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Attorneys for Plaintiff The Code Corporation

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

THE CODE CORPORATION,

Plaintiff,

v.

HAND HELD PRODUCTS, INC., d/b/a HONEYWELL SCANNING & MOBILITY, INTERMEC TECHNOLOGIES CORPORATION, and INTERMEC IP CORPORATION,

Defendants.

COMPLAINT

Civil Action No. _____

JURY TRIAL DEMANDED

Plaintiff The Code Corporation ("The Code Corporation" or "Code") seeks a declaratory judgment of non-infringement and invalidity of United States Patent Nos. 6,607,128 ("the '128 Patent"), 8,096,472 ("the '472 Patent"), 6,249,008 ("the '008 Patent"), 6,538,413 ("the '413 Patent"), 6,039,258 ("the '258 Patent"), and 6,491,223 ("the '223 Patent") (collectively, "the Patents-in-Suit") (attached hereto as Exhibits 1–6). The Code Corporation further alleges claims of injurious falsehood, interference with economic relations, and tortious interference with contractual relations and prospective contractual relations under Utah state law; and unfair trade practices under § 43 of the Lanham Act against Defendants Hand Held Products, Inc., d/b/a Honeywell Scanning & Mobility, Intermec Technologies Corporation, and Intermec IP Corporation (collectively "Honeywell"). The Code Corporation respectfully shows as follows:

NATURE OF THE ACTION

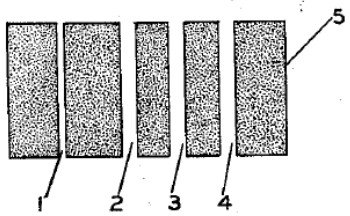
History of Bar Code Scanner Technology

1. In 1948, a local food chain store owner approached Drexel Institute of Technology in Philadelphia asking about research into a method of automatically reading product information during checkout. Bernard Silver, a graduate student at Drexel Institute, along with fellow graduate student Norman Joseph Woodland, teamed together to develop a solution. *See* https://www.barcodesinc.com/articles/history.htm.

2. Approximately seventy years ago, on October 20, 1949, Norman J. Woodland and Bernard Silver invented the first barcode and the first barcode scanner.

3. Their patent, U.S. Patent 2,612,994 ("the '994 patent"), which issued on October 7, 1952, includes Figures 1 – 10 describing the barcode.

FIG. 1



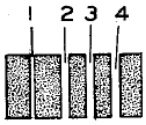


FIG. 2

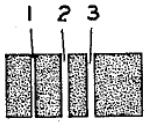


FIG. 3

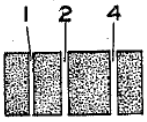


FIG. 4

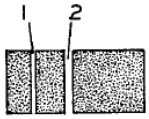


FIG. 5

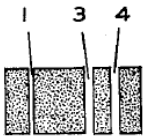


FIG. 6

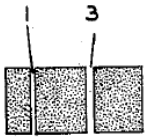


FIG. 7

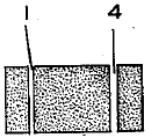


FIG. 8

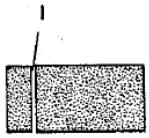


FIG. 9

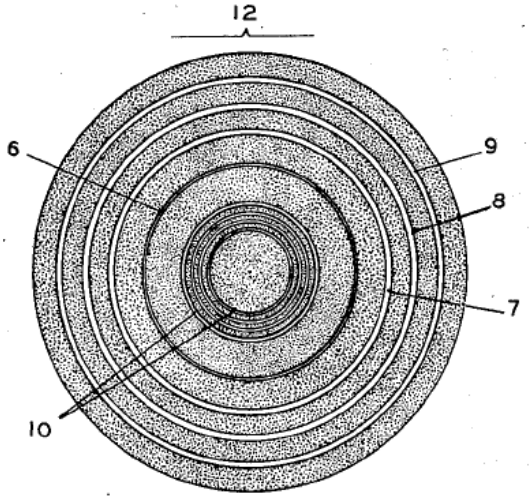


FIG. 10

NOTE: LINES 6, 7, 8, AND 9 ARE LESS REFLECTIVE THAN LINES 10.

INVENTORS:
NORMAN J. WOODLAND
BERNARD SILVER
BY THEIR ATTORNEYS
Howson & Howson

4. The ’994 patent describes the barcodes as: “Fig. 1 shows, a pattern of white lines 1, 2, 3 and 4 on a dark back-ground 5. Line 1 is a datum line and the positions of lines 2, 3 and 4 are fixed with respect to line 1. There are, then, fixed places for three lines 2, 3 and 4 in the pattern, and these lines are termed information lines. While the lines have fixed places in the pattern, the lines do not necessarily fill the places. For example, line 4 is missing from its place in the pattern in Fig. 3. A zero (0) is associated with a vacant line position and the numeral one (1) with an occupied line position. The information pattern of Fig. 3 could therefore be replaced by the code number 110 and the pattern of Fig. 4 by 101.” *See* ’994 patent at 2:16-29.

5. Figures 11-16 of the ’994 patent relate to reading the barcode. Figure 11 depicts an optical and scanning element 15 which reads the barcode target 12 on the bottom of a package 11 when barcode target 12 is placed down on a transparent conveyor 13. *See* ’994 patent 3:41-55.

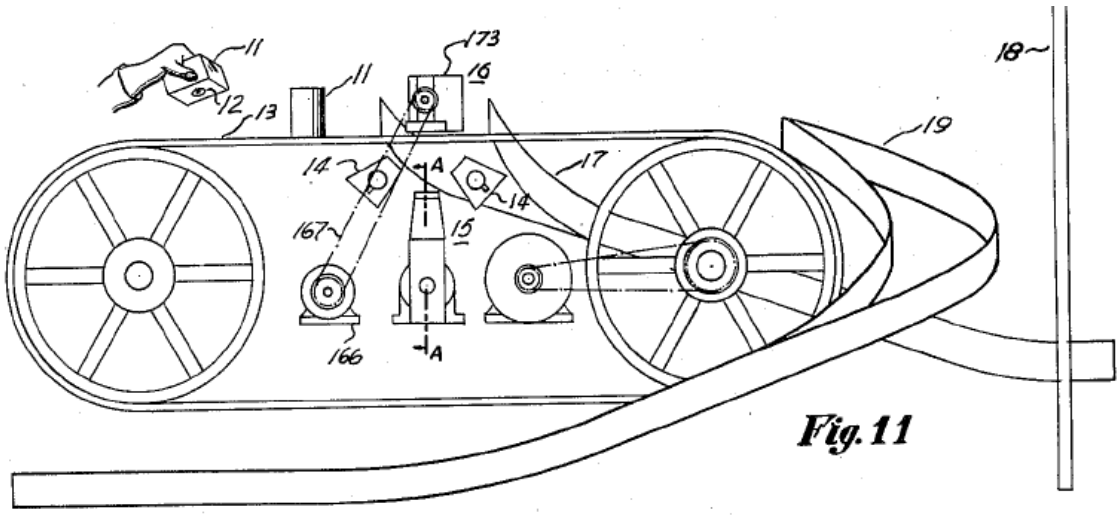
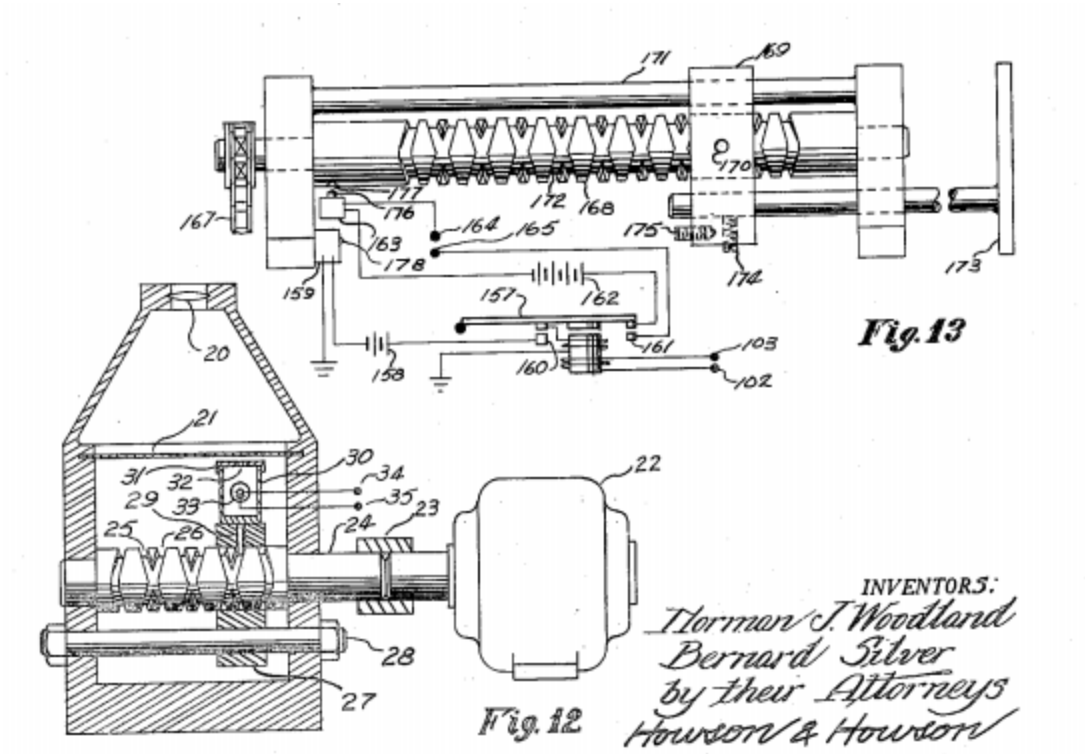


