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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

MATTHEW STEINER, individually,  
and on behalf of all others similarly  
situated,

Plaintiffs,

v.

SONOS, INC., and DOES 1-10,  
inclusive,

Defendant.

Case No. 2:19-cv-6289

**CLASS ACTION**

**DEFENDANT SONOS, INC.'S  
NOTICE OF REMOVAL OF  
ACTION PURSUANT TO 28 U.S.C.  
§§ 1331, 1332(d)(2), 1441, 1446, AND  
1453**

[Declaration of Neal R. Marder,  
Request for Judicial Notice, Civil  
Cover Sheet, Certification and Notice  
of Interested Parties, Notice of Related  
Case, and Notice of Pendency of Other  
Actions filed concurrently]

*(Superior Court of California, Los  
Angeles County, Case No.  
19STCV21795 – Assigned to Hon.  
Maren Nelson)*

Date Action Filed: June 21, 2019

1 TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE  
2 CENTRAL DISTRICT OF CALIFORNIA:

3 PLEASE TAKE NOTICE that Defendant Sonos, Inc. (“Sonos”) hereby removes  
4 to this Court the state action *Steiner v. Sonos, Inc.*, Case No. 19STCV21795 currently  
5 pending in Superior Court, County of Los Angeles, pursuant to 28 U.S.C. §§ 1331,  
6 1332(d)(2), 1367, 1441, 1446, and 1453. In support thereof, Sonos states as follows:

7 **BACKGROUND**

8 1. On May 30, 2019, Plaintiff Matthew Steiner (“Plaintiff” or “Steiner”) filed  
9 a putative class action in this Court against Sonos, captioned *Steiner v. Sonos, Inc.*, Case  
10 No. 2:19-cv-04719 (“*Steiner I*”). *Steiner I* alleged that Sonos intentionally caused  
11 thousands of its CR100 controllers to fail by implementing a software update on those  
12 controllers in 2018. Plaintiff brought *Steiner I* on behalf of a putative class defined as  
13 “[a]ll consumers who purchased, or otherwise own, a Sonos CR100 Controller.” *Steiner*  
14 *I*, Dkt. 1 ¶ 29; *see also* Request for Judicial Notice Ex. A (*Steiner I* Complaint). *Steiner*  
15 *I* asserted six causes of action against Sonos: (1) violation of the Unfair Business  
16 Practices Act, Cal. Bus. & Prof. Code §§ 17200 *et seq.*; (2) violation of California  
17 Consumer Legal Remedies Act, Cal. Civ. Code §§ 1750 *et seq.*; (3) violation of the  
18 Computer Fraud and Abuse Act (“CFAA”), 18 U.S.C. § 1030, *et seq.*; (4) violation of  
19 the California Computer Crime Law, Cal. Penal Code § 502; (5) trespass to chattels; and  
20 (6) conversion. *Steiner I*, Dkt. 1.

21 2. In the *Steiner I* complaint, Plaintiff alleged that this Court “has subject  
22 matter jurisdiction over this action under the Class Action Fairness Act of 2005, 28  
23 U.S.C. § 1332(d), because (a) at least one member of the Class is a citizen of a state  
24 different from Sonos, (b) the amount in controversy exceeds \$5,000,000, exclusive of  
25 interest and costs, (c) the Class includes more than 100 members, and (d) none of the  
26 exceptions under the subsection apply to this action.” *Steiner I*, Dkt. 1 ¶ 4.

1           3.     On June 5, 2019, *Steiner I* was assigned to District Court Judge Percy  
2 Anderson. *Steiner I*, Dkt. 7. Later that same day, Plaintiff dismissed *Steiner I* without  
3 prejudice. *Id.* Dkt. 10.

