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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

The NATIONAL FEDERATION OF THE
BLIND, The AMERICAN COUNCIL OF
THE BLIND, and DARRELL SHANDROW,

Plaintiffs,

vs.

The ARIZONA BOARD OF REGENTS and
ARIZONA STATE UNIVERSITY,

Defendants

Case No: 2:09-cv-01359-MHM

**MOTION FOR PRELIMINARY
INJUNCTION AND
MEMORANDUM IN SUPPORT
THEREOF**

Plaintiffs, the National Federation of the Blind, the American Council of the Blind, and Darrell Shandrow, move for a preliminary injunction. As set out in the accompanying Memorandum In Support, NFB, ACB and Mr. Shandrow move under Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, to enjoin Arizona State

University and the Arizona Board of Regents from implementing their program to provide inaccessible Kindle DX electronic books to ASU students for the Fall semester, starting August 24, 2009. The reasons for this motion are set forth in the accompanying memorandum..

MEMORANDUM OF POINTS AND AUTHORITIES

Arizona State University (“ASU”) plans this fall to give some students Kindle DX electronic book readers (“Kindle DX” or “Kindle”). Kindle DX menus are inaccessible to blind students and, therefore, deny blind students equal access to course materials in violation of Title II of the Americans with Disabilities Act of 1990 (“ADA”) and Section 504 of the Rehabilitation Act.

STATEMENT OF FACTS¹

On August 24, 2009, ASU, one of six schools using the Kindle DX in a pilot program, will offer Kindle DXs to students in the Human Event course, a required 2-semester course in the Barrett Honors College that covers a wide range of material from approximately 50 different sources, and other courses not yet identified.²

THE PARTIES

Darrell Shandrow is a blind junior enrolled in ASU’s journalism school. An accessible Kindle would give him the same access to textbooks as his sighted classmates. Instead, he will have to rely on ASU’s Disability Resource Center (“DRC”) for accessible-format textbooks, a significantly inferior alternative.

¹ Except for citations to publicly available sources, the Statement of Facts is based on testimony expected to be adduced at the motion hearing.

² See http://asunews.asu.edu/20090506_kindle.

The National Federation of the Blind (“NFB”), a national nonprofit membership organization with over 50,000 members, is recognized by the public, Congress, executive agencies of government, and the courts as a collective and representative voice of blind Americans and their families.³ NFB promotes the general welfare of blind people by assisting them in their efforts to integrate themselves into society on terms of equality and independence, and by removing barriers and changing social attitudes, stereotypes and mistaken beliefs about blindness that result in the denial of opportunity to blind people. NFB has affiliates in all 50 states, Washington, D.C., and Puerto Rico, and over 700 local chapters. Education of blind youth is a major focus of NFB, including scholarships, Braille literacy programs, a clearinghouse of information on science subjects and careers, and a collection of literature on education for blind students.

The American Council of the Blind (“ACB”) is a nonprofit membership organization with 51 state and regional affiliates and 20 national special interest and professional affiliates.⁴ ACB’s membership numbers in the tens of thousands, the vast majority of whom are blind. ACB’s mission is to improve the well-being of all blind and visually impaired people, elevate the social, economic and cultural levels of blind people, improve educational and rehabilitation facilities and opportunities, encourage and assist blind persons to develop their abilities, and conduct public education to promote greater understanding of blindness and the capabilities of blind people. Education is a major focus of ACB, including scholarships and advocacy for improved education and rehabilitation programs for blind people.

³ See www.nfb.org for more information.

⁴ See <http://www.acb.org/profile.html> for more information.

ASU, a public university with over 49,000 undergraduate and over 13,000 graduate students, has several campuses⁵ and an FY2009 budget of nearly \$1.8 billion.⁶ The Arizona Board of Regents (“Regents”) controls all Arizona public universities.⁷

The Kindle DX Offers a Better Reading Experience than Print Books, but only to Sighted Users.

An electronic book (“e-book”) is a digital file consisting of the content of a book formatted in an electronically readable code to be read on a dedicated device, personal computer, or smart phone. The e-book is not inherently visual, but can be read with a device that renders the code visually, aurally, or tactilely. Thus, e-books, themselves, are accessible to the blind, who can use aural or tactile senses to access the content, unless steps are taken to make them inaccessible.