Fig. 11



6. Referring to Figure 12 in conjunction with Figure 11, light from the bottom of the package 11 is focused by the lens or plurality of lenses 20 onto the ground glass screen 21. The lens 20 and the distance from lens 20 to screen 21 are so selected that a sharp image of the bottom of the package 11 is produced on the ground glass screen 21 regardless of slight variations in the distance from lens 20 to package 11.

7. A light-tight box 30 includes a cover 31 with an aperture 32 which admits light from a small portion of the picture (e.g., the barcode) projected onto the screen 21 to a photo-cell 33. The light-tight box 30 is mounted on a carriage 27, mounted to a double threaded shaft 24 to oscillate, or scan, the aperture 32 of light-tight box 30 across a barcode target 12 on the package 11.

8. The white lines of the barcode 12 are highly reflective while the black lines reflect very little light. Therefore, as the aperture 32 passes over the picture on the screen 21, there are fluctuations in the amount of light which strikes the photo-emissive type tube (e.g., photo sensor) 33.

9. The concept of reading the barcode by moving the photo sensor and aperture across the barcode is still used in some products today such as the Welch Allyn ScanTeam 2380 scanner available from Barcodes Inc. *See* https://www.barcodesinc.com/welch-allyn/st2380.htm. Such scanners are commonly referred to as wand or pen scanners.

10. Bar coding was first used commercially in 1966, but to make the system acceptable to the industry as a whole, standardization was needed. *See* https://www.barcodesinc.com/articles/history.htm. In 1970, Logicon Inc. developed the Universal Grocery Products Identification Code ("UGPIC"). The first company to produce barcode equipment for retail trade using UGPIC was the American company Monarch Marking in 1970. *Id.*

11. In 1972, a Kroger store in Cincinnati began using a bull's-eye code. *Id.* During that same timeframe, a committee was formed within the grocery industry to select a standard code to be used in the industry. IBM proposed a design, based upon the UGPIC work and similar to today's UPC code. On April 3, 1973, the committee selected the UPC symbol (based on the IBM proposal) as the industry standard. The success of the system since then has spurred on the development of other coding systems. George J. Laurer is considered the inventor of UPC or Uniform Product Code.

12. In June of 1974, the first UPC scanner was installed at a Marsh's supermarket in Troy, Ohio. On 26 June 1974, Clyde Dawson pulled a 10-pack of Wrigley's Juicy Fruit gum out of his basket and it was scanned by Sharon Buchanan at 8:01 am. The pack of gum is now in the Smithsonian Museum.

13. Today, most supermarkets read barcodes using laser scanner technology developed in the 1960s. Unlike the photo-sensor system described above, which reads a barcode by moving a photo sensor with a small aperture across the barcode, a laser scanner moves, or scans, the extremely bright pinpoint of laser light across the barcode, typically 660nm red in color. A photo sensor(s), with a wide field of view encompassing the entire barcode, is covered by a filter which passes the 660nm red color while blocking ambient illumination of other wavelengths. As the scanning laser moves across a white space the reflected intensity is significantly higher than when the laser is moving across a dark bar of the barcode thereby generating the fluctuations in illumination intensity for reading the barcode.

14. In 1980, Dr. Jerome Swartz—then CEO of Symbol Technologies (now part of Zebra)—with Edward Barkan and Shelley Harrison, filed a patent application on a hand-held portable laser scanning system and their patent issued as U.S. Patent 4,387,297 ("the '297 patent") in 1983.

