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ACTICON TECHNOLOGIES LLC

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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA (SAN JOSE DIVISION)

11 ACTICON TECHNOLOGIES LLC,

12 Plaintiff,

13 v.

14 PRETEC ELECTRONICS CORP., a California
corporation; C-ONE TECHNOLOGY
15 CORPORATION, a foreign corporation; CNET
TECHNOLOGY CORP., a California
16 corporation; CNET TECHNOLOGY, INC., a
foreign corporation; MACE GROUP, INC., d/b/a
17 MACALLY PERIPHERALS, INC., a California
corporation; and MARGI SYSTEMS, INC. a
18 California corporation,

19 Defendants.

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22 Plaintiff ACTICON TECHNOLOGIES LLC, for its Complaint against defendant PRETEC
23 ELECTRONICS CORPORATION, defendant C-ONE TECHNOLOGY CORPORATION,
24 defendant CNET TECHNOLOGY CORPORATION, defendant CNET TECHNOLOGY, INC.,
25 defendant MACE GROUP, INC., d/b/a MACALLY PERIPHERALS, INC., and defendant MARGI
26 SYSTEMS, INC. (collectively, "DEFENDANTS"), alleges as follows:

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CASE NO. C 06 4679 JF (HRL)

**FIRST AMENDED COMPLAINT
FOR PATENT INFRINGEMENT**

JURY TRIAL DEMANDED

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INTRODUCTION

1. This action is brought by ACTICON TECHNOLOGIES LLC (hereinafter “ACTICON”) against DEFENDANTS for damages arising out of, *inter alia*, DEFENDANTS’ infringement of certain ACTICON patents. As set forth in detail below, ACTICON is the owner of U.S. Patent Nos. 4,603,320 (the “‘320 Patent”); 4,543,450 (the “‘450 Patent”); 4,972,470 (the “‘470 Patent”); and 4,686,506 (the “‘506 Patent”) (collectively, the “Patents-in-Suit”), which describe various forms of electronic connectors. True and correct copies of the Patents-in-Suit are attached hereto as Exhibits ‘A,’ ‘B,’ ‘C,’ and ‘D,’ respectively. DEFENDANTS are manufacturers and/or distributors that make, import, offer for sale, sell and/or distribute various electronic connectors that embody the technology of the ‘320 Patent, the ‘450 Patent, the ‘470 Patent, and/or the ‘506 Patent. DEFENDANTS therefore are infringing the Patents-in-Suit.

JURISDICTION

2. The Court has jurisdiction and supplemental jurisdiction over this matter because it is an infringement action arising under the United States Patent Act (35 U.S.C. § 271 *et seq.*). Accordingly, this Court has jurisdiction pursuant to 28 U.S.C. sections 1331 and 1338(a).

3. ACTICON is informed and believes, and thereon alleges, that DEFENDANTS are subject to personal jurisdiction in this District, because defendant PRETEC ELECTRONICS CORPORATION, defendant CNET TECHNOLOGY CORPORATION, and defendant MARGI SYSTEMS, INC. are located in this District, and DEFENDANTS have caused tortious injury in this District by acts both inside and outside the District, and regularly solicit business in this District or derive substantial revenue from sales of goods, including infringing goods in this District, or otherwise have engaged in a persistent course of conduct in this District.

1 **VENUE**

2 4. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because defendant
3 PRETEC ELECTRONICS CORPORATION, defendant CNET TECHNOLOGY CORPORATION,
4 and defendant MARGI SYSTEMS, INC. are headquartered in this District. Defendant C-ONE
5 TECHNOLOGY CORPORATION and defendant CNET TECHNOLOGY, INC. are aliens, and the
6 allegedly infringing activities of all DEFENDANTS took place in this District.

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8 **INTRA-DISTRICT ASSIGNMENT**

9 5. For the purposes of Civil L.R. 3-2(c) and (d), this Intellectual Property action may
10 be assigned to any division of this District.

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12 **PARTIES**

13 6. Plaintiff ACTICON is a limited liability company, which has its principal place of
14 business in Suffern, New York.

15 7. Plaintiff is informed and believes, and thereon alleges, that Defendant PRETEC
16 ELECTRONICS CORPORATION (“PRETEC”) is a California corporation, which has its principal
17 place of business in Fremont, California. Plaintiff is further informed and believes, and thereon
18 alleges, that PRETEC designs, manufactures, markets, distributes, imports, sells and/or offers for
19 sale in the United States PCMCIA, CompactFlash and Secure Digital I/O form factor electronic
20 connectors.

