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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

2013 DEC 9 AM 9:50

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JOHN L. BRECKENRIDGE,

Plaintiff,

v.

BLACKBERRY LIMITED, AND
BLACKBERRY CORPORATION,

Defendants.

Civil Action No. _____

JURY TRIAL DEMANDED

3-13CV4787-L

COMPLAINT

This is a complaint for patent infringement. The patent-in-issue is U.S. Patent No. 8,374,335.

Plaintiff, JOHN L. BRECKENRIDGE, for his complaint states as follows:

PARTIES

1. Plaintiff John L. Breckenridge is an individual residing in Washington, D.C. and having a mailing address of 2776 South Arlington Mill Drive, Suite 513, Arlington, Virginia 22206. Plaintiff John L. Breckenridge is an independent inventor and will be referred to herein as "Plaintiff".

2. Upon information and belief, Defendant Blackberry Limited is a corporation organized and existing under the laws of Ontario, Canada with its principal place of business at 295 Phillip Street, Waterloo, Ontario, Canada, N2L 3W8. Defendant Blackberry Limited directly or indirectly through subsidiaries or affiliated companies markets, distributes, manufactures, imports, sells, and/or offers to sell consumer electronic products, including mobile phones,

accessories, and associated equipment and software, in this judicial district and throughout the United States. Upon information and belief, Defendant Blackberry Limited was doing business as “Research In Motion Limited” during a period of infringement of the patent-in-issue before changing its corporate name to Blackberry Limited.

3. Upon information and belief, Defendant Blackberry Corporation is a corporation organized and existing under the laws of the state of Delaware with a principal place of business at 5000 Riverside Drive, Irving, Texas 75039. Defendant Blackberry Corporation directly or indirectly through subsidiaries, parents, or affiliated companies markets, distributes, manufactures, imports, sells, and/or offers to sell consumer electronic products, including mobile phones, accessories, and associated equipment and software, in this judicial district and throughout the United States. Upon information and belief, Defendant Blackberry Corporation was doing business as “Research In Motion Corporation” during a period of infringement of the patent-in-issue before changing its corporate name to Blackberry Corporation.

4. Upon information and belief, Defendant Blackberry Corporation is a wholly owned subsidiary of Defendant Blackberry Limited, and is the managing entity of the United States operations of Defendant Blackberry Limited. Upon information and belief, Defendant Blackberry Limited, and Defendant Blackberry Corporation share, at least some, directors and/or officers. Upon information and belief, Defendant Blackberry Limited exercises operational control over Defendant Blackberry Corporation.

JURISDICTION

5. This action for patent infringement arises under the Patent Act, 35 U.S.C. § 271, *et seq.* This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over Defendants. Defendants have engaged in business in this judicial district, have at least one office in this judicial district, and have committed or caused tortious injury in this judicial district. Defendants have additionally engaged in substantial and not isolated activity within this state. Upon information and belief, Defendants have distributed and/or sold and continue to distribute and/or sell large volumes of mobile phones into this judicial district.

7. Defendants have committed acts of patent infringement within this judicial district. Defendants, directly or through intermediaries, import, manufacture, use, sell and/or offer to sell (including through <http://us.blackberry.com>) products such as mobile phones with Smart Dialing, including for example the BlackBerry Z10, Q10, Curve and Blackberry Bold 9700 series in the United States and this district. Upon information and belief, Defendants' products with Smart Dialing capability have been used on cellular networks in the United States and elsewhere, including at least one cellular network in this judicial district. Defendants reasonably should have anticipated being subject to suit in this judicial district. Defendants' acts of patent infringement are aimed at this judicial district and/or have effect in this judicial district.

8. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400(b).

COUNT I

Claim for Direct Patent Infringement of U.S. Patent No. 8,374,335

9. The allegations of paragraphs 1 through 8 are re-alleged as if fully set forth herein.

10. John L. Breckenridge is the inventor of the invention titled “METHOD AND SYSTEM FOR AN INTELLIGENT TELEPHONE PREFIX DIALER” and is the owner of United States Patent No. 8,374,335 (“the ‘335 Patent”) which covers said same invention. The ‘335 Patent duly and legally issued on February 12, 2013.