4           4.     On June 21, 2019, Plaintiff filed this putative class action in Los Angeles  
5 Superior Court, *Steiner v. Sonos, Inc.*, Case No. 19STCV21795 (“*Steiner II*”). *Steiner II*  
6 made substantially identical factual allegations against Sonos as *Steiner I*, and was  
7 brought on behalf of an identically defined class. Specifically, both *Steiner I* and *Steiner*  
8 *II* alleged that Sonos “implement[ed] a software update [for] CR100 Controllers” that  
9 caused the controllers to “fail,” and that Sonos did so “as a means of gaining an  
10 advantage over its competition in the market by rendering the devices inoperable and  
11 forcing consumers to purchase replacement devices.” *Steiner I*, Dkt. 1 ¶ 1; *Steiner II*  
12 Complaint ¶ 1. In fact, the *Steiner II* complaint largely copied and pasted the factual  
13 allegations of *Steiner I*. Compare *Steiner I*, Dkt. 1 ¶¶ 1-3, 6-11, 13-28, with *Steiner II*  
14 Complaint ¶¶ 1-3, 7-28. The *Steiner II* complaint asserted the same six causes of action  
15 as *Steiner I*, including a claim under the federal CFAA. *Steiner II* Complaint ¶¶ 52-116.

16           5.     On June 25, 2019, Sonos was served with the Summons, Complaint, Civil  
17 Case Cover Sheet, Notice of Case Assignment, and certain other court forms pertaining  
18 to *Steiner II*. Declaration of Neal Marder (“Marder Decl.”) ¶ 3. There have been no  
19 further proceedings in this action and no other pleadings have been filed and served  
20 upon or by Sonos in this action. *Id.*

21           6.     This Notice of Removal is filed within thirty (30) days of the completion of  
22 service, and is therefore timely. See 28 U.S.C. § 1446(b).

23           **FEDERAL QUESTION JURISDICTION UNDER 28 U.S.C. § 1331**

24           7.     Under 28 U.S.C. § 1441(a), a defendant may remove to federal district  
25 court “any civil action brought in a State court of which the district courts of the United  
26 States have original jurisdiction.” This Court has original jurisdiction over *Steiner II*  
27 because the case “arises under the . . . laws . . . of the United States,” specifically the  
28 Computer Fraud and Abuse Act (“CFAA”), 18 U.S.C. § 1030.

1           8.       This Court may exercise supplemental jurisdiction over the state law causes  
 2 of action alleged in *Steiner II* pursuant to 28 U.S.C. § 1367(a). The state law claims  
 3 constitute the same “case or controversy” as the claim brought under the CFAA. In  
 4 support of his CFAA claim, Plaintiff alleges that “[b]y implementing its software, Sonos  
 5 intentionally accessed [CR100 controllers] without authorization, and as a result of that  
 6 conduct, caused or recklessly caused damage or loss to those [devices].” *Steiner II*, Dkt.  
 7 1 ¶ 89. This same allegation, or similar allegations, forms the basis of Plaintiff’s state  
 8 law claims as well. *See, e.g., id.* ¶ 56 (UCL claim premised on allegation that Sonos  
 9 “forcibly modif[ied] Plaintiff’s and Class members’ devices”); *id.* ¶ 98 (California  
 10 Penal Code § 502 claim premised on allegation that “Sonos implemented this software  
 11 update knowingly and without permission from Plaintiff and Class members”); *id.* ¶¶  
 12 108, 114 (trespass and conversion claims premised on allegations that Sonos wrongfully  
 13 “interfered with” and “exercised dominion and control over” CR100 controllers).  
 14 Because all of the claims relate to the allegation that Sonos intentionally caused  
 15 thousands of CR100 controllers to fail by implementing a software update on those  
 16 controllers in 2018, the federal and state claims share a common nucleus of operative  
 17 facts.

#### 18       **DIVERSITY JURISDICTION UNDER THE CLASS ACTION FAIRNESS ACT**

19           9.       In addition to this Court having jurisdiction based on the fact that this  
 20 action arises under federal law, the Court also has jurisdiction on account of diversity of  
 21 citizenship pursuant to the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1332(d).

22           10.       Under CAFA, this Court has original jurisdiction over a putative class  
 23 action if (1) it involves 100 or more putative class members, (2) any class member is a  
 24 citizen of a state different from any defendant, and (3) the aggregated amount in  
 25 controversy exceeds \$5 million (exclusive of costs and interest). *See* U.S.C. §§  
 26 1332(d)(2), (d)(5), and (d)(6). These requirements are satisfied here.