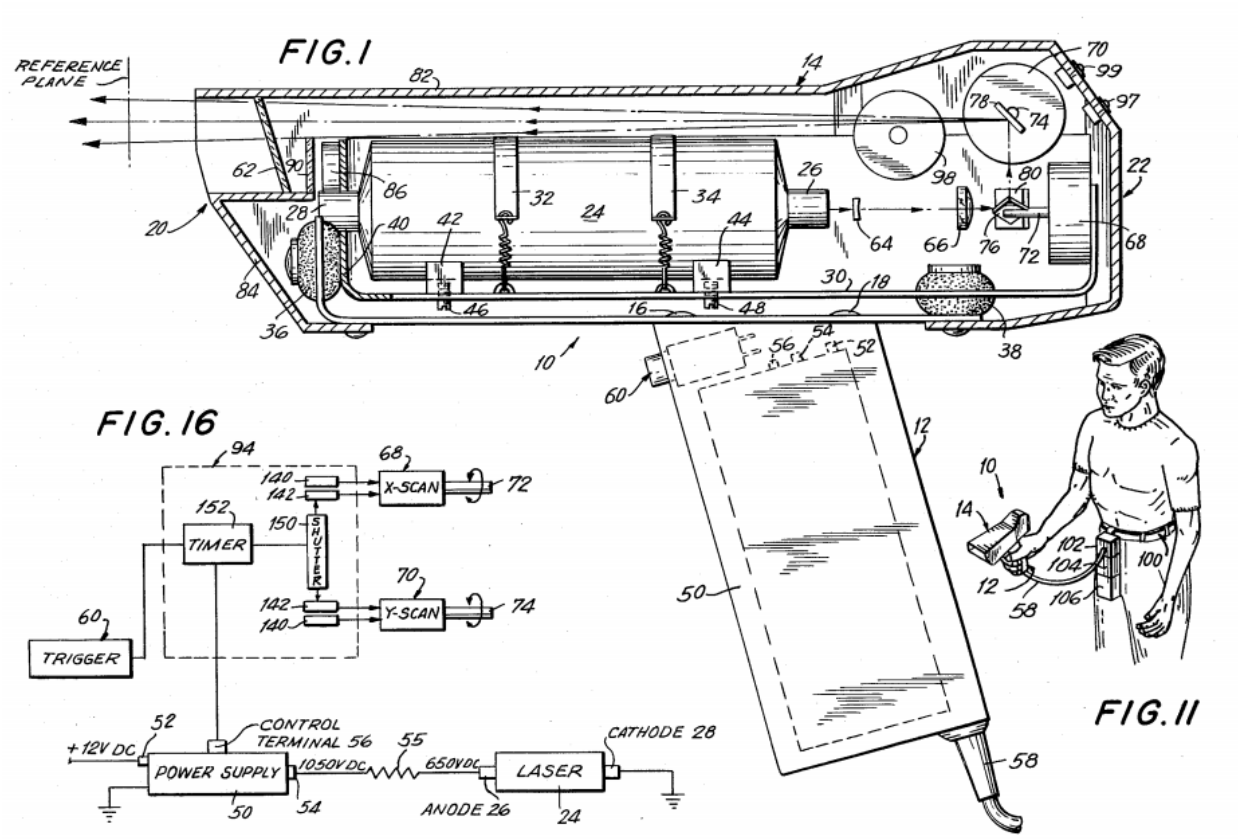


FIG. 1
REFERENCE PLANE
FIG. 16
TRIGGER
TIMER
SHUTTER
X-SCAN
Y-SCAN
CONTROL TERMINAL 56
+12V DC
POWER SUPPLY
1050VDC
650VDC
LASER
CATHODE 28
ANODE 26
FIG. 11

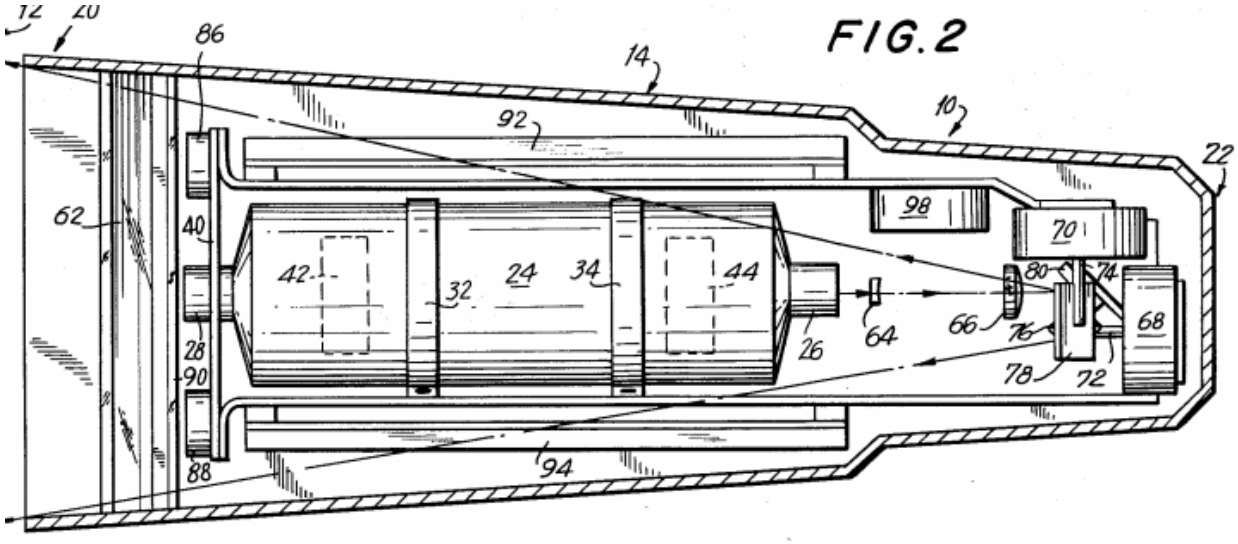


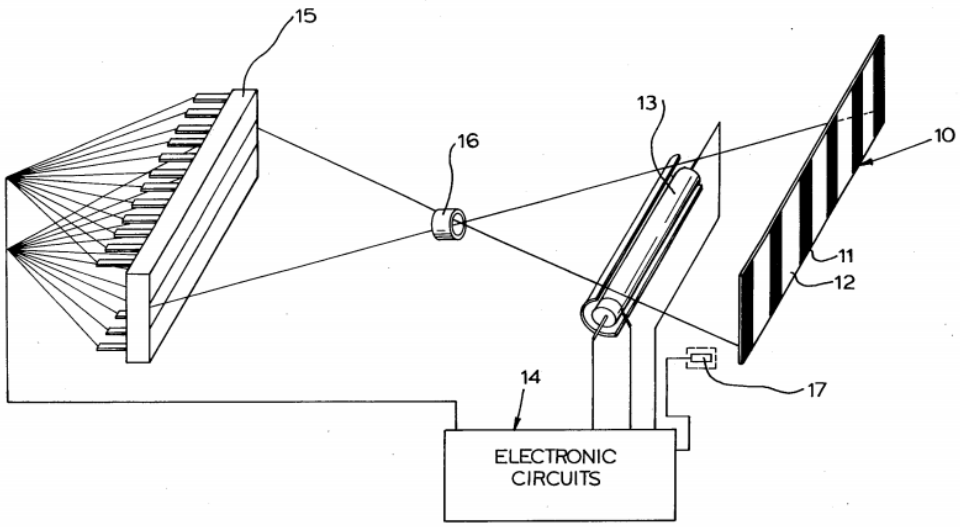
FIG. 2

15. Referring to Figures 1 and 2 of the ’297 patent, a helium neon laser tube 24 generates a red-light laser beam of 632.8 nm. *See* ’297 patent at 7:28-31. The laser beam is reflected by mirrors which include mirror 76 which is driven by an X-axis scanning motor 68 which linearly displaces the laser beam in a horizontal direction and a Y-axis mirror 78 driven by scanning motor 70 displacing the laser beam in a vertical direction, thereby generating a raster-type scan pattern of generally parallel, equidistantly spaced-apart scan lines which are stacked about one another along the vertical direction. *See* ’297 patent at 9:51-10:37.

16. The reflected light, which varies in intensity when the moving laser spot passes over dark bars and white spaces, passes through red-light filter 90 and images on a pair of photodiodes 86, 88. The photodiodes generate the analog electrical signal that varies based on illumination intensity for decoding. *See* ’297 patent at 11:1-6.

17. In 1979, George Chadima and Vadim Laser filed a patent application on a one dimensional (“1D”) image based barcode reader. Their application issued as U.S. Patent 4,282,425 (“the ’425 patent”) in 1981.

FIG. 1



18. Referring to Figure 1 of the ’425 patent, a lens 16 projects an image of a barcode label 10 onto a photo-diode array 15. A flash tube 13 is ignited to illuminate the barcode. *See* ’425 patent at 2:34-50. As the photodiodes of the array 15 are read out, the image of the dark bars and light spaces can be decoded.

19. In 1995, Dr. Yinjuin Wang of Metanetics introduced the first two dimensional (“2D”) CMOS imager based bar code reader, portions of which are described in a U.S. Patent Application filed in 1994 and which issued as U.S. Patent 5,521,366 (“the ’366 patent”) in 1996.

