

1 Todd R. Miller (SBN 193688)
2 trmiller@millerip.com
3 MILLER IP
4 1122 E. Green Street
5 Pasadena, CA 91106
6 Telephone: (626) 795-0500
7 Facsimile: (626) 795-0615

8 Frank M. Washko (SBN 252010)
9 fwashko@tiburonip.com
10 TIBURON INTELLECTUAL PROPERTY PLLC
11 350 Townsend St., Suite 680
12 San Francisco, CA 94107
13 Telephone: (415) 545-8040

14 Attorneys for Lance Parker IP, LLC

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16
17 UNITED STATES DISTRICT COURT
18 NORTHERN DISTRICT OF CALIFORNIA
19 SAN FRANCISCO DIVISION
20

21 Lance Parker IP, LLC,
22 a Delaware company,

23 Plaintiff,

24 v.

25 BlackBerry Limited Corporation,
26 a Canadian corporation; and BlackBerry
27 Corporation, a Delaware corporation,

28 Defendants.

Case No. 5:14-cv-1436-JD

**AMENDED COMPLAINT FOR
PATENT INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 Plaintiff Lance Parker IP, LLC (“Parker IP”) complains and alleges as
2 follows against Defendants BlackBerry Limited and BlackBerry Corporation
3 (collectively “BlackBerry”).

4 **INTRODUCTION**

5 1. According to a BlackBerry promotional video, for most, losing their
6 smartphone is their “worst nightmare.”

7 2. Lance Parker (“Lance”) invented a solution to this problem. He
8 recognized BlackBerry needed his solution, and he was right. Indeed, a BlackBerry
9 Vice President stated that Lance’s iTag application “looks great and serves an
10 important need in the market.” Apparently, BlackBerry was not alone here—the
11 iTag application won second place “CTIA Emerging Technology Award” in 2010.

12 3. In the hope of working with BlackBerry, Lance had three meetings
13 with BlackBerry during which he disclosed, demonstrated, and presented the iTag
14 application and its novel features.

15 4. Unfortunately, when the subject of licensing was broached in a
16 meeting with BlackBerry’s Senior Vice President, Business Marketing & Alliances,
17 this executive responded by stating that BlackBerry would just build the iTag
18 application itself and abruptly ended the meeting. He portended the future.

19 5. Some four months after Lance’s first meeting and a week before Lance
20 launched the iTag application and won his award, BlackBerry leaked a new service,
21 BlackBerry Shield. BlackBerry Shield’s features were identical to those of the
22 disclosed iTag application. BlackBerry even copied Lance’s tagline.

23 6. Before bringing his iTag application solution to BlackBerry, Lance
24 filed for patent protection. Despite Lance’s patent issuing on July 23, 2013,
25 BlackBerry continues to sell its BlackBerry Protect (the previously dubbed
26 BlackBerry Shield), which infringes Lance’s intellectual property.

27 7. Parker IP brings this action to stop BlackBerry’s illegal conduct and
28 obtain compensation accordingly.

THE PARTIES

1
2 8. Parker IP is a Delaware company with its principal place of business in
3 Los Angeles, California.

4 9. On information and belief, BlackBerry Limited (referred to
5 individually herein as “BBLimited”) is a Canadian corporation with a principal
6 place of business at 2200 University Avenue East, Waterloo, Ontario, Canada
7 N2K 0A7. BlackBerry Limited has offices in Northern California, including at
8 2000 Bridge Parkway, Redwood City, CA 94065.

9 10. On information and belief, BlackBerry Corporation (referred to
10 individually herein as “BBCorp”) is a Delaware corporation with a principal place
11 of business at 5000 Riverside Drive, Suite 100E, Irvine, Texas 75039. BlackBerry
12 Corporation’s Registered Agent in California is C T Corporation System, 818 West
13 Seventh Street, Los Angeles, CA 90017.

14 **JURISDICTION AND VENUE**

15 11. As this action is for patent infringement arising under the patent laws
16 of the United States, Title 35, United States Code, this Court has subject matter
17 jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338.

