 since **January 1997**. At the time she quit Monster, Morales was one of the executives
10 responsible for the Monster-Beats relationship and had been taught significant confidential
11 information by Lee and Monster.

12 151. The next step was to create a sham “Change of Control” event. In **March 2011**,
13 Beats entered into a marketing and license arrangement with HTC. Under the Beats/HTC
14 marketing and license arrangement, Beats licensed the “Beats” brand to HTC for certain lines of
15 HTC phones, as well as provided “Beats Audio” sound enhancements to those HTC phones.

16 152. Plaintiffs are informed and believe and thereon allege that, as early as **2010**,
17 Iovine, acting on behalf of Beats, had been in discussions with HTC concerning a marketing and
18 licensing arrangement. At the time, Plaintiffs were not informed that these discussions were
19 taking place. Plaintiffs are also informed and believe and thereon allege that Iovine had
20 meetings with HTC at the **January 2011** CES in Las Vegas, NV. At the time, Plaintiffs were not
21 informed that these meetings were taking place.

22 153. On **August 10, 2011**, without first consulting Monster or Lee, Beats announced a
23 strategic partnership and investment in Beats by HTC, whereby HTC acquired a 51%
24 membership interest in Beats, supposedly for \$309 million. HTC was given a seat on the Beats
25 Board of Directors, which seat was filled by Matthew Costello, the then-COO of HTC
26 Corporation.

1 154. Neither Monster nor Lee were made aware of the Beats/HTC strategic partnership
2 and investment before it was consummated, nor was Lee given the right to invest further in
3 Beats.

4 155. On **September 9, 2011**, Beats gave notice that it was exercising its option to
5 terminate the incredibly successful Amended License Agreement with Monster. Conveniently,
6 the Beats/HTC transaction had triggered the “Change of Control” provision in the Amended
7 License Agreement that:

- 8 a. Divested Monster of its license and business relationship with Beats;
- 9 b. Allowed Beats to assume complete manufacture, promotion, distribution,
10 and sales of the “Beats By Dr. Dre” product line; and
- 11 c. Cost Monster millions in lost revenue and transition expenses.

12 156. To effectuate the divestiture, Iovine sent a letter to Monster and the Noel Lee
13 Living Trust reiterating that HTC agreed to purchase a 51% membership interest in Beats for
14 \$300 million, \$240 million of which was to be paid at closing and \$60 million of which was to
15 be held in escrow for 2 years. Iovine’s **September 9, 2011** letter is attached hereto as **Exhibit**
16 **24**.

17 157. Plaintiffs subsequently learned that the HTC acquisition was structured so that
18 two separate HTC entities acquired interests in Beats: HTC America Holding, Inc. acquired
19 26,100 Class B Units (which represented a 25.14% ownership interest and 25.57% voting
20 interest); and HTC Europe Co., Ltd. acquired 26,100 Class B Units (which represented a 25.14%
21 ownership interest and 25.57% voting interest).

22 158. Downplaying the magnitude of the supposed Change of Control, Iovine stated:
23 “We note that . . . the transaction with HTC will result in a ‘Change of Control’ . . . between
24 Beats and Monster, LLC” such that Beats will “provide notice to Monster no later than January
25 7, 2012 to terminate the License Agreement in connection with the Change of Control.” *Id.*

26 159. Next, in a crude showing of self-interest, Iovine stated: “We want to make the
27 transition as smooth as possible to minimize any interruptions to the Beats business. *We propose*
28 *that HTC, Beats, and Monster meet during the period of 30 to 60 days following the closing to*

1 *discuss how best to effectuate the transition of the business and the role of Monster and/or Noel*
2 *Lee during and after the transition period.” Id. (emphasis in original).*

3 160. The early termination of the Beats/Monster relationship presented a great hardship
4 to Monster. Since early **2008**, Monster had devoted a substantial amount of the Company’s
5 resources to developing, engineering, manufacturing, marketing, and distributing Beats products,
6 as well as growing the Beats brand. During the **2008-2012** timeframe, Monster put development,
7 distribution, and marketing of its own Monster-branded headphones as a low priority and
8 leveraged its research, development, manufacturing, marketing, and distribution networks to
9 make Beats successful. Also, under the Amended License Agreement with Beats, Monster was
10 restricted in its ability to market and sell non-“Beats By Dr. Dre” Monster-branded headphones
11 that had certain design features (*e.g.*, on-ear, over-ear, *etc.*) and were sold within certain price
12 points.

13 161. In **September 2011**, the product “HTC iBeats,” which was designed, engineered,
14 manufactured, marketed, and distributed by Monster, was available in retail stores.

15 162. In **October 2011**, the products “HTC urBeats” and “Beats Wireless,” which also
16 were designed, engineered, manufactured, marketed, and distributed by Monster, were available
17 in retail stores.

18 163. In **December 2011**, the product “Mixr,” which was designed, engineered,
19 manufactured, marketed, and distributed by Monster, was available in retail stores.

20 **G. DEFENDANTS MAKE SIGNIFICANT MISREPRESENTATIONS DURING THE**
21 **NEGOTIATIONS SURROUNDING THE HTC TRANSITION**

22 164. In **January 2012**, Monster and Beats publicly announced the termination of their
23 relationship.

24 165. In the course of this Monster-Beats separation – taking advantage of the fact that
25 Monster relied on Beats for \$750 million annually in revenue (over 60% of Monster’s annual
26 revenue for **2012**) and had put its standalone headphone business on hold – Beats strong-armed
27 Monster into concessions that compromised Monster’s relationships with contract manufacturers,
28 distributors, and retailers.

