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 14 CRYPTOGRAPHY RESEARCH, INC.

15 UNITED STATES DISTRICT COURT
 16 NORTHERN DISTRICT OF CALIFORNIA
 17 SAN JOSE DIVISION

18 CRYPTOGRAPHY RESEARCH, INC.,

19 Plaintiff,

20 v.

21 VISA INTERNATIONAL SERVICE
 22 ASSOCIATION, and VISA INC.,

23 Defendants.

Case No. C 04-04143 JW

**SUPPLEMENTAL COMPLAINT FOR
 PATENT INFRINGEMENT, VIOLATIONS
 OF FEDERAL AND STATE ANTITRUST
 LAWS, AND UNFAIR COMPETITION**

Judge: James Ware

DEMAND FOR JURY TRIAL

FENWICK & WEST LLP
 ATTORNEYS AT LAW
 MOUNTAIN VIEW

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1 Plaintiff Cryptography Research, Inc. (“CRI”) hereby supplements its Complaint against
2 defendant Visa International Service Association (“Visa International”) pursuant to Federal Rule
3 of Civil Procedure 15(d) as follows:

4 **PARTIES**

5 1. On information and belief, defendant VISA INC. is a corporation organized and
6 existing under the laws of the state of Delaware, with its principal place of business at 900 Metro
7 Center Blvd., Foster City, CA 94404.

8 2. On information and belief, Defendant VISA INC. was incorporated in or about
9 May 25, 2007 as a vehicle for the reorganization of the global Visa enterprise. On or around
10 October 1, 2007, the Visa entities were reorganized such that VISA INC. became the parent
11 company for all the Visa entities except Visa Europe. On information and belief, Visa
12 International is now a wholly owned subsidiary of VISA INC.

13 3. As a result of this reorganization, on information and belief, VISA INC. will take
14 over from Visa International the oversight of all of Visa’s income-generating businesses, as well
15 as the management of Visa’s global and local relationships with such key stakeholders as card
16 issuers, merchants, merchant acquirers and third-party processors.

17 4. On information and belief, VISA INC. has acquired key assets of Visa
18 International, including the VISA tradename, some VISA trademarks, and Visa International’s
19 ownership interest in EMVCo. LLC (“EMVCo.”), a private Smart Card payment system standard
20 setting organization.

21 5. On information and belief, VISA INC. now participates in evaluating, developing,
22 maintaining and enforcing specifications and standards for various technologies for use in VISA
23 Cards, including security features, and other products by developers and manufacturers.

24 **JURISDICTION**

25 6. This is an action for patent infringement arising under the Patent Laws of the
26 United States, Title 35 of the United States Code. Therefore, this court has subject matter
27 jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).
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VENUE

7. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b).

INTRADISTRICT ASSIGNMENT

8. This is a patent infringement action and, under Local Rule 3-2(c) and General Order 44 of this Court, venue is therefore proper in any courthouse in this district.

GENERAL ALLEGATIONS

9. CRI incorporates by reference Paragraphs 1 through 52, of CRI’s Third Amended Complaint for Breach of Contract, Misrepresentation, Patent Infringement, Breach of Fiduciary Duty, Violations of Federal and State Antitrust Laws, and Unfair Competition (Docket No. 442) (“Third Amended Complaint”).

CLAIMS FOR RELIEF

Third Claim: Infringement of U.S. Pat. No. 6,278,783 B1

10. This claim is made under the provisions of the patent laws of the United States, 35 U.S.C. §§ 271 *et seq.* CRI incorporates by reference Paragraphs 1 through 9 above, and Paragraphs 1 through 52 and 62 through 66 of CRI’s Third Amended Complaint.

11. Upon information and belief, since the reorganization of the global Visa enterprise was completed on October 3, 2007, VISA INC. has been and currently is directing, controlling, causing, or participating in, and is therefore liable for, activities alleged in paragraphs 62-66 of CRI’s Third Amended Complaint.

Fourth Claim: Infringement of U.S. Pat. No. 6,298,442 B1

12. This claim is made under the provisions of the patent laws of the United States, 35 U.S.C. §§ 271 *et seq.* CRI incorporates by reference Paragraphs 1 through 9 above, and Paragraphs 1 through 52 and 67 through 71 of The Third Amended Complaint.

13. Upon information and belief, since the reorganization of the global Visa enterprise was completed on October 3, 2007, VISA INC. has been and currently is directing, controlling, causing, or participating in, and is therefore liable for, activities alleged in paragraphs 67-71 of CRI’s Third Amended Complaint.

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Fifth Claim: Infringement of U.S. Pat. No. 6,304,658 B1

14. This claim is made under the provisions of the patent laws of the United States, 35 U.S.C. §§ 271 *et seq.* CRI incorporates by reference Paragraphs 1 through 9 above, and Paragraphs 1 through 52 and 72 through 76 of CRI’s Third Amended Complaint.

15. Upon information and belief, since the reorganization of the global Visa enterprise was completed on October 3, 2007, VISA INC. has been and currently is directing, controlling, causing, or participating in, and is therefore liable for, activities alleged in paragraphs 72-76 of CRI’s Third Amended Complaint.

Sixth Claim: Infringement of U.S. Pat. No. 6,327,661 B1

16. This claim is made under the provisions of the patent laws of the United States, 35 U.S.C. §§ 271 *et seq.* CRI incorporates by reference Paragraphs 1 through 9 above, and Paragraphs 1 through 52 and 77 through 81 of CRI’s Third Amended Complaint.

