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8 e.Digital Corporation

9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 e.Digital Corporation,

12 Plaintiff,

13 v.

14 Spansion, Inc.; Mouser Electronics, Inc.,
15 Defendants.

'15CV0141 MMAWVG

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

16
17 Plaintiff e.Digital Corporation (“e.Digital” or “Plaintiff”), by and through its
18 undersigned counsel, complains and alleges against Defendant Spansion Inc.
19 (“Spansion”) and Defendant (“Mouser”) (both collectively referred to hereafter as
20 “Defendant” or “Defendants”) as follows:

21 **NATURE OF THE ACTION**

22 1. This is a civil action for infringement of a patent arising under the
23 laws of the United States relating to patents, 35 U.S.C. § 101, *et seq.*, including,
24 without limitation, 35 U.S.C. §§ 271, 281. Plaintiff e.Digital seeks a preliminary
25 and permanent injunction and monetary damages for the infringement of its U.S.
26 Patent No. 5,839,108.

27 **JURISDICTION AND VENUE**

28 2. This court has subject matter jurisdiction over this case for patent

1 infringement under 28 U.S.C. §§ 1331 and 1338(a) and pursuant to the patent laws
2 of the United States of America, 35 U.S.C. § 101, *et seq.*

3 3. Venue properly lies within the Southern District of California
4 pursuant to the provisions of 28 U.S.C. §§ 1391(b), (c), and (d) and 1400(b). On
5 information and belief, Defendant conducts substantial business directly and/or
6 through third parties or agents in this judicial district by selling and/or offering to
7 sell the infringing products and/or by conducting other business in this judicial
8 district. Furthermore, Plaintiff e.Digital is headquartered and has its principal
9 place of business in this district, engages in business in this district, and has been
10 harmed by Defendant's conduct, business transactions and sales in this district.

11 4. This Court has personal jurisdiction over Defendant because, on
12 information and belief, Defendant transacts continuous and systematic business
13 within the State of California and the Southern District of California. In addition,
14 this Court has personal jurisdiction over the Defendant because, on information
15 and belief, this lawsuit arises out of Defendant's infringing activities, including,
16 without limitation, the making, using, selling and/or offering to sell infringing
17 products in the State of California and the Southern District of California. Finally,
18 this Court has personal jurisdiction over Defendant because, on information and
19 belief, Defendant has made, used, sold and/or offered for sale its infringing
20 products and placed such infringing products in the stream of interstate commerce
21 with the expectation that such infringing products would be made, used, sold
22 and/or offered for sale within the State of California and the Southern District of
23 California.

24 5. Upon information and belief, certain of the products manufactured by
25 Defendant have been and/or are currently sold and/or offered for sale to consumers
26 and/or end-users by Mouser Electronics at <http://www.mouser.de/spanion/>
27 including, but not limited to, consumers and/or end-users located within the State
28 of California.

PARTIES

6. Plaintiff e.Digital is a Delaware corporation with its headquarters and principal place of business at 16870 West Bernardo Drive, Suite 120, San Diego, California 92127.

7. Upon information and belief, Defendant Spansion Inc. is a corporation registered and lawfully existing under the laws of the State of Delaware with an office and principal place of business located at 915 DeGuigne Drive, Sunnyvale, CA 94085.

8. Upon information and belief, Defendant Mouser Electronics, Inc. is a corporation registered and lawfully existing under the laws of the State of Delaware, with an office and principal place of business located at 1000 North Main Street, Mansfield, TX 76063. Upon information and belief, certain of the products manufactured by Spansion have been and/or are currently sold and/or offered for sale at, among other places, Mouser's website located at <http://www.mouser.com> and specifically at <http://www.mouser.de/spanion/>

THE ASSERTED PATENT

9. On November 17, 1998, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,839,108 ("the '108 patent") entitled "Flash Memory File System In A Handheld Record And Playback Device," to its named inventors Norbert P. Daberko and Richard K. Davis. Plaintiff e.Digital is the assignee and owner of the entire right, title and interest in and to the '108 patent and has the right to bring this suit for damages and other relief. A true and correct copy of the '108 patent is attached hereto as Exhibit A.