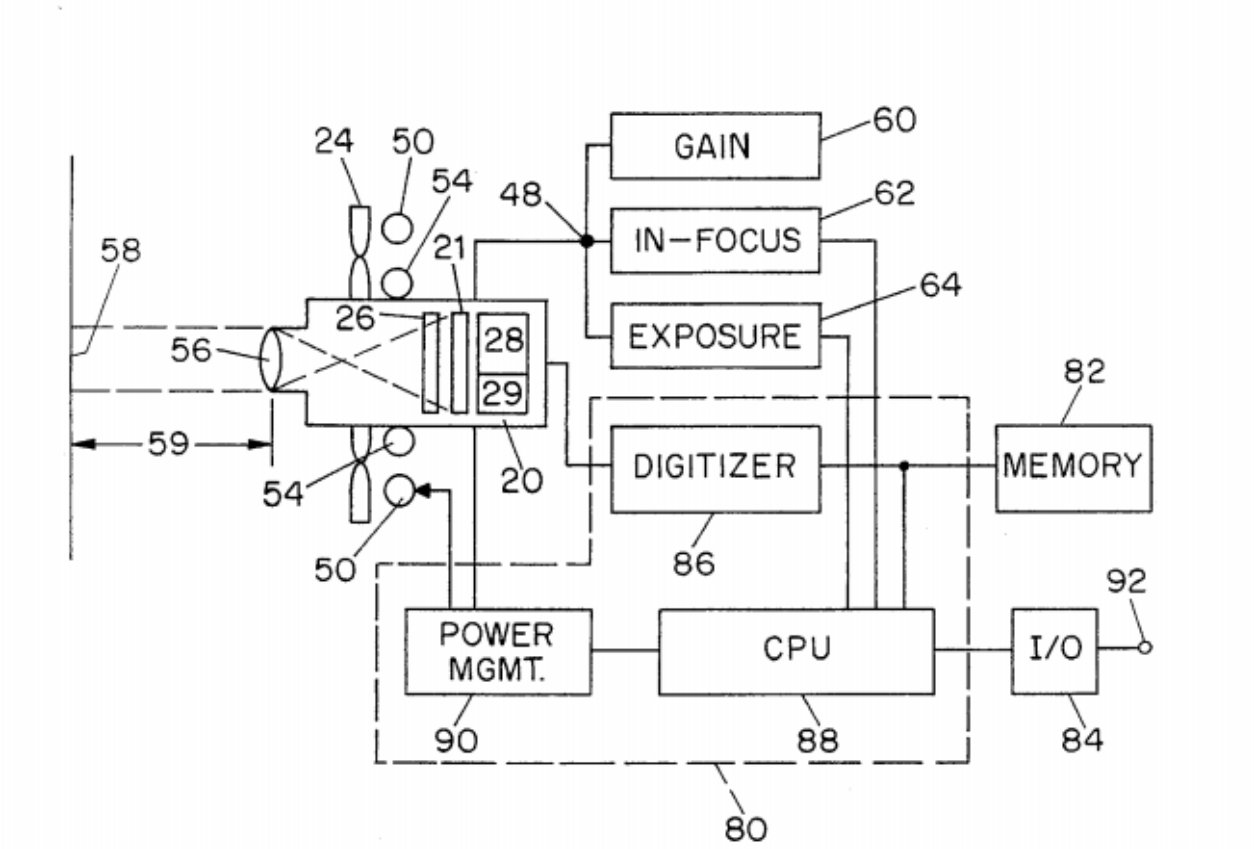


FIG. 2

20. Referring to Figure 2 of the '366 patent, camera assembly 20 (including a 2D photo sensor array 21 and lens 56 focusing an image of a barcode 58 onto the 2D photo sensor array 21) is coupled to a processing unit 80, including a processor 88 which locates and decodes the image captured by the camera using techniques described in U.S. Patent 5,304,787 titled Locating 2-D Barcodes. *See* '326 patent at 5:24-37; 8:9-31; 9:62-10:12.

HISTORY OF THE CODE CORPORATION

21. In 1997, The Code Corporation was founded by entrepreneurs in the Charleston, South Carolina area.

22. By 2000, The Code Corporation had released the Zap Scanner, which was later renamed the CR1.1. Also by 2000, The Code Corporation had developed a proprietary and secure two-dimensional barcode symbology that would eventually be called GoCode®. Additionally, during this time, The Code Corporation launched its CR1, an ultra-high density VGA CMOS two-dimensional imaging based barcode reader. This was more than seven (7) years before Honeywell entered the barcode market with its acquisition of Hand Held Products.

23. In 2000, The Code Corporation moved its worldwide headquarters to Draper, Utah.

24. The Code Corporation initially targeted publishers that would use the GoCode within advertisements. When a barcode in an advertisement was read by a barcode reader, the publisher would be directed to a website with additional information about an advertised product. This technology was a precursor to the QR codes used in magazines and on products today which, when read by a smart phone, takes the reader to a website for additional information. The Code Corporation pioneered this technology, as illustrated by The Code Corporation's several patents in the area, including U.S. Patent 6,758,391 (expired).

25. By 2003, The Code Corporation launched the CR2, a dual field optic 1.3 mega-pixel CMOS imager with the ability to read and decode more major symbologies with smaller cell/bar size and higher densities than any other 2D imager on the market. The dual field nature of the device meant that two sets of optics were used to focus two separate images of the barcode onto the photo sensor array. The far field optics were optimized for reading wide 1D barcodes while the near field optics were optimized for reading high density 2D barcodes (typically square

or with a much smaller aspect ratio than a 1D barcode). The CR2 was one of the very first 2D imaging based barcode readers available with Bluetooth® communications.

26. The CR2 enabled The Code Corporation to expand into other markets, including the medical market. The Code Corporation's first medical customer was Brigham and Women's Hospital in Boston. At that time, The Code Corporation was the only company tendering a 2D barcode reading solution that could read the small 2D barcodes used by the Hospital.

27. Following in the footsteps of The Code Corporation's success, Hand Held Products (now part of Honeywell), Metrologic (now part of Honeywell), and Symbol Technologies (now part of Zebra) entered the market in offering 2D solutions in the healthcare market.

28. In September 2007, The Code Corporation started development of its second generation dual-field optics product, the CR2500 series line of barcode reader, an innovative product designed specifically to meet the needs of the healthcare market. The CR2500 was launched in October 2008.

29. The Code Corporation attributes much of its success in the healthcare market to its innovative technologies implemented in its barcode readers, including but not limited to:

- Code's dual field optics in the CR2 and CR2500 enabled Code to read all symbologies at all densities and on a variety of surfaces used in healthcare facilities;
- The configurability and scripting technologies Code engineered into its barcode readers made Code barcode readers easy to operate with healthcare facilities' existing HIS systems;
- Code's programmable dual scan buttons enabled the CR2500 to operate with two different HIS systems simultaneously in the same facility;

- Code's glare reduction technology in the CR2500 enabled reading of barcodes printed on reflective and curved surfaces, including plastics;
- Code's CR2500 includes both a traditional "gun" form factor and a popular "palm" form factor, both sharing common accessories such as batteries and chargers;
- Code's CR2500 implemented multiple "good read" indicators for a variety of working environments within a hospital, including the traditional beep tone, a silent LED indicator, and a silent vibration indicator;
- Code's universal mount chargers provided flexible mounting options for a variety of limited work space environments, including medical carts;
- Code implemented the most up to date Bluetooth standard in the CR2500 to enable wireless barcode reading while avoiding interference with a facility's WiFi network;
- Although more expensive than traditional plastics, Code implemented advanced plastics in its housings that could stand up to frequent cleaning with the disinfectants in use at health care facilities; and
- Code implemented several innovative power management technologies to enable use of its barcode readers for a full 8-hour shift on a single charge.

30. In 2012, Code launched its next generation product, the CR2600, which has sold more than 150,000 units and may be the #1 selling barcode reading product in the healthcare market since its launch.

31. The Code Corporation has expended tremendous resources researching and developing handheld healthcare readers, including The Code Corporation's 2600 series line of barcode readers, its next generation health care product series launched in 2012 to address preventable errors across every department of a healthcare facility.

