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11 Attorneys for Plaintiff
12 SOFTVAULT SYSTEMS, INC.

13 **UNITED STATES DISTRICT COURT**
14 **NORTHERN DISTRICT OF CALIFORNIA**
15 **SAN JOSE DIVISION**

16 SOFTVAULT SYSTEMS, INC.

17 Plaintiff,

18 vs.

19 NATIONAL INSTRUMENTS
20 CORPORATION,

21 Defendant.

CASE NO.

**COMPLAINT FOR INFRINGEMENT
OF
U.S. PATENT NOS. 6,249,868 AND
6,594,765**

JURY TRIAL DEMANDED

1 Plaintiff SOFTVAULT SYSTEMS, INC. files its Complaint against Defendant
2 NATIONAL INSTRUMENTS CORPORATION, alleging as follows:

3 **THE PARTIES**

4 1. Plaintiff SOFTVAULT SYSTEMS, INC. (“SOFTVAULT”) is a corporation
5 organized and existing under the laws of the State of Washington with its principle place of
6 business in the State of Washington.

7 2. Upon information and belief, NATIONAL INSTRUMENTS CORPORATION
8 (“Defendant” or “National Instruments”) is a corporation organized and existing under the laws
9 of the State of Delaware, with its principal place of business in Austin, TX. Defendant may be
10 served with process through its registered agent CT Corporation System, 818 West Seventh
11 Street, 2nd Floor, Los Angeles, CA 90017.

12 **JURISDICTION AND VENUE**

13 3. This is an action for infringement of United States patents. This Court has
14 exclusive jurisdiction of such action under Title 28 U.S.C. § 1338(a).

15 4. Upon information and belief, National Instruments is subject to personal
16 jurisdiction by this Court. National Instruments has committed such purposeful acts and/or
17 transactions in the State of California that it reasonably knew and/or expected that it could be
18 hailed into a California court as a future consequence of such activity. National Instruments
19 makes, uses, and/or sells infringing products within the Northern District of California and has a
20 continuing presence and the requisite minimum contacts with the Northern District of California,
21 such that this venue is a fair and reasonable one. Upon information and belief, National
22 Instruments has transacted and, at the time of the filing of this Complaint, is continuing to
23 transact business within the Northern District of California. For all of these reasons, personal
24 jurisdiction exists and venue is proper in this Court under 28 U.S.C. §§ 1391(b)(1), (2) and (c)(2)
25 and 28 U.S.C. § 1400(b).

26 **PATENTS-IN-SUIT**

27 5. On June 19, 2001, United States Patent No. 6,249,868 BI (“the ‘868 Patent”) was
28 duly and legally issued for “METHOD AND SYSTEM FOR EMBEDDED, AUTOMATED,

1 COMPONENT-LEVEL CONTROL OF COMPUTER SYSTEMS AND OTHER COMPLEX
2 SYSTEMS.” A true and correct copy of the ‘868 Patent is attached hereto as Exhibit A and
3 made a part hereof.

4 6. On July 15, 2003, United States Patent No. 6,594,765 B2 (“the ‘765 Patent” was
5 duly and legally issued for “METHOD AND SYSTEM FOR EMBEDDED, AUTOMATED,
6 COMPONENT-LEVEL CONTROL OF COMPUTER SYSTEMS AND OTHER COMPLEX
7 SYSTEMS.” A true and correct copy of the ‘765 Patent is attached hereto as Exhibit B and
8 made a part hereof.

9 7. The ‘868 Patent and the ‘765 Patent are sometimes referred to herein collectively
10 as “the Patents-in-Suit.”

11 8. As it pertains to this lawsuit, the Patents-in-Suit, very generally speaking, relate to
12 a method and system of protecting electronic, mechanical, and electromechanical devices and
13 systems, such as for example a computer system, and their components and software from
14 unauthorized use. Specifically, certain claims of the ‘868 and ‘765 Patents disclose the
15 utilization of embedded agents within system components to allow for the enablement or
16 disablement of the system component in which the agent is embedded. The invention disclosed
17 in the Patents-in-Suit discloses a server that communicates with the embedded agent through the
18 use of one or more handshake operations to authorize the embedded agent. When the embedded
19 agent is authorized by the server, it enables the device or component, and when not authorized
20 the embedded agent disables the device or component.