1 166. Negotiations that culminated in the transition agreements of **June 30, 2012**
2 occurred at Monster's offices in San Mateo County. During the course of those negotiations,
3 Beats (through Iovine, Wachter, and Wood) and HTC (through Matthew Costello, then-HTC's
4 Chief Operating Officer and a Board member of Beats), pressed Monster to agree to a transition
5 plan that required Monster to hand over its international production and logistics connections
6 and, critically, hand over its domestic retailers and international distributors and retailers, all at
7 Monster's expense.

8 167. During the negotiations at Monster's headquarters in Brisbane, CA, the following
9 representatives of Beats and HTC were present: Costello, Wachter, Scott Henry (Beats' CFO),
10 Scott Galer (Beats' outside counsel), Louis Wharton (Beats' outside counsel), Denise Morales
11 (Beats' Vice President of Sales), and T.J. Grewal (Beats' Vice President of Products). The Beats
12 representatives stated that Beats needed a substantial infusion of funds in order to successfully
13 accomplish the transition. These individuals each stated that HTC would not loan any funds to
14 Beats. For example, Matthew Costello unequivocally stated that HTC was not a bank and the
15 HTC Board would not approve lending any funds to Beats. A photo memorializing these
16 discussions in Monster's conference room is attached hereto as **Exhibit 25**.

17 168. Monster complied with each of its obligations during the transition period. For
18 example, in **May 2012**, Monster trained its national retailers on the transition, including Best
19 Buy and Fry's Electronics.

20 169. These misleading discussions concerning Beats' need for funds and the loan were
21 used as leverage to get Monster to agree to transfer thirteen of its largest dealers and distributors
22 to Beats on June 30, 2012, rather than December 31, 2012, costing Monster millions of dollars.

23 170. Plaintiffs subsequently learned from media reports that HTC had loaned Beats
24 **\$224 million** following the initial acquisition.

25 171. During the course of negotiations, Beats and Monster signed a transition deal
26 sheet dated December 2, 2011, in Brisbane, CA, which set forth the preliminary duties of the
27 parties during the transition period and provided that, in exchange for Monster's cooperation to
28 transition the business (including transferring intellectual property, manufacturing sources,

1 supply chain, distributors, and deals) to Beats, Monster was allowed to continue producing and
2 direct selling its “Beats By Dr. Dre” products until **June 30, 2012**, and continue distributing its
3 “Beats By Dr. Dre” products to retailers through the end of **2012**. Monster would also receive
4 royalties on “Beats By Dr. Dre” products that it developed, *e.g.*, Beatbox, Mixr, and Beats Pro,
5 but only through the end of **2013**.

6 172. In **February 2012**, *both* “Portable BeatBox” and “Beats Studio Yao Ming,” *both*
7 designed, engineered, manufactured, marketed, and distributed by Monster, became available in
8 retail stores.

9 173. As of **May 2012**, the following Beats headphones were being manufactured and
10 distributed by Monster:

- 11 a. **Studio**TM - \$299: Over-ear headphone with studio reference sound
12 quality. These headphones could be played loud with no distortion. The
13 Monster Control TalkTM cable offered built-in answer button and
14 microphone so a user could “stop rockin’ and start talkin’” with Android,
15 BlackBerry, and Apple smart phones. The Monster noise-canceling
16 technology made the StudioTM great for travel. The StudioTM came with a
17 Monster airline adapter and full-sized jack. (Colors: Black, White, Red,
18 Blue, Orange, Purple.) Photos of the Beats StudioTM headphones in red
19 are attached hereto as **Exhibit 26**.
- 20 b. **Mixr**TM - \$249: Monster created MixrTM and the product was endorsed by
21 Grammy-Award-winning producer and DJ David Guetta. The ear cups
22 flipped-up to monitor the user’s environment, or to simply rest the user’s
23 head on an airplane, without compromising the Beats sound. The larger
24 cushions than Solo HD gave the MixrTM “an over-ear feel.” In-out jacks
25 on the headphones allowed the user to share music with a friend. (Colors:
26 Black, White.)
- 27 c. **Beats Wireless** - \$249: The Beats Wireless was a product developed by
28 Monster that gave the user the Beats’ signature high-definition audio

1 sound in a completely wireless design, connecting to the user's phone via
2 the latest Bluetooth technology. A rechargeable battery was included.
3 The headphones also could be connected via a Monster headphone cable
4 (included) for use on an airplane or when the battery died. A built-in
5 microphone and convenient control buttons were on the ear cup for hands-
6 free, mobile calling, music control, and volume. (Colors: Black, White.)

7 d. **Solo HD** - \$199: Monster developed the Solo HD to be a great sounding,
8 ultra-light, and comfortable on-ear headphone. Incredibly popular, the
9 Solo HD offered more bass than the in-ear Beats headphones. The Solo
10 HD was marketed to be a fashion statement. The Solo HD also had
11 ControlTalk™ for iPod® playback control and iPhone™/music phone
12 hands-free calling. Monster's ingenious tri-fold design made for easy
13 storage when the SOLO HD was not in use. (Colors: Black, White, Red.)
14 Photos of the Beats Solo HD headphones are attached hereto as **Exhibit**
15 **13**.

16 e. **PowerBeats™** - \$149: Monster developed the PowerBeats™ to be an
17 active headphone with ear-clip for stability, comfort, and Beats Tour
18 sound quality. A Monster renovation also allowed ambient sound in so
19 the user did not get run over while cycling or running. The PowerBeats
20 included ControlTalk™ for iPod® playback control and iPhone™/music
21 phone hands-free calling. (Colors: Black, White, Red.)

