

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

IOENGINE, LLC,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. _____
)	
IMATION CORP.,)	
)	
Defendant.)	Jury Trial Demanded
)	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff IOENGINE, LLC (“Plaintiff” or “IOENGINE”), by and through its undersigned counsel, alleges as follows:

THE PARTIES

1. IOENGINE is a limited liability company organized and existing under the laws of Delaware, with its principal place of business at 22 Ensign Road, Norwalk, Connecticut 06853.

2. Defendant Imation Corp. (“Defendant” or “Imation”) is a corporation organized and existing under the laws of Delaware, with its principal place of business at 1 Imation Way, Oakdale, Minnesota 55128.

3. Defendant’s registered agent in the State of Delaware is Corporation Service Company, 2711 Centerville Rd. Ste. 400, Wilmington, Delaware 19808.

JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 100 *et seq.*, including, but not limited to, 35 U.S.C. § 271.

5. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. On information and belief, Defendant is a corporation organized and existing under the laws of Delaware, has transacted and does transact business within Delaware, and has committed and contributed to, and induced acts of, patent infringement in Delaware and this District. Defendant is subject to this Court's specific and general personal jurisdiction pursuant to due process and the Delaware Long Arm Statute, due at least to its substantial business in this forum, including: (i) at least a portion of the infringement alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and deriving substantial revenue from goods and services provided to individuals in Delaware.

7. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (c), and 1400(b) because, among other reasons, Defendant is subject to personal jurisdiction in this District and has committed and continues to commit acts of patent infringement in this District. For example, on information and belief, Defendant has made, used, sold, offered for sale, and/or imported infringing products and services in this District.

BACKGROUND

8. This dispute involves technology that allows enhanced capabilities on portable electronic devices. For example, the technology at issue provides for terminal processors and peripheral device processors to execute program code stored on the peripheral device, allowing advanced functionality to be added to standard peripheral devices and allowing peripheral devices to access networks using a terminal's network interface.

9. The technology at issue was invented by Scott McNulty, who also founded IOENGINE.

THE PATENT-IN-SUIT

10. On September 17, 2013, the United States Patent and Trademark Office duly and legally issued United States Patent No. 8,539,047 (“the ’047 Patent”), entitled “Apparatus, Method and System for a Tunneling Client Access Point,” to Scott McNulty after full and fair examination. The application that led to the ’047 Patent, U.S. Patent Application Ser. No. 12/950,321, was a continuation of U.S. Patent Application Ser. No. 10/807,731 and claims priority to at least March 23, 2004. IOENGINE is the assignee of all right, title, and interest in and to the ’047 Patent and possesses all rights of recovery under the ’047 Patent, including the right to recover damages for past infringement. A true and correct copy of the ’047 Patent is attached hereto as Exhibit A.

IMATION’S INFRINGEMENT

11. IOENGINE incorporates by reference the preceding paragraphs as if fully set forth herein.

12. As described below, Imation infringes the claims of the ’047 Patent directly (alone or jointly), and indirectly by contributing to and inducing direct infringement by others, by making, using, selling, offering for sale, importing into the United States, and encouraging the manufacture, use, sale, and importation of products and services.

13. More specifically, the infringing products (the “Imation Infringing Products”) include, but are not limited to, Imation’s IronKey Personal products (*e.g.*, the IronKey S250 Personal, IronKey D250 Personal, IronKey S200 Personal, IronKey D200 Personal, and IronKey S100 Personal), Ironkey Enterprise products (*e.g.*, the IronKey H300 Enterprise, IronKey S250 Enterprise, IronKey D250 Enterprise, IronKey S200 Enterprise, IronKey D200 Enterprise, and IronKey S100 Enterprise), and the IronKey Workspace products (*e.g.*, the

IronKey W700 Workspace and IronKey W500 Workspace); products incorporating the foregoing; and reasonably similar Imation products with on-board storage and processing capabilities that embody the apparatuses or practice the methods claimed by the '047 Patent. The Imation Infringing Products meet the limitations of the '047 Patent literally and/or under the doctrine of equivalents.

14. Imation instructs and encourages its customers to use the Imation Infringing Products in a manner that infringes the claims of the '047 Patent including by providing user guides and data sheets for the Imation Infringing Products,¹ by providing information on its website (*available at* www.ironkey.com), including videos, demonstrations, and other information for the Imation Infringing Products, and by providing technical support for the Imation Infringing Products, in each case that contains detailed descriptions and instructions for using and implementing functionality that, alone or in combination, practices the invention claimed in the '047 Patent, including at least, device installation, device setup, device login,