The Kindle is a dedicated device that displays e-books on an electronic screen to simulate the experience of reading a print book. It also has a text-to-speech function that reads the content aloud; thus, if Kindle menus were accessible, blind students would also have access. The Kindle DX is one-third of an inch thick, weighs just over a pound, and holds over 3,500 books. “Kindle books and periodicals are much less expensive than their print versions.”⁸ Users can download books 24 hours a day in less than 60 seconds. The Kindle’s free web browser does not require an Internet connection.

Students using the Kindle have access to a search function, to the dictionary definition or Wikipedia information for any word; the ability to highlight, bookmark, and annotate text; and the ability to purchase books, newspapers and periodicals instantly

⁵ See http://uoia.asu.edu/files/quickfacts/Quick_Facts_Spring_2009.pdf.

⁶ See <http://budget.asu.edu/all-funds-budget-0>.

⁷ A.R.S. Const. Art. 11 § 5; A.R.S. § 15-101 et seq.

⁸ See <http://www.amazon.com/Kindle-DX-Amazons-Wireless-Generation/dp/B0015TCML0>.

from Amazon's Kindle Store. ASU touts the Kindle books' superior benefits: "Kindle delivered e-books would provide students with a cost savings and provide them with an additional flexible learning tool"⁹ and "Electronic texts provide the capabilities that today's students have come to expect -- they are searchable, flexible, easy to annotate, and cost less than traditional texts because they don't have to be printed and shipped."¹⁰

Kindle DX menus are inaccessible to the blind. The menus that allow a user to select a book, activate features, or set device settings, are on-screen only, with no audio option. Information such as power, battery and signal strength, are also only visually displayed. A student who cannot see the screen cannot know which book he has selected, the device settings, how to activate features (including the text-to-speech function), or navigate the on-screen menu. Without audible screen navigation, the Kindle DX web browser and shopping at the Kindle Store will also not work for blind students.¹¹

Not only is it impossible for the blind to use the Kindle, but because Kindle e-books are encrypted with Digital Rights Management software ("DRM") that prevents them from being read on devices lacking decryption software, blind students cannot read Kindle books on accessible devices, such as a computer with screen reading software. Were the Kindle accessible, blind and sighted students would have equal access to books—superior to what either has had in the past.

Access to Textual Information by Blind ASU Students is Significantly Inferior to that of Sighted Students.

⁹ See http://asunews.asu.edu/20090506_kindle.

¹⁰ *Id.*

¹¹ See http://s3.amazonaws.com/kindle/KindleDX_Quick_Start_Guide.pdf. See also http://s3.amazonaws.com/kindle/KindleDX_Users_Guide.pdf.

Blind ASU students usually get alternative format books through the Disability Resource Center (“DRC”), including “audio text, Braille, large print, tactile graphics, electronic-text, etc.,”¹² after a lengthy process:¹³

Textbook/print conversion is a time-intensive process, especially for technical subject matter, and can require up to four months (e.g., mathematics, science, foreign language texts) to complete. To facilitate the availability of these accommodations from the first day of class, students must enroll in classes during Priority Enrollment, provide qualifying disability documentation to the Disability Resource Center (DRC), meet the accommodation request deadlines, and follow specified procedures.¹⁴

Blind students “are assigned a priority enrollment appointment, must enroll within three days of their priority enrollment appointment, and must contact the DRC within 10 days of enrolling to facilitate accommodations from the first day of class.”¹⁵ New blind students “should attend an orientation session as early as possible upon admission to the university and complete all specified DRC procedures in order to facilitate the availability of alternative format accommodations as close to the first day of class as possible on a first-come, first-served basis.”¹⁶ Blind students cannot add courses later and count on having their books.

The reasons for this cumbersome process are several. Once DRC knows which classes blind students will be in, it must ask those professors for a reading list so it can begin to locate accessible texts. If, as is often the case, those texts are unavailable in accessible formats from the Library of Congress or other sources, DRC typically asks the publisher for an electronic file. Publishers are historically slow to respond to such

¹² http://www.asu.edu/studentaffairs/ed/drc/services_alternative.htm

¹³ See www.asu.edu/studentaffairs/ed/drc/services_alternative_format_procedure.htm.