22 f. **Tour™** - \$149: Monster crafted Tour™ to be a step-up in-ear headphone
23 technology. Tour™ had better sound quality than the iBeats product, with
24 deeper bass and better dynamics without distortion. (Dynamics is defined
25 as the difference between the loudest and quietest passages of music.)
26 Monster also invented a flat, tangle-free cord. Tour™ also included
27 ControlTalk™ for iPod® playback control and iPhone™/music phone
28 hands-free calling. (Colors: Black, White.)

- 1 g. **iBeats** - \$99: The iBeats offered solid metal construction, with more
2 durable and significantly better sounding quality than the basic ear buds.
3 The iBeats included ControlTalk™ for iPod® playback control and
4 iPhone™/music phone hands-free calling. (Colors - Black, White.)

5 174. On **June 30, 2012**, Monster and Beats executed a series of agreements
6 memorializing the terms of this transition and separation. Essentially, Monster gave up its
7 thirteen largest accounts, including domestic dealers and international dealers and distributors, as
8 well as international production and logistics connections, losing over **\$300 million** in direct
9 sales in the second half of **2012** alone.

10 175. During the transition period, Lee and other Monster representatives even met with
11 Wood in Brisbane, CA to explain Monster’s domestic dealers and international dealers and
12 distributors. A photograph of Lee and other Monster representatives meeting with Wood over
13 lunch is attached hereto as **Exhibit 27**.

14 176. In signing these agreements, Monster relied on the authenticity of the HTC
15 “Change of Control” acquisition in Beats.

16 177. Incredibly, on **July 25, 2012**, less than a month after signing the transition and
17 separation agreements, the founding members of Beats bought back half of the interest that HTC
18 had just purchased from Beats (approximately 25.5% of the Company) for \$150 million. During
19 the July 2012 time frame, Monster also learned that HTC had provided Beats with a \$224 million
20 loan, contrary to representations that Costello (acting on behalf of HTC) made to Monster in the
21 Brisbane meetings.

22 178. In **November 2012**, Monster executed all the licensing documents that were
23 necessary to license intellectual property to Beats. These documents included:

- 24 a. Assignment of Red for cables trademark from Monster to Beats;
25 b. License back of Red for cables trademark from Beats to Monster;
26 c. Assignment of joint ownership of flat cable patent (with Tour earphone)
27 from Monster to Beats;
28 d. License of flat cable trademark from Monster to Beats;

- e. Assignment of copyrights from Monster to Beats;
- f. License of ROHS design trademark from Monster to Beats; and
- g. Copies of updated exhibits (A and B) to the main License Agreement.

A spreadsheet describing the various licensing arrangements between Monster and Beats is attached hereto as **Exhibit 28**.

179. In **November 2013**, Costello, formerly Executive Vice President and Chief Operating Officer of HTC Corporation, joined Beats as its Chief Operating Officer.

180. In a **May 27, 2014** conversation in Cambridge, Massachusetts, with Harvard Business School Professor and HTC Corporation Board Member **David Yoffie**, David Tognotti and Leo Lin learned that Beats orchestrated the HTC deal with one purpose: eliminate Monster. In an off-the-cuff remark, Yoffie stated words to the effect: “Iovine, Dre, and Wachter took advantage of Lee and Monster utilizing HTC in a sham transaction to trigger the ‘Change of Control’ provision to get out of the relationship with Monster.”

H. BEATS TAKES AGGRESSIVE STEPS TO ELIMINATE LEE’S 5% INTEREST IN THE COMPANY BEFORE FINALIZING APPLE’S \$3 BILLION ACQUISITION

181. Having removed Monster, Beats took aggressive steps to eliminate Lee’s 5% interest in the Company. By late **October 2012**, on the heels of the HTC “Change of Control” and sudden 25% buyback by Beats, Lee suspected he was being kept in the dark by Beats about the future of the company.

182. Fearful that he did not have the required transparency vis-à-vis his investment in Beats, Lee reduced his interest in Beats from 5% to approximately 1.25%. Lee retained this 1.25% interest so that he could profit from his hard work to create the “Beats By Dr. Dre” product in any future acquisition or other liquidity event.

183. In **September 2013**, Lee learned that Iovine, Dre, and Wachter had enlisted Carlyle Group LP to buyout HTC’s remaining 25% interest in Beats. On **September 13, 2013**, as part of this acquisition, Wachter called Lee to advise him of his obligations as a 1.25% shareholder in Beats. Wachter informed Lee that, pursuant to the promissory note from Lee to HTC under the “Change of Control” deal, Lee would have to immediately pay HTC \$3 to \$5

1 million to retain his 1.25% in Beats. In truth and as Wachter knew, any payment by Lee under
2 the promissory note was much closer to \$3 million, not \$5 million. Alternatively, Wachter –
3 feigning altruism – offered to cause Beats to purchase Lee’s remaining shares for approximately
4 \$5.5 million. Weighing these two options, Lee asked Wachter whether Beats had any liquidity
5 events on the horizon: “Paul, if I retain my interest in Beats, when do you think I can cash out?”
6 Unflinching, Wachter responded: “There will be no liquidity event in the next year or two;
7 nothing is on the horizon.”

8 184. In addition to speaking directly with Wachter, Lee asked Dave Tognotti to speak
9 with Wachter to “provide insight for [Lee][] of the growth plan, or connect [Lee][] with someone
10 at Carlyle to talk to.” Instead of disclosing details regarding the forthcoming deal with Apple,
11 Wachter stonewalled Tognotti, stating: “Dave we can’t give out confidential info under the
12 circumstances . . . We can’t give [Lee[] projections for next year and then if we don’t make them
13 we have a problem.” A true and correct copy of **September 18, 2013** correspondence between
14 Tognotti and Wachter is attached hereto as **Exhibit 29**.