21 8. Plaintiff is informed and believes, and thereon alleges, that Defendant C-ONE
22 TECHNOLOGY CORPORATION (“C-ONE”) is a foreign corporation, which has its principal
23 place of business in Taiwan. Plaintiff is further informed and believes, and thereon alleges, that C-
24 ONE designs, manufactures, markets, distributes, imports, sells and/or offers for sale in the United
25 States PCMCIA, CompactFlash and Secure Digital I/O form factor electronic connectors.

26 9. Plaintiff is informed and believes, and thereon alleges, that Defendant CNET
27 TECHNOLOGY CORPORATION (“CNET U.S.”) is a California corporation, which has its
28 principal place of business in Milpitas, California. Plaintiff is further informed and believes, and

1 thereon alleges, that CNET U.S. designs, manufactures, markets, imports, distributes, sells and/or
2 offers for sale in the United States PCMCIA form factor electronic connectors.

3 10. Plaintiff is informed and believes, and thereon alleges, that Defendant CNET
4 TECHNOLOGY, INC. (“CNET TAIWAN”) is a foreign corporation, which has its principal place
5 of business in Taiwan. Plaintiff is further informed and believes, and thereon alleges, that CNET
6 TAIWAN designs, manufactures, markets, imports, distributes, sells and/or offers for sale in the
7 United States PCMCIA form factor electronic connectors.

8 11. Plaintiff is informed and believes, and thereon alleges, that Defendant MACE
9 GROUP, INC., d/b/a MACALLY PERIPHERALS, INC. (“MACALLY”) is a California
10 corporation, which has its principal place of business in Ontario, California. Plaintiff is further
11 informed and believes, and thereon alleges, that MACALLY designs, manufactures, markets,
12 imports, distributes, sells and/or offers for sale in the United States PCMCIA form factor electronic
13 connectors.

14 12. Plaintiff is informed and believes, and thereon alleges, that Defendant MARGI
15 SYSTEMS, INC. (“MARGI”) is a California corporation, which has its principal place of business
16 in Fremont, California. Plaintiff is further informed and believes, and thereon alleges, that MARGI
17 designs, manufactures, markets, imports, distributes, sells and/or offers for sale in the United States
18 PCMCIA and Compact Flash form factor electronic connectors.

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20 **GENERAL ALLEGATIONS**

21 13. ACTICON is the sole and exclusive owner of United States Patent No. 4,603,320,
22 issued on July 29, 1986, entitled “Connector Interface.”

23 14. ACTICON is the sole and exclusive owner of United States Patent No. 4,543,450,
24 issued on September 24, 1985, entitled “Integrated Connector and Modem.”

25 15. ACTICON is the sole and exclusive owner of United States Patent No 4,972,470,
26 issued on November 20, 1990 entitled “Programmable Connector.”

27 16. ACTICON is the sole and exclusive owner of United States Patent No. 4,686,506,
28 issued on August 11, 1987, entitled “Multiple Connector Interface.”

1 17. The Patents-in-Suit describe various electronic connectors that convert signals
2 between a computer and certain external devices in order to obtain a desired connecting
3 configuration and/or function.

4 18. ACTICON is informed and believes, and thereon alleges, that PRETEC makes, uses,
5 imports, distributes, offers for sale and/or sells certain products in the United States that infringe
6 upon the Patents-in-Suit, including, but not limited to, CompactFlash form factor I/O devices such
7 as Ethernet and Modem cards, Secure Digital form factor I/O devices such as the Whanto Modem,
8 PCMCIA form factor devices such as Ethernet, Modem and Combo cards, as well as other
9 CompactFlash, SDIO and PCMCIA form factor devices which may be further identified during the
10 course of discovery.

11 19. ACTICON is informed and believes, and thereon alleges, that C-ONE makes, uses,
12 imports, distributes, offers for sale and/or sells certain products in the United States that infringe
13 upon the Patents-in-Suit, including, but not limited to, CompactFlash form factor I/O devices such
14 as Ethernet and Modem cards, Secure Digital form factor I/O devices such as the Whanto Modem,
15 PCMCIA form factor devices such as Ethernet, Modem and Combo cards, as well as other
16 CompactFlash, SDIO and PCMCIA form factor devices which may be further identified during the
17 course of discovery.