¹ See, e.g., <http://support2.imation.com/downloads/imm/IMS/x250/Imation-x250-Personal-User-Guide.pdf>, <http://support2.imation.com/downloads/imm/IMS/x250/Imation-x250-Enterprise-User-Guide.pdf>, http://support2.imation.com/downloads/imm/IMS/IronKey_Personal_User_Guide.pdf, http://support2.imation.com/downloads/imm/IMS/IronKey_Enterprise_User_Guide.pdf, http://support2.imation.com/downloads/imm/IMS/H300/IronKey_Enterprise_H300_UG.pdf, http://support2.imation.com/downloads/imm/IMS/WS42/Documentation/IronKey_Workspace_W700_UG.pdf, http://support2.imation.com/downloads/imm/IMS/WS42/Documentation/IronKey_Workspace_W500_UG.pdf, http://www.ironkey.com/en-US/resources/documents/IronKey_Personal_S250-D250_Sellsheet_Letter.pdf, http://www.ironkey.com/en-US/resources/documents/IronKey_S250_vs_D250_SellSheet.pdf, http://www.ironkey.com/en-US/resources/documents/IronKey_Enterprise_S250-D250_Sellsheet_Letter.pdf, http://www.ironkey.com/en-US/resources/documents/IronKey_Personal_S250-D250_Sellsheet_Letter.pdf, http://www.ironkey.com/en-US/resources/documents/IronKey_S250_vs_D250_SellSheet.pdf, http://www.ironkey.com/en-US/resources/documents/IronKey_Enterprise_S250-D250_Sellsheet_Letter.pdf, http://www.ironkey.com/en-US/resources/documents/IronKey_Basic_Enterprise_H300_External_Hard_Drive_Sellsheet_Letter.pdf, http://www.ironkey.com/en-US/resources/documents/Ironkey_W700_SellSheet%20US.pdf, and http://www.ironkey.com/en-US/resources/documents/IronKey_SellSheet_Workspace_W500_W300_Healthcare.pdf.

password change/reset, forced password change, device update/firmware update, account settings management, remote administrative management, device unlocking, accessing the device after a forgotten password, device self-destruct, device reset, device automatic lock, restoration of onboard applications, use of the identity manager feature, use of the online account management feature, and use of secure web browsers.

FIRST COUNT FOR RELIEF
(INFRINGEMENT OF THE '047 PATENT)

15. IOENGINE incorporates by reference the preceding paragraphs as if fully set forth herein.

16. Imation had actual knowledge of the '047 Patent at least as early as the filing of this Complaint.

17. On information and belief, Imation has infringed and continues to infringe, directly (alone or jointly) and indirectly by way of inducement and contributory infringement, literally and/or under the doctrine of equivalents, in violation of 35 U.S.C. § 271, one or more claims of the '047 Patent by performing, without authority, one or more of the following acts: making, having made, using, importing, selling, and offering for sale in the United States one or more products and services that embody one or more inventions described and claimed in the '047 Patent, including but not limited to the Imation Infringing Products. Since at least after receiving notice of this Complaint, Defendant has knowingly contributed to the infringement, and continues to contribute to the infringement, of one or more claims of the '047 Patent by selling and offering its products for sale to its customers, which products constitute a material part of the invention and are not staple articles or commodities of commerce suitable for substantial non-infringing use. Further, since at least after receiving notice of this Complaint,

Defendant has induced infringement, and continues to induce infringement, of one or more claims of the '047 Patent, with specific intent that its products be used by its customers to infringe the '047 Patent.

18. By infringing the '047 Patent, Imation has caused and will continue to cause Plaintiff to suffer damages in an amount to be determined at trial.

19. Plaintiff has no adequate remedy at law against Imation's acts of infringement, and unless Imation is permanently enjoined from infringing the '047 Patent, Plaintiff will suffer irreparable harm.

20. To the extent that Imation has or continues to make, use, import, sell, or offer for sale products or services that infringe the '047 Patent following its awareness of the '047 Patent, Imation's infringement is willful and entitles IOENGINE to an award of enhanced damages pursuant to 35 U.S.C. § 284 and attorneys' fees pursuant to 35 U.S.C. § 285.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment on the complaint as follows:

a. Judgment in favor of Plaintiff and against Defendant for infringement of the '047 Patent;

b. Entry of a permanent injunction enjoining Defendant and its affiliated entities, officers, agents, servants, employees, and those persons in active concert or participation with them who receive actual notice thereof, from directly or indirectly infringing, inducing the infringement of, or contributing to the infringement of the '047 Patent;

c. An award to Plaintiff of compensatory damages arising out of Defendant's infringement, including increased damages for Defendant's willful infringement, together with pre-judgment and post-judgment interest thereon;

- d. An award to Plaintiff of costs, interest, and reasonable attorneys' fees incurred herein;
- e. An accounting for future sales; and
- f. Such other and further relief as the Court may deem just and appropriate.

DEMAND FOR JURY TRIAL

In accordance with Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury on all issues so triable.

Dated: December 31, 2014

Smith, Katzenstein & Jenkins, LLP

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