32. As of today, The Code Corporation has over 75 employees working at its headquarters in Draper, Utah.

HONEYWELL'S LATE ENTRY INTO THE BARCODE READER MARKETPLACE

33. In December 2007, three months after Code started development of its second generation health care barcode reader, the CR2500, the global conglomerate Honeywell International Inc. made its first entry into the barcode scanning industry with its $390 million purchase of Hand Held Products, Inc. *See* http://news.thomasnet.com/companystory/honeywell-announces-agreement-to-acquire-hand-held-products-inc-imaging-and-mobile-innovator-534890.

34. Honeywell then expanded its footprint in the barcode reader market by acquiring Metrologic Instruments on July 2, 2008 for $720 million. *See* https://web.archive.org/web/20090328172251/http://metrologic.com/corporate/press_rel/honeywell/pr_070208.htm.

35. Honeywell then again expanded its footprint in the barcode reader market with its acquisition of Intermec on September 17, 2013 for $600 million. *See* http://www.intermec.co.uk/about_us/newsroom/press_releases/2013-09-Honeywell-Scanning-Mobility-Day-1.aspx.

HONEYWELL'S ANTI-COMPETITIVE BEHAVIOR

36. The relevant line of commerce in which The Code Corporation and Honeywell operate is the two-dimensional ("2D") barcode reader market in the United States. This general 2D barcode reader market includes several smaller subset markets, two of which are relevant to this Complaint: (1) the 2D scan engine market; and (2) the 2D healthcare barcode reader market.

37. The 2D scan engine market is a small subset of the broader 2D barcode reader market. 2D scan engines are hardware components of 2D barcode readers that include a 2D

image sensor assembly, which essentially photographs a barcode, and a decoder, which translates a barcode into a digital format that computer processors can interpret and analyze.

38. Honeywell's $1.7 billion in acquisitions have given Honeywell a massive footprint in the United States 2D barcode reader market.

39. On information and belief, in 2013 Honeywell (excluding Intermec) held approximately 32.5% of a $175 million market for 2D barcode readers in the United States (approximately $57 Million in U.S. sales of 2D barcode readers).

40. On information and belief, in 2014 Honeywell (including Intermec) held approximately 34.7% of a $185 million market for 2D barcode readers in the United States (approximately $64 million in U.S. sales of 2D barcode readers).

41. On information and belief, in 2015 Honeywell held approximately 27.4% of a $202 million market for 2D barcode readers in the United States (approximately $66 million in U.S. sales of 2D barcode readers).

42. In acquiring this market share, Honeywell ran afoul of United States antitrust laws. In 2013, the United States Federal Trade Commission (FTC) recognized that Honeywell's acquisition of Intermec was anticompetitive in the 2D scan engine market. *See* https://www.ftc.gov/news-events/press-releases/2013/09/ftc-puts-conditions-honeywells-acquisition-scan-engine. According to the FTC's complaint, Honeywell, Intermec, and a third competitor, Motorola, were the only 2D scan engine makers in the United States that had broad enough intellectual property portfolios to insulate them, and their customers, from potential patent-infringement lawsuits.

43. At that time, the 2D scan engine market was already highly concentrated with the two most significant participants, Honeywell and Motorola (now Zebra), controlling over 80% of the market share. *Id.*

44. The FTC alleged that the acquisition of Intermec would leave only two companies, Honeywell and Motorola, with control of more than 80% of the already highly concentrated marked for 2D scan engines. *Id.*

45. The FTC required Honeywell to license patents critical to the manufacture of 2D barcode engines under a settlement with the FTC. *See id.*

46. Honeywell settled the anticompetitive claims against it brought by the FTC by licensing certain patents to Datalogic. *See id.*

47. The 2D healthcare barcode reader market is also a small subset of the broader 2D barcode reader market. 2D healthcare barcode readers, like general 2D barcode readers, utilize a 2D scan engine to photograph a barcode and a decoder to translate the barcode into a digital format that computer processors can interpret and analyze. But in addition, 2D healthcare barcode readers also typically include the types of features set forth in paragraph 29, making them more useful in a healthcare environment and as an accurate data entry tool to a healthcare provider's electronic health records system.

48. Despite Honeywell's $1.7 billion worth of acquisitions and Honeywell's massive footprint in the general 2D barcode reader market, The Code Corporation continues to compete with Honeywell in the market for 2D healthcare barcode readers.

HONEYWELL'S PATENT INFRINGEMENT ACCUSATIONS IN SOUTH CAROLINA

49. On January 19, 2017, Honeywell asserted the Patents-in-Suit against The Code Corporation in a complaint for patent infringement filed in the District of South Carolina.

50. Three of the asserted patents are now expired. Two of the patents expired before the filing of the South Carolina Complaint (the '413 patent expired on September 6, 2016 and the '223 patent expired on October 6, 2016). A third patent expired before The Code Corporation's Answer a few weeks later (the '008 patent expired on February 27, 2017).

51. A fourth patent, the '258 Patent, expires on July 17, 2017.

52. With respect to the remaining two patents, the '128 patent and the '472 patent, as soon as The Code Corporation was served with the South Carolina Complaint accusing its CR2600 barcode reader of infringement, The Code Corporation implemented a simple design change in the accused CR2600 barcode reader to further distinguish the scan engine from the asserted claims of the '128 patent and '472 patent.

53. With this change, the CR2600 no longer has the structure that is alleged by Honeywell to be "the single piece optical element" of the '128 and '472 patent claims asserted in Honeywell's South Carolina Amended Complaint.

54. On April 17, 2017, The Code Corporation sent a letter to Honeywell informing Honeywell of the simple design change to the accused product including an explanation of why the change does not infringe the '128 patent and the '472 patent.

55. The Code Corporation directed Honeywell to publicly available information disclosing this design change, and sent Honeywell samples of the redesigned products for their

inspection. The below image is taken directly from the product page for the CR8000 scan engine (which is the accused component within the CR2600):[1]

56. The redesigned CR8000 and CR2600 no longer have a single piece optical element.

57. The redesigned CR8000 and CR2600 do not directly infringe claims 25 and 27 of the ’128 Patent or claims 17, 22, 23, and 24 of the ’472 Patent.

58. Notwithstanding the design change, Honeywell contends that the redesigned CR2600 still infringes under the doctrine of equivalents.

59. During the prosecution of claims 25 and 27 of the ’128 Patent and claims 17, 22, 23, and 24 of the ’472 Patent, however, Honeywell argued to the patent office that these claims were patentable over the prior art, at least in part, because they contained a single piece optical element, as opposed to multi-piece optical elements.

[1] http://www.codecorp.com/products.php?id=75

60. During the prosecution of these same claims of the ’128 and 472 patents, Honeywell argued and/or represented to the patent office that the prior art taught away from a single piece optical element.

61. The patent office relied on these arguments and representations in allowing the claims.

62. Honeywell is estopped from maintaining its infringement allegations against the redesigned CR2600.

63. On May 2017, in an effort to run up The Code Corporation’s litigation expenses, Honeywell moved to dismiss *all* of The Code Corporation’s counterclaims, including invalidity, non-infringement, state-law tort claims, and the Lanham Act claim, and *all* of The Code Corporation’s affirmative defenses.

64. The District Court in South Carolina promptly issued an order denying Honeywell’s motion in its entirety. In the order, the court noted that “[i]t is especially difficult to imagine a valid purpose” of Honeywell’s motion. (The order denying Honeywell’s motion to dismiss is attached hereto as Exhibit 7.)

65. Honeywell filed the South Carolina lawsuit in subjective bad faith on a series of objectively meritless claims.

66. Honeywell filed the South Carolina lawsuit for anticompetitive purposes and with the intent of causing competitive harm to The Code Corporation on a basis other than the merits of the parties’ products and services.

67. Honeywell filed the South Carolina lawsuit with the intent of causing The Code Corporation to incur substantial legal expenses that would impair its ability to compete with Honeywell.

