

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
SEATTLE DIVISION

REC SOFTWARE USA, INC., a Virginia corporation,

Plaintiff,

v.

KYOCERA AMERICA, INC., a California corporation; and KYOCERA COMMUNICATIONS, INC., a Delaware corporation,

Defendants.

Case No. 2:14-cv-01051

**COMPLAINT FOR PATENT INFRINGEMENT**

**DEMAND FOR JURY TRIAL**

Plaintiff REC Software USA, Inc. (“REC” or “Plaintiff”), for its complaint against defendants Kyocera America, Inc., and Kyocera Communications, Inc. (collectively, “Defendants”), alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for infringement of U.S. Patent No. 5,854,936 (the “ ‘936 Patent”), a true and correct copy of which is attached hereto as Exhibit A. Plaintiff undertakes this action pursuant to the patent laws of the United States, 35 U.S.C. §§ 271 and 281, and seeks damages resulting from Defendants’ unauthorized manufacture, use, sale, offers to sell, and/or importation into the United States of products, methods, processes, services, and/or systems that infringe one or more claims of the ‘936 Patent.

**PARTIES**

1  
2           2.     Plaintiff REC is a corporation organized and existing under the laws of the  
3 Commonwealth of Virginia, with its principal place of business located in Arlington, Virginia.

4           3.     Defendant Kyocera America, Inc. (“KAI”) is a corporation organized and existing  
5 under the laws of the state of California, with its principal place of business located at 8611  
6 Balboa Avenue, San Diego, California 92123. KAI conducts business in the state of Washington  
7 and has a registered agent for service of process, CSC Corporation, located in Tumwater,  
8 Washington. KAI has made, used, sold, offered for sale, and/or imported into the United States  
9 certain products that infringe one or more claims of the ‘936 Patent.

10          4.     Defendant Kyocera Communications, Inc. (“KCI”) is a corporation organized and  
11 existing under the laws of the state of Delaware, with its principal place of business located at  
12 9520 Towne Centre Drive, San Diego, California 92121. KCI conducts business in the state of  
13 Washington and has an office located in Seattle, Washington. KCI has made, used, sold, offered  
14 for sale, and/or imported into the United States certain products that infringe one or more claims  
15 of the ‘936 Patent.

**JURISDICTION AND VENUE**

16  
17          5.     This action arises under the patent laws of the United States, Title 35 of the  
18 United States Code, 35 U.S.C. §§ 271 and 281. This Court has original subject matter  
19 jurisdiction over this patent infringement action under 28 U.S.C. §§ 1331 and 1338(a).

20          6.     Venue is proper in this district under 28 U.S.C. §§ 1391 and 1400(b). Defendants  
21 have transacted business in this district, have committed acts of patent infringement in this  
22 district, and have placed their infringing products and services into the stream of commerce  
23 throughout the United States with the expectation that they will be used by consumers in this  
24 judicial district.

25          7.     Defendants are subject to personal jurisdiction in the state of Washington and this  
26 judicial district and are doing business in this judicial district.

**COUNT I -- INFRINGEMENT OF THE '936 PATENT**

8. Plaintiff repeats and realleges the allegations of paragraphs 1 through 7 as if fully set forth herein.

9. On December 29, 1998, the U.S. Patent and Trademark Office duly and lawfully issued the '936 Patent.

10. Plaintiff is the exclusive licensee of the '936 Patent and the invention described and claimed therein, with all substantial rights with respect thereto. Plaintiff has the legal right to enforce the '936 Patent, including the right to pursue an action for infringement of the '936 Patent and the right to seek damages, equitable relief, and any other remedies for, or with respect to, any infringement of the '936 Patent.

11. Without license or authorization and in violation of 35 U.S.C. § 271(a), Defendants have infringed the '936 Patent by making, using, selling, offering for sale, and/or importing methods and/or products forming an association in the manner claimed by the '936 Patent, including, but not limited to, the Kyocera Echo (Sprint) mobile phone.

12. Pursuant to 35 U.S.C. § 284, Plaintiff is entitled to recover damages from Defendants to compensate Plaintiff for Defendants' infringement.

**JURY DEMAND**

Plaintiff demands a trial by jury of all matters to which it is entitled to trial by jury.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff requests that this Court enter judgment against Defendants as follows:

A. An adjudication that that Defendants have infringed the '936 patent;

B. As provided under 35 U.S.C. § 284, an award of damages to be paid by Defendants to Plaintiff adequate to compensate Plaintiff for Defendants' infringement of the '936 Patent, including pre- and post-judgment interest, costs, expenses, and an order for an accounting of all infringing acts; and

1 C. An award to Plaintiff of such further relief at law or in equity as the Court deems  
2 just and proper.

3 DATED this 11th day of July, 2014.

4 STOLL STOLL BERNE LOKTING & SHLACHTER P.C.

5  
6 By: s/Timothy S. DeJong  
7 **Timothy S. DeJong**, WSBA No. 20941  
8 209 SW Oak Street, Suite 500  
9 Portland, OR 97204  
Telephone: (503) 227-1600  
Facsimile: (503) 227-6840  
Email: tdejong@stollberne.com

10 **Attorneys for Plaintiff REC Software USA, Inc.**

11  
12 *Of Counsel*  
13 Kevin L. Russell  
14 Email: kevin@chernofflaw.com  
15 CHERNOFF VILHAUER MCCLUNG  
16 AND STENZEL LLP  
601 SW 2nd Ave., Suite 1600  
Portland, OR 97204  
Telephone: (503) 227-5631  
Facsimile: (503) 228-4373