27           11.       Class Size. Without conceding that Plaintiff can certify a class of any size  
 28 or that he can properly represent the putative class, Sonos avers, for purpose of this

1 Notice only, that the putative class size exceeds 100 class members. Plaintiff in *Steiner*  
2 *II* seeks to represent a class of “[a]ll consumers who purchased, or otherwise own, a  
3 Sonos CR100 Controller.” According to Plaintiff’s allegations in both *Steiner I* and  
4 *Steiner II*, the putative class exceeds 100 members because the number of sales of Sonos  
5 CR100 controllers allegedly far exceeded that number. Plaintiff alleges in both of his  
6 complaints that “the proposed class is composed of thousands of persons.” *Steiner I*,  
7 Dkt. 1 ¶ 34; *Steiner II* Complaint ¶ 33.

8 12. Diversity of Citizenship. “[U]nder CAFA, complete diversity is not  
9 required; ‘minimal diversity’ suffices.” *Serrano v. 180 Connect, Inc.*, 478 F.3d 1018,  
10 1021 (9th Cir. 2007). Minimal diversity exists if any class member is a citizen of a state  
11 different from any defendant. 28 U.S.C. § 1332(d)(2).

12 13. Sonos is a citizen of Delaware and California. “[A] corporation shall be  
13 deemed to be a citizen of every State . . . by which it has been incorporated and of the  
14 State where it has its principal place of business.” 28 U.S.C. § 1332(c)(1). Sonos is  
15 organized and incorporated under the state of Delaware, and has its principal place of  
16 business in California. *Steiner II* Complaint ¶¶ 5, 8; Request for Judicial Notice Ex. B.

17 14. At least one putative class member is a citizen of a state other than  
18 California or Delaware. Plaintiff alleges that Sonos CR100 controllers were sold all  
19 over the country, and are currently owned by some individuals in states other than  
20 California and Delaware. *See Steiner II* Complaint ¶¶ 1, 21 (alleging that CR100  
21 controllers “across the country” and “throughout the United States” were affected).

22 15. Accordingly, minimal diversity exists because Sonos is a citizen of  
23 Delaware and California, and at least one class member is a citizen of a state other than  
24 Delaware or California.

25 16. Amount in Controversy. Without conceding that Plaintiff can prove his  
26 claims or that he can properly represent the putative class, Sonos avers, for purpose of  
27 this Notice only, that Plaintiff’s claims place more than \$5 million in controversy. “The  
28 amount in controversy is simply an estimate of the total amount in dispute, not a

1 prospective assessment of [the] defendant’s liability.” *Lewis v. Verizon Commc’ns, Inc.*,  
2 627 F.3d 395, 400 (9th Cir. 2010) (on removal, defendant does not “concede liability for  
3 the entire amount” alleged in complaint). As the U.S. Supreme Court has held, a  
4 defendant’s notice of removal need only include a plausible allegation that the amount  
5 in controversy exceeds the jurisdictional threshold. *Dart Cherokee Basin Operating Co.*  
6 *v. Owens*, 135 S. Ct. 547, 549, 554 (2014). Moreover, the Ninth Circuit has instructed  
7 that removal is proper if, from the allegations of the complaint and the notice of  
8 removal, it is more likely than not that the amount in controversy exceeds \$5 million.  
9 *Rodriguez v. AT&T Mobility Servs., Inc.*, 728 F.3d 975, 981 (9th Cir. 2013) (overturning  
10 previous Ninth Circuit precedent requiring proof of amount in controversy to a “legal  
11 certainty” under some circumstances). This standard is satisfied here, and the amount in  
12 controversy exceeds \$5 million.

13 17. As an initial matter, Plaintiff acknowledged in his complaint in *Steiner I*  
14 that “the amount in controversy exceeds \$5,000,000, exclusive of interest and costs.”  
15 *Steiner I*, Dkt. 1 ¶ 4. A statement made in an earlier pleading is admissible evidence as  
16 an admission by an opposing party. *Huey v. Honeywell, Inc.*, 82 F.3d 327, 333 (9th Cir.  
17 1996).

