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e.Digital Corporation  
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10 **UNITED STATES DISTRICT COURT**  
11 **SOUTHERN DISTRICT OF CALIFORNIA**  
12

13  
14 e.Digital Corporation,  
15 Plaintiff,  
16 v.  
17 Corsair Memory, Inc.,  
18 Defendant.

3:13-cv-02896-H-BGS  
**FIRST AMENDED COMPLAINT  
FOR PATENT INFRINGEMENT**  
**DEMAND FOR JURY TRIAL**  
**Assigned to the Honorable  
Judge Marilyn L. Huff**  
**Courtroom 15A (Annex)**

19  
20 Plaintiff e.Digital Corporation (“e.Digital” or “Plaintiff”), by and through its  
21 undersigned counsel, complains and alleges against Defendant Corsair Memory,  
22 Inc., (“Corsair Memory” or “Defendant”) as follows:

23 **NATURE OF THE ACTION**

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, 35 U.S.C. §§ 271, 281. Plaintiff e.Digital seeks a preliminary  
27 and permanent injunction and monetary damages for the infringement of its U.S.  
28

1 Patent No. 5,839,108.

2 **JURISDICTION AND VENUE**

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

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

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

27 5. 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, the Corsair Memory online store website located at  
2 <http://www.corsair.com> to consumers including, but not limited to, consumers  
3 located within the State of California.

4 6. Upon information and belief, certain of the products manufactured by  
5 Defendant have been and/or are currently sold and/or offered for sale at, among  
6 other places, the Best Buy website located at <http://www.bestbuy.com> to  
7 consumers including, but not limited to, consumers located within the State of  
8 California.

9 7. Upon information and belief, certain of the products manufactured by  
10 Defendant have been and/or are currently sold and/or offered for sale at, among  
11 other places, located at the Micro Center store located at 1100 East Edinger  
12 Avenue, Tustin, CA 92780 and/or its online store website located at  
13 <http://www.microcenter.com> to consumers including, but not limited to, consumers  
14 located within the State of California.

15 **PARTIES**

16 8. Plaintiff e.Digital is a Delaware corporation with its headquarters and  
17 principal place of business at 16870 West Bernardo Drive, Suite 120, San Diego,  
18 California 92127.

19 9. Upon information and belief, Defendant Corsair Memory, Inc. is a  
20 corporation registered and lawfully existing under the laws of the State of  
21 Delaware, with an office and principal place of business located at 46221 Landing  
22 Parkway, Fremont, CA 94538.

23 **THE ASSERTED PATENT**

24 10. On November 17, 1998, the United States Patent and Trademark  
25 Office duly and legally issued United States Patent No. 5,839,108 (“the ’108  
26 patent”) entitled “Flash Memory File System In A Handheld Record And Playback  
27 Device,” to its named inventors Norbert P. Daberko and Richard K. Davis.  
28 Plaintiff e.Digital is the assignee and owner of the entire right, title and interest in

1 and to the '108 patent and has the right to bring this suit for damages and other  
2 relief. A true and correct copy of the '108 patent is attached hereto as Exhibit A.

3 **COUNT ONE**

4 **INFRINGEMENT OF THE '108 PATENT BY DEFENDANT**

5 11. Plaintiff re-alleges and incorporates by reference each of the  
6 allegations set forth in paragraphs 1 through 10 above.

7 12. The accused products include but are not limited to Corsair's Flash  
8 Memory Storage products including but not limited to its USB, SSD, SD,  
9 microSD, and/or Compact Flash products. The primary and substantial purpose of  
10 the accused products is to write to and store data in electronic format in non-  
11 volatile flash memory.

12 13. Corsair has directly and indirectly infringed and is directly and  
13 indirectly infringing Claim 1 of the '108 patent in violation of 35 U.S.C. § 271, *et*  
14 *seq.*, by making, using, offering for sale, selling in the United States and/or  
15 importing into the United States without authority, the accused products identified  
16 above. Claim 1 of the '108 patent teaches a method of memory management for a  
17 non-volatile storage medium. The method comprises several steps, which generally  
18 involves, without limitation, writing electronic data segments from volatile,  
19 temporary memory to a non-volatile, long-term storage medium by linking data  
20 segments according to a number of specified steps.