18 20. ACTICON is informed and believes, and thereon alleges, that CNET U.S. makes,
19 uses, imports, distributes, offers for sale and/or sells certain products in the United States which
20 infringe upon the '320 Patent, the '470 Patent and the '450 Patent, including, but not limited to,
21 PCMCIA form factor devices such as Ethernet and Modem cards, as well as other PCMCIA form
22 factor devices which may be further identified during the course of discovery.

23 21. ACTICON is informed and believes, and thereon alleges, that CNET TAIWAN
24 makes, uses, imports, distributes, offers for sale and/or sells certain products in the United States
25 which infringe upon the '320 Patent, the '470 Patent and the '450 Patent, including, but not limited
26 to, PCMCIA form factor devices such as Ethernet and Modem cards, as well as other PCMCIA
27 form factor devices which may be further identified during the course of discovery.

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1 22. ACTICON is informed and believes, and thereon alleges, that MACALLY makes,
2 uses, imports, distributes, offers for sale and/or sells certain products in the United States which
3 infringe upon the '320 Patent and the '470 Patent, including but not limited to PCMCIA form factor
4 devices such as USB and Firewire cards, as well as other PCMCIA form factor devices which may
5 be further identified during the course of discovery.

6 23. ACTICON is informed and believes, and thereon alleges, that MARGI makes, uses,
7 imports, distributes, offers for sale and/or sells certain products in the United States which infringe
8 upon the '320 Patent, the '470 Patent, and the '506 Patent including but not limited to
9 CompactFlash form factor I/O devices such as the Presenter-to-Go CompactFlash Card and
10 PCMCIA form factor devices such as the 1394-to-Go Card, as well as other CompactFlash and
11 PCMCIA form factor devices which may be identified during the course of discovery.

12 24. The products referenced above in paragraphs 18 through 23 (hereinafter, the
13 "Accused Products") employ an electronic connector that connects a computer and one or more
14 external devices, whereby such electronic connector converts signals between the computer and
15 external devices in order to obtain a desired connecting configuration and/or function.

16 25. Despite PRETEC, C-ONE, CNET U.S., CNET TAIWAN, MACALLY, and MARGI
17 having been placed on actual notice as to their infringing activity prior to the filing of this
18 complaint, the DEFENDANTS, and each of them, have failed and/or refused to cease and desist
19 from their manufacture, distribution, importation, sale, or offer for sale of the above-referenced
20 accused products, and have refused to enter into any licensing agreements with ACTICON.

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COUNT I

**Patent Infringement – U.S. Patent No. 4,603,320
(ALL DEFENDANTS)**

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4 26. ACTICON repeats and realleges each of the allegations set forth in paragraphs 1
5 through 25, as though fully set forth herein.

6 27. ACTICON is informed and believes, and thereon alleges, that DEFENDANTS, and
7 each of them, make, use, import, distribute, offer for sale and/or sell the Accused Products, and
8 possibly other products that infringe the '320 Patent, and will continue to do so unless enjoined by
9 this Court.

10 28. DEFENDANTS' conduct in making, using, importing, distributing, offering for sale
11 and/or selling the Accused Products, and possibly other infringing products, constitutes an
12 infringement of ACTICON'S rights under the '320 Patent.

13 29. ACTICON is informed and believes, and thereon alleges, that DEFENDANTS are
14 actively inducing others to infringe, and/or committing acts of contributory infringement of one or
15 more claims of the '320 Patent, through their activities related to making, using, importing,
16 distributing, offering for sale and/or selling the Accused Products, all in violation of 35 U.S.C. §
17 271.

18 30. ACTICON has been damaged by DEFENDANTS' infringing conduct, and
19 DEFENDANTS are therefore liable to ACTICON for actual damages suffered by ACTICON, and
20 any profits realized on the sale of the Accused Products which are not taken into account in the
21 computation of actual damages, as well as any statutory damages, such as treble damages.
22 Moreover, such conduct is likely to cause substantial harm to ACTICON, unless this Court enjoins
23 the infringing conduct.

24 31. ACTICON is informed and believes, and thereon alleges, that DEFENDANTS'
25 infringement of the '320 Patent has been, and continues to be, willful and deliberate.