¹⁴ University Student Initiatives Manual 701-07 (7/01/2008), <http://www.asu.edu/aad/manuals/usi/usi701-07.html>.

¹⁵ *Id.*

¹⁶ *Id.*

requests and, even when they have accessible versions, may instead send the book in an inaccessible format. At this point, the blind student typically purchases a print copy and brings it to DRC, which tears off the spine, scans the book, puts it through optical character recognition software and then delivers an electronic copy to the student.

Because of the unreliability of accessible format textbooks, the DRC specifically recommends that blind students “discuss the possibility of a reduced reading load.”¹⁷ Thus, ASU recognizes that blind students, using materials available from the DRC, cannot compete on an equal footing with nondisabled students.

Kindle Books are Significantly Superior to DRC-Provided Texts.

Braille textbooks, taped texts, or traditional electronic files provided to disabled students are inferior to Kindle books. Electronic files generated by DRC are often “text dumps” without sufficient structural data to ensure proper reading order if pages have columns and sidebars or to enable navigation (e.g. to footnote 9, page 9 or chapter 9). Conversion errors in the OCR process are frequent; (e.g. reading “i” as “l”). Kindle books, by contrast, are rich in structural data that make for easy navigation by blind and sighted students. Audio recordings are also inferior to the Kindle because the Kindle allows line-by-line navigation, the ability to search for words or phrases within the text, to review the spelling of words, and to control the reading speed. Traditional audio recordings are not easily searchable, their usefulness depends on the clarity and speed of the speaker, and they do not provide the spelling of words.

Furthermore, the four-month delay in providing alternative format books through DRC is not equivalent to the 60-second, 24-hour-a-day access to electronic books

¹⁷ *Id.*

afforded by the Kindle. Nor do DRC-generated books offer the many other features available on the Kindle, such as free instant access to dictionary definitions and encyclopedia entries for any word in the book, and the ability to highlight and annotate. Moreover, “Kindle books and periodicals are much less expensive than their print versions,”¹⁸ which the blind student must purchase as a condition of receiving an electronic file from DRC.¹⁹ The Kindle has a free web browser that is available nearly anywhere,²⁰ while students with disabilities must obtain separate Internet access, often at substantial expense. Finally, and most important, if the Kindle DX menus were accessible, blind students would have access to the self-contained text-to-speech version of their books. Accessing alternative versions of textbooks requires the blind student to purchase additional equipment and/or software.

ARGUMENT

A plaintiff seeking a preliminary injunction must establish that (1) he is likely to succeed on the merits, (2) he is likely to suffer irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in his favor, and (4) an injunction is in the public interest.²¹

Because Title II of the ADA and Section 504 Forbid Defendants’ Conduct Plaintiffs are Likely to Succeed on the Merits.

Title II of the ADA “extends the prohibition of discrimination in federally assisted programs established by section 504 of the Rehabilitation Act of 1973 to all activities of

¹⁸ See, e.g., Video Demonstration at <http://www.amazon.com/Kindle-DX-Amazon-Wireless-Generation/dp/B0015TCML0>

¹⁹ http://www.asu.edu/studentaffairs/ed/drc/services_alternative_format_procedure.htm.

²⁰ See, e.g., Video Demonstration at <http://www.amazon.com/Kindle-DX-Amazon-Wireless-Generation/dp/B0015TCML0>.

²¹ *Winter v. Natural Resources Defense Council, Inc.*, 129 S.Ct. 365, 374 (2008).

State and local governments.”²² Under either statute, in addition to proving that the defendant is a covered entity, plaintiffs must show that (1) they are disabled within the meaning of the relevant statute, (2) they are otherwise qualified, and (3) they were excluded from, denied the benefit of, or subject to discrimination under a program or activity.²³ As detailed below, Plaintiffs establish all of the required elements.

I. Defendants are Subject to Title II of the ADA and Section 504

Under Title II, a “public entity” is “(A) any State or local government; [or] (B) any department, agency, special purpose district, or other instrumentality of a State or States or local government....”²⁴ As a public state university, ASU is a public entity subject to Title II of the ADA. The Regents are also a state entity and, thus, a public entity subject to Title II. Because ASU receives federal financial assistance in the form of student financial aid and federal grants and contracts, from, among others, the U.S. Department of Education,²⁵ as do the Regents,²⁶ both are covered by Section 504.

