

PARTIES

2. Plaintiff Filtalert is a corporation organized and existing under the laws of the Commonwealth of Virginia, and maintains its principal place of business at 809 Barnaby Road, Palmyra, Virginia 22963.

3. Defendant IBM is a corporation organized and existing under the laws of the state of New York, and maintains its principal place of business at 1 New Orchard Road, Armonk, New York, 10504.

4. Defendant Lenovo is a corporation organized and existing under the laws of the state of Delaware, and maintains its principal place of business at 1009 Think Place, Morrisville, NC 27560.

JURISDICTION AND VENUE

5. Pursuant to 28 U.S.C. §§ 1331 and 1338(a), this Court has original jurisdiction over the subject matter of this action because this is an action arising under the Patent Laws of the United States, including 35 U.S.C. § 1 *et. seq.*

6. This court has personal jurisdiction over Defendants because Defendants (a) operate, conduct, engage in or carry on a business in the state of Florida; (b) committed tortious acts within the state of Florida; and (c) are engaging in substantial and not isolated activity within the state of Florida.

7. Pursuant to 28 U.S.C. §§ 1391 and 1400(b), venue is proper in this District because at least one of the Defendants committed acts of infringement and has a regular and established place of business in this District.

GENERAL ALLEGATIONS

8. Mr. White is an inventor passionate about protecting the environment. The inventions claimed by the '222 Patent enhance computer performance by prolonging computer life, thereby reducing electronic waste – a significant source of pollution.

9. The abstract of the '222 Patent states:

A system for filtering air entering the housing of a computer. A filter is placed in the path of air entering the computer housing. A timing program is installed on the computer to keep track of the total amount of time the computer has run since installation or service of the filter. After the computer has run for a predetermined amount of time, the program causes the computer to prompt the computer user to change or service the filter.

10. The inventions claimed by the '222 Patent represent a significant advance over the prior art as evidenced by Filtalert's and Defendants' commercial successes.

11. The components needed to practice the claimed systems, methods, and apparatuses are not now nor have they ever been found in generic computers. Generic computers do not contain, for example, an air filter or a timing system associated therewith. Consistent therewith, a very small percentage of the world's computers incorporate the claimed systems, methods, and apparatuses. The accused products that were or are being sold and used by Defendants are among the small percentage that do.

12. Filtalert markets its products covered by the '222 Patent under the PuraPC™ brand, which are sold through various outlets, including Filtalert's website www.purapc.com, and Amazon.com. These products include the PuraPC™ Computer Air Filtering System kit, PuraPC™ filters, PuraPC™ filter materials, and PuraPC™ filter monitoring software.

13. Filtalert is the exclusive owner of all rights, title, and interest in the '222 Patent, including the right to exclude others and to enforce, sue and recover damages for past and future infringement thereof.

14. Filtalert became the owner of all rights, title, and interest in the '222 Patent by virtue of an assignment from Mr. White.

15. At all material times, Filtalert, and all predecessors in interest, complied with 35 U.S.C. § 287, by marking its products with the patent number.

16. By reviewing publically available information including, but not limited to, the articles or relevant portions thereof attached hereto as Composite Exhibit B, Filtalert learned that IBM and Lenovo are infringing at least claims 1-6, 14-16, 24, and 26 of the '222 Patent through the use, sale, offer to sell, or importation of computer hardware, including, but not limited to, the System X™ and BladeCenter™ computer servers that incorporate air filtration technology and related parts.

17. By reviewing publically available information, including the articles attached hereto as Composite Exhibit C, Filtalert learned that Lenovo acquired IBM's server business in 2014 under a Master Asset Purchase Agreement.

18. Filtalert does not know if Lenovo assumed IBM's liability for IBM's infringement of the '222 Patent; however, Filtalert believes that after a reasonable opportunity for further investigation or discovery, the evidence will likely show that Lenovo did not assume IBM's liability for its past infringement of the '222 Patent. Thus, Filtalert is suing IBM for its sale of infringing products prior to the acquisition.

19. After a reasonable opportunity for further investigation or discovery, Filtalert also believes the evidence will likely show that IBM is infringing the '222 Patent through its use of infringing products.