18 12. This Court has personal jurisdiction over BBLimited and BBCorp
19 because each of these BlackBerry entities has committed and continues to commit
20 acts of infringement in violation of 35 U.S.C. § 271 and places infringing products
21 into the stream of commerce, with the knowledge and understanding that such
22 products are sold in the State of California, including in this District. The acts by
23 BBLimited and BBCorp cause injury to Parker IP within this District. Upon
24 information and belief, BBLimited and BBCorp derive substantial revenue from the
25 sale of infringing products within this District, expect their actions to have
26 consequences within this District, and derive substantial revenue from interstate and
27 international commerce. BBCorp also maintains a registered agent for service of
28 process in the State of California. Finally, the exercise of jurisdiction over

1 BBLimited and BBCorp will not offend the traditional notions of fair play and
2 substantial justice.

3 13. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and
4 1400.

5 **INTRADISTRICT ASSIGNMENT**

6 14. As this action is an Intellectual Property Action within the meaning of
7 Civil Local Rule 3-2(c), the action is to be assigned on a district-wide basis.

8 **BACKGROUND FACTS**

9 **Lance Parker and iTag, LLC**

10 15. Lance founded iTag, LLC after years of hard work and perseverance.
11 His vision was to create a company that would improve people's lives and make the
12 world a better place. To achieve his vision, Lance focused on location-based
13 services for cell phones and other mobile devices to help the millions of people who
14 have lost their mobile device or had it stolen each year. He invented a solution to
15 this problem and, understanding the invention's import, Lance filed for patent
16 protection on his novel iTag application.

17 16. In addition to ideation, Lance worked in every other aspect of the
18 business from marketing to fundraising. He put in twelve to fourteen hours a day
19 and did all that he could to finance the company himself. At one point, iTag, LLC
20 had thirteen employees, with Lance feeling personally responsible to make the
21 company a success. He constantly thought about how these employees had
22 spouses, children, car payments, and rents to pay each month.

23 **Contact with BlackBerry**

24 17. Recognizing that BlackBerry needed his iTag application, Lance
25 initiated contact with BlackBerry. He was filled with the hope that iTag, LLC and
26 BlackBerry would become partners wherein the iTag application would be
27 deployed on a worldwide scale. Lance joined the BlackBerry Alliance program.
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21. The slide showing the problem the iTag application solves is below:

**164,383
phones are
lost, stolen or
damaged
every day!**

Asurion.com
2009

**25 million
mobile
devices are lost
or stolen every
year!**

By Herb Weisbaum
MSNBC.com 2007



22. The first slide pertaining to the iTag application's features is below:

Phone Recovery/Protection

- Phone location viewed on a map safely and securely over the web.
- *“Ring my phone” From iTag.com, you can make your phone ring for 10 minutes even if it is set to silent or vibrate.*
- If someone replaces the SIM card, the new number (number of the thief) is sent to the website.
- If you cannot recover your phone, just log in and you can erase **all** the personal, sensitive and proprietary information on your mobile device.
- Backup/Restore your phone and key lock the device



1 23. The second slide pertaining to the iTag application's features is below:

2 Social Networking

- 3 • Secure and permission based.
- 4
- 5 • Get alerted when your friends or
- 6 family are near.
- 7
- 8 • *Send your location to anyone.*
- 9 • *Request an iTag users location.*



10

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12 24. At the end of the meeting, Mr. Lessard instructed Lance to work with

13 Janice Malatches on original equipment manufacturer (“OEM”) licensing

14 opportunities. At the time, Ms. Malatches was understood to have the title of

15 Business Development Manager for BlackBerry. Lance then followed up with both

16 Ms. Malatches and Mr. McDowell. Ms. Malatches requested more information

17 over email and another demonstration to her was scheduled for October 28, 2009.

18 Another demonstration was scheduled for October 20, 2009, with Mr. McDowell.

19 **Second Demonstration and Presentation to BlackBerry**

20 25. On October 20, 2009, Lance had an online meeting with

21 Mr. McDowell during which he discussed, demonstrated, and presented the iTag

22 application, as he had done with Mr. Lessard.

23 26. During the meeting, Lance also proposed to offer the iTag application

24 to BlackBerry in an OEM license agreement. Mr. McDowell responded by stating

25 that BlackBerry will just build the application itself and then abruptly ended the

26 meeting.

27 27. Lance was in shock, disbelief, and speechless as Mr. McDowell

28 responded. When the meeting ended, he felt like he had walked to the parking lot

1 only to find that his car had been stolen, then went home to find his house had been
2 broken into and everything he had was stolen.

