

1 ANTON HANDAL (Bar No. 113812)  
2 anh@handal-law.com  
3 PAMELA C. CHALK (Bar No. 216411)  
4 pchalk@handal-law.com  
5 GABRIEL HEDRICK (Bar No. 220649)  
6 ghedrick@handal-law.com  
7 HANDAL & ASSOCIATES  
8 1200 Third Avenue, Suite 1321  
9 San Diego, California 92101  
10 Tel: 619.544.6400  
11 Fax: 619.696.0323

12 Attorneys for Plaintiff  
13 e.Digital Corporation

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

e.Digital Corporation,

Plaintiff,

v.

Silicon Power Computer &  
Communications Inc.; and, Silicon  
Power Computer & Communications  
USA, Inc.

Defendants.

Case No. '13CV2935 AJB BLM

**COMPLAINT FOR PATENT  
INFRINGEMENT**

**DEMAND FOR JURY TRIAL**

Plaintiff e.Digital Corporation (“e.Digital” or “Plaintiff”), by and through its undersigned counsel, complains and alleges against Defendant Silicon Power Computer & Communications Inc.; and, Defendant Silicon Power Computer & Communications USA, Inc. (collectively hereafter “Silicon Power” or “Defendants”) as follows:

**NATURE OF THE ACTION**

1. This is a civil action for infringement of a patent arising under the laws of the United States relating to patents, 35 U.S.C. § 101, *et seq.*, including, without limitation, § 281. Plaintiff e.Digital seeks a preliminary and permanent

1 injunction and monetary damages for the infringement of its U.S. Patent No.  
2 5,839,108.

### 3 **JURISDICTION AND VENUE**

4 2. This court has subject matter jurisdiction over this case for patent  
5 infringement under 28 U.S.C. §§ 1331 and 1338(a) and pursuant to the patent laws  
6 of the United States of America, 35 U.S.C. § 101, *et seq.*

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

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

### 28 **PARTIES**

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

4           6.     Upon information and belief, Defendant Silicon Power Computer and  
5 Communication, Inc. is a corporation organized under the laws of Taiwan with a  
6 principal place of business at 7F, No. 106, Zhouzi St., Neihu Dist., Taipei City  
7 114, Taiwan (R.O.C.).

8           7.     Upon information and belief, Defendant Silicon Power Computer and  
9 Communication USA, Inc. is a corporation registered and lawfully existing under  
10 the laws of the State of California, with an office and principal place of business  
11 located at 10455 Bandle Dr. #300, Cupertino, California 95014. Upon  
12 information and belief, Defendant Silicon Power Computer and Communication  
13 USA, Inc. also maintains a sales office at 48511 Warm Springs Boulevard, Suite  
14 207, Fremont, CA 94539.

15                                   **THE ASSERTED PATENT**

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

23                                   **COUNT ONE**

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

25           9.     Plaintiff re-alleges and incorporates by reference each of the  
26 allegations set forth in paragraphs 1 through 8 above.

27           10.    Upon information and belief, Defendants, without authority, (a) have  
28 induced and continue to induce infringement of one or more claims of the ’108

1 patent in violation of 35 U.S.C. § 271(b); and, (b) have contributed and continue to  
2 contribute to the infringement of one or more claims of the '108 patent in violation  
3 of 35 U.S.C. § 271(c).

4 11. The accused products for purposes of the '108 patent include but are  
5 not limited to the Defendants' memory card products for Flash Memory Storage  
6 including but not limited to its USB, SSD, SD, microSD, and/or Compact Flash  
7 products. The accused products include but are not limited to the Defendants'  
8 Superior SDHC UHS-1 Class 10 memory card products for Flash Memory  
9 Storage.

10 12. The accused product, alone or in combination with other products,  
11 practice each of the limitations of independent claim 1 of the '108 patent.

12 13. Upon information and belief, Defendants, without authority, have  
13 actively induced infringement and continues to actively induce infringement of the  
14 '108 patent in violation of 35 U.S.C. § 271(b) by causing others to directly infringe  
15 the claims of the '108 patent and/or by intentionally instructing others how to use  
16 the accused products in a manner that infringes the claims of the '108 patent. On  
17 information and belief, Defendants have induced and continue to induce  
18 infringement by instructing customers to operate the product in an infringing  
19 manner and/or when Defendants test or otherwise operate the accused products in  
20 the United States.

21 14. Upon information and belief, Defendants, without authority, have  
22 contributed and continue to contribute to the infringement of the '108 patent in  
23 violation of 35 U.S.C. § 271(c) by importing into the United States, selling and/or  
24 offering to sell within the United States accused products that (1) embody and  
25 constitute a material part of the invention of the '108 patent, (2) Defendants know  
26 to be especially adapted for use in infringing the '108 patent, and (3) are not staple  
27 articles of commerce suitable for substantial non-infringing use with respect to the  
28 '108 patent.

15. Upon information and belief, certain of the products manufactured by Silicon Power have been and/or are currently sold and/or offered for sale at, among other places, the Amazon.com website located at <http://www.amazon.com> to consumers including, but not limited to, consumers located within the State of California.

16. Based on information and belief, Plaintiff alleges that Defendants sell, ship, or otherwise deliver the accused product with all the features required to infringe the asserted claims of the '108 patent. On information and belief, these products are designed to practice the infringing features.

17. Defendants had knowledge of infringement of the '108 patent since at least the filing of this complaint. On information and belief, Defendants have continued to sell products that practice the '108 patent after acquiring knowledge of infringement.

## PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief and judgment as follows:

1. That Defendants be declared to have infringed the Patent-in-Suit;

2. That Defendants, Defendants' officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them, be preliminarily and permanently enjoined from infringement of the Patent-in-Suit, including but not limited to any making, using, offering for sale, selling, or importing of unlicensed infringing products within and without the United States;

3. Compensation for all damages caused by Defendants' infringement of the Patent-in-Suit to be determined at trial;

4. Enhancement of Plaintiff's damages up to three (3) times their amount pursuant to 35 U.S.C. § 284;

5. Granting Plaintiff pre-and post-judgment interest on its damages, together with all costs and expenses; and,

6. Awarding such other relief as this Court may deem just and proper.

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**HANDAL & ASSOCIATES**

Dated: December 6, 2013

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

**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  
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Gabriel G. Hedrick  
Attorneys for Plaintiff  
e.Digital Corporation

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**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  
Pamela C. Chalk  
Gabriel G. Hedrick  
Attorneys for Plaintiff  
e.Digital Corporation