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11 Attorneys for Plaintiff
12 SOFTVAULT SYSTEMS, INC.

13 **UNITED STATES DISTRICT COURT**
14 **NORTHERN DISTRICT OF CALIFORNIA**
15 **SAN JOSE DIVISION**

16 SOFTVAULT SYSTEMS, INC.,
17
18 Plaintiff,
19 vs.
20 TREND MICRO INCORPORATED,
21 Defendant.

CASE NO. CV-13-03086 HRL

**COMPLAINT FOR INFRINGEMENT
OF U.S. PATENT NOS. 6,249,868 AND
6,594,765**

JURY TRIAL DEMANDED

1 Plaintiff SOFTVAULT SYSTEMS, INC. files its Complaint against Defendant TREND
2 MICRO INCORPORATED, alleging as follows:

3 **THE PARTIES**

4 1. Plaintiff SOFTVAULT SYSTEMS, INC. (“SoftVault”) is a corporation organized
5 and existing under the laws of the State of Washington with its principle place of business in the
6 State of Washington.

7 2. Upon information and belief TREND MICRO INCORPORATED (“TREND
8 MICRO”) is a corporation organized and existing under the laws of the State of California, with
9 its principal place of business in Cupertino, California. TREND MICRO may be served with
10 process through its registered agent Jorge Young, 10101 N. De Anza Boulevard, Cupertino, CA
11 95014.

12 **JURISDICTION AND VENUE**

13 3. This is an action for infringement of United States patents. This Court has
14 exclusive jurisdiction of such action under Title 28 U.S.C. § 1338(a).

15 4. Upon information and belief, TREND MICRO is subject to personal jurisdiction
16 by this Court. TREND MICRO has committed such purposeful acts and/or transactions in the
17 State of California that it reasonably knew and/or expected that it could be haled into a
18 California court as a future consequence of such activity. TREND MICRO makes, uses, and/or
19 sells infringing products within the Northern District of California and has a continuing presence
20 and the requisite minimum contacts with the Northern District of California, such that this venue
21 is a fair and reasonable one. Upon information and belief, TREND MICRO has transacted and,
22 at the time of the filing of this Complaint, is continuing to transact business within the Northern
23 District of California. For all of these reasons, personal jurisdiction exists and venue is proper in
24 this Court under 28 U.S.C. §§ 1391(b)(1), (2) and (c)(2) and 28 U.S.C. § 1400(b).

25 **PATENTS-IN-SUIT**

26 5. On June 19, 2001, United States Patent No. 6,249,868 BI (“the ‘868 Patent”) was
27 duly and legally issued for “METHOD AND SYSTEM FOR EMBEDDED, AUTOMATED,
28 COMPONENT-LEVEL CONTROL OF COMPUTER SYSTEMS AND OTHER COMPLEX

1 SYSTEMS.” A true and correct copy of the ‘868 Patent is attached hereto as Exhibit A and
2 made a part hereof.

3 6. On July 15, 2003, United States Patent No. 6,594,765 B2 (“the ‘765 Patent”) was
4 duly and legally issued for “METHOD AND SYSTEM FOR EMBEDDED, AUTOMATED,
5 COMPONENT-LEVEL CONTROL OF COMPUTER SYSTEMS AND OTHER COMPLEX
6 SYSTEMS.” A true and correct copy of the ‘765 Patent is attached hereto as Exhibit B and
7 made a part hereof.

8 7. The ‘868 Patent and the ‘765 Patent are sometimes referred to herein collectively
9 as “the Patents-in-Suit.”

10 8. As it pertains to this lawsuit, the Patents-in-Suit, very generally speaking, relate to
11 a method and system of protecting electronic, mechanical, and electromechanical devices and
12 systems, such as for example a computer system, and their components and software from
13 unauthorized use. Specifically, certain claims of the ‘868 and ‘765 Patents disclose the
14 utilization of embedded agents within system components to allow for the enablement or
15 disablement of the system component in which the agent is embedded. The invention disclosed
16 in the Patents-in-Suit discloses a server that communicates with the embedded agent through the
17 use of one or more handshake operations to authorize the embedded agent. When the embedded
18 agent is authorized by the server, it enables the device or component, and when not authorized
19 the embedded agent disables the device or component.