21 14. Plaintiff alleges that at least as of the date of the filing of the  
22 originally filed complaint in this matter, if not sooner, Corsair knew or should have  
23 known of the existence of Claim 1 of the '108 patent and the fact that the accused  
24 products infringe said Claim 1.

25 15. Plaintiff alleges that Corsair sold, sells, offers to sell, ships, or  
26 otherwise delivers the accused products to customers or end-users with all the  
27 features required to infringe Claim 1 of the '108 patent. Upon information and  
28 belief, Corsair knows that the accused products infringe Claim 1 of the '108 patent

1 and intends to induce third parties to include its customers and end-users to also  
2 infringe Claim 1 of the '108 patent.

3 16. Upon information and belief, the accused products, alone or in  
4 combination with other products, directly or, alternatively, under the doctrine of  
5 equivalents practice each of the limitations of independent Claim 1 of the '108  
6 patent when they are used for their normal and intended purpose of writing to and  
7 storing electronic data on non-volatile memory. Thus, Corsair directly infringes  
8 Claim 1 of the '108 patent in violation of 35 U.S.C. § 271(a) when it demonstrates,  
9 tests or otherwise uses the accused products in the United States.

10 17. By way of example, Corsair's how-to blogs and/or videos posted by  
11 Corsair on its website(s) or other public websites, provide detailed accounts of  
12 authorized Corsair employees or agents using the accused products as well as  
13 instructions on how to use the accused products to include information about  
14 migrating or transferring data from the memory of one or more devices to one or  
15 more of the accused products. An example can be found on Corsair's website at  
16 [http://www.corsair.com/en-us/blog/2014/february/using-voyager-go-with-3rd-](http://www.corsair.com/en-us/blog/2014/february/using-voyager-go-with-3rd-party-applications)  
17 [party-applications](http://www.corsair.com/en-us/blog/2014/february/using-voyager-go-with-3rd-party-applications) and/or at [http://www.corsair.com/en-us/blog/2014/january/how-](http://www.corsair.com/en-us/blog/2014/january/how-to-use-the-flash-voyager-go)  
18 [to-use-the-flash-voyager-go](http://www.corsair.com/en-us/blog/2014/january/how-to-use-the-flash-voyager-go). Such conduct evidences Corsair's act of direct  
19 infringement of Claim 1 of the '108 patent.

20 18. Plaintiff alleges on information and belief that Corsair uses, makes,  
21 sells, offers to sell and/or imports the accused products knowing that they will be  
22 used by its customers and end-users for writing and storing electronic data to non-  
23 volatile memory utilizing the steps described in Claim 1 of the '108 patent.  
24 Corsair's product literature, FAQs information on the Corsair website, how-to  
25 blogs, user forums, instructional materials, and instructional videos advertise and  
26 encourage customers to use the accused product(s) to store electronic data in the  
27 accused products utilizing the methods of memory management taught by Claim 1  
28 of the '108 patent and in a manner it knows infringes upon Claim 1 of the '108

1 patent.

2 19. Corsair also provides operating manuals, user guides, instructional  
3 videos, instructional and/or informational blogs posted on the Corsair website, or  
4 other instructional material that instruct customers and end-users on how to  
5 connect the accused products and use them as non-volatile storage devices for  
6 electronic data. Among other things, Corsair's informational materials lay out  
7 step-by-step instructions on how to write data into the memory of the accused  
8 products – a process that utilizes the method disclosed in Claim 1 of the '108  
9 patent and which Corsair knows (at the least as of the filing of the original  
10 complaint if not sooner) infringes the method taught in Claim 1 of the '108 patent.  
11 Plaintiff believes that Corsair directs consumers and end-users to consult and  
12 utilize such instructional and/or other informational material.