26 WHEREFORE, ACTICON seeks relief as set forth in the Prayer, below.
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COUNT II

**Patent Infringement – U.S. Patent No. 4,543,450
(PRETEC, C-ONE, CNET U.S., and CNET TAIWAN)**

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4 32. ACTICON repeats and realleges each of the allegations set forth in paragraphs 1
5 through 31, as though fully set forth herein.

6 33. ACTICON is informed and believes, and thereon alleges, that DEFENDANTS
7 PRETEC, C-ONE, CNET U.S. and CNET TAIWAN (the “‘450 DEFENDANTS’”), and each of
8 them, make, use, import, distribute, offer for sale and/or sell the Accused Products, and possibly
9 other products that infringe the ‘450 Patent, and will continue to do so unless enjoined by this
10 Court.

11 34. The ‘450 DEFENDANTS’ conduct in making, using, importing, distributing,
12 offering for sale and/or selling the Accused Products, and possibly other infringing products,
13 constitutes an infringement of ACTICON’S rights under the ‘450 Patent.

14 35. ACTICON is informed and believes, and thereon alleges, that the ‘450
15 DEFENDANTS are actively inducing others to infringe, and/or committing acts of contributory
16 infringement of one or more claims of the ‘450 Patent, through their activities related to making,
17 using, importing, distributing, offering for sale and/or selling the Accused Products, all in violation
18 of 35 U.S.C. § 271.

19 36. ACTICON has been damaged by the ‘450 DEFENDANTS’ infringing conduct, and
20 the ‘450 DEFENDANTS are therefore liable to ACTICON for actual damages suffered by
21 ACTICON, and any profits realized on the sale of the Accused Products which are not taken into
22 account in the computation of actual damages, as well as any statutory damages, such as treble
23 damages. Moreover, such conduct is likely to cause substantial harm to ACTICON, unless this
24 Court enjoins the infringing conduct.

25 37. ACTICON is informed and believes, and thereon alleges, that the ‘450
26 DEFENDANTS’ infringement of the ‘450 Patent has been, and continues to be, willful and
27 deliberate.

28 WHEREFORE, ACTICON seeks relief as set forth in the Prayer, below.

COUNT III

**Patent Infringement – U.S. Patent No. 4,972,470
(ALL DEFENDANTS)**

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4 38. ACTICON repeats and realleges each of the allegations set forth in paragraphs 1
5 through 37, as though fully set forth herein.

6 39. ACTICON is informed and believes, and thereon alleges, that DEFENDANTS
7 make, use, import, distribute, offer for sale and/or sell the Accused Products, and possibly other
8 products that infringe the '470 Patent, and will continue to do so unless enjoined by this Court.

9 40. DEFENDANTS' conduct in making, using, importing, distributing, offering for sale
10 and/or selling the Accused Products and possibly other infringing products constitutes an
11 infringement of ACTICON'S rights under the '470 Patent.

12 41. ACTICON is informed and believes, and thereon alleges, that DEFENDANTS are
13 actively inducing others to infringe, and/or committing acts of contributory infringement of one or
14 more claims of the '470 Patent, through their activities related to making, using, importing,
15 distributing, offering for sale and/or selling the Accused Products, all in violation of 35 U.S.C. §
16 271.

17 42. ACTICON has been damaged by DEFENDANTS' infringing conduct, and
18 DEFENDANTS are therefore liable to ACTICON for actual damages suffered by ACTICON, and
19 any profits realized on the sale of the Accused Products which are not taken into account in the
20 computation of actual damages, as well as any statutory damages, such as treble damages.
21 Moreover, such conduct is likely to cause substantial harm to ACTICON, unless this Court enjoins
22 the infringing conduct.

23 43. ACTICON is informed and believes, and thereon alleges, that DEFENDANTS'
24 infringement of the '470 Patent has been, and continues to be, willful and deliberate.

25 WHEREFORE, ACTICON seeks relief as set forth in the Prayer, below.
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COUNT IV

**Patent Infringement – U.S. Patent No. 4,686,506
(PRETEC, C-ONE, MACALLY and MARGI)**

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4 44. ACTICON repeats and realleges each of the allegations set forth in paragraphs 1
5 through 43, as though fully set forth herein.

6 45. ACTICON is informed and believes, and thereon alleges, that DEFENDANTS
7 PRETEC, C-ONE, MACALLY and MARGI (the ‘506 DEFENDANTS’) make, use, import,
8 distribute, offer for sale and/or sell the Accused Products, and possibly other products that infringe
9 the ‘506 Patent, and will continue to do so unless enjoined by this Court.