68. Honeywell filed the South Carolina lawsuit with the intent of using objectively meritless accusations of patent infringement to drive business from The Code Corporation to Honeywell.

69. Honeywell filed the South Carolina lawsuit with the intent of putting The Code Corporation out of business.

70. Honeywell filed the South Carolina lawsuit with the intent of "burying" The Code Corporation.

71. Honeywell filed and maintained the South Carolina lawsuit knowing that it would spend more in legal fees than it could reasonably anticipate recovering from a verdict in its favor.

72. On May 22, 2017, The Supreme Court issued its opinion in *TC Heartland LLC v. Kraft Foods Group Brands LLC*, 581 U.S. ___ (2017), rendering venue in the South Carolina Action improper. The Code Corporation is moving for dismissal of Honeywell's claims under Rule 12(b)(3) of the Federal Rules of Civil Procedure, or, alternatively, transfer to the District of Utah under 28 U.S.C. § 1406.

HONEYWELL'S DISPARAGEMENT OF THE CODE CORPORATION AND ITS PRODUCTS UNDER THE PRETENSE OF PATENT INFRINGEMENT ACCUSATIONS

73. As Honeywell stated in a communication to barcode reader users, "Honeywell is a huge, multinational company with billions of dollars of resources. Code is a small company innovating in this niche space – why go after them?"

74. Honeywell brought the South Carolina Action as a pretense for disparaging The Code Corporation and its products in the marketplace. Honeywell is attempting to leverage its size in the overall 2D barcode reader/engine market and use disparaging communications predicated on this patent litigation to force The Code Corporation out of the market.

75. Upon information and belief, before Honeywell filed the South Carolina Action, John Waldron, President and CEO of Safety and Productivity Solutions at Honeywell, told a senior manager of Code's largest distributor that Honeywell was going to sue Code and use it as a marketing play. Honeywell further asked the distributor to run a press release explaining the lawsuit, but the distributor declined. The distributor also stated that Honeywell had approached other distributors to run the same press release. They all declined.

76. Resellers and end users buy The Code Corporation's products through this distributor, meaning that this distributor is The Code Corporation's largest customer.

77. On January 19, 2017, three days before The Code Corporation was served with the South Carolina Complaint, Honeywell issued a press release (the "Initial Press Release"). The Initial Press Release states that "the lawsuit seeks to prevent Code from using Honeywell's patented technology in its bar code readers, including the CR2600, and to recover damages caused by the infringement."

78. Upon information and belief, on or about January 19, 2017, representatives of Honeywell met in person with representatives of The Code Corporation's largest distributor (the "Distributor Meeting") to disparage The Code Corporation and The Code Corporation's products. Further, upon information and belief, a representative from Honeywell, in an attempt to leverage Honeywell's' size and dominance, stated that Honeywell does so much barcode

business with this distributor outside of healthcare, that "we [Honeywell] don't know why you don't just give all of the Code business to Honeywell."

79. Upon information and belief, on or about January 19, 2017, representatives of Honeywell met with representatives of the Code Corporation's largest resellers (the "Reseller Meeting") to disparage The Code Corporation and The Code Corporation's products. As a result of Honeywell's disparagement of The Code Corporation and The Code Corporation's products, the reseller has suspended internal and external marketing of Code's products, thus harming The Code Corporation's current and future sales.

80. Upon information and belief, on or about January 19, 2017, Honeywell sent a letter to resellers outside of the United States (some of which purchase Code Products) detailing the patent infringement allegations in the South Carolina Action and disparaging The Code Corporation and its products.

81. Upon information and belief, on or about March 9, 2017, Honeywell sent a letter to at least one large hospital (the "Hospital Letter") that has purchased many Code products over the past several years and, at the time the letter was received, was contemplating purchasing additional barcode readers from The Code Corporation. The letter is written in a question and answer format wherein Honeywell uses questions and answers to disparage The Code Corporation and its products using false and misleading information.

82. In the Hospital Letter, one hypothetical question Honeywell asks: "What Honeywell patents are allegedly being infringed and what do they relate to/how are they are used?" Honeywell responds to its own hypothetical questions with the statement: "The lawsuit

seeks to prevent Code from using Honeywell's patented technology and to recover damages caused by the infringement."

83. In the Hospital Letter, Honeywell also asks: "How long has the infringement been going on?" Honeywell responds: "Based on our analysis, we believe Code is engaged in widespread infringement affecting a broad range of its current product portfolio."

84. Honeywell further asks: "what are your [Honeywell's] end goals? Are you trying to put them [Code] out of business? Are you looking for a financial settlement?" Honeywell responds to its own hypothetical question with the statement: "Our lawsuit seeks to prevent Code from using Honeywell's patented technology and to recover damages caused by the infringement. … Protecting patent positions is critical to ensuring a level playing field for all market players and to ensure that we can continue to invest in innovative products to meet customers' needs."

85. The Hospital Letter includes other similar questions and answers (both prepared by Honeywell) meant to cast a shadow over The Code Corporation's continued viability as a company and to openly question whether Honeywell will "put [The Code Corporation] out of business."

86. The Hospital Letter also states that Honeywell intends to "prevent Code from using Honeywell's patented technology." As discussed above, Honeywell cannot obtain an injunction on its three expired patents or, after July 2017, on its fourth expiring patent (*See supra* ¶¶ 50–51).

87. Upon information and belief, on March 28, 2017, General Data Healthcare, a barcode reader reseller of both The Code Corporation and Honeywell, sent a letter to all of its

customers disparaging The Code Corporation and its products (the "General Data Healthcare Letter"). Honeywell drafted the letter and had General Data Healthcare disseminate it.

88. In exchange for disseminating the letter, Honeywell told General Data Healthcare that it should anticipate picking up additional business as a result of Honeywell lawsuit against Code.

89. The General Data Healthcare Letter stated in part, "The Code CR2600 barcode scanner has been cited for patent infringement by Honeywell," "Honeywell has filed a patent infringement lawsuit against Code Corp. alleging that it has engaged in widespread infringement of multiple patents related to Honeywell's industry-leading barcode scanning technology," "You may still choose to continue with your purchasing and use of Code scanners with the knowledge that these actions may mean you are doing so under patent infringement. However, as your trusted advisor we want to make sure to provide accurate and complete information to you. If you are concerned in any way and if you would like to change to the legal patented technology, we can offer the Honeywell Xenon solution as an excellent and competitive alternative."

90. Honeywell also asked Cerner Healthcare, a barcode reader distributor of The Code Corporation, to disseminate to its customers the same letter that General Data Healthcare disseminated. Cerner is a dominant provider of electronic record systems for hospitals and resells The Code Corporation's equipment to these hospitals. More importantly, Cerner certifies The Code Corporation's equipment to work with Cerner's software, which has a strong influence on a hospital's decision to purchase barcode reading equipment.

91. Honeywell knows that Cerner has a strong influence on a hospital's decision to purchase barcode reading equipment and requested that Cerner disseminate the same false and

misleading information distributed by General Data Healthcare in an attempt to make its disparaging message more widespread and influential.

92. On or about April 20, 2017, a Cerner employee informed an employee of The Code Corporation that a Honeywell representative asked Cerner to provide Honeywell with a list of The Code Corporation's customers or send an email to The Code Corporation's customers notifying them of the South Carolina Action.

93. On information and belief, on or about January 19,2017, Lisa London, President, Productivity Products at Honeywell Safety & Productivity Solutions (formerly Honeywell Scanning and Mobility), hosted a meeting of her employees and told them to use this lawsuit to put doubt in the minds of customers about the viability of Code as a company.

94. On information and belief, following Landan's instructions, Honeywell Sales Rep Doug Brown began telling customers that this lawsuit will "bury Code" and that "[customers] should be very careful of Code."

