

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

GARMIN CORPORATION,)	
)	
Plaintiff,)	
)	
vs.)	Civil Action No. 04-cv-02373-KHV-DJW
)	
NCR CORPORATION,)	
)	
Defendant.)	

FIRST AMENDED COMPLAINT

Plaintiff Garmin Corporation for its First Amended Complaint against NCR Corporation states and alleges as follows:

The Parties

1. Plaintiff Garmin Corporation is a corporation duly organized and existing under the laws of the nation of Taiwan, R.O.C. with a place of business at No. 68 Jang Shu 2nd Road, Shijii, Taipei, Taiwan, R.O.C.

2. Upon information and belief, Defendant NCR Corporation (“NCR”) is a foreign corporation with a place of business at 1700 South Patterson Blvd., Dayton, Ohio 45479.

Jurisdiction And Venue

3. This is an action for patent infringement arising under the patent laws, Title 35, United States Code. The Court has original jurisdiction over the subject matter pursuant to the provisions of 28 U.S.C. §§ 1331 and 1338(a). Venue is proper in this district in accordance with 28 U.S.C. §§ 1391(b) and 1400(b).

COUNT I

4. On October 21, 1997, United States Patent No. 5,680,192 (the “‘192 patent”), entitled “Electro-Optical Display Device with Enlarged Viewing Area and Single-Sided Driver Connection,” was duly and legally issued by the United States Patent and Trademark Office.

5. Garmin Corporation is the sole owner of all right, title, and interest in and to the ‘192 patent including full rights to recover past and future damages thereunder.

6. Garmin Corporation manufactures display devices and components which embody the claimed inventions of the ‘192 patent.

7. Upon information and belief, NCR distributes throughout the United States, including within this judicial district, display devices, including but not limited to products called the NCR Real POS 80 POS Workstation. By reason of their distribution of these products, NCR has been and is still directly and/or indirectly infringing the ‘192 patent by making, using, selling, and/or offering for sale display devices and components that embody the patented inventions.

8. The acts of infringement by NCR have caused and will continue to cause Garmin Corporation damages and irreparable harm unless enjoined by this Court.

9. Garmin Corporation has placed statutory notices on display devices and components made and sold by it covered by the ‘192 patent pursuant to 35 U.S.C. § 287, and, by and through its subsidiary, Garmin Corporation has given written notice to NCR of its infringement.

10. Upon information and belief, NCR has deliberately and willfully infringed the ‘192 patent and will continue to infringe the aforesaid patent unless enjoined by this Court.

COUNT II

11. On June 11, 1996, United States Patent No. 5,526,235 (the “‘235 patent”), entitled “Electronic Storage Device and Receptacle,” was duly and legally issued by the United States Patent and Trademark Office.

12. Garmin Corporation is the sole owner of all right, title, and interest in and to the ‘235 patent including full rights to recover past and future damages thereunder.

13. Garmin Corporation manufactures and/or has manufactured electronic storage devices which embody the claimed inventions of the ‘235 patent and, by and through its subsidiary, sells electronic storage devices which embody the claimed inventions of the ‘235 patent.

14. Upon information and belief, NCR distributes and/or offers for sale throughout the United States including within this judicial district electronic storage devices, including but not limited to products called the NCR Hot Swap Memory Cartridge. By reason of their distribution and/or offer for sale of these products, NCR has been and is still directly and/or indirectly infringing the ‘235 patent by making, using, selling, and/or offering for sale electronic storage devices that embody the patented inventions.

15. The acts of infringement by NCR have caused and will continue to cause Garmin Corporation damages and irreparable harm unless enjoined by this Court.

16. Garmin Corporation has placed statutory notices on electronic storage devices made by and/or for it and/or sold by it covered by the ‘235 patent pursuant to 35 U.S.C. § 287.

17. Upon information and belief, NCR has deliberately and willfully infringed the ‘235 patent and will continue to infringe the aforesaid patent unless enjoined by this Court.

COUNT III

18. On August 28, 2001, United States Patent No. 6,282,097 (the “’097 patent”), entitled “Data Card Having a Retractable Handle,” was duly and legally issued by the United States Patent and Trademark Office.

19. Garmin Corporation is the sole owner of all right, title, and interest in and to the ‘097 patent including full rights to recover past and future damages thereunder.

20. Garmin Corporation manufactures and/or has manufactured data cards with retractable handles which embody the claimed inventions of the ‘097 patent and, by and through its subsidiary, sells data cards with retractable handles which embody the claimed inventions of the ‘097 patent.

21. Upon information and belief, NCR distributes and/or offers for sale throughout the United States including within this judicial district data cards with retractable handles, including but not limited to products called the NCR Hot Swap Memory Cartridge. By reason of their distribution and/or offer for sale of these products, NCR has been and is still directly and/or indirectly infringing the ‘097 patent by making, using, selling, and/or offering for sale data cards with retractable handles that embody the patented inventions.

22. The acts of infringement by NCR have caused and will continue to cause Garmin Corporation damages and irreparable harm unless enjoined by this Court.

23. Garmin Corporation has placed statutory notices on data cards with retractable handles made by and/or for it and/or sold by it covered by the ‘097 patent pursuant to 35 U.S.C. § 287.

24. Upon information and belief, NCR has deliberately and willfully infringed the ‘097 patent and will continue to infringe the aforesaid patent unless enjoined by this Court.

WHEREFORE:

Garmin Corporation prays that this Court will enter judgment:

(a) Permanently enjoining and restraining Defendant, its officers, directors, agents, dealers, representatives, servants, and employees, and all parties acting in concert with Defendant, from directly or indirectly infringing, inducing infringement or contributorily infringing U.S. Patent Nos. 5,680,192, 5,526,235 and 6,282,097;

(b) Granting to Plaintiff an award of damages together with prejudgment interest for the damages suffered by Plaintiff as a result of the infringement by Defendant, and an award trebling said damages in accordance with the provisions of 35 U.S.C. § 284.

(c) Awarding Plaintiff their costs and attorney's fees pursuant to the provisions of 35 U.S.C. § 285; and

(d) Granting to Plaintiff such other and further relief and remedy as justice may require.

Jury Demand

Garmin Corporation hereby demands a jury of all issues so triable.

Designation Of Place Of Trial

Pursuant to Local Rule 40.2, Plaintiff Garmin Corporation hereby requests Kansas City, Kansas as the place of trial for this action.

DATED: October 12, 2004

s/Clinton G. Newton

William B. Kircher	Ks. Bar No. 70,388
Richard R. Johnson	Ks. Bar No. 70,257
Clinton G. Newton	Ks. Bar No. 18,518

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