COUNT ONE

INFRINGEMENT OF THE '108 PATENT BY DEFENDANT

10. Plaintiff re-alleges and incorporates by reference each of the allegations set forth in paragraphs 1 through 9 above.

11. The accused products include but are not limited to Defendant

Spanion's Flash Memory Storage products including but not limited to its eMMC and ML/MLS NAND Flash Memory products. The primary and substantial purpose of the accused products is to write to and store data in electronic format in non-volatile flash memory.

12. Defendant has directly and indirectly infringed and is directly and indirectly infringing Claim 1 of the '108 patent in violation of 35 U.S.C. § 271, *et seq.*, by making, using, offering for sale, selling in the United States and/or importing into the United States without authority, the accused products identified above. Claim 1 of the '108 patent teaches a method of memory management for a non-volatile storage medium. The method comprises several steps, which generally involves, without limitation, writing electronic data segments from volatile, temporary memory to a non-volatile, long-term storage medium by linking data segments according to a number of specified steps.

13. Plaintiff alleges that at least as of the date of the filing of the originally filed complaint in this matter, if not sooner, Defendant knew or should have known of the existence of Claim 1 of the '108 patent and the fact that the accused products infringe said Claim 1.

14. Plaintiff alleges that Defendant sold, sells, offers to sell, ships, or otherwise delivers the accused products to customers or end-users with all the features required to infringe Claim 1 of the '108 patent. Upon information and belief, Defendant knows that the accused products infringe Claim 1 of the '108 patent and intends to induce third parties to include its customers and end-users to also infringe Claim 1 of the '108 patent.

15. Upon information and belief, the accused products, alone or in combination with other products, directly or, alternatively, under the doctrine of equivalents practice each of the limitations of independent Claim 1 of the '108 patent when they are used for their normal and intended purpose of writing to and storing electronic data on non-volatile memory. Thus, Defendant directly infringes

1 Claim 1 of the '108 patent in violation of 35 U.S.C. § 271(a) when it demonstrates,
2 tests or otherwise uses the accused products in the United States.

3 16. By way of example, certain website(s) publish the Defendants'
4 datasheets and descriptions of the features and functionality of the accused
5 products. An example can be found on the internet at
6 <https://www.youtube.com/channel/UCgZQ6a2tdHZdF-3qgMbddsA> and/or at
7 <http://www.spansion.com/Support/TechnicalDocuments/Pages/TechnicalDocuments.aspx>
8 <http://www.spansion.com/Support/TechnicalDocuments/Pages/ApplicationNotes.aspx>
9 [spx](http://www.spansion.com/Support/TechnicalDocuments/Pages/ApplicationNotes.aspx) where upon information and belief, consumers and end-users are provided
10 information concerning how to use of the accused products in a way that infringes
11 Claim 1. Such conduct evidences Defendant's act of direct infringement of Claim 1
12 of the '108 patent.
13

14 17. Plaintiff also alleges on information and belief that Defendant uses,
15 makes, sells, offers to sell and/or imports the accused products knowing that they
16 will be used by its customers and end-users for writing and storing electronic data
17 to non-volatile memory utilizing the steps described in Claim 1 of the '108 patent.
18 Defendant's product literature, videos, blogs, articles, application notes, technical
19 documents, instructional materials, and instructional videos advertise and
20 encourage customers to use the accused product(s) knowing that the accused
21 products utilize the methods of memory management taught by Claim 1 of the '108
22 patent and in a manner it knows infringes upon Claim 1 of the '108 patent.

23 18. Defendant also provides operating manuals, user or guides,
24 instructional videos, application notes, blogs, or other instructional and/or
25 informational material that instruct customers and end-users on how to connect the
26 accused products and use them as non-volatile storage devices for electronic data.
27 Among other things, Defendant's informational materials lay out step-by-step
28 instructions on how to write data into the memory of the accused products – a

1 process that utilizes the method disclosed in Claim 1 of the '108 patent and which
 2 Defendant knows (at the least as of the filing of the original complaint if not
 3 sooner) infringes the method taught in Claim 1 of the '108 patent. Plaintiff believes
 4 that Defendant directs consumers and end-users to consult and utilize such
 5 instructional material.