95. On information and belief, Honeywell sales representative Patrick Bogart began telling customers that "this [lawsuit] will put Code out of business," and Honeywell Solutions Architect Jason Manguba began telling customers that "Code is going to lose."

THE PARTIES

96. The Code Corporation is a Delaware corporation with its principal place of business at 12393 South Gateway Park Place, Suite 600, Draper, Utah 84020.

97. Based on its assertions, Defendant Hand Held Products, Inc. is a Delaware corporation, and a wholly-owned subsidiary of Honeywell International Inc., with its principal place of business at 9680 Old Bailes Road, Fort Mill, South Carolina 29707.

98. Based on its assertions, Defendant Intermec Technologies Corporation is a Washington corporation, and wholly owned subsidiary of Intermec, Inc., with its principal place of business located at 9680 Old Bailes Road, Fort Mill, South Carolina 29707.

99. Based on its assertions, Defendant Intermec IP Corp. is a Delaware corporation, and a wholly-owned subsidiary of Intermec Technologies Corporation, with its principal place of business located at 9680 Old Bailes Road, Fort Mill, South Carolina 29707.

100. Based on its assertions, Intermec, Inc. is a wholly-owned subsidiary of Hand Held Products, Inc.

101. Upon information and belief, Intermec, Inc. is a Delaware corporation with its principal place of business at 16201 25th Ave. W., Lynwood, WA 98087-2520.

JURISDICTION AND VENUE

102. According to the allegations in the South Carolina Amended Complaint, Honeywell claims certain rights arising under the patent laws of the United States related to the ’258, ’008, ’223, ’413, ’128, and ’472 patents.

103. Based on its assertions, Honeywell is the owner by assignment of the ’258, ’008, ’223, ’413, ’128, and ’472 patents.

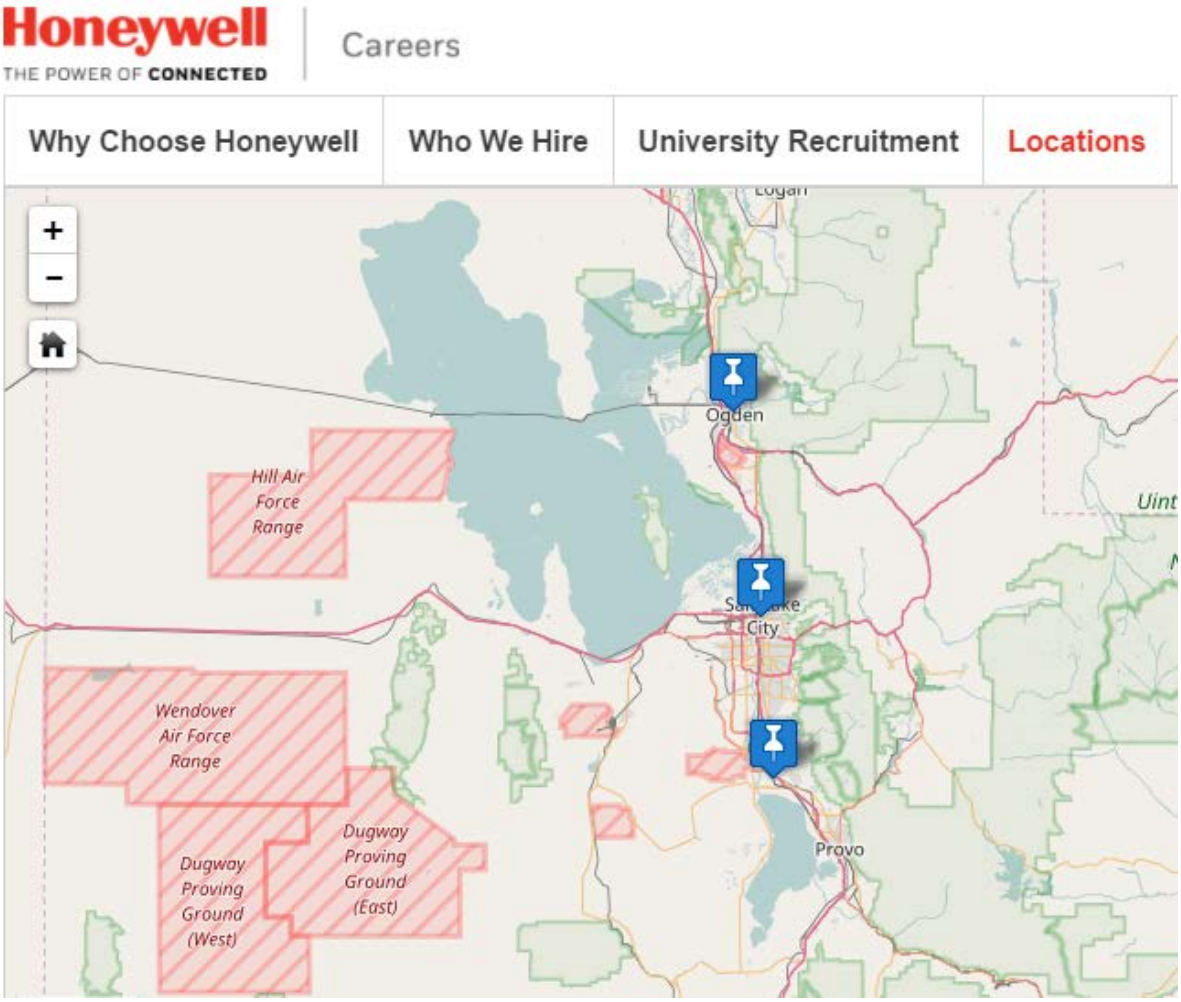
104. This action arises under the Patent Laws of the United States, 35 U.S.C. §§ 100 et seq. and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, based on an actual justiciable controversy between The Code Corporation and Honeywell. Subject matter jurisdiction over these claims arises under 28 U.S.C. §§ 1331, 1338(a), and 2201.

105. The Court has personal jurisdiction over Honeywell. Honeywell has engaged in judicial and extra-judicial patent enforcement conduct against The Code Corporation, including

effecting service of the South Carolina Complaint through hand delivery at The Code Corporation's corporate headquarters in Draper, Utah. Honeywell has requested from The Code Corporation voluminous evidentiary production, including The Code Corporation's financial and sales records, engineering documents related to the allegedly infringing products, software and patent license agreements, documents related to The Code Corporation's knowledge of the Patents-in-Suit, multiple samples of each accused device, marketing and market research materials, documents relating to The Code Corporation's corporate structure, documents related to The Code Corporation's design of non-infringing alternatives, and communications between The Code Corporation and its customers regarding Honeywell's accusations of patent infringement. These documents and things that Honeywell requests are both related to Honeywell's enforcement of the Patents-in-Suit and overwhelmingly located in or otherwise accessible from The Code Corporation's corporate headquarters in Utah. Furthermore, on information and belief, Honeywell has directed communications to The Code Corporation's Utah-based customers apprising them of this litigation, threatening them with potential litigation, and making materially false and misleading representations about The Code Corporation and this dispute involving the Patents-in-Suit.

106. Venue is proper in this District under 28 U.S.C. § 1391 (b & c) because substantial parts of the events giving rise to The Code Corporation's claims occurred in this District and because Honeywell is subject to personal jurisdiction here.

107. Honeywell also has a presence in Utah. According to its website, Honeywell and/or its corporate affiliates maintain offices in Ogden, Salt Lake City, and Lehi.



108. On information and belief Defendant Intermec Technologies Corporation maintains an office at 640 North Main St., North Salt Lake, Utah, 84054.

