

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

MINERVA INDUSTRIES, INC.,

Plaintiff,

v.

RESEARCH IN MOTION CORPORATION;
CRICKET COMMUNICATIONS, INC.,

Defendants.

Civil Action No:

**The Honorable
United States District Judge**

JURY

COMPLAINT AND DEMAND FOR JURY TRIAL

This is an action for patent infringement in which Minerva Industries, Inc. (“Minerva”) makes the following allegations against Research In Motion Corporation and Cricket Communications, Inc., (collectively, “Defendants”).

PARTIES

1. Plaintiff Minerva Industries, Inc. (“Minerva”) is a California corporation with its principal place of business at 255 S. Grand Avenue, Suite 2004, Los Angeles, California 90012.

2. On information and belief, defendant Research In Motion Corporation (“RIM”) is a Delaware corporation, with its principal place of business at 122 West John Carpenter Parkway, Suite 430, Irving, Texas, 75039.

3. On information and belief, defendant Cricket Communications, Inc. (“Cricket”) is a Delaware corporation, with its principal place of business at 10307 Pacific Center Court, San Diego, California 92121-4340.

JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Venue is proper in this district under 28 U.S.C. §§1391 (b) and (c) and 1400(b). On information and belief, each Defendant has a regular and established place of business in this district, has transacted business in this district, and/or has committed and/or induced acts of patent infringement in this district.

6. On information and belief, Defendants are subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to their substantial business in this forum, 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 in this judicial district.

COUNT I

INFRINGEMENT OF U.S. PATENT NO. 7,321,783

(Against All Defendants)

7. Minerva is owner by assignment of United States Patent No. 7,321,783 (the "783 Patent") entitled "Mobile Entertainment and Communication Device." The '783 Patent issued on January 22, 2008 from United States Patent Application No. 10/719,363 (the "'363 Application"). A true and correct copy of the '783 Patent is attached as Exhibit A.

8. Ki Il Kim is listed as the inventor on the '783 Patent.

9. The '363 Application, from which the '783 Patent issued, was a Continuation Application of the application that issued as United States Patent No. 6,681,120 (the "'120 Patent") on January 20, 2004, also entitled "Mobile Entertainment and Communication Device." Ki Il Kim is listed as the inventor on the '120 Patent, and Minerva is owner by assignment of the '120 Patent. Minerva earlier filed litigation asserting infringement of the '120 Patent in this judicial district, *i.e.*, Civil Action No: 2-07 CV-229, currently pending before The Honorable T. John Ward, and Civil Action No: 2-07 CV-230, currently pending before The Honorable David Folsom. Minerva intends to seek to consolidate this action with the already pending '120 Patent infringement actions.

10. Defendant RIM has been and now is directly infringing, and indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '783 Patent in the State of Texas, in this judicial district, and elsewhere in the United States by, among other things, making, using, offering to sell, or selling mobile entertainment and communication devices covered by one or more claims of the '783 Patent to the injury of Minerva. Defendant RIM is thus liable for infringement of the '783 Patent pursuant to 35 U.S.C. § 271. RIM has had actual notice of the '363 Application, which issued as the '783 Patent, since October 18, 2006.

11. Defendant Cricket has been and now is directly infringing, and indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '783 Patent in the State of Texas, in this judicial district, and elsewhere in the United States by, among other things, making, using, offering to sell, or selling mobile entertainment and communication devices covered by one or more claims of the '783 Patent to the injury of Minerva. Defendant Cricket is thus liable for infringement of the '783 Patent pursuant to 35 U.S.C. § 271.

12. Defendants have actively induced and are actively inducing infringement of the '783 Patent and are liable for contributory infringement of the '783 Patent.

13. On information and belief, at least after the filing of the original Complaint, the Defendants have infringed and continue to willfully infringe the '783 Patent.

14. As a result of these Defendants' infringement of the '783 Patent, Minerva has suffered monetary damages in an amount not yet determined, and will continue to suffer damages in the future unless Defendants' infringing activities are enjoined by this Court.

15. Unless a permanent injunction is issued enjoining these Defendants and their agents, servants, employees, attorneys, representatives, affiliates, and all others acting on their behalf from infringing the '783 Patent, Minerva will be greatly and irreparably harmed.

PRAYER FOR RELIEF

WHEREFORE, Minerva respectfully requests that this Court enter:

1. A judgment in favor of Minerva that Defendants Research In Motion Corporation and Cricket Communications, Inc. have infringed, directly, and/or indirectly, by way of inducing and/or contributing to the infringement of the '783 Patent, and that such infringement was willful;

2. A permanent injunction enjoining Defendants Research In Motion Corporation and Cricket Communications, Inc. and their officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in concert or privity with any of them from infringement, inducing the infringement of, or contributing to the infringement of the '783 Patent.

3. A judgment and order requiring Defendants Research In Motion Corporation and Cricket Communications, Inc. to pay Minerva its damages, costs, expenses, and prejudgment and post-judgment interest for Defendants' infringement of the '783 Patent as provided under 35 U.S.C. § 284.

4. An award to Minerva for enhanced damages resulting from the knowing, deliberate, and willful nature of Defendants' prohibited conduct with notice being made at least as early as the date of the filing of the original Complaint, as provided under 35 U.S.C. § 284;

5. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Minerva its reasonable attorneys' fees; and

6. Any and all other relief to which Minerva may show itself to be entitled.

