

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

AVNET, INC. and BSP SOFTWARE LLC,

Plaintiffs,

vs.

MOTIO, INC.,

Defendant

Case No. 1:12-cv-02100

Honorable Judge Joan H. Lefkow
Magistrate Judge Sidney I. Schenkier

JURY TRIAL DEMANDED

AMENDED COMPLAINT

1. Plaintiff, Avnet, Inc. (“Avnet”), is a New York corporation with its principal place of business at 2211 South 47th Street, Phoenix, Arizona 85034.

2. Plaintiff, BSP Software LLC (“BSP”), is an Illinois limited liability company with its principal place of business at 1701 Golf Road, 3-604, Rolling Meadows, Illinois 60008. Avnet acquired BSP in October 2012 via an equity purchase. As a result of the purchase, Avnet has obtained all rights, title, and interest in and to BSP’s intellectual property, including the patents-in-suit.

3. On information and belief, Defendant Motio, Inc. (“Motio”), is a Texas corporation with its principal place of business at 18333 Preston Road, Suite 475, Dallas, Texas 75252.

4. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. As alleged herein, Motio has infringed (literally and/or by equivalents), and is continuing to infringe, Avnet's patents by making, using, importing, selling, and/or offering to sell products covered by one or more patent claims of Avnet's patents – or by performing any method claimed therein – within the United States, and/or by contributing to or inducing such infringement.

6. Among many other things, Avnet, through its wholly owned subsidiary BSP, develops and sells business intelligence software solutions, including products for enhancing and/or extending the Cognos software provided by International Business Machines Corporation ("IBM").

7. Motio is a software company which also develops and sells business intelligence software solutions, including products for enhancing and/or extending IBM's Cognos software such as Motio's MotioCI and MotioPI products.

8. U.S. Patent No. 7,945,589 claims systems and methods for integrating change management in a business intelligence system.

9. U.S. Patent No. 8,073,863 claims systems and methods for batch management of metadata in a business intelligence system.

10. Avnet, through its subsidiary BSP, informed Motio of its rights to U.S. Patent No. 7,945,589 patent at least as early as June 3, 2011 and of its right to U.S. Patent No. 8,073,863 at least as early as January 27, 2012.

COUNT I

(INFRINGEMENT OF U.S. PATENT NO. 7,945,589)

11. Avnet incorporates by reference paragraphs 1-10 as if fully set forth herein.

12. On May 17, 2011, United States Patent No. 7,945,589 ("the '589 patent") entitled "Integrated Change Management in a Business Intelligence Environment" was duly and legally

issued to BSP, with Andrew D. Weiss and Andrew G. Rachmiel as inventors. Avnet is the owner of all right, title, and interest in and to the '589 patent. A copy of the '589 patent is attached as Exhibit A.

13. On information and belief, Motio has infringed and is infringing one or more of the claims of the '589 patent, either literally and/or under the doctrine of equivalents, directly and/or indirectly.

14. On information and belief, Motio has infringed (literally and/or by equivalents), and is continuing to infringe, the '589 patent by providing, installing, making, using and/or selling Motio's MotioCI product within the United States, and/or by contributing to or inducing such infringement by others, by providing, installing, making, using and/or selling Motio's MotioCI product in the United States, with the intent to cause infringement of the '589 patent.

15. On information and belief, Defendant's infringement of the '589 patent is and has been willful, has caused and will continue to cause Avnet to suffer substantial damages, and has caused and will continue to cause Avnet to suffer irreparable harm for which there is no adequate remedy at law.

COUNT II

(INFRINGEMENT OF U.S. PATENT NO. 8,073,863)

16. Avnet incorporates by reference paragraphs 1-15 as if fully set forth herein.

17. On December 6, 2011, United States Patent No. 8,073,863 ("the '863 patent") entitled "Batch Management of Metadata in a Business Intelligence Architecture" was duly and legally issued to BSP, with Andrew G. Rachmiel, Neil P. Morgan, and Dariusz Danielewski as inventors. Avnet is the owner of all right, title, and interest in and to the '863 patent. A copy of the '863 patent is attached as Exhibit B.

18. On information and belief, Motio has infringed and is infringing one or more of the claims of the '863 patent, either literally and/or under the doctrine of equivalents, directly and/or indirectly.

19. On information and belief, Motio has infringed (literally and/or by equivalents), and is continuing to infringe, the '863 patent by providing, installing, making, using and/or selling Motio's MotioPI and/or MotioPI Pro products within the United States, and/or by contributing to or inducing such infringement by others, by providing, installing, making, using and/or selling Motio's MotioPI and MotioPI Pro products in the United States, with the intent to cause infringement of the '863 patent.

20. On information and belief, Defendant's infringement of the '863 patent is and has been willful, has caused and will continue to cause Avnet to suffer substantial damages, and has caused and will continue to cause Avnet to suffer irreparable harm for which there is no adequate remedy at law.

DEMAND FOR JURY TRIAL

21. Avnet hereby demands a jury trial on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Avnet respectfully requests that this Court enter judgment in its favor and grant the following relief:

A. A judgment that Motio has directly infringed the asserted claims of '589 patent, contributorily infringed the '589 patent, and/or induced infringement of the '589 patent;

B. A judgment that Motio has directly infringed the asserted claims of '863 patent, contributorily infringed the '863 patent, and/or induced infringement of the '863 patent;

C. A permanent injunction enjoining Motio and its affiliates, subsidiaries, officers, directors, employees, agents, representatives, licensees, successors, assigns, and all those acting for any of them or on their behalf, or acting in concert with them, from further infringement of the '589 and '863 patents;

- D. A judgment that Motio's infringement has been willful;
- E. An award of attorneys' fees incurred in prosecuting this action, on the basis that this is an exceptional case;
- F. A judgment and order requiring Motio to pay Avnet damages under 35 U.S.C. § 284, including supplemental damages for any continuing post-verdict infringement up until entry of the final judgment, with an accounting, as needed, and treble damages for willful infringement as provided by 35 U.S.C. § 284;
- G. A judgment and order requiring Motio to pay Avnet the costs of this action (including all disbursements);
- H. A judgment and order requiring Motio to pay Avnet pre-judgment and post-judgment interest on the damages awarded; and
- I. Further relief as the Court may deem just and proper.

Respectfully submitted,

Dated: July 23, 2013

/s/ Scott R. Kaspar

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CERTIFICATE OF SERVICE

I, Scott R. Kaspar, an attorney, hereby certify that on July 23, 2013, I caused to be filed electronically AMENDED COMPLAINT with the Clerk of the Court using the CM/ECF system, which will send an electronic copy of the foregoing to counsel of record and constitutes service under Federal Rule of Civil Procedure 5(b)(2)(D) pursuant to Local Rule 5.9 of the Northern District of Illinois.

/s/ Scott R. Kaspar
Scott R. Kaspar