

Page 1 of 8
1A gnd

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

DEFENDANTS

KEYSCAN, INC., a New Jersey Corporation

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

(303) 629-3400

King

BZ

ADR

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff
(For Diversity Cases Only) and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

[illegible]

08-3967137

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

35 U.S.C. Sections 1, 271 and 281

Brief description of cause:

Patent infringement under 15 U.S.C. Section 1114

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE
"NOTICE OF RELATED CASE".

☒ SAN FRANCISCO/OAKLAND ☐ SAN JOSE

SIGNATURE OF ATTORNEY OF RECORD

ORIGINAL

GREGORY S. TAMKIN (Bar No. 175009)
 DORSEY & WHITNEY LLP
 370 17th Street, Suite 4700
 Denver, Colorado 80202-5647
 Telephone: (303) 629-3400
 Facsimile: (303) 629-3450
 Email: tamkin.greg@dorsey.com

JENNIFER PRIEB (Bar No. 251076)
 DORSEY & WHITNEY LLP
 1717 Embarcadero Rd.
 Palo Alto, California 94303
 Telephone: (650) 857-1717
 Facsimile: (650) 857-1288
 Email: efilingPA@dorsey.com
 prieb.jennifer@dorsey.com

Attorneys for Plaintiff,
 Visioneer, Inc.

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

VISIONEER, INC., a California Corporation,

Plaintiff,

v.

KEYSCAN, INC., a New Jersey Corporation

Defendant.

Case No.

CV 08

3967

**COMPLAINT FOR DAMAGES AND
 INJUNCTIVE RELIEF FOR PATENT
 INFRINGEMENT**

and

DEMAND FOR JURY TRIAL

1 For its complaint against Defendant KeyScan, Inc. ("Defendant"), Plaintiff Visioneer, Inc.
2 ("Plaintiff" or "Visioneer") alleges as follows:

3 **NATURE OF THE CASE**

4 1. Visioneer is a world-class developer of intelligent imaging solutions that provide a
5 faster and easier way to capture documents and photographs and integrate them with popular
6 Windows and document imaging applications. For example, Visioneer's award-winning product
7 "Strobe" is the number one best-selling color sheet-fed scanner on the market. Visioneer pioneered
8 the multiple button scanner market with the introduction of the original "OneTouch" scanner in
9 April 1998, and continues to release state-of-the-art scanning products, including products co-
10 branded with Xerox Corporation. Visioneer owns intellectual property, including patents, which
11 protect its scanning technologies. Specifically, for example, Visioneer is the assignee of U.S.
12 Patent No. 5,499,108 (the "'108 Patent") entitled "Document-Driven Scanning Input Device
13 Communicating with a Computer." The '108 Patent claims an invention whereby a scanning
14 device is connected to a computer, and that device is activated and automatically begins operation
15 by the placement of a document into the device. In other words, the '108 claimed invention is a
16 "document driven," "auto-launch" scanning system.

17 2. Since at least 2007, Defendant KeyScan Inc., has manufactured and offered for sale
18 the "KS 810 Keyboard Scanner" and the "KS 811 Keyboard Scanner" that infringe upon the '108
19 Patent. Both the KS 810 and KS 811 products are keyboards that have a scanner device attached to
20 them that begin operation by the placement of document into the scanner, *i.e.*, auto-launch scanners.
21 KeyScan names this ability to automatically scan a document as "No-Touch™ AutoScan."
22 KeyScan is aware of the '108 Patent yet continues to willfully manufacture and sell these products.

23 3. This is an action for patent infringement.

24 **PARTIES**

25 4. Plaintiff Visioneer, Inc. is a California corporation with its principal place of
26 business in Pleasanton, California.

27 5. Upon information and belief, Defendant KeyScan, Inc. is a New Jersey corporation
28 with its principal place of business located in Jersey City, New Jersey.

JURISDICTION AND VENUE

6. This action arises under the patent laws of the United States, 35 U.S.C. § 1, *et seq.*, including 35 U.S.C. §§ 271 and 281.

7. This Court has federal question jurisdiction of this action under 28 U.S.C. § 1331 and 1338(a) because Plaintiff seeks relief under the Patent Act, including remedies for patent infringement.

8. This Court also has diversity jurisdiction over this action pursuant to 28 U.S.C. § 1332(a) because this action is between citizens of different states and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

9. This Court has personal jurisdiction over Defendant because Defendant regularly conducts business here, and sells and offers to sell its products specifically within this District and throughout California.

10. Venue is proper in the United States District Court for the Northern District of California under 28 U.S.C. §§ 1391(b) and 1391(c).

ALLEGATIONS COMMON TO ALL CLAIMS

Visioneer Leads the Industry In Scanning Devices

11. Visioneer is a leading developer and producer of scanning technologies and has persistently been dedicated to the innovation and development of scanners that intelligently complete tasks from start-to-finish in one easy step

12. Visioneer began doing significant business in the scanning industry in 1994, when it broke new ground and quickly became the leader in consumer imaging hardware products with the introduction of the first easy to use sheet-fed scanner.