13 20. Plaintiff believes and thereupon alleges that Corsair is aware that its  
14 customers and end-users are using the accused products in an infringing manner  
15 based on, among other things: 1) the discussions, questions, answers, and/or  
16 comments posted on its website and/or user forum where Corsair's authorized  
17 agents, customers and/or end-users discuss and disclose the use of the accused  
18 products for non-volatile electronic data storage, a process which Corsair knows  
19 infringes upon Claim 1 of the '108 patent; and/or 2) the fact that Corsair  
20 encourages its customers and end-users to use the accused products in an  
21 infringing manner as set forth in the preceding Paragraphs.

22 21. As alleged above, incorporated herewith, and based upon information  
23 and belief, Plaintiff alleges that Corsair, without authority, has induced and  
24 continues to induce infringement of the '108 patent in violation of 35 U.S.C. §  
25 271(b) inasmuch as:

- 26 a. The accused products infringe Claim 1 during the normal use of  
27 the accused products by Corsair's customers and/or end-users;  
28 b. Corsair has known and has been continuously aware of the '108

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patent since at least the filing of the original complaint in this action, if not sooner;

- c. Corsair has acted in a manner that encourages and continues to encourage others to infringe Claim 1 of the '108 patent by, among other things, intentionally instructing and/or encouraging customers and end-users to use the accused products in a manner that Corsair knows or should have known would cause them to infringe the '108 patent;
- d. Corsair sells, distributes, and supplies the accused products to customers and end-users with the intent that the products be used in an infringing manner;
- e. Corsair provides operating manuals, user guides, instructional videos, how-to materials, and/or other instructional material designed to instruct customers and end-users to use the products in an infringing manner; and,
- f. Corsair advertises, markets, and promotes the use of the accused products in an infringing manner.

22. As alleged above, incorporated herewith, and based upon information and belief, Plaintiff alleges that Corsair has contributed and continues to contribute to the infringement of Claim 1 of the '108 patent in violation of 35 U.S.C. § 271(c) inasmuch as:

- a. The accused products infringe Claim 1 of the '108 patent during the normal use of the accused products by Corsair's customers and/or end-users;
- b. Corsair has known and has been continuously aware of the '108 patent since at least the filing of the original complaint in this action, if not sooner;
- c. Corsair imports into the United States, sells and/or offers to sell

1 within the United States products that (a) practice the method of  
2 memory management of Claim 1 of the '108 patent; and, (b)  
3 Corsair knows that the same constitute material infringing  
4 component(s) of the accused products, which were made and/or  
5 especially adapted for use in the accused products;

6 d. The memory management component(s) and methods of the  
7 accused products are not staple articles of commerce suitable for  
8 substantial non-infringing use with respect to the '108 patent; and,

9 e. Corsair sells, has sold, and/or has supplied the accused products  
10 knowing of Plaintiff's '108 patent and knowing that the accused  
11 products incorporate Plaintiff's patented method and/or were  
12 specially adapted for use in a way which infringes the '108 patent.

13 23. As alleged above, Plaintiff alleges that Corsair had notice of the '108  
14 patent and knowledge of infringement of Claim 1 of the '108 patent since at least  
15 the filing of the original complaint in this matter, if not sooner. Corsair has and  
16 continues to sell products that practice the '108 patent after acquiring knowledge  
17 of infringement.

18 **PRAYER FOR RELIEF**

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

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

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

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

28 4. A finding that this case is exceptional and an award of reasonable



1 attorneys fees pursuant to 35 U.S.C. § 285;

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

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

5 **HANDAL & ASSOCIATES**

6 Dated: March 20, 2014

7 By: /s/Pamela C. Chalk  
8 Anton N. Handal  
9 Pamela C. Chalk  
10 Gabriel G. Hedrick  
11 Attorneys for Plaintiff  
12 e.Digital Corporation  
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**DEMAND FOR JURY TRIAL**

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Plaintiff hereby demands a trial by jury on all claims.

**HANDAL & ASSOCIATES**

Dated: March 20, 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 20<sup>th</sup> day of March, 2014 at San Diego, California.

**HANDAL & ASSOCIATES**

Dated: March 20, 2014

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