

1 ANTON HANDAL (Bar No. 113812)  
anh@handal-law.com  
2 PAMELA C. CHALK (Bar No. 216411)  
pchalk@handal-law.com  
3 GABRIEL HEDRICK (Bar No. 220649)  
ghedrick@handal-law.com  
4 HANDAL & ASSOCIATES  
5 1200 Third Avenue, Suite 1321  
San Diego, California 92101  
6 Tel: 619.544.6400  
7 Fax: 619.696.0323

8 Attorneys for Plaintiff  
e.Digital Corporation  
9

10 **UNITED STATES DISTRICT COURT**  
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 e.Digital Corporation,  
13

14 Plaintiff,

15 v.

16 Super Talent Technology Corporation,  
17

Defendant.

Case No. '13CV2937 MMABGS

**COMPLAINT FOR PATENT  
INFRINGEMENT**

**DEMAND FOR JURY TRIAL**

18 Plaintiff e.Digital Corporation (“e.Digital” or “Plaintiff”), by and through its  
19 undersigned counsel, complains and alleges against Defendant Super Talent  
20 Technology Corporation (“Defendant” or “Super Talent”) as follows:

21 **NATURE OF THE ACTION**

22 1. This is a civil action for infringement of a patent arising under the  
23 laws of the United States relating to patents, 35 U.S.C. § 101, *et seq.*, including,  
24 without limitation, § 281. Plaintiff e.Digital seeks a preliminary and permanent  
25 injunction and monetary damages for the infringement of its U.S. Patent No.  
26 5,839,108.

27 **JURISDICTION AND VENUE**

28 2. This court has subject matter jurisdiction over this case for patent

1 infringement under 28 U.S.C. §§ 1331 and 1338(a) and pursuant to the patent laws  
2 of the United States of America, 35 U.S.C. § 101, *et seq.*

3 3. Venue properly lies within the Southern District of California  
4 pursuant to the provisions of 28 U.S.C. §§ 1391(b), (c), and (d) and 1400(b). On  
5 information and belief, Defendant conducts substantial business directly and/or  
6 through third parties or agents in this judicial district by selling and/or offering to  
7 sell the infringing products and/or by conducting other business in this judicial  
8 district. Furthermore, Plaintiff e.Digital is headquartered and has its principal  
9 place of business in this district, engages in business in this district, and has been  
10 harmed by Defendant's conduct, business transactions and sales in this district.

11 4. This Court has personal jurisdiction over Defendant because, on  
12 information and belief, Defendant transacts continuous and systematic business  
13 within the State of California and the Southern District of California. In addition,  
14 this Court has personal jurisdiction over the Defendant because, on information  
15 and belief, this lawsuit arises out of Defendant's infringing activities, including,  
16 without limitation, the making, using, selling and/or offering to sell infringing  
17 products in the State of California and the Southern District of California. Finally,  
18 this Court has personal jurisdiction over Defendant because, on information and  
19 belief, Defendant has made, used, sold and/or offered for sale its infringing  
20 products and placed such infringing products in the stream of interstate commerce  
21 with the expectation that such infringing products would be made, used, sold  
22 and/or offered for sale within the State of California and the Southern District of  
23 California.

24 **PARTIES**

25 5. Plaintiff e.Digital is a Delaware corporation with its headquarters and  
26 principal place of business at 16870 West Bernardo Drive, Suite 120, San Diego,  
27 California 92127.

28 6. Upon information and belief, Defendant Super Talent is a corporation

1 registered and lawfully existing under the laws of the State of California, with an  
2 office and principal place of business located at 2077 North Capitol Avenue San  
3 Jose, California 95132.

4 **THE ASSERTED PATENT**

5 7. On November 17, 1998, the United States Patent and Trademark  
6 Office duly and legally issued United States Patent No. 5,839,108 (“the ’108  
7 patent”) entitled “Flash Memory File System In A Handheld Record And Playback  
8 Device,” to its named inventors Norbert P. Daberko and Richard K. Davis.  
9 Plaintiff e.Digital is the assignee and owner of the entire right, title and interest in  
10 and to the ’108 patent and has the right to bring this suit for damages and other  
11 relief. A true and correct copy of the ’108 patent is attached hereto as Exhibit A.

12 **COUNT ONE**

13 **INFRINGEMENT OF THE ’108 PATENT BY DEFENDANT**

14 8. Plaintiff re-alleges and incorporates by reference each of the  
15 allegations set forth in paragraphs 1 through 7 above.

16 9. Upon information and belief, Defendant, without authority, (a) has  
17 induced and continues to induce infringement of one or more claims of the ’108  
18 patent in violation of 35 U.S.C. § 271(b); and, (b) has contributed and continue to  
19 contribute to the infringement of one or more claims of the ’108 patent in violation  
20 of 35 U.S.C. § 271(c).