6 19. Plaintiff believes and thereupon alleges that Defendant is aware that
 7 its customers and end-users are using the accused products in an infringing manner
 8 based on, among other things, the fact that Defendant encourages its customers and
 9 end-users to use the accused products in an infringing manner as set forth in the
 10 preceding Paragraphs.

11 20. As alleged above, incorporated herewith, and based upon information
 12 and belief, Plaintiff alleges that Defendant, without authority, has induced and
 13 continues to induce infringement of the '108 patent in violation of 35 U.S.C. §
 14 271(b) inasmuch as:

- 15 a. The accused products infringe Claim 1 during the normal use of
 16 the accused products by Defendant's customers and/or end-users;
- 17 b. Defendant has known and has been continuously aware of the
 18 '108 patent since at least the filing of the original complaint in this
 19 action, if not sooner;
- 20 c. Defendant has acted in a manner that encourages and continues to
 21 encourage others to infringe Claim 1 of the '108 patent by, among
 22 other things, intentionally instructing and/or encouraging
 23 customers and end-users to use the accused products in a manner
 24 that Defendant knows or should have known would cause them to
 25 infringe the '108 patent;
- 26 d. Defendant sells, distributes, and supplies the accused products to
 27 customers and end-users with the intent that the products be used
 28 in an infringing manner;

- 1 e. Defendant provides manuals, guides, application notes,
2 instructional and/or informational videos, or other instructional
3 and/or informational material designed to instruct customers and
4 end-users to use the products in an infringing manner; and,
5 f. Defendant advertises, markets, and promotes the use of the
6 accused products in an infringing manner.

7 21. As alleged above, incorporated herewith, and based upon information
8 and belief, Plaintiff alleges that Defendant has contributed and continues to
9 contribute to the infringement of Claim 1 of the '108 patent in violation of 35
10 U.S.C. § 271(c) inasmuch as:

- 11 a. The accused products infringe Claim 1 of the '108 patent during
12 the normal use of the accused products by Defendant's customers
13 and/or end-users;
14 b. Defendant has known and has been continuously aware of the
15 '108 patent since at least the filing of the original complaint in this
16 action, if not sooner;
17 c. Defendant imports into the United States, sells and/or offers to
18 sell within the United States products that (a) practice the method
19 of memory management of Claim 1 of the '108 patent; and, (b)
20 Defendant knows that the same constitute material infringing
21 component(s) of the accused products, which were made and/or
22 especially adapted for use in the accused products;
23 d. The memory management component(s) and methods of the
24 accused products are not staple articles of commerce suitable for
25 substantial non-infringing use with respect to the '108 patent; and,
26 e. Defendant sells, has sold, and/or has supplied the accused
27 products knowing of Plaintiff's '108 patent and knowing that the
28 accused products incorporate Plaintiff's patented method and/or

PRAYER FOR RELIEF

HANDAL & ASSOCIATES

By: /s/Anton N. Handal
Anton N. Handal
Pamela C. Chalk
Gabriel G. Hedrick
Attorneys for Plaintiff
e.Digital Corporation

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all claims.

HANDAL & ASSOCIATES

Dated: January 21, 2015

By: /s/Anton N. Handal
Anton N. Handal
Pamela C. Chalk
Gabriel G. Hedrick
Attorneys for Plaintiff
e.Digital Corporation

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document has been served on this date to all counsel of record, if any to date, who are deemed to have consented to electronic service via the Court's CM/ECF system per CivLR 5.4(d). Any other counsel of record will be served by electronic mail, facsimile and/or overnight delivery upon their appearance in this matter.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct. Executed this 21st day of January, 2015 at San Diego, California.

HANDAL & ASSOCIATES

Dated: January 21, 2015

By: /s/Anton N. Handal
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Gabriel G. Hedrick
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