15 185. On **September 30, 2013**, Lee asked Luke Wood – Beats’ President – whether
16 Beats had any liquidity events on the horizon. Echoing Wachter, Wood responded indicating he
17 foresaw no liquidity event on the horizon.

18 186. Relying on the veracity of these representations, Lee sold his remaining 1.25%
19 interest in Beats for approximately \$5.5 million.

20 187. In **May 2014**, **less than eight months later**, Lee learned Apple was acquiring Beats
21 for a reported **\$3.2 billion**, Apple’s largest acquisition as of that date. Lee’s 1.25% interest in
22 Beats would have been worth in excess of **\$30 million**. Had Lee retained his original 5% interest
23 in Beats, his total stake in the Beats-Apple deal would have been worth over **\$100 million**.

24 188. On **May 28, 2014**, at the Code Conference in Rancho Palos Verdes, CA, belying
25 the **September 2013** statements by Wachter and Wood concerning no deals on the horizon, Apple
26 Senior Vice President Eddy Cue and Iovine said the Apple-Beats deal was **several years in the**
27 **making**. In fact, in an article in GQ Magazine, Iovine is quoted as saying he was working on the
28 Apple deal in **2012**. Plaintiffs are informed on information and belief and thereon allege that the

1 deal work, including extensive due diligence by Apple, was underway in **September 2013** and
2 Wachter and Wood – a Beats Board Member and Beats President, respectively – knew and
3 actively participated in the Apple-Beats deal, from inception to execution.

4 **I. DEFENDANTS’ MISDEEDS ARE PART OF A COURSE OF CONDUCT BY BEATS,**
5 **IOVINE, DRE, AND WACHTER OF DEFRAUDING ENTREPRENEURS AND SMALL**
6 **BUSINESSES**

7 189. Unfortunately, the misdeeds complained of herein are not isolated transgressions,
8 rather, they exemplify a course of conduct of wrongdoing.

9 190. For example, in **June 2012**, David Hyman sold his music-streaming business,
10 MOG, to Beats Music. As a condition of the acquisition, Beats required that Hyman and another
11 senior executive, T.J. Fowler, commit to remaining in executive positions at Beats. This
12 retention was to assuage concerns among Hyman’s roughly 40 “fiercely loyal” MOG employees
13 and to ensure that the bulk of them remained with Beats during the transition period and beyond.

14 191. Enticed by the offer of broad leadership responsibilities, a respectable salary and,
15 most importantly, the promise of substantial equity in Beats Music through a vesting schedule,
16 Hyman and his lieutenant agreed to move to Southern California to serve directly under Wood,
17 who also served as President of Beats Music.

18 192. Within a year, however, under false pretenses, Beats allegedly fired Hyman and
19 Fowler just before the first of their respective equity stakes vested. Hyman claims in the suit that
20 Beats dismissed him in bad faith, knowing that he would receive 2.5% of the Company under an
21 incentive plan based on the duration of his employment. The suit names Daisy LLC as a co-
22 defendant (Beats Music was code-named Project Daisy before its launch in **January 2008**).
23 Hyman claims that T.J. Fowler also was fired and deprived of his equity interest. According to
24 Hyman’s Complaint, it “was always [Beats’] plan, scheme and intent to induce” the two
25 executives to stay on in leadership capacities to allow Beats to acquire the company and its
26 close-knit, streamlined employee roster, only to jettison the pair in bad faith “at a seemingly
27 opportune juncture,” *i.e.*, before their equity vested. *See David Hyman v. Daisy LLC et al.*, Los
28 Angeles Superior Court, Case No. BC545798 (May 14, 2014). A true and correct copy of the
Hyman Complaint is attached hereto as **Exhibit 30**.

1 193. Defendants’ practice of corporate raiding does not end with Monster and Hyman.
2 Beats, Iovine, and Dre have faced multiple suits arising out of their dealings with Steven Lamar,
3 founder of SLS Audio. In 2006, after absconding with Lee’s vision and business plan for high-
4 performance headphones, Iovine and Dre met with Lamar about partnering in a business to
5 produce and sell celebrity endorsed high-performance headphones. According to the allegations
6 in *Jibe Audio, LLC et al. v. Pentagram Design, Inc. et al.*, Los Angeles Superior Court, Case No.
7 BC533089 (May 16, 2014), after orally agreeing to proceed in a joint venture, Lamar: (a)
8 identified and secured design firm Pentagram to help develop and design the headphones as well
9 as the associated packaging, logos, and trademarks; (b) identified and secured a Chinese
10 manufacturer to engineer and produce headphone prototypes; and (c) worked intimately with
11 both the designer and manufacturer over several months to ensure the project’s success. A true
12 and correct copy of the *Jibe Audio* Cross-Complaint is attached hereto as **Exhibit 31**.

13 194. After promising Lamar membership and royalty interests in Beats, Lamar alleges
14 that Iovine and Dre forced him to relinquish his leadership role in Beats and divested him of all
15 but a 2% membership interest in Beats – recoverable only through payments initially delivered to
16 Pentagram (the designer of the original “Beats By Dr. Dre” prototype). Still not satisfied, Beats,
17 Iovine, and Dre allegedly “surreptitiously negotiated” with Lamar’s former designer to hire him
18 away from Pentagram. At the same time, Lamar’s Cross-Complaint claims that Pentagram
19 assigned its royalty interest to a separate entity, apparently removing Pentagram from the
20 equation and “effectively cut[ting] [Lamar and his business interests] out of the royalty stream . .
21 . for [Defendants’] own benefit and to the detriment [of Lamar].” *Id.* at 9:6-13.