3 **Third Demonstration and Presentation to BlackBerry**

4 28. Not knowing what to do next, Lance kept his next scheduled meeting
5 with Ms. Malatches. On October 28, 2009, Lance had an online meeting with Ms.
6 Malatches during which he discussed, demonstrated, and presented the iTag
7 application, as he had done with Messrs. Lessard and McDowell.

8 **Lance's "Lost. And FOUND."**

9 29. iTag, LLC is rebranded with a new logo and tagline "Lost. And
10 FOUND." Ms. Malatches is exposed to the tagline by Lance's email signature in
11 an email to her on January 28, 2010:

12 **From:** Lance Parker [<mailto:lance@itag.com>]
13 **Sent:** Thursday, January 28, 2010 12:55 PM
To: Janice Malatches
Subject: RE: push credentials

14 I believe I did. Is it something else than Pratik saying that our server IP has been
15 whitelisted? Please send me anything else the developers would need.

16 Lance Parker • Lance@iTag.com
Office 323.798.8072 • Cell 310.702.8686 • Fax 310.694.3083



21 **Blackberry's "Lost and Found"**

22 30. Some four months after Lance's first demonstration to BlackBerry
23 about the iTag application, it was leaked that Blackberry would be providing a new
24 service, BlackBerry Shield, to address an existing solution gap.

25 31. One month later and about one week before one of the largest wireless
26 conferences in the United States, specifications on the upcoming BlackBerry Shield
27 emerged on bbleaks.com on March 19, 2010 as follows (underlining added to
28 "Lost & Found"):

- 1
- 2 • **Remote Device Wipe** - in case of loss of the terminal, just log in to BB Shield to
- 3 remove all data from the device and / or memory card.
- 4 • **"Lost & Found" Screen** - you can customize the sentence on the screen to display that
- 5 the BlackBerry is lost and show any information about the content (i.e. "take me
- 6 please").
- 7 • **The ability to remotely set the password on the BlackBerry**
- 8 • **A loud bell alarm** - useful option, even if you've lost your BlackBerry (at home) - once
- 9 you've activated this option, your BB will 'behave' loud sounding an alarm, which will
- 10 hopefully prompt a passerby (or yourself) to pick up your lost BlackBerry.
- 11 • **Tracking capability** - based on the GSM transmitters and / or GPS position that is
- 12 constantly monitored in the BlackBerry unit, and there may be the possibility of seeing it
- 13 on the map (like Google Maps) from the BB Shield dashboard.
- 14 • **Backup** - create wireless backup and restore, which can be set automatically exercise in
- 15 the given time intervals

12 32. Lance's tagline is not the only thing taken as the BlackBerry Shield
13 features are nearly identical to the iTag application features pertinent to "Phone
14 Recovery/Protection" disclosed to BlackBerry on at least three prior occasions.

15 Lance's Winning Product

16 33. Days later, iTag, LLC launched its iTag application at CTIA in Las
17 Vegas.

18 34. The iTag product won second place "CTIA Emerging Technology
19 Award."

20 BlackBerry's BlackBerry Protect

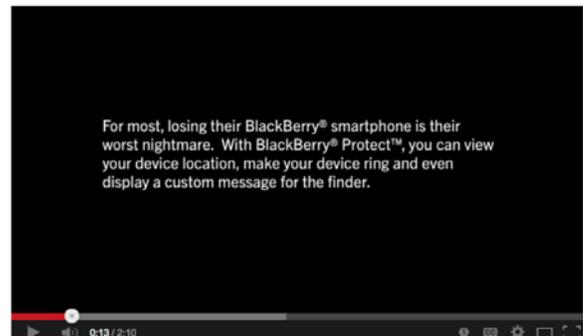
21 35. On July 12, 2010, BlackBerry launched BlackBerry Protect with the
22 same features of the previously leaked BlackBerry Shield, which in turn are the
23 same features of the previously disclosed iTag application. Below is a snapshot
24 taken from an official BlackBerry website, blogs.blackberry.com, on July 12, 2010:

1 **What are the key features of BlackBerry Protect?**

2 BlackBerry Protect allows you the ability to wirelessly backup, restore and locate your BlackBerry® smartphone. In
 3 the event that your BlackBerry smartphone is misplaced, lost or stolen, BlackBerry Protect provides features like:
 4 remote device wipe, remote device lock, 'Lost and Found' screen, locate device on a map, remote activation of the
 BlackBerry smartphone loud ringer, and wireless device backup and restore.