20. By reviewing publicly available information, including prosecution history documents attached hereto as Composite Exhibit D, Filtalert learned that the '222 Patent was

cited against certain patent applications, which were, in turn, cited against IBM's own patent applications. Patent practitioners routinely conduct forward and backward citation searches during prosecution, which should have led IBM to learn of the '222 Patent during prosecution of its own patent applications. Thus, after a reasonable opportunity for further investigation or discovery, Filtalert believes the evidence will likely show that IBM gained knowledge of the '222 Patent during prosecution of its patent applications prior to the acquisition by Lenovo. On this basis, Filtalert alleges IBM's infringement was willful.

21. Filtalert does not know if Lenovo acquired knowledge of the '222 Patent through its acquisition of IBM's server business, which included a transfer of intellectual property assets and employees. However, based on a review of publicly available information, Filtalert believes that after a reasonable opportunity for further investigation or discovery, the evidence will likely show that Lenovo did acquire knowledge of the '222 Patent through its acquisition of IBM's server business, including, but not limited to, acquiring knowledge of the '222 Patent by way of acquisition due diligence, patent prosecution history review, acquisition of employees with knowledge of the '222 patent, or a combination of the foregoing. Indeed, Lenovo publicly stated that it acquired approximately 6,500 IBM employees and all of the relevant intellectual property, including patents, as part of the IBM server business acquisition. *See Composite Exhibit C, IBM x86 closing – Top 20 Q&A.*

22. By reviewing publicly available information, including user manuals and online instructional guides included in Composite Exhibit B, Filtalert learned that IBM knowingly induced others, including its customers, to infringe the '222 Patent.

23. By reviewing the public information included in Composite Exhibit B indicating that IBM sold replacement computer air filters, Filtalert learned that IBM materially contributed to the infringement of the '222 Patent.

24. By reviewing publicly available information included in Composite Exhibit B, Filtalert learned that Lenovo knowingly induced and continues to knowingly induce others, including its customers, to infringe the '222 Patent.

25. By reviewing the public information included in Composite Exhibit B indicating that Lenovo sells and has sold replacement computer air filters, Filtalert learned that Lenovo materially contributed and continues to materially contribute to the infringement of the '222 Patent.

26. Prior to filing this suit, Filtalert prepared a claim chart that explains how each limitation of the aforementioned claims of the '222 Patent is infringed by Lenovo's and IBM's products.

27. All conditions precedent to bringing this action occurred or were waived.

28. Filtalert has retained counsel to represent it in this matter and is obligated to pay its counsel a reasonable fee for its services.

29. Pursuant to 35 U.S.C. § 285, Filtalert is entitled to recover its attorneys' fees because this is an exceptional case.

COUNT I: DIRECT INFRINGEMENT OF THE '222 PATENT BY IBM

30. The allegations contained in paragraphs 1-29 above are hereby re-alleged as if fully set forth herein.

31. In violation of 35 U.S.C. § 271, IBM made, used, offered for sale, sold or imported into the United States its computer server products and related components that

contain, comprise, or perform every limitation of one or more claims of the '222 Patent. IBM's infringement of the '222 Patent is continuing.

32. Filtalert has been damaged by IBM's infringement of the '222 Patent and will continue to be damaged by such infringement. Filtalert is entitled to recover from IBM the damages sustained by Filtalert as a result of IBM's wrongful acts.

33. The continued infringement of the '222 Patent by IBM is deliberate and willful, entitling Filtalert to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in litigating this action under 35 U.S.C. § 285.

34. Filtalert has suffered and continues to suffer irreparable harm by such infringement, for which there is no adequate remedy at law, and will continue to do so unless IBM is enjoined therefrom by this Court.

WHEREFORE, Filtalert respectfully requests the Court enter a judgment:

- A. Finding that IBM infringed the '222 Patent;
- B. Finding that IBM's infringement has been willful;
- C. Enjoining IBM from continuing to infringe the '222 Patent;
- D. Awarding Filtalert the greater of (a) damages adequate to compensate for the patent infringement that has occurred plus any enhancement of these damages the Court deems just under 35 U.S.C. § 284, or (b) a reasonable royalty;
- E. Awarding Filtalert pre-judgment interest and costs;
- F. Finding this to be an exceptional case of patent infringement under 35 U.S.C. § 285 and awarding Filtalert its reasonable attorneys' fees, costs, and expenses; and
- G. Awarding Filtalert all such other and further relief as the Court deems just and proper.

