

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

ENNOVA DIRECT, INC.	§
	§
<i>Plaintiff,</i>	§
vs.	§
	§
A-DATA TECHNOLOGY (U.S.A.) CO.,	§
LTD., KINGSTON TECHNOLOGY	§
CORPORATION, PHILIPS ELECTRONICS	§
NORTH AMERICA CORPORATION,	§
PNY TECHNOLOGIES, INC., SONY	§
ELECTRONICS, INC., THOMSON INC.,	§
TRANSCEND INFORMATION INC., and	§
VERBATIM AMERICAS LLC	§
	§
<i>Defendants.</i>	§

Case No. 2:08cv-00022-TJW

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Ennova Direct, Inc. (“Ennova”) brings this action against defendants A-Data Technology (U.S.A.) Co., Ltd. (“A-Data”), Kingston Technology Corporation (“Kingston”), Philips Electronics North America Corporation (“Philips”), PNY Technologies, Inc. (“PNY”), Sony Electronics, Inc. (“Sony”), Thomson Inc. (“Thomson”), Transcend Information Inc. (“Transcend”), and Verbatim Americas LLC (“Verbatim”), and alleges:

THE PARTIES

1. Ennova is a corporation organized and existing under the laws of the State of California and having a principal place of business at 5523 Scotts Valley Drive, Scotts Valley, California 95066.

2. On information and belief, A-Data is a corporation organized and existing under the laws of California, has a principal place of business at 18513 Gale Avenue, City of Industry,

California 91748-1321, has designated its registered agent for purposes of service of process as Chia Zone Wu, 18513 Gale Avenue, City of Industry, California 91748-1321, and is doing business in this judicial district.

3. On information and belief, Kingston is a corporation organized and existing under the laws of California, has a principal place of business at 17600 Newhope Street, Fountain Valley, California 92708, has designated its registered agent for purposes of service of process as Robert E. Rich, 660 Newport Center Drive, Suite 1600, Newport Beach, California 92660-6422, and is doing business in this judicial district.

4. On information and belief, Philips is a corporation organized and existing under the laws of Delaware, has a principal place of business at 1251 Avenue of the Americas, New York, New York 10020, has designated its registered agent for purposes of service of process as Corporation Service Company, 80 State Street, Albany, New York 12207-2543, and is doing business in this judicial district.

5. On information and belief, PNY is a corporation organized and existing under the laws of Delaware, has a principal place of business at 299 Webro Road, Parsippany, New Jersey 07054-2831, has designated its registered agent for purposes of service of process in Texas as C T Corporation System, 350 North St. Paul Street, Dallas, Texas 75201, and is doing business in this judicial district.

6. On information and belief, Sony is a corporation organized and existing under the laws of Delaware, has a principal place of business at 555 Madison Avenue, Floor C, New York, New York 10022-3301, has designated its registered agent for purposes of service of process in Texas as Corporation Service Company d/b/a CSC – Lawyers Incorporating Service Company, 701 Brazos Street, Suite 1050, Austin, Texas 78701, and is doing business in this judicial district.

7. On information and belief, Thomson is a corporation organized and existing under the laws of Delaware, has a principal place of business at 101 West 103rd Street, Indianapolis, Indiana 46290, has designated its registered agent in Texas for purposes of service of process as C T Corporation System, 350 North St. Paul Street, Dallas, Texas 75201, and is doing business in this judicial district.

8. On information and belief, Transcend is a corporation organized and existing under the laws of California, has a principal place of business at 1645 North Brian Street, Orange, California 92867-3423, has designated its registered agent for purposes of service of process as Chung-Won Shu, 1645 North Brian Street, Orange, California 92867-3423, and is doing business in this judicial district.

9. On information and belief, Verbatim is a limited liability company organized and existing under the laws of Delaware, has a principal place of business at 1200 West W.T. Harris Blvd., Charlotte, North Carolina 28262, has designated its registered agent in Texas for purposes of service of process as C T Corporation System, 350 North St. Paul Street, Dallas, Texas 75201, and is doing business in this judicial district.

JURISDICTION AND VENUE

10. This is an action for patent infringement arising under the provisions of the Patent Laws of the United States of America, Title 35, United States Code.

11. Subject-matter jurisdiction over Ennova's claims is conferred upon this Court by 28 U.S.C. §§ 1331 and 1338(a).

12. On information and belief, each defendant has solicited business in the State of Texas, transacted business within the State of Texas and attempted to derive financial benefit from residents of the State of Texas.

13. On information and belief, each defendant has placed its allegedly infringing thumb drives into the stream of commerce throughout the United States with the expectation that they will be sold to and used by consumers in this judicial district, which thumb drives have been offered for sale, sold and/or used in this judicial district.

14. Each defendant is subject to personal jurisdiction in Texas and this judicial district, and is doing business in this judicial district.

15. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

PATENT INFRINGEMENT

16. On December 27, 2005, U.S. Patent No. 6,979,210 (“the ‘210 patent”), entitled “Thumb Drive With Retractable USB Connector,” a copy of which is attached hereto as Exhibit A, was duly and legally issued. Ennova is the owner by assignment of all right, title and interest in and to the ‘210 patent, including the right to sue for and recover all past, present and future damages for infringement of the ‘210 patent.

17. Ennova has complied with the marking requirements of 35 U.S.C. 287 with respect to the ‘210 patent.

18. Upon information and belief, each defendant, either alone or in conjunction with others, has in the past and continues to infringe, contribute to infringement, and/or induce infringement of the ‘210 patent by making, using, selling and/or offering to sell, in this judicial district and elsewhere, thumb drives that are covered by the ‘210 patent. Defendants are liable for infringement of the ‘210 patent pursuant to 35 U.S.C. § 271.

19. Numerous of the defendants have directly or through others committed acts of patent infringement in this district by selling thumb drive products in this district that infringe the '210 patent.

20. Each defendant's acts of infringement have caused damage to Ennova, and Ennova is entitled to recover from each defendant the damages sustained by Ennova as a result of each defendant's wrongful acts in an amount subject to proof at trial.

21. As a consequence of the infringement complained of herein, Ennova has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged by such acts in the future unless each defendant is enjoined by this Court from committing further acts of infringement.

PRAYER FOR RELIEF

WHEREFORE, Ennova prays for entry of judgment that:

- A.** Each defendant has infringed the '210 patent;
- B.** Each defendant account for and pay to Ennova all damages caused by its infringement of the '210 patent in accordance with 35 U.S.C. § 284;
- C.** Ennova be granted permanent injunctive relief pursuant to 35 U.S.C. § 283 enjoining each defendant, its officers, agents, servants, employees and those persons in active concert or participation with them from further acts of patent infringement;
- D.** Ennova be granted pre-judgment and post-judgment interest on the damages caused to it by reason of each defendant's patent infringement complained of herein;
- E.** Ennova be granted its reasonable attorneys' fees;
- F.** Costs be awarded to Ennova; and,

G. Ennova be granted such other and further relief as the Court may deem just and proper under the circumstances.

DEMAND FOR JURY TRIAL

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

Respectfully submitted,

Dated: March 27, 2009

By: /s/ C. Dale Quisenberry

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served this 27th day of March, 2009, with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by, electronic mail, facsimile transmission and/or first class mail on this same date.

/s/ C. Dale Quisenberry