11. Defendants make, import, sell, use, and/or offer to sell products such as mobile phones that include Smart Dialing (hereinafter referred to as Smart Dialing Products) in the United States. Examples of Smart Dialing Products are Defendants’ BlackBerry Bold mobile phone, which is represented in Defendants’ literature as including Smart Dialing (*see* http://docs.blackberry.com/en/smartphone_users/deliverables/23877/BlackBerry_Bold_9700_Smartphone-User_Guide-T643442-941426-1101085513-001-6.0-US.pdf), Defendants’ BlackBerry Curve mobile phone, which is represented in Defendants’ literature as including Smart Dialing (*see* http://docs.blackberry.com/en/smartphone_users/deliverables/14649/BlackBerry_Curve_Series-User_Guide-T643442-643442-0319040921-001-5.0-US.pdf), Defendants’ BlackBerry Z30 mobile phone, which is represented in Defendants’ literature as including Smart Dialing (*see* http://docs.blackberry.com/en/smartphone_users/deliverables/57031/BlackBerry_Z30_Smartphone-User_Guide-1337191904827-10.2-en.pdf) and Defendants’ BlackBerry Z10, which on information and belief is also equipped with Smart Dialing. Upon information and belief, the

Smart Dialing Products include Phone Settings, which can be configured to complete calls using a default area code set by the user on his/her device when using a network compatible with the device, as claimed in the '335 Patent.

12. Upon information and belief, Smart Dialing is a built-in capability that is executed when a user sets up the capability via a series of menu prompts available in the Phone Settings on Defendants' Smart Dialing Products.

13. Defendants, by making, using, selling, offering for sale and/or importing Defendants' Smart Dialing Products that can be configured to complete calls using a default area code set by the user on his/her device when using a network compatible with the device, as claimed in the '335 Patent, such device including, for example, the BlackBerry Bold Series, Curve Series, Z30, and Z10, have directly infringed the '335 patent and continue to infringe the '335 patent.

14. Plaintiff has provided notice pursuant to and in satisfaction of 35 U.S.C. § 287.

15. Plaintiff has been and continue to be irreparably harmed and monetarily harmed by Defendants' direct infringement of the '335 Patent. If Defendants' infringement is not enjoined, Plaintiff will continue to be irreparably and monetarily harmed.

COUNT II

Claim for Contributory Patent Infringement of U.S. Patent No. 8,374,335

16. The allegations of paragraphs 1 through 15 are re-alleged as if fully set forth herein.

17. Upon information and belief, Defendants also have been and are infringing by way of contributory infringement, one or more claims of the '335 Patent by their actions relating to making, using, importing, selling and/or offering for sale their Smart Dialing Products that

incorporate components that are specifically designed to perform a dialing method for completing calls using a default area code set by the user to establish a connection to a called party over a phone network as claimed in the '335 Patent.

18. The use of Defendants' Smart Dialing Products to complete calls on a telephone network using a default area code set by the user results in direct infringement of the '335 Patent.

19. Upon information and belief, Defendants' Smart Dialing is a built-in capability that can be configured to complete calls using a default area code set by the user on his/her device when the user uses Defendants' Smart Dialing Products to establish communication over a compatible network. Upon information and belief, that built-in capability is embedded in one or more components (such as software and/or hardware components, including computer code). Upon information and belief, users of Defendants' Smart Dialing Products, including employees, agents, representatives, and customers of Defendants, who use the products' built-in Smart Dialing directly infringe the '335 Patent when, using default area codes set by the users on their devices, complete telephone numbers have been placed on the telephone network by the users' devices to establish connections to called parties.

20. Defendants' Smart Dialing Products, and in particular the components of Defendants' Smart Dialing Products providing the capability of infringing the '335 Patent, constitute at least a material component of the invention claimed in the '335 Patent in that the products define customer premises equipment programmed to perform a dialing method for completing calls using a default area code set by the user to establish a connection to a called party over a phone network as claimed in the '335 Patent. This functionality in Defendants' Smart Dialing Products has no substantial non-infringing use and is not a staple article of commerce. Upon information

and belief, the built-in components implementing Smart Dialing in the manner claimed in the '335 Patent, including the Smart Dialing Area Code entry field defined in software for accepting a default area code entered by the user, have no use other than for using the default area code set by the user to establish a connection to a called party over a phone network in a manner that infringes the '335 Patent.