10 46. The ‘506 DEFENDANTS’ conduct in making, using, importing, distributing,
11 offering for sale and/or selling the Accused Products and possibly other infringing products
12 constitutes an infringement of ACTICON’S rights under the ‘506 Patent.

13 47. ACTICON is informed and believes, and thereon alleges, that the ‘506
14 DEFENDANTS are actively inducing others to infringe, and/or committing acts of contributory
15 infringement of one or more claims of the ‘506 Patent, through their activities related to making,
16 using, importing, distributing, offering for sale and/or selling the Accused Products, all in violation
17 of 35 U.S.C. § 271.

18 48. ACTICON has been damaged by the ‘506 DEFENDANTS’ infringing conduct, and
19 the ‘506 DEFENDANTS are therefore liable to ACTICON for actual damages suffered by
20 ACTICON, and any profits realized on the sale of the Accused Products which are not taken into
21 account in the computation of actual damages, as well as any statutory damages, such as treble
22 damages. Moreover, such conduct is likely to cause substantial harm to ACTICON, unless this
23 Court enjoins the infringing conduct.

24 49. ACTICON is informed and believes, and thereon alleges, that the ‘506
25 DEFENDANTS’ infringement of the ‘506 Patent has been, and continues to be, willful and
26 deliberate.

27 WHEREFORE, ACTICON seeks relief as set forth in the Prayer, below.
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PRAYER FOR RELIEF

WHEREFORE, ACTICON prays for judgment against DEFENDANTS as follows:

1. On Counts I and III for judgment that DEFENDANTS, and each of them, have infringed the '320 Patent and the '470 Patent;

2. On Count II for judgment that '450 DEFENDANTS, and each of them, have infringed the '450 Patent;

3. On Count IV for judgment that '506 DEFENDANTS, and each of them, have infringed the '506 Patent;

4. On Counts I and III for judgment that the DEFENDANTS, and each of them, have induced infringement of the '320 Patent and the '470 Patent;

5. On Count II for judgment that the '450 DEFENDANTS, and each of them, have induced infringement of the '450 Patent;

6. On Count IV For judgment that the '506 DEFENDANTS, and each of them, have induced infringement of the '506 Patent;

7. On Counts I and III for judgment that DEFENDANTS, and each of them, have contributorily infringed the '320 Patent and the '470 Patent;

8. On Count II for judgment that the '450 DEFENDANTS, and each of them, have contributorily infringed the '450 Patent;

9. On Count IV for judgment that '506 DEFENDANTS, and each of them, have contributorily infringed the '506 Patent;

10. On Counts I, II, III, and IV for judgment that DEFENDANTS' infringement of the Patents-In-Suit is, and has been, willful and deliberate;

11. On Counts I, II, III, and IV, for a preliminary and permanent injunction enjoining DEFENDANTS, its subsidiaries, officers, agents, servants, employees, licensees, and all other persons in active concert or participation with DEFENDANTS, from further infringement, inducement of infringement, or contributory infringement of the Patents-In-Suit;

1 12. On Counts I, II, III, and IV, for an award of damages pursuant to 35 U.S.C. § 284
2 adequate to compensate ACTICON for DEFENDANTS' infringement of the Patents-In-Suit; but
3 not less than a reasonable royalty, with interest, including pre-judgment interest, and a trebling of
4 such damages in view of the willful and deliberate nature of the infringement.

5 13. On Counts I, II, III, and IV, for costs, including expenses and reasonable attorney's
6 fees pursuant to 35 U.S.C. §§ 284 and 285; and

7 14. For further and/or alternative relief as deemed just and proper.

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9 Dated: September 11, 2006

CARR & FERRELL *LLP*

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11 By: /s/ Christine S. Watson
12 ROBERT J. YORIO
13 COLBY B. SPRINGER
14 CHRISTINE S. WATSON

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Attorneys for Plaintiff
ACTICON TECHNOLOGIES LLC

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DEMAND FOR JURY TRIAL

Plaintiff ACTICON TECHNOLOGIES LLC hereby demands a jury trial of all issues in the above-captioned action which are triable to a jury.

Dated: September 11, 2006

CARR & FERRELL *LLP*

By: /s/ Christine S. Watson
ROBERT J. YORIO
COLBY B. SPRINGER
CHRISTINE S. WATSON

Attorneys for Plaintiff
ACTICON TECHNOLOGIES LLC