18 18. On behalf of a putative class, Plaintiff seeks to recover, among other things:  
19 (1) restitution or actual damages to Plaintiff and class members; (2) trebled damages; (3)  
20 punitive damages; and (4) injunctive and declaratory relief. *Steiner II* Complaint ¶¶  
21 117-124. Plaintiff alleges that as a result of Sonos’s intentional conduct, “thousands of  
22 [Sonos controllers] throughout the United States simultaneously failed.” *Id.* ¶ 21.  
23 Plaintiff alleges that Sonos “wrongfully and intentionally interfered with Plaintiff’s and  
24 Class members’ ownership, possession, and use of their [controllers], by programming,  
25 distributing, and remotely activating a software update that disabled [the controllers]  
26 and rendered [them] unusable.” *Id.* ¶ 108. Plaintiff also alleges that “[t]he purpose of  
27 Sonos’ update was to . . . induce more consumers to buy newer and higher-priced Sonos  
28 products. *Id.* ¶ 26.



1 19. Even putting aside Plaintiff's *admission* that the amount in controversy  
2 exceeds \$5 million, the above allegations demonstrate that the amount in controversy  
3 standard is met. When considering that Plaintiff also asserts claims for his attorneys'  
4 fees under the CLRA, punitive damages, and injunctive relief, it is even more apparent  
5 that Plaintiff's claims in this case place more than \$5 million in controversy. *See*  
6 *Fritsch v. Swift Transportation Co. of Arizona, LLC*, 899 F.3d 785, 794 (9th Cir. 2018)  
7 (court must include attorneys' fees recoverable by statute or contract when assessing  
8 whether amount-in-controversy requirement under CAFA is met). Accordingly, the  
9 amount in controversy requirement is satisfied. *See Guglielmino v. McKee Foods Corp.*,  
10 506 F.3d 696, 700-01 (9th Cir. 2007) (remand denied under preponderance of the  
11 evidence standard where defendant's conservative estimates exceeded the requisite  
12 amount).

13 20. There are no grounds that would justify this Court in declining to exercise  
14 its jurisdiction pursuant to 28 U.S.C. § 1332(d)(3) or that would require it to decline to  
15 exercise jurisdiction pursuant to 28 U.S.C. § 1332(d)(4).

16 **VENUE**

17 21. The United States District Court for the Central District of California is the  
18 judicial district embracing the place where this action was filed by Plaintiff and thus is  
19 the appropriate court for removal pursuant to 28 U.S.C. § 1441(a).

20 **CONCLUSION**

21 WHEREFORE, Sonos requests that the above action now pending against it in  
22 the Superior Court, County of Los Angeles, be removed to this Court.

23 Dated: July 22, 2019

24 **AKIN GUMP STRAUSS HAUER &**  
25 **FELD LLP**  
26 NEAL ROSS MARDER  
JHYONGSOON KIM  
JOSHUA A. RUBIN

27 By \_\_\_\_\_ /s/ Neal R. Marder  
Neal R. Marder  
28 Attorneys for Defendant SONOS, INC.

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15 UNITED STATES DISTRICT COURT  
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17 MATTHEW STEINER, individually,  
18 and on behalf of all others similarly  
19 situated,

20 Plaintiffs,

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22 SONOS, INC., and DOES 1-10,  
23 inclusive,

24 Defendants.

Case No. 2:19-cv-6289

**DECLARATION OF NEAL R.  
MARDER IN SUPPORT OF  
DEFENDANT SONOS, INC.’S  
NOTICE OF REMOVAL**

[Notice of Removal, Request for  
Judicial Notice, Civil Cover Sheet,  
Certification and Notice of Interested  
Parties, Notice of Related Case, and  
Notice of Pendency of Other Actions  
filed concurrently]

*(Superior Court of California, Los  
Angeles County, Case No.  
19STCV21795 – Assigned to Hon.  
Maren Nelson)*

Date Action Filed: June 21, 2019