21. Defendants know or should have known, or have been and remained willfully blind to, the '335 Patent and the fact that their Smart Dialing Products, and particularly the components of such products that provide the capability of performing a dialing method for completing calls using a default area code set by the user to establish a connection to a called party over a phone network as claimed in the '335 Patent, are especially made or adapted for use in infringing the '335 Patent.

22. Defendants have not, on information and belief, taken any steps to remove or disable the infringing Smart Dialing capability of performing a dialing method for completing calls using a default area code set by the user to establish a connection to a called party over a phone network as claimed in the '335 Patent from their Smart Dialing Products.

23. Plaintiff has provided notice pursuant to and in satisfaction of 35 U.S.C. § 287.

24. Plaintiff has been and continues to be irreparably harmed and monetarily harmed by Defendants' contributory infringement of the '335 Patent. If Defendants' infringement is not enjoined, Plaintiff will continue to be irreparably and monetarily harmed.

COUNT III

Claim for Induced Patent Infringement of U.S. Patent No. 8,374,335

25. The allegations of paragraphs 1 through 24 are re-alleged as if fully set forth herein.

26. Defendants' actions induce infringement of the '335 Patent.

27. Defendants have induced infringement of the '335 Patent, directly or through intermediaries. Through the publication of literature including, without limitation, at least one User Guide accessible from Defendants' and intermediaries' websites and pertaining to at least one of the Smart Dialing Products, Defendants encourage or instruct users to use the Smart Dialing capability of that Smart Dialing Product, that capability including the performance of a dialing method for completing calls using a default area code set by the user to establish a connection to a called party over a phone network as covered by the '335 Patent. Examples of such literature include without limitation:

http://docs.blackberry.com/en/smartphone_users/deliverables/23877/BlackBerry_Bold_9700_Smartphone-User_Guide-T643442-941426-1101085513-001-6.0-US.pdf

http://docs.blackberry.com/en/smartphone_users/deliverables/14649/BlackBerry_Curve_Series-User_Guide-T643442-643442-0319040921-001-5.0-US.pdf

http://docs.blackberry.com/en/smartphone_users/deliverables/57031/BlackBerry_Z30_Smartphone-User_Guide-1337191904827-10.2-en.pdf

http://support.boostmobile.com/user_guides/userguide_BB9310.pdf. On information and belief, Defendants also have taken specific steps to encourage users of their Smart Dialing Products to use the products in an infringing manner by not offering for sale in the United States

versions of their Smart Dialing Products that do not have the capability to perform a dialing method for completing calls using a default area code set by the user to establish a connection to a called party over a phone network as covered by the '335 Patent.

28. Defendants know and have known their acts induce infringement of the '335 Patent.

29. Defendants knew or were willfully blind that use of the Smart Dialing Products' Smart Dialing capability results in direct infringement of the '335 Patent, and Defendants knew or were willfully blind that they were encouraging users to use the Smart Dialing Products' Smart Dialing capability as claimed in the '335 Patent. Despite this knowledge, Defendants have continued to encourage users to use the Smart Dialing Products' Smart Dialing capability and continued to make, use, sell, offer for sale, and import the Smart Dialing Products. Upon information and belief, Defendants have and had the specific intent to induce infringement of the '335 Patent. Upon information and belief, Defendants have taken no steps to discourage or prevent users from using the Smart Dialing Products and continued to make, use, sell, offer for sale, and import the Smart Dialing Products.

30. Plaintiff has provided notice pursuant to and in satisfaction of 35 U.S.C. § 287.

31. Plaintiff has been and continues to be irreparably harmed and monetarily harmed by Defendants' inducement of infringement of the '335 Patent. If Defendants' infringement is not enjoined, Plaintiff will continue to be irreparably and monetarily harmed.