20 **FIRST CLAIM FOR RELIEF**

21 **(Patent Infringement)**

22 9. SoftVault repeats and realleges every allegation set forth above.

23 10. SoftVault is the owner of the Patents-in-Suit with the exclusive right to enforce
24 the Patents-in-Suit against infringers, and collect damages for all relevant times, including the
25 right to prosecute this action.

26 11. Upon information and belief, TREND MICRO is liable under 35 U.S.C. §271(a)
27 for direct infringement of the Patents-in-Suit because it manufactures, makes, has made, uses,
28

1 practices, imports, provides, supplies, distributes, sells, and/or offers for sale products and/or
2 systems that practice one or more claims of the Patents-in-Suit.

3 12. More specifically, TREND MICRO infringes the Patents-in-Suit because it
4 makes, uses, sells, and offers for sale products and systems which prevent unauthorized use of a
5 computer system through the ability to enable or disable the operation of a device's components
6 through an authorization process performed by an embedded agent in the component device and
7 a server. By way of example only, TREND MICRO's Trend Micro Mobile Security system, at a
8 minimum, in the past directly infringed and continues to directly infringe at least claims 1 and 44
9 of the '868 Patent, as well as at least claim 9 of the '765 Patent.

10 13. TREND MICRO's Trend Micro Mobile Security system includes the capability to
11 enable or disable a mobile device, such as a laptop or smart phone, to prevent misuse of the
12 system by rogue devices and/or rogue servers. The Trend Micro Mobile Security system
13 includes an agent (the "Mobile Device Agent") that is installed on a mobile device and
14 communicates with a Mobile Device Management server (the "Master Server"). This
15 communication includes a series of message exchanges constituting a handshake operation
16 between the Mobile Device Agent and the Master Server. Through these exchanges the Master
17 Server and Mobile Device Agent can mutually authenticate one another, resulting in the
18 authorization of a device in which the Mobile Device Agent is embedded. When the agent is
19 authorized by the server, the mobile device operates normally and when the agent is not
20 authorized, the mobile device is remotely locked and disabled.

21 14. TREND MICRO has actual notice of the Patents-in-Suit at least as early as the
22 filing of this Complaint.

23 15. SoftVault has been damaged as a result of TREND MICRO's infringing conduct.
24 TREND MICRO is, thus, liable to SoftVault in an amount that adequately compensates
25 SoftVault for TREND MICRO's infringement, which, by law, cannot be less than a reasonable
26 royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

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PRAYER FOR RELIEF

SoftVault requests that the Court find in its favor and against TREND MICRO, and that the Court grant SoftVault the following relief:

- a. Judgment that one or more claims of the Patents-in-Suit have been infringed, either literally and/or under the doctrine of equivalents, by TREND MICRO;
- b. Judgment that TREND MICRO account for and pay to SoftVault all damages to and costs incurred by SoftVault because of TREND MICRO’s infringing activities and other conduct complained of herein;
- c. That TREND MICRO, its officers, agents, servants and employees, and those persons in active concert and participation with any of them, be permanently enjoined from infringement of the Patents-in-Suit. In the alternative, if the Court finds that an injunction is not warranted, SoftVault requests an award of post judgment royalty to compensate for future infringement;
- d. That SoftVault be granted pre-judgment and post-judgment interest on the damages caused to it by reason of TREND MICRO’s infringing activities and other conduct complained of herein;
- e. That this Court declare this an exceptional case and award SoftVault its reasonable attorney’s fees and costs in accordance with 35 U.S.C. § 285; and
- f. That SoftVault be granted such other and further relief as the Court may deem just and proper under the circumstances.

JURY DEMAND

Plaintiff hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

DATED: July 17, 2013.

/s/ Benedict O’Mahoney

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