13. Visioneer's "Strobe" is still the #1 best-selling color sheet-fed scanner on the market. Visioneer also dominates the multiple button scanner market with its OneTouch scanner. Visioneer also develops software for use with scanners, and is at the cutting edge of new scanning technologies.

14. Visioneer sells its scanners for use in the home, for businesses, mobile scanners, and for government uses. Visioneer partners with Xerox, among others, for integrated products and these award-winning products are lauded as the best on the market.

15. In large part, Visioneer owes its success to the protection of its scanning technologies through intellectual property rights such as patenting the inventive features of the scanners.

16. One such patent, U.S. Patent No. 5,499,108 (attached hereto as Exhibit 1), filed in 1992, and issued in 1996, protects the invention whereby a scanning device is activated and automatically begins operation by the placement of a document into the device. In other words, the '108 Patent claims a "document driven" or "auto-launch" scanning system.

17. Visioneer is the lawful owner of the '108 Patent as assignee, and retains all rights, title and interest therein.

Defendant's Infringing Activities

18. Upon information and belief, KeyScan began manufacturing, offering for sale, and selling its KS 810 and KS 811 products in the United States in 2007.

19. After learning of KeyScan's activities, in 2007, Plaintiff, notified KeyScan of the '108 Patent and Visioneer's allegations that the products infringed the '108 Patent.

20. Specifically, the KeyScan 810 and 811 devices employ a function titled "NoTouch™ Auto-Scan" that makes the KS 810 and 811 devices document-driven or auto-launch scanning devices that directly infringe the '108 Patent.

21. When a user of the KS 810 or KS 811 engages the "NoTouch™ Auto-Scan," the user may place a document in the feeder section of the device scanner which then "detects" the presence of the document by, upon information and belief, the use of laser sensing technologies. Then, once the document is detected, the device automatically draws the document into and through the scanner portion of the device.

22. As this drawing-in occurs, the computer screen (and computer) to which the KS 810 or KS 811 device is connected, recognizes the scanning device and shows the representative image

1 on screen. This image is shown within the "KS program" which opens automatically upon the
2 detection of the presence of the document and the automatic drawing-in of the document.

3 23. During the scan and when the document scan is complete, the KS program offers the
4 user a variety of options for use with the scanned image, including, e-mail, save, print, and fax.
5 These options are in drop-down menus and in icon form.

6 24. This operation directly infringes at least claim 1 of the '108 Patent.

7 **FIRST CAUSE OF ACTION**

8 **(Patent Infringement Under 15 U.S.C. § 1114)**

9 25. Plaintiff incorporates the allegations in the preceding paragraphs as if fully set forth
10 herein.

11 26. Plaintiff Visioneer is the sole owner, as assignee, of all rights, title, and interest to
12 the '108 patent, and has exclusive rights to exclude others from use of the patented invention.

13 27. Defendant KeyScan has been on actual notice of the '108 Patent since at least 2007.

14 28. KeyScan has manufactured, used and is using, and/or has offered to sell and is
15 offering to sell the KS 810 and KS 811 devices that infringe the claims of the '108 Patent, and may
16 be inducing others to infringe the claims of the '108 Patent. The above-described conduct of
17 KeyScan constitutes infringement of the '108 Patent.

18 29. Since at least 2007, Defendant KeyScan's conduct has been willful.

19 30. Visioneer has been and will continue to be damaged by KeyScan's infringement of
20 the '108 Patent.

21 31. Visioneer does not have an adequate remedy at law, and Defendant will continue to
22 infringe the '108 Patent unless enjoined by this Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Visioneer, Inc. respectfully requests that this Court:


1. Enter an Order preliminarily and permanently enjoining KeyScan, its officers, directors, employees, agents, affiliates, subsidiaries, parents, successors, representatives, and all persons acting or claiming to act on behalf of KeyScan or under KeyScan's direction, from directly or contributorily infringing, or inducing infringement of the '108 Patent:
 - a. KeyScan to cease selling or offering for sale in the United States its KS 810 and KS 811 products;
 - b. KeyScan to recall all KS 810 and KS 811 products from all distributors, dealers and retailers to whom it delivered the products in the United States and for those products to be destroyed;
2. Enter judgment in favor of Visioneer and against KeyScan for damages pursuant to 35 U.S.C. § 284 in an amount to be determined at trial, but in no event less than a reasonable royalty for infringement of the '108 Patent;
3. Enter judgment in favor of Visioneer and against KeyScan for treble damages pursuant to 35 U.S.C. § 284 for KeyScan's willful and deliberate patent infringement;
4. Enter judgment in favor of Visioneer and against KeyScan finding that this is an exceptional case and require KeyScan to pay Visioneer's costs of this action, including reasonable attorneys' fees and interest as provided by 35 U.S.C. § 284
5. Enter judgment in favor of Visioneer and against KeyScan for pre-judgment interest, as provided by law;
6. Enter judgment in favor of Visioneer and against KeyScan for Visioneer's reasonable costs and attorneys' fees, as provided by law;
7. Award such other and further relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Visioneer, Inc. demands a trial by jury on all claims so triable.

DATED: August 19, 2008

DORSEY & WHITNEY LLP

By: 
Gregory S. Tamkin

Attorneys for Plaintiff,
VISIONEER, INC.