22 195. Pentagram and Hinrichs & Associates are also suing Beats, Iovine, and Dre for a
23 declaratory judgment to determine the extent to which Defendants have deprived it of profits due
24 under a 2007 global settlement. See *Hinrichs & Associates et al. v. Beats Electronics LLC et al.*,
25 Los Angeles Superior Court, Case No. BC533089 (January 13, 2014). A true and correct copy
26 of the *Hinrichs* Complaint is attached hereto as **Exhibit 32**.

27 196. This is to say nothing of Iovine’s more recent alleged practice of undermining less
28 powerful music partners in order to extract valuable products they had developed.

1 197. For example, in **2002**, independent record label JCOR filed a lawsuit which
2 exposed Iovine’s practice of withholding payments from cash-strapped independent labels with
3 which Interscope had distribution deals. *See JCOR Records, LLC v. Interscope Records, LLC*,
4 Los Angeles Superior Court, Case No. BC285692 (Nov. 20, 2002). A true and correct copy of
5 the *JCOR Records* Complaint is attached hereto as **Exhibit 33**.

6 198. Pursuant to this strategy, once the independent labels ran out of money and could
7 no longer pay artists they had spent years and untold resources developing into commercially
8 viable prospects, Iovine and Interscope would aggressively pursue and sign these artists away
9 from their smaller partners.

10 199. Following this pattern and practice, Defendants here defrauded Plaintiffs of
11 hundreds of millions of dollars. This lawsuit follows.

FIRST CAUSE OF ACTION

Fraud and Deceit

(By Plaintiff Monster Against Defendants Beats, Dre, Iovine, and Wachter)

15 200. Plaintiff Monster hereby realleges and incorporates herein by reference each and
16 every allegation in the paragraphs above as though fully set forth herein.

17 201. Beats, Dre, Iovine, and Wachter represented to Monster that HTC was entering
18 into a bona fide strategic partnership and investment in Beats, whereby HTC acquired a 51%
19 membership interest in Beats. In a **September 9, 2011** letter, Beats, Dre, Iovine, and Wachter
20 told Monster that the HTC transaction triggered the “Change of Control” Provision in the
21 Amended License Agreement and divested Monster of its license and business relationship with
22 Beats: “[T]he transaction with HTC will result in a ‘Change of Control’ . . . between Beats and
23 Monster, LLC” such that Beats will “provide notice to Monster no later than January 7, 2012 to
24 terminate the License Agreement in connection with the Change of Control.” *See **Exhibit 24***.

25 202. In or about **June 30, 2012** at Monster’s offices in San Mateo County, Wachter,
26 Wood, and Costello, acting as representatives of Beats, reiterated to representatives of Monster
27 that the HTC transaction would result in a “Change of Control” and coerced Monster to agree to
28 a transition plan that required Monster to hand over its international production and logistics

1 connections and, critically, hand over its domestic retailers and international distributors and
2 retailers, all at Monster's expense.

3 203. These representations were false. Indeed, in a **May 27, 2014** conversation in
4 Cambridge, Massachusetts, with Harvard Business School Professor and HTC Corporation
5 Board Member David Yoffie, Monster's David Tognotti and Leo Lin learned that Beats
6 orchestrated the HTC deal with one purpose: eliminate Monster. In an off-the-cuff remark,
7 Yoffie stated words to the effect: "Iovine, Dre, and Wachter took advantage of Lee and Monster,
8 utilizing HTC in a sham transaction to trigger the 'Change of Control' provision to get out of the
9 relationship with Monster."

10 204. Beats, Dre, Iovine, and Wachter knew these representations were false when they
11 made them and intended that Monster rely on the representations. Specifically, Beats, Dre,
12 Iovine, and Wachter knew that the HTC transaction was a sham and did not trigger the "Change
13 of Control" Provision in the Amended License Agreement and did not divest Monster of its
14 license and business relationship with Beats.

15 205. On **May 28, 2014**, at the Code Conference in Rancho Palos Verdes, CA, belying
16 the September 2013 statements of Wachter and Wood, Iovine and Apple Senior Vice President
17 Eddy Cue stated that the Apple-Beats deal was several years in the making.

18 206. Monster reasonably relied on the representations of Beats, Dre, Iovine, and
19 Wachter. Indeed, on **June 30, 2012**, Monster and Beats executed a series of agreements
20 memorializing the terms of a transition and separation. In signing these agreements, Monster
21 relied on the veracity of the HTC "Change of Control."

22 207. By triggering the Change of Control Provision in the Amended License
23 Agreement that divested Monster of its license and business relationship with Beats, Monster lost
24 millions. Monster's reliance on the truth of the representations by Beats, Dre, Iovine, and
25 Wachter was a substantial factor in causing its harm.

26 208. The conduct of Beats, Dre, Iovine, and Wachter was a substantial factor in
27 causing Monster to suffer damages, including, but not limited to, out-of-pocket losses, lost
28

1 interest, and fees and expenses, all in an amount to be determined according to proof at time of
2 trial.

3 209. The wrongful acts of Beats, Dre, Iovine, and Wachter, and each of them, were
4 done maliciously, oppressively, and with intent to defraud, and Monster is therefore entitled to
5 punitive and exemplary damages in an amount to be ascertained according to proof.

6 WHEREFORE, Monster prays for relief as set forth below.

7 **SECOND CAUSE OF ACTION**

8 **Fraud and Deceit**

9 **(By Plaintiff Lee Against Defendants Beats and Wachter)**

10 210. Plaintiff Lee hereby realleges and incorporates herein by reference each and every
11 allegation in the paragraphs above as though fully set forth herein.