5
 6 36. As seen above, BlackBerry refers to a “Lost and Found” screen as one
 7 of the key features. Indeed, BlackBerry refers to a “Lost and Found” screen three
 8 times in its official announcement of the BlackBerry Protect.

9 37. BlackBerry also generated a promotional video about the BlackBerry
 10 Protect in which BlackBerry mimicked yet again Lance’s previous demonstrations
 11 and presentations, as seen in part below:



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38. Lance dissolved iTag, LLC in June 2011, and formed Parker IP in March 2014.

Lance’s Utility Patent

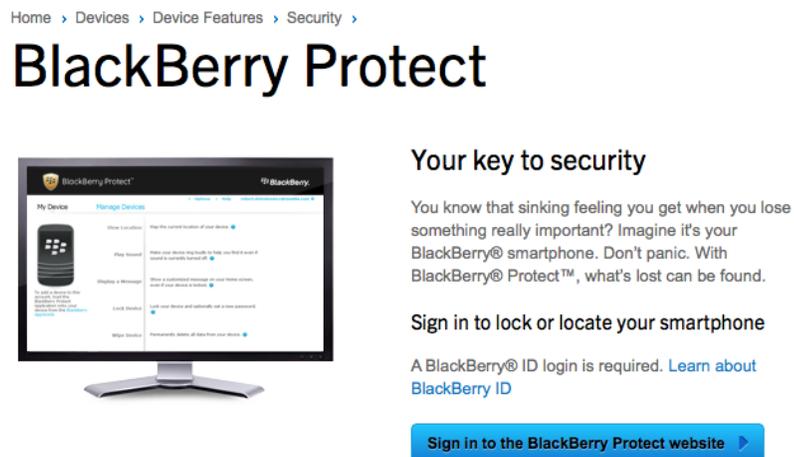
39. On July 23, 2013, the United States Patent and Trademark Office issued U.S. Patent No. 8,494,560 (“’560 Patent”) entitled “System, Method and Program Product for Location Based Services, Asset Management and Tracking.” This patent names Lansing Arthur Parker as the inventor. A true and correct copy of the ‘560 Patent is attached as Exhibit 1.

1 40. Parker IP is the owner of all right, title, and interest in and to the ‘560
2 Patent with the full and exclusive right to enforce this patent, including the right to
3 recover for past infringement.

4 **BlackBerry’s Infringing BlackBerry Protect**

5 41. BlackBerry has offered for sale, sold, used, or marketed in the United
6 States, or imported into the United States, its BlackBerry Protect, which infringes
7 Parker IP’s intellectual property rights.

8 42. According to BlackBerry’s United States website,
9 us.blackberry.com/devices/features/security/protect.html, in BlackBerry 10 devices,
10 BlackBerry Protect is built into the operating system (“OS”). For smartphones
11 running on BlackBerry 7 OS, BlackBerry 6 OS, and earlier versions of BlackBerry
12 Device Software, BlackBerry Protect is a free application that can be downloaded
13 onto a smartphone. The website provides links to download the application. The
14 website also explains that BlackBerry Protect is “[y]our key to security” and
15 “what’s lost can be found,” by “sign[ing] in to lock or locate your smartphone,” as
16 seen below:



24

25 43. BlackBerry’s United States website further provides links to sign in to
26 the secure BlackBerry Protect website to receive login information from a user and
27 authenticate the user using the received login information.

1 44. BlackBerry's United States website also explains how a user may
2 protect the information on their smartphone by "simply" logging in to the
3 BlackBerry Protect website to lock their device or delete the information on their
4 smartphone from the BlackBerry Protect website too.

5 45. Similarly, BlackBerry's United States website illustrates how a user
6 may log in to the BlackBerry Protect website to find their smartphone, lock and
7 display a message on it, locate it and go get it, or force it to ring at full volume:



Find your smartphone

Maybe you've just misplaced your smartphone. Lock and display a message on your smartphone Home screen for whoever may find it. Then locate it on a map and go get it.¹ Or, if you think your smartphone is nearby, simply force it to ring at full volume.

