

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

INTERMEC TECHNOLOGIES CORP., )  
a Delaware corporation, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
PALM, INC., )  
a Delaware corporation, )  
 )  
Defendant. )

C.A. No. \_\_\_\_\_

**DEMAND FOR JURY TRIAL**

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff, Intermec Technologies Corp. (“Intermec”), for its Complaint against Defendant Palm, Inc. (“Palm”), hereby alleges:

**JURISDICTION AND VENUE**

1. This action arises under the patent laws of the United States, 35 U.S.C. § 101 et seq. This Court has jurisdiction under 28 U.S.C. § 1338(a).
2. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(c) and 1400(b).

**THE PARTIES**

3. Plaintiff Intermec is incorporated under the laws of the State of Delaware, and has its principal place of business at 6001 36th Avenue West, Everett, WA 98203.
4. On information and belief, Defendant Palm is incorporated under the laws of the State of Delaware, and has its principal place of business at 950 West Maude Avenue, Sunnyvale, CA 94085.

**ASSERTED PATENTS**

5. On September 20, 1994, the United States Patent and Trademark Office (“PTO”) issued U.S. Patent No. 5,349,678 (“the ‘678 Patent”) to Michael D. Morris and Lyle L. Zumbach for their invention entitled “Versatile RF Data Capture System.” Intermec owns all right and title to the ‘678 Patent. A copy of the ‘678 Patent is attached hereto as Exhibit A.

6. On October 22, 1996, the PTO issued U.S. Patent No. 5,568,645 (“the ‘645 Patent”) to Michael D. Morris and Lyle L. Zumbach for their invention entitled “Versatile RF Data Capture System.” Intermec owns all right and title to the ‘645 Patent. A copy of the ‘645 Patent is attached hereto as Exhibit B.

7. On November 16, 1999, the PTO issued U.S. Patent No. 5,987,499 (“the ‘499 Patent”) to Michael D. Morris and Lyle L. Zumbach for their invention entitled “Versatile RF Data Capture System.” Intermec owns all right and title to the ‘499 Patent. A copy of the ‘499 Patent is attached hereto as Exhibit C.

8. On November 21, 1995, the PTO issued U.S. Patent No. 5,468,947 (“the ‘947 Patent”) to Arvin D. Danielson and Dennis A. Durbin for their invention entitled “Pocket Size Data Capture Unit With Processor And Shell Modules.” Intermec owns all right and title to the ‘947 Patent. A copy of the ‘947 Patent is attached hereto as Exhibit D.

9. On April 6, 1999, the PTO issued U.S. Patent No. 5,892,971 (“the ‘971 Patent”) to Arvin D. Danielson and Dennis A. Durbin for their invention entitled “Portable Data Processing Device Having An Indicia Reader And A Multi-Tasking Operating System Capable Of Executing Battery Monitoring Instructions While Concurrently Executing Application Programs.” Intermec owns all right and title to the ‘971 Patent. A copy of the ‘971 Patent is

attached hereto as Exhibit E. (The '678, '645, '499, '947 and '971 Patents are referred to collectively as the "patents-in-suit.")

**ACCUSED PRODUCTS**

10. Palm makes, uses, sells and/or offers for sale products that infringe the patents-in-suit. These products include, but are not limited to, Palm's Treo™ 700w, Treo™ 700wx and Treo™ 750 smartphones. (These products are collectively referred to as the "Accused Products.")

**FIRST CLAIM FOR RELIEF**  
**(INFRINGEMENT OF THE '678 PATENT)**

11. Intermec incorporates paragraphs 1 through 10 by reference as though fully set forth herein.

12. By virtue of its manufacture, use, sale, offer for sale and/or encouragement of others to use the Accused Products, Palm has been and still is infringing, inducing the infringement of and/or contributing to the infringement of the '678 Patent.

13. Palm's infringement of the '678 Patent has caused Intermec substantial injury for which Intermec is entitled to receive adequate compensation. As a result of Palm's infringement of the '678 Patent, and Intermec's compliance with the requirements of 35 U.S.C. § 287(a), Intermec is entitled to damages adequate to compensate it for the infringement, but in no event less than a reasonable royalty.

