

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

PACSEC3, LLC,)	
Plaintiff,)	
)	Civ. Act. No. 6:22-cv-00128-ADA
v.)	
)	
BLACKBERRY CORPORATION,)	JURY TRIAL DEMANDED
Defendant.)	

PLAINTIFF’S SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT

PacSec3, LLC (“PacSec3”) files this Second Amended Complaint and demand for jury trial seeking relief from patent infringement of the claims of U.S. Patent No. 7,523,497 (“the ‘497 patent”) (referred to as the “Patent-in-Suit”) by Blackberry Corporation (“Blackberry”). No new patents are added by this Amended Complaint, rather the claim charts are amended to more clearly illustrate Plaintiff’s claims.

I. THE PARTIES

1. Plaintiff PacSec3, LLC is a Texas Limited Liability Company with its principal place of business located in Harris County, Texas.
2. On information and belief, Blackberry is a corporation organized under the laws of Canada with a regular and established place of business at 11501 Alterra Parkway, Austin, TX 78758. On information and belief, BLACKBERRY sells and offers to sell products and services throughout Texas, including in this judicial district, and introduces products and services that perform infringing methods or processes into the stream of commerce knowing that they would be sold in Texas and this judicial district. BLACKBERRY has been served.

II. JURISDICTION AND VENUE

3. This Court has original subject-matter jurisdiction over the entire action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because Plaintiff's claim arises under an Act of Congress relating to Patent, namely, 35 U.S.C. § 271.

4. This Court has personal jurisdiction over Defendant because: (i) Defendant is present within or has minimum contacts within the State of Texas and this judicial district; (ii) Defendant has purposefully availed itself of the privileges of conducting business in the State of Texas and in this judicial district; and (iii) Plaintiff's cause of action arises directly from Defendant's business contacts and other activities in the State of Texas and in this judicial district.

5. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and 1400(b). Defendant has committed acts of infringement and has a regular and established place of business in this District. Further, venue is proper because Defendant conducts substantial business in this forum, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in Texas and this District.

III. INFRINGEMENT OF THE '497 PATNET

6. On April 21, 2009, U.S. Patent No. 7,523,497 ("the '497 patent", included as Exhibit A) entitled "PACKET FLOODING DEFENSE SYSTEM," was duly and legally issued by the U.S. Patent and Trademark Office. PacSec3, LLC owns the '497 patent by assignment.

7. The '497 patent relates to a novel and improved manner and system of defense to a data packet flood attack.

8. BLACKBERRY offers for sale, sells and manufactures one or more firewall systems that infringes one or more claims of the '497 patent, including one or more of claims 7-12, 14-15, and

17-18, literally or under the doctrine of equivalents, through products such as its Enterprise System Cylance. Defendant put the inventions claimed by the '497 Patent into service (i.e., used them); but for Defendant's actions, the claimed-inventions embodiments involving Defendant's products and services would never have been put into service. Defendant's acts complained of herein caused those claimed-invention embodiments as a whole to perform, and Defendant's procurement of monetary and commercial benefit from it.

9. Support for the allegations of infringement may be found in Exhibit B, a preliminary table. These allegations of direct infringement are preliminary and are therefore subject to change.¹

10. BLACKBERRY has caused and will continue to cause PacSec3 damage by direct infringement of the claims of the '497 patent.²

IV. CONDITIONS PRECEDENT

11. Plaintiff is a non-practicing entity, with no products to mark. Plaintiff has plead all statutory requirements to obtain pre-suit damages. Further, all conditions precedent for recovery are met.

V. JURY DEMAND

PacSec3 hereby requests a trial by jury on issues so triable by right.

VI. PRAYER FOR RELIEF

WHEREFORE, PacSec3 prays for relief as follows:

- a. enter judgment that Defendant has infringed the claims of the '497 patent through selling, offering for sale, manufacturing, and inducing others to infringe by using and instructing to use DDOS protection systems;

¹ Plaintiff reserves the right to amend, including the right to re-assert indirect and willful infringement, if discovery reveals an earlier date of knowledge, as well as to allege post-filing knowledge.

² Plaintiff reserves the right to amend, including the right to re-assert indirect and willful infringement, if discovery reveals an earlier date of knowledge, as well as to allege post-filing knowledge.

- b. award PacSec3 damages in an amount sufficient to compensate it for Defendant's infringement of the Patent-in-Suit in an amount no less than a reasonable royalty or lost profits, together with pre-judgment and post-judgment interest and costs under 35 U.S.C. § 284;
- c. award PacSec3 an accounting for acts of infringement not presented at trial and an award by the Court of additional damage for any such acts of infringement; and
- d. award PacSec3 such other and further relief as this Court deems just and proper.

Respectfully submitted,

Ramey LLP

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CERTIFICATE OF SERVICE

Pursuant to the Federal Rules of Civil Procedure, I hereby certify that all counsel of record who have appeared in this case are being served on this day of January 5, 2024, with a copy of the foregoing via email and ECF filing.

/s/ William P. Ramey, III
William P. Ramey, III