12 211. In **September 2013**, Lee learned that Defendants Beats, Iovine, and Wachter
13 enlisted Carlyle to buyout HTC's remaining 25% interest in Beats. On September 13, 2013, as
14 part of this acquisition, Wachter called Lee to advise him of his supposed obligations as a 1.25%
15 shareholder. Wachter informed Lee that, pursuant to the promissory note from Lee to HTC
16 under the "Change of Control" deal, Lee would have to immediately pay HTC \$3 to \$5 million
17 to retain his 1.25% in Beats. That statement was false and Wachter knew it was false when he
18 made it.

19 212. In truth and as Wachter knew, any payment by Lee under the promissory note was
20 much closer to \$3 million, not \$5 million.

21 213. Alternatively, Wachter – feigning altruism – offered to cause Beats to purchase
22 Lee's remaining shares for approximately \$5.5 million. Weighing these two options, Lee asked
23 Wachter whether Beats had any liquidity events on the horizon: "Paul, if I retain my interest in
24 Beats, when do you think I can cash out?" Unflinching, Wachter responded: "There will be no
25 liquidity event in the next year or two; nothing is on the horizon." That statement was false and
26 Wachter knew it was false when he made it.

27 214. On **September 30, 2013**, Lee asked Luke Wood – Beats' President – whether
28 Beats had any liquidity events on the horizon. Echoing Wachter, Wood responded in a similar

1 fashion that no liquidity event was going to occur. That statement was false and Wood knew it
2 was false when he made it.

3 215. Wachter and Wood, on behalf of Beats, made the above statements to Lee
4 intending that he rely on them and immediately sell his remaining 1.25% interest in Beats.

5 216. Lee reasonably relied on the above statements as evidenced by the fact that he
6 sought out two directors and officers of Beats to determine whether any deal was on the horizon
7 and received the same answer from each executive. Further, as a Member of Beats, Lee was
8 entitled to rely on the truth and completeness of statements made to him by individuals who were
9 directors and officers of Beats. Based on these representations, Lee sold his remaining 1.25%
10 interest in Beats for approximately \$5.5 million.

11 217. In May 2014, less than eight months later, Lee learned through media reports that
12 Apple was acquiring Beats for a reported **\$3.2 billion**, Apple's largest acquisition as of that date.
13 Lee's 1.25% interest in Beats would have been worth in excess of **\$30 million**. Had Lee retained
14 his original 5% interest in Beats, his total stake in the Beats-Apple deal would have been worth
15 over **\$100 million**.

16 218. On May 28, 2014, belying the September 2013 statements by Wachter and Wood,
17 Apple Senior Vice President Eddy Cue and Iovine said the Apple-Beats deal was a decade in the
18 making. On information and belief, the deal work, including extensive due diligence by Apple,
19 was underway in September 2013 and Wachter and Wood – a Beats Board Member and Beats
20 President, respectively – knew and actively participated in the Apple-Beats deal, from inception
21 to execution. Accordingly, Lee's reliance on the representations of Beats, by Wachter and
22 Wood, was a substantial factor in causing his harm.

23 219. The conduct of Beats and Wachter was a substantial factor in causing Lee to
24 suffer damages, including, but not limited to, out-of-pocket losses, lost interest, and fees and
25 expenses, all in an amount to be determined according to proof at time of trial.

26 220. The wrongful acts of Beats and Wachter, and each of them, were done
27 maliciously, oppressively, and with intent to defraud, and Lee is therefore entitled to punitive
28 and exemplary damages in an amount to be ascertained according to proof.

1 WHEREFORE, Lee prays for relief as set forth below.

2 **THIRD CAUSE OF ACTION**

3 **Aiding and Abetting Fraud and Deceit**

4 **(By Plaintiff Monster Against HTC)**

5 221. Plaintiff Monster hereby realleges and incorporates herein by reference each and
6 every allegation in the paragraphs above as though fully set forth herein.

7 222. HTC knew that Beats, Dre, Iovine, and Wachter perpetrated a fraud against
8 Monster. Specifically, HTC knew the HTC-Beats deal was a sham transaction executed solely to
9 divest Monster of its business relationship with Beats. Indeed, in a **May 2014** conversation with
10 Monster's David Tognotti and Leo Lin, Harvard Business School Professor and HTC
11 Corporation Board Member David Yoffie admitted: "Iovine, Dre, and Wachter defrauded Lee
12 and Monster utilizing HTC in a sham transaction to trigger the 'Change of Control' provision to
13 get out of the relationship with Monster."

14 223. HTC gave substantial assistance and encouragement to Beats, Dre, Iovine, and
15 Wachter in perpetrating the fraud. In fact, during the time frame of **September 2011** to **June**
16 **2012**, at Monster's offices in Brisbane, CA, in negotiations to effect the transition and separation
17 of Monster and Beats, HTC employee Matthew Costello pressed Monster to agree to a transition
18 plan that required Monster to hand over its international production and logistics connections
19 and, critically, hand over its domestic retailers and international retailers and distributors, all at
20 Monster's expense.

21 224. HTC's conduct was a substantial factor in causing harm to Monster. Indeed, HTC
22 was instrumental in negotiating and finalizing the transition agreements that memorialized the
23 separation of Monster and Beats, causing Monster to sustain millions in damages.

24 225. The conduct of HTC was a substantial factor in causing Monster to suffer
25 damages, including, but not limited to, out-of-pocket losses, lost interest, and fees and expenses,
26 all in an amount to be determined according to proof at time of trial.

