

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

ADAPTIVE DATA LLC,

Plaintiff,

v.

TOSHIBA AMERICA, INC., TOSHIBA  
AMERICA BUSINESS SOLUTIONS,  
INC., and TOSHIBA CORPORATION,

Defendants.

**Civil Action No.** \_\_\_\_\_

**JURY TRIAL DEMANDED**

**COMPLAINT**

Adaptive Data LLC (hereafter “Adaptive Data”), Plaintiff, brings this action against Toshiba America, Inc., Toshiba America Business Solutions, Inc., and Toshiba Corporation (hereafter “Defendants”), and alleges that:

**PARTIES**

1. Plaintiff Adaptive Data is a limited liability company organized and doing business under the laws of Nevada.
2. Upon information and belief, Toshiba America, Inc. is a corporation organized and existing under the laws of the Delaware, with a place of business at 1251 Avenue of the Americas, Suite 4110, New York, New York 10020, and a registered agent for service of process at The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801. Upon information and belief, Defendant Toshiba America, Inc. sells and offers to sell products and services throughout the United States, including in this judicial district, and introduces products and services that perform infringing processes into the stream of commerce knowing that they would be sold in this judicial district and elsewhere in the United States.

3. Upon information and belief, Toshiba America Business Solutions, Inc. is a corporation organized and existing under the laws of the California, with a place of business at 9740 Irvine Blvd., Irvine, California 92618, and a registered agent for service of process at The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801. Upon information and belief, Defendant Toshiba America Business Solutions, Inc. sells and offers to sell products and services throughout the United States, including in this judicial district, and introduces products and services that perform infringing processes into the stream of commerce knowing that they would be sold in this judicial district and elsewhere in the United States.

4. Upon information and belief, Toshiba Corporation is a corporation organized and existing under the laws of the Japan, with a place of business at 1-1, Shibaura 1-chome, Minato-ku, Tokyo 105-8001, Japan. Upon information and belief, Defendant Toshiba Corporation sells and offers to sell products and services throughout the United States, including in this judicial district, and introduces products and services that perform infringing processes into the stream of commerce knowing that they would be sold in this judicial district and elsewhere in the United States.

#### **JURISDICTION AND VENUE**

5. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 271, *et seq.*

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

7. This Court has personal jurisdiction over Defendants since, on information and belief, Defendants have regularly and systematically transacted business in this Judicial District,

directly or through intermediaries, and/or committed acts of infringement in this Judicial District. As such, Defendants have purposefully availed itself of the privilege of conducting business within this Judicial District; have established sufficient minimum contacts with this Judicial District such that they should reasonably and fairly anticipate being hailed into court in this Judicial District; and at least a portion of the patent infringement claims alleged herein arise out of or are related to one or more of the foregoing activities.

8. Venue in this district over Defendants is proper under 28 U.S.C. § 1391(c) and (d) and 1400(b). On information and belief, Defendants have transacted business in this district, and has directly and/or indirectly committed and/or induced acts of patent infringement in this district.

### **BACKGROUND**

9. On August 22, 2000, United States Patent No. 6,108,347 (hereafter “the ’347 Patent”) was duly and legally issued to Kurt E. Holmquist, as the inventor thereof, and at all applicable times was valid and subsisting. A copy of the ’347 Patent, which is entitled “Non-Polled Dynamic Slot Time Allocation Protocol,” is attached hereto as Exhibit A.

10. On June 5, 2001, United States Patent No. 6,243,391 (hereafter “the ’391 Patent”) was duly and legally issued to Kurt E. Holmquist, as the inventor thereof, and at all applicable times was valid and subsisting. A copy of the ’391 Patent, which is entitled “Non-Polled Dynamic Slot Time Allocation Protocol,” is attached hereto as Exhibit B.

11. All rights, title and interest in and to the ’347 Patent and ’391 Patent have been assigned to Adaptive Data, Plaintiff herein, the current holder of the ’347 Patent and ’391 Patent.

### **COUNT I - INFRINGEMENT OF THE ’347 PATENT**

12. Adaptive Data re-alleges and reincorporates the allegations set forth in

Paragraphs 1 through 11 above.

13. Upon information and belief, Defendants directly infringes the '347 Patent in violation of 35 U.S.C. § 271(a) by offering to sell, selling, and importing, Bluetooth-enabled devices in and into the United States in a manner that infringes the '347 Patent.

14. Defendants have had knowledge of the infringement of the '347 patent since at least the filing of this complaint. Upon information and belief, Defendants have continued to sell the products that practice the '347 patent after acquiring knowledge of the infringement.

15. Adaptive Data is entitled to recover from Defendants damages as a result of Defendants' acts of infringement of the '347 Patent in an amount subject to proof at trial.

### **COUNT II - INFRINGEMENT OF THE '391 PATENT**

16. Adaptive Data re-alleges and reincorporates the allegations set forth in Paragraphs 1 through 15 above.

17. Upon information and belief, Defendants directly infringes the '391 Patent in violation of 35 U.S.C. § 271(a) by offering to sell, selling, and importing, Bluetooth-enabled devices in and into the United States in a manner that infringes the '391 Patent.

18. Defendants have had knowledge of the infringement of the '391 Patent since at least the filing of this complaint. Upon information and belief, Defendants have continued to sell the products that practice the '391 Patent after acquiring knowledge of the infringement.

19. Adaptive Data is entitled to recover from Defendants damages as a result of Defendants' acts of infringement of the '391 Patent in an amount subject to proof at trial.

### **PRAYER AND RELIEF**

WHEREFORE, Adaptive Data prays for judgment against Defendants and for the following relief:

- A. a judgment declaring that Defendants, its officers, agents, servants, employees and attorney, and those persons in active concert or participation with them, infringe and have infringed the patents asserted above;
- B. award Adaptive Data of damages ascertained against Defendants together with interest and costs thereon;
- C. award Adaptive Data its reasonable attorney fees and costs; and
- D. such other and further relief as the Court may deem just and proper.

**JURY DEMAND**

Plaintiff Adaptive Data demands a trial by jury of all issues properly triable by jury in this action.

Respectfully submitted,

Dated: January 5, 2015

STAMOULIS & WEINBLATT LLC

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