II. Plaintiffs are Qualified Individuals with Disabilities or Organizations Whose Members Include Qualified Individuals with Disabilities.

As a blind student accepted for admission to ASU, Mr. Shandrow is protected under the ADA and Section 504.²⁷ NFB and ACB each have members who are blind high school and college students, who are eligible to matriculate at or transfer to ASU,

²² 28 C.F.R. Part 35, Summary; *see also* *Pierce v. County of Orange*, 526 F.3d 1190, 1217 n.27 (9th Cir. 2008).

²³ *See, e.g., Rodde v. Bonta*, 357 F.3d 988, 995 (9th Cir. 2004).

²⁴ 42 U.S.C. § 12131.

²⁵ 34 C.F.R. § 104.3(h). *See* <http://uoia.asu.edu/files/factbook/Resources07.pdf>. *See also, e.g.,* http://wdcrobcolp01.ed.gov/CFAPPS/grantaward/detail.cfm?detail_id=4780905 (2009 - \$285,000 from U.S. Department of Education for Special Education Personnel Preparation); http://wdcrobcolp01.ed.gov/CFAPPS/grantaward/detail.cfm?detail_id=4792943 (2009 - \$566,795 from U.S. Department of Education for TRIO-Upward Bound).

²⁶ *See, e.g.,* http://wdcrobcolp01.ed.gov/CFAPPS/grantaward/detail.cfm?detail_id=4789251 (2008 - \$296,846 from U.S. Department of Education for TRIO-Student Support Services).

²⁷ *See* 42 U.S.C. § 12102(2)(A); *see also* 34 C.F.R. § 104.3(j) (same); *see* 42 U.S.C. § 12112(a); *see also* 34 C.F.R. § 104.3(l)(3).

and who would be injured by ASU's discriminatory practices. In addition, as described in greater detail below, the NFB and ACB are "person[s] aggrieved" by Defendants' violations of Section 504 and the ADA.²⁸

III. Defendants' Kindle DX Program Discriminates Against Blind Students and Denies and Excludes them from the Benefits of the Program.

ASU's Kindle program excludes blind students because they cannot use the Kindle. Based on the plain language of both statutes – prohibiting discrimination on the basis of disability – Defendants are in violation.

The Department of Justice regulations implementing Title II of the ADA and those of the Department of Education implementing Section 504 provide that a covered entity may not, in providing a benefit or service, (1) deny participation, on the basis of disability, to a qualified individual; (2) afford him an unequal opportunity to participate; (3) provide a service that is not as effective in affording equal opportunity to obtain the same result, gain the same benefit or reach the same level of achievement; or (4) provide separate services, except when necessary to provide equally effective benefits or services.²⁹ ASU's program violates each of these provisions. Because Kindle DX menus are inaccessible, Defendants deny blind students access to the Kindle DX program itself and equal access to ASU courses in which the Kindle DX is deployed, afford them an unequal opportunity to participate, and unnecessarily provide them with a separate service that is not as effective. While nondisabled students may choose or be randomly selected not to receive a Kindle, ASU's decision to provide inaccessible technology forces blind students to use the less effective tool *on the basis of their disability*. Because the exclusion is disability-based, it is discriminatory.

²⁸ 29 U.S.C. § 794a(a)(2); 42 U.S.C. § 12133.

²⁹ 28 C.F.R. § 35.130(b)(1); 34 C.F.R. § 104.4(b)(1).

ASU cannot rely on DRC services as a separate solution. The legislative history of the ADA demonstrates that Congress expected covered entities' obligations to evolve as the technology they use evolves:

The Committee wishes to make it clear that technological advances can be expected to further enhance options for making meaningful and effective opportunities available to individuals with disabilities. Such advances may *require* public accommodations to provide auxiliary aids and services *in the future which today would not be required* because they would be held to impose undue burdens on such entities. Indeed, the Committee intends that the types of accommodation and services provided ...[under the ADA] should keep pace with the rapidly changing technology of the times.³⁰

ASU can no longer rely on the old, less effective methods of providing accessible textbooks now that it is adopting technologies that are inherently accessible.