1 230. The parties' arrangements provided Defendants with the potential for
2 opportunism. In performing their responsibilities under the parties' various agreements,
3 Defendants knowingly undertook the duty of loyalty to act on behalf of and for the benefit of
4 Plaintiffs, and each of them, in light of the circumstances, purposes, and terms of the parties'
5 agreements. This duty of loyalty required Defendants, and each of them, to act primarily for the
6 benefit of Monster, where Defendants were to subordinate their interests to those of Monster.
7 The duty of loyalty also required Defendants, and each of them, to exercise discretion on behalf
8 of Monster concerning the headphones and related technology. Loyalty means that Defendants,
9 and each of them, were required to exercise reasonable care, skill, and caution in administering
10 business affairs concerning the "Beats By Dr. Dre" headphones and related technology.

11 231. In failing to properly exercise reasonable care, skill, and caution in administering
12 business affairs concerning the headphones and related technology, Defendants, and each of
13 them, breached the duty of loyalty owed to Monster and thereby breached their duty of trust and
14 confidence.

15 232. By virtue of their respective roles, as described above, Defendants set out to
16 create and did in fact create a special relationship of trust and confidence, and thereby owed
17 Monster a duty of trust and confidence.

18 233. Defendants, and each of them, breached their duties of trust and confidence by,
19 among other things, failing to represent and protect the interests of Monster concerning the
20 headphones and related technology.

21 234. Monster's reliance on Defendants was so substantial as to give rise to equitable
22 concerns.

23 235. Defendants' conduct was a substantial factor in causing Monster to suffer millions
24 of dollars of damages including, but not limited to, out-of-pocket losses, lost interest, and fees
25 and expenses, all in an amount to be determined according to proof at time of trial.

26 236. The acts of Defendants, and each of them, were done maliciously, oppressively,
27 and with the intent to defraud. Therefore, Monster is entitled to punitive and exemplary
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1 damages, pursuant to Section 3294 of the California Civil Code, in an amount to be shown
2 according to proof at the time of trial.

3 WHEREFORE, Monster prays for relief as set forth below.

4 **FIFTH CAUSE OF ACTION**

5 **Aiding and Abetting Breach of Duty of Trust and Confidence**

6 **(By Plaintiff Monster Against All Defendants)**

7 237. Plaintiff Monster hereby realleges and incorporates herein by reference each and
8 every allegation in the paragraphs above as though fully set forth herein.

9 238. One or more of Defendants had a duty of trust and confidence to Monster. To
10 induce Monster to enter into the arrangements concerning the headphones and other technology,
11 Defendants, directly and by and through authorized agents, made material misrepresentations to
12 Monster. Said misrepresentations included, but were not limited to, claims by Defendants that
13 they knowingly undertook the duty of loyalty to act on behalf of and for the benefit of Monster,
14 in light of the circumstances, purposes, and terms of the parties' agreements. This duty of
15 loyalty required one or more Defendants to act primarily for the benefit of Monster, where
16 Defendants were to subordinate their interests to those of Monster. The duty of loyalty also
17 required one or more Defendants to exercise discretion on behalf of Monster concerning the
18 headphones and related technology.

19 239. Defendants, and each of them, intended that Monster rely on the representations
20 of Defendants that they knowingly undertook the duty of loyalty to act on behalf of and for the
21 benefit of Monster, in light of the circumstances, purposes, and terms of the parties' agreements.
22 Monster did in fact rely on Defendants' representations by entering into the various
23 arrangements concerning the headphones and related technology. This reliance was justified and
24 reasonable in that, among other things, Monster on the one hand, and Beats, Dre, Iovine, and
25 Wachter, on the other hand, entered into a business relationship identical to a partnership and
26 reposed complete trust in each other.
27
28

1 “Change of Control” transaction and sudden 25% buyback by Beats, Lee was concerned that he
2 was being kept in the dark by Beats, Iovine, Dre, Wachter, and Wood about material aspects of
3 the business. As a direct result, fearful that he did not have the required transparency vis-à-vis
4 his investment in Beats, Lee reduced his interest in Beats from 5% to approximately 1.25%. Lee
5 retained this 1.25% interest so that he could profit from his hard work to create the “Beats By Dr.
6 Dre” products in any future acquisition or other liquidity event.

7 247. In **September 2013**, Lee learned that Beats, Iovine, Dre, Wachter, and Wood had
8 enlisted Carlyle to buyout HTC’s remaining 25% interest in Beats. HTC sold its remaining
9 shares in Beats back to Beats for \$265 million.

10 248. On **September 13, 2013**, as part of the Carlyle acquisition, Wachter called Lee to
11 advise him of his obligations as a 1.25% shareholder. Wachter informed Lee that, pursuant to a
12 promissory note from Lee to HTC as part of the “Change of Control” deal, Lee would have to
13 immediately pay HTC \$3 to \$5 million to retain his 1.25% in Beats. In truth and as Wachter
14 knew, any payment by Lee under the promissory note was much closer to \$3 million, not \$5
15 million. Wachter – feigning altruism – offered Lee an alternative: Lee could cause Beats to
16 purchase Lee’s remaining shares for gains of approximately \$5.5 million. Weighing these two
17 options, Lee asked Wachter whether Beats had any liquidity events on the horizon: “Paul, if I
18 retain my interest in Beats, when do you think I can cash out?” Unflinching, Wachter responded:
19 “There will be no liquidity event in the next year or two; nothing is on the horizon.”
20

21 249. On **September 30, 2013**, Lee asked Wood – Beats’ President – whether Beats had
22 any liquidity events on the horizon. Echoing Wachter, Wood gave a similar response, that there
23 will be no liquidity event in the near future.

24 250. Based on these representations, Lee sold his remaining 1.25% interest in Beats
25 back to Beats for approximately \$5.5 million.