COUNT II: CONTRIBUTORY INFRINGEMENT BY IBM

35. The allegations contained in paragraphs 1-29 above are hereby re-alleged as if fully set forth herein.

36. In violation of 35 U.S.C. § 271, IBM contributed to the infringement of one or more of the claims of the '222 Patent by having sold or imported one or more computer air filtration system components, including, but not limited to, replacement computer air filters covered by the '222 Patent or for use in a method covered by the '222 Patent, constituting a material part of the invention covered by the '222 Patent, knowing the same to be especially made or especially adapted for use in infringing the '222 Patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use, under IBM's control.

37. Filtalert has been damaged by IBM's contributory infringement of the '222 Patent. Filtalert is entitled to recover from IBM the damages sustained by Filtalert as a result of IBM's wrongful acts.

38. The contributory infringement of the '222 Patent by IBM was deliberate and willful, entitling Filtalert to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in litigating this action under 35 U.S.C. § 285.

WHEREFORE, Filtalert respectfully requests the Court enter a judgment:

- A. Finding that IBM contributed to the infringement of the '222 Patent;
- B. Finding that IBM's contributory infringement was willful;
- C. Awarding Filtalert the greater of (a) damages adequate to compensate for the contributory patent infringement that has occurred plus any enhancement of these damages the Court deems just under 35 U.S.C. § 284, or (b) a reasonable royalty;
- D. Awarding Filtalert pre-judgment interest and costs;

E. Finding this to be an exceptional case of patent infringement under 35 U.S.C. § 285 and awarding Filtalert its reasonable attorneys' fees, costs, and expenses; and

F. Awarding Filtalert all such other and further relief as the Court deems just and proper.

COUNT III: INDUCEMENT OF INFRINGEMENT BY IBM

39. The allegations contained in paragraphs 1-29 above are hereby re-alleged as if fully set forth herein.

40. In violation of 35 U.S.C. § 271, IBM induced others to infringe one or more of the claims of the '222 Patent by having induced others to make, use, offer for sale, sell, or import into the United States computer server products, as well as related components, including, but not limited to, replacement computer air filters and user manuals, under IBM's control.

41. Filtalert has been damaged by IBM's inducement of infringement of the '222 Patent. Filtalert is entitled to recover from IBM the damages sustained by Filtalert as a result of IBM's wrongful acts.

42. The inducement of infringement of the '222 Patent by IBM was deliberate and willful, entitling Filtalert to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in litigating this action under 35 U.S.C. § 285.

WHEREFORE, Filtalert respectfully requests the Court enter a judgment:

- A. Finding that IBM induced infringement of the '222 Patent;
- B. Finding that IBM's inducement of infringement was willful;
- C. Awarding Filtalert the greater of (a) damages adequate to compensate for the inducement of patent infringement that has occurred plus any enhancement of these damages the Court deems just under 35 U.S.C. § 284, or (b) a reasonable royalty;

- D. Awarding Filtalert pre-judgment interest and costs;
- E. Finding this to be an exceptional case of patent infringement under 35 U.S.C. § 285 and awarding Filtalert its reasonable attorneys' fees, costs, and expenses; and
- F. Awarding Filtalert all such other and further relief as the Court deems just and proper.

COUNT IV: DIRECT INFRINGEMENT OF THE '222 PATENT BY LENOVO

43. The allegations contained in paragraphs 1-29 above are hereby re-alleged as if fully set forth herein.

44. In violation of 35 U.S.C. § 271, Lenovo made, used, offered for sale, sold or imported into the United States its computer server products and related components that contain, comprise or perform every limitation of one or more claims of the '222 Patent. Lenovo's infringement of the '222 Patent is continuing.

45. Filtalert has been damaged by Lenovo's infringement of the '222 Patent and will continue to be damaged by such infringement. Filtalert is entitled to recover from Lenovo the damages sustained by Filtalert as a result of Lenovo's wrongful acts.

46. The continued infringement of the '222 Patent by Lenovo is deliberate and willful, entitling Filtalert to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in litigating this action under 35 U.S.C. § 285.

47. Filtalert has suffered and continues to suffer irreparable harm by such infringement, for which there is no adequate remedy at law, and will continue to do so unless Lenovo is enjoined therefrom by this Court.

WHEREFORE, Filtalert respectfully requests the Court enter a judgment:

- A. Finding that Lenovo infringed the '222 Patent;
- B. Finding that Lenovo's infringement has been willful;
- C. Enjoining Lenovo from continuing to infringe the '222 Patent;
- D. Awarding Filtalert the greater of (a) damages adequate to compensate for the infringement that has occurred plus any enhancement of these damages the Court deems just under 35 U.S.C. § 284, or (b) a reasonable royalty;
- E. Awarding Filtalert pre-judgment interest and costs;
- F. Finding this to be an exceptional case of patent infringement under 35 U.S.C. § 285 and awarding Filtalert its reasonable attorneys' fees, costs, and expenses; and
- G. Awarding Filtalert all such other and further relief as the Court deems just and proper.