Once people with disabilities can participate on the same terms, at the same time, and in the same way as everyone else, the rationale for separate access disappears.³¹ The Kindle DX's menus need not be inaccessible. These conditions are simply the result of choices made by Defendants and their licensee. Therefore, it is unnecessary for ASU to force blind students to rely on separate, different, and less effective means of accessing course materials. The text-to-speech technology that allows electronic devices to read menu options aloud is the same technology that allows the content of Kindle books to be read aloud. Text-to-speech technology has been available since the 1970s. Audio interfaces with electronic menu screens have long existed for electronic devices, including, among others, computers, Apple's iPod nano and iPhone 3GS, ATMs, and talking microwaves, calculators and thermometers.

³⁰ H.R. Rep. 101-485(II), at 108 (1990) (emphasis added). *See also* U.S. Department of Justice, "ADA Best Practices Tool Kit for State and Local Governments," Chapter 4(D): Beyond TTYs: Providing 9-1-1 and Emergency Services Via New Communication Technologies <http://www.ada.gov/pccatoolkit/chap4toolkit.htm>.

³¹ 28 C.F.R. § 35.130(b)(1)(iv); 34 C.F.R. § 104.44(d).

If it were necessary to provide blind students a different or separate service, it would have to be as effective as that provided to everyone else.³²

In construing the conditions under which communication is “as effective as” that provided to nondisabled persons, on several occasions [the Department of Education Office for Civil Rights] has held that the three basic components of effectiveness are timeliness of delivery, accuracy of the translation, and provision in a manner and medium appropriate to the significance of the message and the abilities of the individual with the disability.³³

DRC services fail in comparison to the Kindle DX on all three components.

Even when compared to the experience of sighted students with print textbooks, blind students relying on DRC services are placed significantly behind their nondisabled peers. With print textbooks, there was no other choice because they simply could not be made accessible without losing their fundamental nature. The advent of the Kindle DX will widen this gap even further, but the discrimination is not the result of necessity, but of ASU’s choice not to require Kindle DX readers to be accessible before adopting them.

Because Plaintiffs can establish all the elements of their claims, they are likely to prevail at trial.

Plaintiffs are Likely to Suffer Irreparable Injury if the Injunction is not Granted.

If ASU proceeds with its Kindle DX program beginning in the fall of 2009, blind students will suffer irreparable injury, both academic and dignitary. Because of his disability, Darrell Shandrow will be denied the opportunity that nondisabled students have to participate in ASU’s Kindle DX program. While students without disabilities in

³² 28 C.F.R. § 35.130(b)(1)(iv); 34 C.F.R. § 104.44(d).

³³ Letter of Findings, Department of Education Office for Civil Rights Docket No. 09-97-2002.RES, April 7, 1997, <http://uwctds.washington.edu/policy/09972002.RES.htm>.

the selected ASU classes will have the opportunity to choose or be selected to use a Kindle DX to access their textbooks, Mr. Shandrow will not. While his sighted classmates are receiving instant access to their textbooks and other materials, conducting ancillary research using the web browser or dictionary, highlighting and annotating their textbooks and taking notes on the Kindle, Mr. Shandrow will be wrestling with the delay and inaccuracy of materials from ASU's DRC. Before the Kindle, blind students were almost always behind their nondisabled peers. Now, when they could be equal, they will instead be further behind, relegated to inferior alternative versions of print books.

In addition, Mr. Shandrow will suffer the harm to his dignity of being excluded from a college program unnecessarily because of his disability.³⁴ ASU's decision to pursue its Kindle DX program despite the exclusion of blind students sends a message to Mr. Shandrow and others like him that their participation in the university is unwelcome and that their rights and needs do not matter, even though they pay the same tuition as nondisabled students.

NFB and ACB and their members will also suffer irreparable harm if the ASU Kindle DX program is allowed to continue without providing accessibility to blind students. Defendants' discrimination has caused both organizations to suffer drains on their resources, requiring both to devote resources to identify and counteract Defendants' discrimination, and the discrimination itself frustrates the missions of both organizations.³⁵ ASU's decision to proceed with an inaccessible program sends a clear message to NFB and ACB members that they are not welcome in college, that they

³⁴ See *Smith v. Pac. Properties and Dev't Corp.*, 358 F. 3d 1097, 1104 (9th Cir. 2004).