14. Upon information and belief, Palm's infringement of the '678 patent has been willful and deliberate.

15. Unless enjoined by the Court, Palm's infringement will continue to cause Intermec irreparable injury.

**SECOND CLAIM FOR RELIEF**  
**(INFRINGEMENT OF THE '645 PATENT)**

16. Intermec incorporates paragraphs 1 through 10 by reference as though fully set forth herein.

17. By virtue of its manufacture, use, sale, offer for sale and/or encouragement of others to use the Accused Products, Palm has been and still is infringing, inducing the infringement of and/or contributing to the infringement of the '645 Patent.

18. Palm's infringement of the '645 Patent has caused Intermec substantial injury for which Intermec is entitled to receive adequate compensation. As a result of Palm's infringement of the '645 Patent, and Intermec's compliance with the requirements of 35 U.S.C. § 287(a), Intermec is entitled to damages adequate to compensate it for the infringement, but in no event less than a reasonable royalty.

19. Upon information and belief, Palm's infringement of the '645 patent has been willful and deliberate.

20. Unless enjoined by the Court, Palm's infringement will continue to cause Intermec irreparable injury.

**THIRD CLAIM FOR RELIEF**  
**(INFRINGEMENT OF THE '499 PATENT)**

21. Intermec incorporates paragraphs 1 through 10 by reference as though fully set forth herein.

22. By virtue of its manufacture, use, sale, offer for sale and/or encouragement of others to use the Accused Products, Palm has been and still is infringing, inducing the infringement of and/or contributing to the infringement of the '499 Patent.

23. Palm's infringement of the '499 Patent has caused Intermec substantial injury for which Intermec is entitled to receive adequate compensation. As a result of the infringement of the '499 Patent, and Intermec's compliance with the requirements of 35 U.S.C. § 287(a), Intermec is entitled to damages adequate to compensate it for the infringement, but in no event less than a reasonable royalty.

24. Upon information and belief, Palm's induced infringement of the '499 patent has been willful and deliberate.

25. Unless enjoined by the Court, Palm's infringement will continue to cause Intermec irreparable injury.

**FOURTH CLAIM FOR RELIEF**  
**(INFRINGEMENT OF THE '947 PATENT)**

26. Intermec incorporates paragraphs 1 through 10 by reference as though fully set forth herein.

27. By virtue of its manufacture, use, sale, offer for sale and/or encouragement of others to use the Accused Products, Palm has been and still is infringing, inducing the infringement of and/or contributing to the infringement of the '947 Patent.

28. Palm's infringement of the '947 Patent has caused Intermec substantial injury for which Intermec is entitled to receive adequate compensation. As a result of Palm's infringement of the '947 Patent, and Intermec's compliance with the requirements of 35 U.S.C. § 287(a), Intermec is entitled to damages adequate to compensate it for the infringement, but in no event less than a reasonable royalty.

29. Upon information and belief, Palm's infringement of the '947 patent has been willful and deliberate.

30. Unless enjoined by the Court, Palm's infringement will continue to cause Intermec irreparable injury.

**FIFTH CLAIM FOR RELIEF**  
**(INFRINGEMENT OF THE '971 PATENT)**

31. Intermec incorporates paragraphs 1 through 10 by reference as though fully set forth herein.

32. By virtue of its manufacture, use, sale, offer for sale and/or encouragement of others to use the Accused Products, Palm has been and still is infringing, inducing the infringement of and/or contributing to the infringement of the '971 Patent.

33. Palm's infringement of the '971 Patent has caused Intermec substantial injury for which Intermec is entitled to receive adequate compensation. As a result of Palm's infringement of the '971 Patent, and Intermec's compliance with the requirements of 35 U.S.C. § 287(a), Intermec is entitled to damages adequate to compensate it for the infringement, but in no event less than a reasonable royalty.

34. Upon information and belief, Palm's infringement of the '971 patent has been willful and deliberate.

35. Unless enjoined by the Court, Palm's infringement will continue to cause Intermec irreparable injury.

**DEMAND FOR RELIEF**

WHEREFORE, Intermec prays that this Court:


A. Grant injunctive relief prohibiting Palm, its officers, agents, servants, employees and attorneys, and those persons in active concert or participation with it, from further infringement of the patents-in-suit;

- B. Award Intermec damages adequate to compensate it for Palm's infringement, together with interest as fixed by the Court;
- C. Award Intermec treble damages for Defendant's willful infringement.
- D. Declare this case exceptional pursuant to 35 U.S.C. § 285 and award Intermec its costs and reasonable attorneys' fees; and
- E. Grant Intermec such other and further relief as the Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Pursuant to Fed. R. Civ. P. 38, Intermec demands trial by jury of all issues triable of right by a jury.

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