[Sign in to the BlackBerry Protect website](#)

17 46. BlackBerry's "Knowledge Base" website has an article entitled "How
18 to use BlackBerry Protect to determine the location of a BlackBerry smartphone,"
19 Article ID: KB25064. In it, BlackBerry explains that the BlackBerry smartphone
20 sends its location only when it is requested through the BlackBerry Protect website
21 or if the battery power level is low.

22 47. This same "Knowledge Base" article also states that a BlackBerry user
23 may share their BlackBerry Protect account credentials (BlackBerry ID) with
24 others, so they too can view the location of the BlackBerry smartphone at any time
25 through the BlackBerry Protect website. In this regard, reference is made again to
26 Lance's prior demonstrations and presentations to BlackBerry in which he revealed
27 that one of the iTag application's features involves "Social Networking" wherein
28 others may request an iTag user's location. Reference is also made to all twenty

1 eight claims of the ‘560 Patent including but not limited to claim 24 discussing a
2 “social networking” system.

3 48. BlackBerry does not have a license, authority, or permission to use any
4 of the claimed subject matter of the ‘560 Patent.

5 **PATENT INFRINGEMENT CLAIM**

6 49. Parker IP incorporates and realleges paragraphs 1 through 48 of this
7 Complaint.

8 50. BlackBerry has directly infringed and continues to infringe directly
9 one or more claims of the ‘560 Patent by using, selling, and/or offering to sell in the
10 United States, and/or importing into the United States, BlackBerry Protect in
11 violation of 35 U.S.C. § 271.

12 51. BlackBerry indirectly infringes the ‘560 Patent by inducing the direct
13 infringement by others. For example, BlackBerry actively induces its customers to
14 infringe directly one or more claims of the ‘560 Patent by enabling, instructing, and
15 encouraging BlackBerry customers to use BlackBerry Protect. As of at least the
16 filing of this Complaint, Blackberry has been aware of the ‘560 Patent and aware
17 that its customers’ use of BlackBerry Protect constitutes direct infringement.

18 52. Parker IP is entitled to recover from BlackBerry the damages sustained
19 by him as a result of BlackBerry’s wrongful acts in an amount subject to proof at
20 trial.

21 53. BlackBerry will continue to infringe the ‘560 Patent and thus cause
22 irreparable harm and damage to Parker IP unless enjoined.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, Parker IP respectfully requests the following relief:

- 25 1. Enter judgment for Parker IP on this Complaint;
26 2. Enjoin BlackBerry, its officers, agents, servants, employees, attorneys,
27 and all others acting in privity or in concert with them, and their parents,
28

1 subsidiaries, divisions, successors, and assigns, from further acts of infringement of
2 the '560 Patent;

3 3. Award Parker IP damages resulting from BlackBerry's infringement,
4 order BlackBerry to account for and pay to Parker IP damages adequate to
5 compensate Parker IP for the infringement of its patent rights, and award Parker IP
6 its costs and pre-judgment and post-judgment interest at the maximum rate
7 permitted by law;

8 4. Declare this case exceptional under 35 U.S.C. § 285, and award Parker
9 IP its attorney fees, costs, and expenses; and

10 6. Grant Parker IP such further relief to which the Court finds Parker IP
11 entitled under law or equity.

12
13 Dated: April 29, 2014

Respectfully submitted,

14
15 By /s/ Todd R. Miller
Todd R. Miller

16
17 Todd R. Miller (SBN 193688)
18 trmiller@millerip.com
MILLER IP
19 1122 E. Green Street
Pasadena, CA 91106
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JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38(b), Lance Parker IP, LLC hereby demands trial by jury of all triable issues.

Dated: April 29, 2014

Respectfully submitted,

By /s/ Todd R. Miller
Todd R. Miller

Todd R. Miller (SBN 193688)
trmiller@millerip.com
MILLER IP
1122 E. Green Street
Pasadena, CA 91106
Telephone: (626) 795-0500
Facsimile: (626) 795-0615

Frank M. Washko (SBN 252010)
fwashko@tiburonip.com
TIBURON INTELLECTUAL PROPERTY PLLC
350 Townsend St., Suite 680
San Francisco, CA 94107
Telephone: (415) 545-8040

Attorneys for Lance Parker IP, LLC