COUNT V: CONTRIBUTORY INFRINGEMENT BY LEVONO

48. The allegations contained in paragraphs 1-29 above are hereby re-alleged as if fully set forth herein.

49. In violation of 35 U.S.C. § 271, Lenovo contributed to the infringement of one or more of the claims of the '222 Patent by having sold or imported one or more computer air filtration system components, including, but not limited to, replacement computer air filters covered by the '222 Patent or for use in a method covered by the '222 Patent, constituting a material part of the invention covered by the '222 Patent, knowing the same to be especially made or especially adapted for use in infringing the '222 Patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use, under Lenovo's control. Lenovo's contributory infringement is continuing.

50. Filtalert has been damaged by Lenovo's contributory infringement of the '222 Patent and will continue to be damaged by such infringement. Filtalert is entitled to recover from Lenovo the damages sustained by Filtalert as a result of Lenovo's wrongful acts.

51. The continued contributory infringement of the '222 Patent by Lenovo is deliberate and willful, entitling Filtalert to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in litigating this action under 35 U.S.C. § 285.

52. Filtalert has suffered and continues to suffer irreparable harm by Lenovo's contributory infringement, for which there is no adequate remedy at law, and will continue to do so unless Lenovo is enjoined therefrom by this Court.

WHEREFORE, Filtalert respectfully requests the Court enter a judgment:

- A. Finding that Lenovo contributed to the infringement of the '222 Patent;
- B. Finding that Lenovo's contributory infringement has been willful;
- C. Enjoining Lenovo from continuing to contribute to the infringement of the '222 Patent;
- D. Awarding Filtalert the greater of (a) damages adequate to compensate for the contributory patent infringement that has occurred plus any enhancement of these damages the Court deems just under 35 U.S.C. § 284, or (b) a reasonable royalty;
- E. Awarding Filtalert pre-judgment interest and costs;
- F. Finding this to be an exceptional case of patent infringement under 35 U.S.C. § 285 and awarding Filtalert its reasonable attorneys' fees, costs, and expenses; and
- G. Awarding Filtalert all such other and further relief as the Court deems just and proper.

COUNT VI: INDUCEMENT OF INFRINGEMENT BY LENOVO

53. The allegations contained in paragraphs 1-29 above are hereby re-alleged as if fully set forth herein.

54. In violation of 35 U.S.C. § 271, Lenovo induced others to infringe one or more of the claims of the '222 Patent by having induced others to make, use, offer for sale, sell, or import into the United States computer server products, as well as related components, including, but not limited to, replacement computer air filters and user manuals, under Lenovo's control. Lenovo's inducement of infringement of the '222 Patent is continuing.

55. Filtalert has been damaged by Lenovo's inducement of infringement of the '222 Patent and will continue to be damaged by such infringement. Filtalert is entitled to recover from Lenovo the damages sustained by Filtalert as a result of Lenovo's wrongful acts.

56. The inducement of infringement of the '222 Patent by Lenovo is deliberate and willful, entitling Filtalert to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in litigating this action under 35 U.S.C. § 285.

57. Filtalert has suffered and continues to suffer irreparable harm by Lenovo's inducement of infringement, for which there is no adequate remedy at law, and will continue to do so unless Lenovo is enjoined therefrom by this Court.

WHEREFORE, Filtalert respectfully requests the Court enter a judgment:

- A. Finding that infringement of the '222 Patent has been induced by Lenovo;
- B. Finding that Lenovo's inducement of infringement has been willful;
- C. Enjoining Lenovo from continuing to induce infringement of the '222 Patent;

D. Awarding Filtalert the greater of (a) damages adequate to compensate for the induced patent infringement that has occurred plus any enhancement of these damages the Court deems just under 35 U.S.C. § 284, or (b) a reasonable royalty;

E. Awarding Filtalert pre-judgment interest and costs;

F. Finding this to be an exceptional case of patent infringement under 35 U.S.C. § 285 and awarding Filtalert its reasonable attorneys' fees, costs, and expenses; and

G. Awarding Filtalert all such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all claims and issues so triable.

Dated: July 30, 2015

Respectfully submitted,

/s/ Angela M. Lipscomb

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