FACTUAL BACKGROUND

109. Honeywell asserts that it is the owner by assignment of the ’258, ’008, ’223, ’413, ’128, and ’472 patents.

110. Honeywell has expressly charged The Code Corporation with infringement of the ’258, ’008, ’223, ’413, ’128, and ’472 patents by filing the Amended Complaint in South

Carolina. The Code Corporation has denied these allegations. Thus, for at least these reasons, there exists an actual controversy between the parties regarding these patents.

111. Honeywell admitted in its Response to The Code Corporation's Motion for Partial Judgment on the Pleadings that it is not asserting indirect infringement of the '413 patent, the '223 patent, and the '008 patent against The Code Corporation.

FIRST COUNT

(Non-Infringement of the Patents-in-Suit)

112. The Code Corporation repeats and incorporates by reference all of the allegations set forth in the paragraphs above as if fully set forth herein.

113. The Code Corporation does not infringe and has not infringed, literally or by the doctrine of equivalents, any valid and enforceable claim of the '258, '008, '223, '413, '128, and '472 patents, either directly, contributorily, by inducement, jointly, or in any other manner.

114. The Code Corporation does not infringe the '258 patent for several reasons, including but not limited to the fact that the CR2600 does not include a data file reader and the CR2600's vibration signals do not constitute "a plurality of tactually distinct vibrational signals during hand-held utlilization."

115. The Code Corporation does not infringe the '008 patent for several reasons, including but not limited to the fact that the accused products do not select a first type and second type of illuminator that coordinate read attempts of optical indicia.

116. The Code Corporation does not infringe the '223 patent for several reasons, including but not limited to the fact that the CR2600 lacks a processor adapted to perform the steps recited in claim 37.

117. The Code Corporation does not infringe the ’413 patent for several reasons, including but not limited to the fact that the accused products lack a contact providing a pre-removal indication when the battery pack is being removed from the slot.

118. The Code Corporation does not infringe the ’128 patent for several reasons, including but not limited to the fact that the accused products lack a rear housing, support frame, and a single piece optical element as described by the patent.

119. The Code Corporation does not infringe the ’472 patent for several reasons, including but not limited to the fact that the accused products lack a support frame and a single piece optical element.

SECOND COUNT

(Invalidity of the Patents-in-Suit)

120. The Code Corporation repeats and incorporates by reference all of the allegations set forth in the paragraphs above as if fully set forth herein.

121. Each and every claim of the ’258, ’008, ’223, ’413, ’128, and ’472 patents is invalid for failure to comply with the conditions and requirements for patentability specified in, but not limited to, 35 U.S.C. §§ 101-103, 111-113, and 116 in effect at the time the patent issued.

122. The ’258 Patent is invalid for several reasons including but not limited to the asserted claims are anticipated by and/or obvious in view of the prior art cited on the face of the patent and/or systems available in the field or some combination thereof.

123. The ’008 Patent is invalid for several reasons including but not limited to the asserted claims are directed to patent-ineligible subject matter and are anticipated by and/or obvious in view of the prior art cited on the face of the patent or some combination thereof.

124. The ’223 Patent is invalid for several reasons including but not limited to the asserted claims are indefinite, directed to patent-ineligible subject matter, and anticipated by and/or obvious in view of the prior art cited on the face of the patent and/or systems available in the field or some combination thereof.

125. The ’413 Patent is invalid for several reasons including but not limited to the asserted claims are anticipated by and/or obvious in view of the prior art cited on the face of the patent and/or systems available in the field or some combination thereof.

126. The ’128 Patent is invalid for several reasons including but not limited to the asserted claims are anticipated by and/or obvious in view of the prior art cited on the face of the patent and/or systems available in the field or some combination thereof.

127. The ’472 Patent is invalid for several reasons including but not limited to the asserted claims are anticipated by and/or obvious in view of the prior art cited on the face of the patent and/or systems available in the field or some combination thereof.

THIRD COUNT

(Injurious Falsehood Under Utah Law)

128. The Code Corporation repeats and incorporates by reference all of the allegations set forth in the paragraphs above as if fully set forth herein.

129. Honeywell has made false statements regarding The Code Corporation’s business including in communications to customers and barcode reader resellers.

130. Upon information and belief, Honeywell made these false statements with malice.

131. As a direct, proximate, and foreseeable result of Honeywell's conduct, The Code Corporation has suffered injury and special damages as a result of Honeywell's malicious and false statements.

132. The Code Corporation is entitled to compensatory damages, punitive damages, attorneys' fees, and costs.

FOURTH COUNT

(Interference with Economic Relations and/or Prospective Economic Advantage Under Utah Law)

133. The Code Corporation repeats and incorporates by reference all of the allegations set forth in the paragraphs above as if fully set forth herein.

134. Honeywell has intentionally interfered with The Code Corporation's economic relationships with its customers and barcode reader resellers.

135. Honeywell intentionally interfered with The Code Corporation's economic relations for the improper purpose of "trying to put [The Code Corporation] out of business" as it stated in communications to barcode reader resellers.

136. Honeywell intentionally interfered with The Code Corporation's economic relations through the improper means of making malicious, false, and misleading statements as described above.

137. As a direct, proximate, and foreseeable result of Honeywell's conduct, The Code Corporation has suffered injury and damages, including but not limited to, loss of sales to customers and through resellers and loss of marketing for The Code Corporation and its products through resellers.

138. The Code Corporation is entitled to compensatory damages, punitive damages, attorneys' fees, and costs.

FIFTH COUNT

(Unfair Trade Practices Under the Lanham Act § 43)

139. The Code Corporation repeats and incorporates by reference all of the allegations set forth in the paragraphs above as if fully set forth herein.

140. Honeywell made false or misleading statements of fact in commercial advertisements about The Code Corporation and The Code Corporation's products.

141. The false statements made by Honeywell deceived or had the tendency to deceive a substantial segment of its audience.

142. The false statements made by Honeywell are material and likely to influence the purchasing decisions of the audience.

143. Honeywell caused the false statements to enter interstate commerce.

144. As a direct, proximate, and foreseeable result of Honeywell's conduct, The Code Corporation has suffered injury and damages as a result of Honeywell's false statements as described above, including but not limited to, loss of sales to customers and through resellers and loss of marketing for The Code Corporation and its products through resellers.

145. The Code Corporation is entitled to compensatory damages, punitive damages, attorneys' fees, and costs.

PRAYER FOR RELIEF

WHEREFORE, The Code Corporation prays that this Court enter judgment:

A. on The Code Corporation's first count, declaring that none of the claims of the Patents-in-Suit are directly, jointly, or indirectly infringed by the use, sale, or offer for sale of any of The Code Corporation's services or products or any other activity attributable to The Code Corporation, either literally or under the doctrine of equivalents;

B. on The Code Corporation's second count, declaring that the claims of the Patents-in-Suit are invalid;

C. declaring that this case is "exceptional" within the meaning of 35 U.S.C. § 285, and that all costs and expenses of this action, including reasonable attorneys' fees, be awarded to The Code Corporation;

D. on The Code Corporation's third count, entering judgment against Honeywell for the amount of damages The Code Corporation proves at trial and enjoining Honeywell from further violations of the law;

E. on The Code Corporation's fourth count, entering judgment against Honeywell for the amount of damages The Code Corporation proves at trial and enjoining Honeywell from further violations of the law;

F. on The Code Corporation's fifth count, entering judgment against Honeywell for the amount of damages The Code Corporation proves at trial and enjoining Honeywell from further violations of the law; and

G. granting The Code Corporation such further relief as this Court may deem necessary, just or proper.

JURY TRIAL DEMANDED

Pursuant to Fed. R. Civ. P. 38(b), The Code Corporation demands a trial by jury on all issues so triable by right to a jury in this matter.

Dated: June 16, 2017

Respectfully submitted,

RAY QUINNEY & NEBEKER P.C.

/s/ Arthur B. Berger
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