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**UNITED STATES DISTRICT COURT**

**FOR THE SOUTHERN DISTRICT OF NEW YORK**

ACTICON TECHNOLOGIES LLC, a	)	Case No.: <u>08-cv-03698</u>
limited liability company,	)	
	)	<b>COMPLAINT FOR PATENT INFRINGEMENT</b>
	)	
Plaintiff,	)	<b>DEMAND FOR JURY TRIAL</b>
	)	
vs.	)	
L-3 COMMUNICATIONS ILEX SYSTEMS,	)	
INC.,	)	
	)	
Defendant.	)	
	)	
	)	
	)	
	)	
	)	

Plaintiff, Acticon Technologies LLC ("Acticon") complains against  
L-3 Communications ILEX Systems, Inc. ("Defendant") as follows:

**THE PARTIES**

1. Acticon is a limited liability company organized and  
existing under the laws of the State of New York, with its principal  
place of business at Montebello Park, 75 Montebello Road, Suffern, New  
York 10901-3740.

2. On information and belief, Defendant L-3 Communications ILEX Systems, Inc., is a corporation organized and existing under the laws of the State of Delaware, having a place of business at 600 Third Avenue, New York, New York 10016.

## JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States of America, Title 35 of the United States Code. This Court has jurisdiction of this action under 28 U.S.C. §§ 1331 and 1338(a).

4. On information and belief, Defendant is doing business and committing infringements in this judicial district and is subject to personal jurisdiction in this judicial district.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391 and § 1400(b).

## CLAIMS FOR PATENT INFRINGEMENT

6. Plaintiff, Acticon, repeats and incorporates herein the entirety of the allegations contained in paragraphs 1 through 5 above.

7. On July 29, 1986, U.S. Patent No. 4,603,320 ("the '320 patent") was duly and legally issued for an invention entitled "Connector Interface." The '320 patent has successfully emerged from reexamination proceedings before the U.S. Patent and Trademark Office with all claims unamended. A copy of the '320 patent, and its reexamination certificate, is attached to this Complaint as Exhibit 1.

8. On November 20, 1990, U.S. Patent No. 4,972,470 ("the '470

1 patent") was duly and legally issued for an invention entitled  
2 "Programmable Connector." The '470 patent has successfully emerged  
3 from reexamination proceedings before the U.S. Patent and Trademark  
4 Office with all claims unamended. A copy of the '470 patent, and its  
5 reexamination certificate, is attached to this Complaint as Exhibit 2.

6 9. Acticon is the owner of all right, title and interest in  
7 and to the '320 patent and the '470 patent, and has the right to sue  
8 and collect damages for the past infringement thereof.

9 **COUNT ONE**

10 10. Plaintiff, Acticon, repeats and incorporates herein the  
11 entirety of the allegations contained in paragraphs 1 through 9 above.

12 11. Defendant has directly infringed and/or contributorily  
13 infringed and/or induced infringement of the '320 patent by importing,  
14 making, using, offering for sale and/or selling, and by inducing  
15 others to use, offer to sell and/or sell, products that come within  
16 the scope of the '320 Patent, without permission from Acticon. Upon  
17 information and belief, such products include, but are not limited to,  
18 Defendant's SFC 101 Secure Fax Cards.

19 12. Plaintiff, Acticon, was damaged by the Defendant's  
20 infringing activities and seeks damages for said past infringement.

21 **COUNT TWO**

22 13. Plaintiff, Acticon, repeats and incorporates herein the  
23 entirety of the allegations contained in paragraphs 1 through 12

1 above.

2 14. Defendant has directly infringed and/or contributorily  
3 infringed and/or induced infringement of the '470 patent by importing,  
4 making, using, offering for sale and/or selling, and by inducing  
5 others to use, offer to sell and/or sell, products that come within  
6 the scope of the '470 Patent, without permission from Acticon. Upon  
7 information and belief, such products include, but are not limited to,  
8 Defendant's SFC 101 Secure Fax Cards.

9 15. Plaintiff, Acticon, has been damaged by Defendant's  
10 infringing activities, and will be irreparably harmed unless such  
11 infringing activities are enjoined by this Court.

12 **COUNT THREE**

13 16. Plaintiff, Acticon, repeats and incorporates herein the  
14 entirety of the allegations contained in paragraphs 1 through 15  
15 above.

16 17. Defendant's infringement has been willful and deliberate,  
17 with knowledge of the '320 and '470 Patents, justifying the assessment  
18 of treble damages pursuant to 35 U.S.C. §284 and attorneys' fees  
19 pursuant to 35 U.S.C. §285.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, THE Plaintiff, Acticon prays for judgment against the  
22 Defendant on all counts and for the following relief:  
23  
24  
25

- 1       A.   Declaration that the Plaintiff is the owner of the '320  
2       patent, and that the Plaintiff has the right to sue and to  
3       recover for infringement thereof;
- 4       B.   Declaration that the '320 patent was valid and enforceable;
- 5       C.   Declaration that the Defendant has infringed, actively  
6       induced infringement of, and/or contributorily infringed  
7       the '320 patent;
- 8       D.   Declaration that the Plaintiff is the owner of the '470  
9       patent, and that the Plaintiff has the right to sue and to  
10      recover for infringement thereof;
- 11      E.   Declaration that the '470 patent is valid and enforceable;
- 12      F.   Declaration that the Defendant has infringed, actively  
13      induced infringement of, and/or contributorily infringed  
14      the '470 patent;
- 15      G.   An accounting for damages under 35 U.S.C. §284 for  
16      infringement of Acticon's '320 and '470 patents by the  
17      Defendant, and the award of damages so ascertained to the  
18      Plaintiff, Acticon, together with interest as provided by  
19      law;
- 20      H.   A judgment that the Defendant is a willful infringer and an  
21      award of treble damages to the plaintiff, Acticon, pursuant  
22      to 35 U.S.C. §284 against the Defendant;
- 23      I.   Award of reasonable attorney's fees to the Plaintiff,

1           Action, pursuant to 35 U.S.C. §285;

2           J.   Award of Action's costs and expenses; and

3           K.   Such other and further relief as this Court may deem  
4           proper, just and equitable.

5  
6  
7  
8                           **DEMAND FOR JURY TRIAL**

9           The Plaintiff, Acticon, demands a trial by jury of all issues  
10 properly triable by jury in this action.

11                           Dated this 14th day of April, 2008

12                           Respectfully submitted,

13                           POLTORAK & ASSOCIATES, P.C.

14                           By:           /S/                            
15                                 Elie C. Poltorak, Esq. (EP0770)  
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