21 **FIRST CLAIM FOR RELIEF**

22 **(Patent Infringement)**

23 9. SoftVault repeats and realleges every allegation set forth above.

24 10. SoftVault is the owner of the Patents-in-Suit with the exclusive right to enforce
25 the Patents-in-Suit against infringers, and collect damages for all relevant times, including the
26 right to prosecute this action.

27 11. Upon information and belief, National Instruments is liable under 35 U.S.C.
28 §271(a) for direct infringement of the Patents-in-Suit because it manufactures, makes, has made,

1 uses, practices, imports, provides, supplies, distributes, sells, and/or offers for sale products
2 and/or systems that practice one or more claims of the Patents-in-Suit.

3 12. More specifically, National Instruments infringes the Patents-in-Suit because it
4 manufactures, makes, has made, uses, practices, imports, provides, supplies, distributes, sells,
5 and/or offers for sale products and systems which prevent unauthorized use of a computer system
6 through the ability to enable or disable the operation of a device's components through an
7 authorization process performed by an embedded agent in the application software and a server.

8 13. All National Instruments products which include its product activation features
9 have, at a minimum, in the past directly infringed and continue to directly infringe at least Claim
10 44 of the '868 Patent, as well as at least Claim 11 of the '765 Patent. These infringing products
11 include, but are not limited to, NI LabVIEW, NI Measurement Studio, NI TestStand, NI
12 DIAdem.

13 14. National Instruments includes the product activation features in its software
14 applications to enforce licensing policies and ensure that only authorized copies of National
15 Instruments software may be installed and used on a computer. The product activation feature
16 requires that a portion of the code in the installed National Instruments application communicate
17 with a National Instruments license server over the Internet to activate (or enable) the
18 application. Upon installation of a National Instruments application, the product activation
19 feature prompts a user to activate the application by entering in a product key. The license server
20 exchanges messages constituting a handshake operation with the product activation code in the
21 application to determine whether the license for the application is valid. When the product
22 activation code is authorized by the license server, it enables the application in which it is
23 embedded to operate normally. When the product activation code is not authorized by the
24 license server, the application is disabled.

25 15. National Instruments has actual notice of the Patents-in-Suit at least as early as
26 the filing of this Complaint.

27 16. SoftVault has been damaged as a result of National Instruments' infringing
28 conduct. National Instruments is, thus, liable to SoftVault in an amount that adequately

1 compensates SoftVault for National Instruments' infringement, which, by law, cannot be less
2 than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C.
3 § 284.

4 **PRAYER FOR RELIEF**

5 SoftVault requests that the Court find in its favor and against National Instruments, and
6 that the Court grant SoftVault the following relief:

- 7 a. Judgment that one or more claims of the Patents-in-Suit have been infringed,
8 either literally and/or under the doctrine of equivalents, by National Instruments;
- 9 b. Judgment that National Instruments account for and pay to SoftVault all damages
10 to and costs incurred by SoftVault because of National Instruments' infringing
11 activities and other conduct complained of herein;
- 12 c. That National Instruments, its officers, agents, servants and employees, and those
13 persons in active concert and participation with any of them, be permanently
14 enjoined from infringement of the Patents-in-Suit. In the alternative, if the Court
15 finds that an injunction is not warranted, SoftVault requests an award of post
16 judgment royalty to compensate for future infringement;
- 17 e. That SoftVault be granted pre-judgment and post-judgment interest on the
18 damages caused to it by reason of National Instruments' infringing activities and
19 other conduct complained of herein;
- 20 f. That this Court declare this an exceptional case and award SoftVault its
21 reasonable attorney's fees and costs in accordance with 35 U.S.C. § 285; and
- 22 g. That SoftVault be granted such other and further relief as the Court may deem just
23 and proper under the circumstances.

24 **JURY DEMAND**

25 Plaintiff hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil
26 Procedure.

1 DATED: July 16, 2014.

/s/ Benedict O'Mahoney

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