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e.Digital Corporation

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

13 e.Digital Corporation,
14 Plaintiff,

15 v.

16 Lite-On IT Corporation; and, Lite-On
Sales And Distribution Inc.,
17 Defendants.

Case No. '14CV0092 GPC RBB

**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 Defendants Lite-On IT
20 Corporation; and, Lite-On Sales And Distribution Inc. (collectively referred to
21 hereafter as “Lite-On” or “Defendant” or “Defendants”) as follows:

22 **NATURE OF THE ACTION**

23
24 1. This is a civil action for infringement of a patent arising under the
25 laws of the United States relating to patents, 35 U.S.C. § 101, *et seq.*, including,
26 without limitation, § 281. Plaintiff e.Digital seeks a preliminary and permanent
27 injunction and monetary damages for the infringement of its U.S. Patent No.
28 5,839,108.

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JURISDICTION AND VENUE

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

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

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

PARTIES

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

1 California 92127.

2 6. Upon information and belief, Defendant Lite-On IT Corporation is
3 corporation registered and lawfully existing under the laws of Taiwan, with a
4 principal place of business located at 12F, 392, Ruey Kuang Road, Neihsu,
5 Taipei 114, Taiwan, R.O.C.

6 7. Upon information and belief, Defendant Lite-On Sales And
7 Distribution Inc. is a company registered and lawfully existing under the laws of
8 the State of Delaware, with an office and principal place of business located at
9 42000 Christy Street, Fremont, California 94538.

10 **THE ASSERTED PATENT**

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

18 **COUNT ONE**

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

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

22 10. Upon information and belief, Defendants, without authority, (a) have
23 induced and continue to induce infringement of one or more claims of the ’108
24 patent in violation of 35 U.S.C. § 271(b); and, (b) have contributed and continue to
25 contribute to the infringement of one or more claims of the ’108 patent in violation
26 of 35 U.S.C. § 271(c).

27 11. The accused products for purposes of the ’108 patent include but are
28 not limited to Lite-On’s memory card products for Flash Memory Storage

1 including but not limited to its USB, SSD, SD, microSD, and/or Compact Flash
2 products. The accused products include but are not limited to Defendants' 1.8
3 M3S microSATA SSD product.

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

6 13. Upon information and belief, Defendants, without authority, have
7 actively induced infringement and continue to actively induce infringement of the
8 '108 patent in violation of 35 U.S.C. § 271(b) by causing others to directly infringe
9 the claims of the '108 patent and/or by intentionally instructing others how to use
10 the accused products in a manner that infringes the claims of the '108 patent. On
11 information and belief, Defendants have induced and continue to induce
12 infringement by instructing customers to operate the product in an infringing
13 manner and/or when Defendants tests or otherwise operate the accused products in
14 the United States.

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

23 15. Upon information and belief, certain of the accused products
24 manufactured by Lite-On have been and/or are currently sold and/or offered for
25 sale to at, among other places, the Lite-On website located at
26 <http://www.liteonssd.com>, to consumers including, but not limited to, consumers
27 located within the State of California.

28 16. Based on information and belief, Plaintiff alleges that Defendants sell,

1 ship, or otherwise deliver the accused product with all the features required to
2 infringe the asserted claims of the '108 patent. On information and belief, these
3 products are designed to practice the infringing features.

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

8 **PRAYER FOR RELIEF**

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

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

23
24 **HANDAL & ASSOCIATES**

25 Dated: January 13, 2014

26 By: /s/ Pamela C. Chalk
27 Anton N. Handal
28 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: January 13, 2014

By: /s/ Pamela C. Chalk
Anton N. Handal
Pamela C. Chalk
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 13th day of January, 2014 at San Diego, California.

HANDAL & ASSOCIATES

Dated: January 13, 2014

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