COUNT IV

Claim for Willful Patent Infringement of U.S. Patent No. 8,374,335

32. The allegations of paragraphs 1 through 31 are re-alleged as if fully set forth herein.

33. Defendants' infringement is willful. Despite knowledge of the '335 Patent and knowledge that use of the Smart Dialing Products infringes the '335 Patent, Defendants have continued to make, use, sell, offer for sale, and/or import the Smart Dialing Products and have continued to encourage users to use the Smart Dialing Products' Smart Dialing capability in which a dialing method for completing calls using a default area code set by the user to establish a connection to a called party over a phone network is performed, as claimed in the '335 Patent. Upon information and belief, to date, Defendants have not made any changes to the operation of the Smart Dialing Products and have not provided their users with instruction on how to avoid infringement since Defendants had notice of the '335 Patent. To date, Defendants have not produced or relied upon an opinion of counsel related to the '335 Patent. To date, Defendants have not produced any evidence of investigation, design around or remedial actions with respect to infringement of the '335 Patent. Defendants have continued to act despite an objectively high likelihood that their actions constituted infringement of the '335 Patent and this likelihood was known or so obvious that it should have been known to Defendants.

34. Plaintiff has provided notice pursuant to and in satisfaction of 35 U.S.C. § 287.

35. Plaintiff has been and continues to be irreparably harmed and monetarily harmed by Defendants' direct and indirect infringement of the '335 Patent. If Defendants' infringement is not enjoined, Plaintiff will continue to be irreparably and monetarily harmed.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the following relief:

- A. A judgment that Defendants have infringed the '335 Patent both directly and indirectly;
- B. A judgment and order requiring Defendants to pay all appropriate damages, including enhanced damages, under 35 U.S.C. § 284;
- C. A judgment and order requiring Defendants to pay the costs of this action, including all disbursements, and attorney fees, if this case is exceptional as provided by 35 U.S.C. § 285;
- D. Permanent injunction against Defendants and their officers, agents, employees, attorneys, and all persons in active concert or participation with them, prohibiting infringement of the '335 Patent; and
- E. Such other and further relief that this Court may deem just and equitable.

DEMAND FOR A JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury of all issues so triable.

Dated: December 9, 2013

Respectfully submitted,

JOHN L. BRECKENRIDGE, PRO SE PLAINTIFF

By: 
JOHN L. BRECKENRIDGE
my335litigation@outlook.com

2776 S. Arlington Mill Drive, Suite 513
Arlington, Virginia 22206
(301) 463-8102 Telephone

CIVIL COVER SHEET 3-13CV-4787-L

The JS 44 civil coversheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

JOHN L. BRECKENRIDGE

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

John L. Breckenridge
2776 S. Arlington Mill Dr. STE 513
Arlington, VA 22206

DEFENDANTS

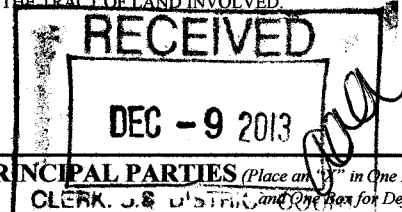
BLACKBERRY LIMITED and BLACKBERRY CORPORATION

County of Residence of First Listed Defendant Ontario, Canada

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)



II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- 1 U.S. Government Plaintiff
- 3 Federal Question *(U.S. Government Not a Party)*
- 2 U.S. Government Defendant
- 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff)* *(For Diversity Cases Only)*

- PLAINTIFF DEFENDANT
- Citizen of This State 1 1 Incorporated or Principal Place of Business In This State 4 4
- Citizen of Another State 2 2 Incorporated and Principal Place of Business In Another State 5 5
- Citizen or Subject of a Foreign Country 3 3 Foreign Nation 6 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN *(Place an "X" in One Box Only)*

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district *(specify)*
- 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:
35 U.S.C. § 271, et seq.

Brief description of cause:
Patent Infringement.

VII. REQUESTED IN COMPLAINT:

- CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
- DEMAND \$ Damages and Injunction
- CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) PENDING OR CLOSED:

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE

12/09/2013

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____