³⁵ *Havens Realty Corp. v. Coleman*, 455 U.S. 363, 379 (1982); *Fair Housing of Marin v. Combs*, 285 F.3d 899, 905 (9th Cir. 2002).

cannot expect to be treated equally in college, and that their desire to advance their education is not important. They will be discouraged from enrolling in ASU by the fact that Defendants do not consider their needs important. Moreover, the implementation of ASU's inaccessible Kindle DX program, if permitted to proceed by this court, legitimates the use of this inaccessible hardware in education, sending a message that equal access is not required. This will delay development of accessible menus on the Kindle DX and will encourage other colleges to provide inaccessible Kindle DX readers and similar devices to their students. Once this genie leaves the box, it will be hard to put it back.

NFB and ACB are organizations that work relentlessly to try to get blind students an even playing field, pressing the Library of Congress to provide certification standards for Braille instructors, cajoling legislatures and school districts for adequate funding for Braille education, asking state legislatures to adopt, as Arizona has, laws requiring entities like the Regents to purchase only accessible software,³⁶ lobbying Congress to pass laws requiring accessible college textbooks, and educating blind students about their rights and school disability student service offices about available technology. The adoption of new technology happens rapidly and once adopted, imitation follows. Since the Kindle 2 was introduced in February, two new e-book readers, both inaccessible, have come to market. ACB and NFB were founded to secure equal and independent access to the blind – to information, to education, to jobs, and to all the other opportunities afforded Americans. When Defendants, occupying positions of prominence and distracted by the appeal of new technology, choose to ignore the rights of their blind

³⁶ A.R.S. §41-3532 (Alternative Access to Electronic or Information Technology).

students, they encourage and, indeed, approve unlawful behavior by others that does great injury to the corporate mission of these organizations.

The Balance of Hardships Favors the Plaintiffs.

The balance of the likely hardships arising from issuance of the requested preliminary injunction strongly favors the Plaintiffs in this case. The likely harms to the Plaintiffs are set out above, while ASU would merely face retention of the status quo: its students will continue to rely on print textbooks, as do students at 2,600 other U.S. colleges and universities. ASU's use of the Kindle will be delayed only until the Kindle or a competitive device is accessible.

The Requested Preliminary Injunction is in the Public Interest.

The requested preliminary injunction serves the public interest in preventing discrimination against people with disabilities. Courts have consistently found that the public interest in combating disability discrimination justifies issuance of injunctions.³⁷

Bond Should be Waived or a Minimal Bond Set.

When Plaintiffs are public interest groups, the court has discretion to set a nominal or zero bond amount.³⁸ Factors are: (1) likelihood of harm to the enjoined party if injunction is later found erroneous; (2) hardship of a substantial bond amount on the plaintiff; and (3) whether a large amount would effectively limit access to judicial relief.

³⁷ See *Rush v. Nat'l. Bd. of Med. Examiners*, 268 F.Supp.2d 673, 679 (N.D.Tex., 2003); *Hornstine v. Township of Moorestown*, 263 F.Supp.2d 887, 912-13 (D.N.J.,2003); *Deck v. City of Toledo*, 29 F.Supp.2d 431, 434 (N.D. Ohio 1998).

³⁸ See *Save Our Sonoran, Inc. v. Flowers*, 408 F.3d 1113 (9th Cir. 2005) (noting "longstanding precedent that requiring minimal bonds is perfectly proper in public interest litigation"); *Van De Kamp v. Tahoe Reg. Planning Agency*, 766 F.2d 1319 (9th Cir. 1985) (no bond); *Center for Biological Diversity v. Stahn*, No. CV08-8030-PHX-MHM, 2008 WL 1701374 (D. Ariz. Apr. 10, 2008) (defendant requested \$100,000 bond, but court required \$5000); *Leiken v. Squaw Valley Ski Corp.*, Nos. CIV S-93-505 LKK, 8-93-1622 LKK, 1994 WL 494298 (E.D. Cal. June 28, 1994) ("token bond"); *Heather K. v. City of Mallard, Iowa*, 887 F. Supp. 1249 (N.D. Iowa) (bond waived).

CONCLUSION

For the reasons set forth herein, Plaintiffs respectfully request that Defendants be preliminarily enjoined from deploying the Kindle so long as it is inaccessible to the blind.

RESPECTFULLY SUBMITTED this 25th day of June, 2009.

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