21 10. The accused products for purposes of the ’108 patent include but are  
22 not limited to the Defendant’s memory card products for Flash Memory Storage  
23 including but not limited to its SSD products. The accused products include but are  
24 not limited to the Defendant’s UltraDrive MX3 series of products.

25 11. The accused product, alone or in combination with other products,  
26 practice each of the limitations of independent claim 1 of the ’108 patent.

27 12. Upon information and belief, Defendant, without authority, has  
28 actively induced infringement and continues to actively induce infringement of the

1 '108 patent in violation of 35 U.S.C. § 271(b) by causing others to directly infringe  
2 the claims of the '108 patent and/or by intentionally instructing others how to use  
3 the accused products in a manner that infringes the claims of the '108 patent. On  
4 information and belief, Defendant has induced and continues to induce  
5 infringement by instructing customers to operate the product in an infringing  
6 manner and/or when Defendant tests or otherwise operates the accused products in  
7 the United States.

8 13. Upon information and belief, Defendant, without authority, has  
9 contributed and continues to contribute to the infringement of the '108 patent in  
10 violation of 35 U.S.C. § 271(c) by importing into the United States, selling and/or  
11 offering to sell within the United States accused products that (1) embody and  
12 constitute a material part of the invention of the '108 patent, (2) Defendant knows  
13 to be especially adapted for use in infringing the '108 patent, and (3) are not staple  
14 articles of commerce suitable for substantial non-infringing use with respect to the  
15 '108 patent.

16 14. Based on information and belief, Plaintiff alleges that Defendant sells,  
17 ships, or otherwise delivers the accused product with all the features required to  
18 infringe the asserted claims of the '108 patent. On information and belief, these  
19 products are designed to practice the infringing features.

20 15. Upon information and belief, certain of the products manufactured by  
21 Defendant have been and/or are currently sold and/or offered for sale at, among  
22 other places, through one of its primary distributor, MA Labs at the MA Labs  
23 website located at <http://www.malabs.com> to consumers including, but not limited  
24 to, consumers located within the State of California. Upon information and belief,  
25 the headquarters of MA Labs is located at 2075 North Capitol Avenue, San Jose,  
26 CA 95132.

27 16. Upon information and belief, certain of the products manufactured by  
28 Defendant have been and/or are currently sold and/or offered for sale at, among

1 other places, through one of its online retailers, Amazon.com at website located at  
2 [www.amazon.com](http://www.amazon.com).

3 17. Upon information and belief, certain of the products manufactured by  
4 Defendant have been and/or are currently sold and/or offered for sale at, among  
5 other places, the sales office of Defendant Super Talent located at its headquarters,  
6 2077 North Capitol Avenue, San Jose, CA 95132.

7 18. Defendant had knowledge of infringement of the '108 patent since at  
8 least the filing of this complaint. On information and belief, Defendant has  
9 continued to sell products that practice the '108 patent after acquiring knowledge  
10 of infringement.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiff prays for relief and judgment as follows:

- 13 1. That Defendant be declared to have infringed the Patent-in-Suit;
- 14 2. That the Defendant, Defendant's officers, agents, servants, employees,  
15 and attorneys, and those persons in active concert or participation with them, be  
16 preliminarily and permanently enjoined from infringement of the Patent-in-Suit,  
17 including but not limited to any making, using, offering for sale, selling, or  
18 importing of unlicensed infringing products within and without the United States;
- 19 3. Compensation for all damages caused by Defendant's infringement of  
20 the Patent-in-Suit to be determined at trial;
- 21 4. Enhancement of Plaintiff's damages up to three (3) times their amount  
22 pursuant to 35 U.S.C. § 284;
- 23 5. Granting Plaintiff pre-and post-judgment interest on its damages,  
24 together with all costs and expenses; and,
- 25 6. Awarding such other relief as this Court may deem just and proper.

26 Dated: December 6, 2013

**HANDAL & ASSOCIATES**

By: /s/ Pamela C. Chalk  
Pamela C. Chalk  
Attorneys for Plaintiff  
e.Digital Corporation

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all claims.

**HANDAL & ASSOCIATES**

Dated: December 6, 2013

By: /s/ Pamela C. Chalk  
Anton N. Handal  
Gabriel G. Hedrick  
Pamela C. Chalk  
Attorneys for Plaintiff  
e.Digital Corporation

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing document has been served on this date to all counsel of record, if any to date, who are deemed to have consented to electronic service via the Court’s CM/ECF system per CivLR 5.4(d). Any other counsel of record will be served by electronic mail, facsimile and/or overnight delivery upon their appearance in this matter.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct. Executed this 6<sup>th</sup> day of December, 2013 at San Diego, California.

**HANDAL & ASSOCIATES**

Dated: December 6, 2013

By: /s/ Pamela C. Chalk  
Anton N. Handal  
Gabriel G. Hedrick  
Pamela C. Chalk  
Attorneys for Plaintiff  
e.Digital Corporation