26 251. In **May 2014**, less than eight months later, Lee learned that Apple was acquiring
27 Beats for a reported **\$3 billion**, Apple’s largest acquisition as of that date. Lee’s 1.25% interest
28 in Beats would have been worth in excess of **\$30 million**. Had Lee retained his original 5%

1 interest in Beats, his total stake in the Beats-Apple deal would have been worth over **\$100**
2 **million.**

3 252. On May 28, 2014, belying the September 2013 statements by Wachter and Wood,
4 Apple Senior Vice President Eddy Cue and Iovine stated the Apple-Beats deal was a decade in
5 the making. On information and belief, the deal negotiations, including extensive due diligence
6 by Apple, was underway in September 2013 and Wachter and Wood – a Beats Board Member
7 and Beats President, respectively – knew and actively participated in the Apple-Beats deal, from
8 inception to execution.

9 253. Beats, through Iovine, Dre, Wachter, and Wood, made these misrepresentations to
10 Lee to substantially increase their personal profits. Lee did not give his informed consent to this
11 misrepresentation and was harmed as a direct result. Beats, Iovine, and Wachter were a
12 substantial factor in causing Lee’s harm.

13 WHEREFORE, Lee prays for relief as set forth below.

14 **SEVENTH CAUSE OF ACTION**

15 **Aiding and Abetting Breach of Fiduciary Duty**

16 **(By Plaintiff Lee Against All Defendants)**

17 254. Plaintiff Lee hereby realleges and incorporates herein by reference each and every
18 allegation in the paragraphs above as though fully set forth herein.

19 255. Defendants, and each of them, knew that breaches of fiduciary duty were being
20 committed by Beats, Iovine, Dre, and Wachter against Lee.

21 256. Defendants, and each of them, gave substantial assistance and encouragement to
22 Beats, Iovine, Dre, and Wachter in perpetrating breaches of fiduciary duty against Lee.

23 257. Defendants’ conduct was a substantial factor in causing harm to Lee.

24 WHEREFORE, Lee prays for relief as set forth below.
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1 **EIGHTH CAUSE OF ACTION**

2 **Unfair Competition**

3 **(By Plaintiff Monster Against All Defendants)**

4 258. Plaintiff Monster hereby realleges and incorporates herein by reference each and
5 every allegation in the paragraphs above as though fully set forth herein.

6 259. By their wrongful conduct, as set forth above, Defendants, and each of them,
7 engaged in unfair and/or fraudulent acts in violation of section 17200 *et seq.* of the California
8 Business and Professions Code.

9 260. Defendants' practices are unfair and/or fraudulent business practices for the
10 reasons set forth below, without limitation:

- 11 • Defrauding Monster utilizing HTC in a sham "Change of Control" transaction to
12 freeze out Monster;
- 13 • Recruiting away high-level Monster employees to steal Monster trade secrets;
- 14 • Making significant misrepresentations during the negotiations surrounding the HTC
15 "Change of Control" transition, including, but not limited to, that HTC could not lend
16 money to Beats;
- 17 • Unfairly and falsely taking credit for the creation and success of the "Beats By Dr.
18 Dre" product line, including: allegedly creating the idea for premium headphones and
19 allegedly performing the engineering of the "Beats By Dr. Dre" product line. In
20 interviews with publications like the Wall Street Journal and on NBC News with
21 Special Anchor, Maria Shriver, and in speeches before consumer electronics groups,
22 Beats, through Iovine, Dre, Wachter, and Wood are improperly claiming that they
23 developed not only the "Beats By Dr. Dre" headphones, but also the supply, dealer,
24 and retail relationships necessary to make the product line a success;
- 25 • Unfairly and falsely covering up the role of Lee and Monster in successfully
26 spearheading all of the designing, engineering, manufacturing, producing, marketing,
27 and distributing of "Beats By Dr. Dre" products. Originally, "Beats By Dr. Dre" was
28

1 essentially a marketing label for a line of Monster headphones. Defendants set about
2 to re-create the history of the “Beats By Dr. Dre” brand without giving appropriate
3 credit to Lee or Monster, all the while using Monster’s funds to support their
4 marketing effort. Defendants built the Beats name on Monster’s back, and then
5 attempted to re-write history by erasing Lee and Monster’s names from the product’s
6 history;

- 7 • Unfairly and falsely attempting to create the false public view that Beats, not Lee and
8 Monster, was responsible for designing, engineering, manufacturing, production,
9 marketing, and distributing the “Beats By Dr. Dre” product line. In public statements
10 and interviews, even on the American Idol TV show, Iovine, Dre, Wachter, and
11 Wood assert that the entire success of the product line was due to Beats, giving no
12 credit to Lee or Monster; and
- 13 • Unfairly attacking Monster in meetings with Monsters’ sales representative and
14 dealers. Beats told Monster’s distributors and retailers to drop Monster headphones
15 as a product line, forcing them to choose between Beats and Monster. These sales
16 representative and dealers were the same distributors and retailers that Monster had
17 introduced to Beats. A senior Beats executive announced: “We are going to take
18 Monster down!”

19
20 261. As a result, Monster is entitled to injunctive relief to prevent these misstatements
21 from continuing to occur.

22 WHEREFORE, Monster prays for relief as set forth below.

23 **NINTH CAUSE OF ACTION**

24 **Violations of California Corporations Code §§ 25400 and 25500**

25 **(By Plaintiff Lee Against Defendants Beats, Iovine, and Wachter)**

26 262. Plaintiff Lee hereby realleges and incorporates herein by reference each and every
27 allegation in the paragraphs above as though fully set forth herein.