17. Upon information and belief, since the reorganization of the global Visa enterprise was completed on October 3, 2007, VISA INC. has been and currently is directing, controlling, causing, or participating in, and is therefore liable for, activities alleged in paragraphs 77-81 of CRI’s Third Amended Complaint.

Seventh Claim: Infringement of U.S. Pat. No. 6,381,699 B2

18. This claim is made under the provisions of the patent laws of the United States, 35 U.S.C. §§ 271 *et seq.* CRI incorporates by reference Paragraphs 1 through 9 above, and Paragraphs 1 through 52 and 82 through 86 of CRI’s Third Amended Complaint.

19. Upon information and belief, since the reorganization of the global Visa enterprise was completed on October 3, 2007, VISA INC. has been and currently is directing, controlling, causing, or participating in, and is therefore liable for, activities alleged in paragraphs 82-86 of CRI’s Third Amended Complaint.

Eighth Claim: Infringement of U.S. Pat. No. 6,510,518 B1

20. This claim is made under the provisions of the patent laws of the United States, 35 U.S.C. §§ 271 *et seq.* CRI incorporates by reference Paragraphs 1 through 9 above, and Paragraphs 1 through 52 and 87 through 91 of CRI’s Third Amended Complaint.

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1 21. Upon information and belief, since the reorganization of the global Visa enterprise
2 was completed on October 3, 2007, VISA INC. has been and currently is directing, controlling,
3 causing, or participating in, and is therefore liable for, activities alleged in paragraphs 87-91 of
4 CRI's Third Amended Complaint.

5 **Ninth Claim: Infringement of U.S. Pat. No. 6,539,092 B1**

6 22. This claim is made under the provisions of the patent laws of the United States,
7 35 U.S.C. §§ 271 *et seq.* CRI incorporates by reference Paragraphs 1 through 9 above, and
8 Paragraphs 1 through 52 and 92 through 96 of CRI's Third Amended Complaint.

9 23. Upon information and belief, since the reorganization of the global Visa enterprise
10 was completed on October 3, 2007, VISA INC. has been and currently is directing, controlling,
11 causing, or participating in, and is therefore liable for, activities alleged in paragraphs 92-96 of
12 CRI's Third Amended Complaint.

13 **Tenth Claim: Infringement of U.S. Pat. No. 6,654,884 B2**

14 24. This claim is made under the provisions of the patent laws of the United States,
15 35 U.S.C. §§ 271 *et seq.* CRI incorporates by reference Paragraphs 1 through 9 above, and
16 Paragraphs 1 through 52 and 97 through 101 of CRI's Third Amended Complaint.

17 25. Upon information and belief, since the reorganization of the global Visa enterprise
18 was completed on October 3, 2007, VISA INC. has been and currently is directing, controlling,
19 causing, or participating in, and is therefore liable for, activities alleged in paragraphs 97-101 of
20 CRI's Third Amended Complaint.

21 **Twelfth Claim: Violation of Sherman Act § 1 (Conspiracy in Restraint of Trade)**

22 26. CRI incorporates by reference Paragraphs 1 through 9 above, and Paragraphs 1
23 through 52 and 108 through 120 of CRI's Third Amended Complaint.

24 27. Upon information and belief, since the reorganization of the global Visa enterprise
25 was completed on October 3, 2007, VISA INC. has been and currently is directing, controlling,
26 causing, or participating in, and is therefore liable for, activities alleged in paragraphs 109 and
27 112 through 120 of CRI's Third Amended Complaint.

28 **Thirteenth Claim: Violation of Cal. Bus. & Prof. Code §§ 16720-16770**

(Conspiracy in Restraint of Trade)

28. CRI incorporates by reference Paragraphs 1 through 9 above, and Paragraphs 1 through 52 and 108 through 123 of CRI’s Third Amended Complaint.

29. Upon information and belief, since the reorganization of the global Visa enterprise was completed on October 3, 2007, VISA INC. has been and currently is directing, controlling, causing, or participating in, and is therefore liable for, activities alleged in paragraphs 109, 112 through 120, and 122-23 of CRI’s Third Amended Complaint.

Fourteenth Claim: Violation of Cal. Bus. & Prof. Code § 17200, et seq.

(Unfair Competition)

30. CRI incorporates by reference Paragraphs 1 through 9 above, and Paragraphs 1 through 61 and 102 through 127 of CRI’s Third Amended Complaint.

31. Upon information and belief, since the reorganization of the global Visa enterprise was completed on October 3, 2007, VISA INC. has been and currently is directing, controlling, causing, or participating in, and is therefore liable for, activities alleged in paragraphs 109, 112-120, 122-123, and 125-127 of CRI’s Third Amended Complaint.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff CRI prays for the following relief against Defendant VISA INC.:

- A. VISA INC. be found to have willfully infringed the Countermeasure Patents.
- B. An order that VISA INC. account for and pay to CRI all proceeds made by VISA INC. from its infringing acts, and that VISA INC. make a complete and accurate account for and pay to CRI all damages resulting from VISA INC.’s infringing acts.
- C. An order preliminarily and/or permanently enjoining VISA INC. and its officers, agents, servants, and employees, and all persons in active concert or participation with them, from directly or otherwise infringing the Countermeasure Patents.
- D. An order that VISA INC., its officers, agents, servants and employees, deliver to this Court or to CRI, for destruction, all products infringing on, directly or otherwise, the Countermeasure Patents or the use of which would infringe, directly or otherwise, the Countermeasure Patents.

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E. VISA INC. be found to have violated federal and state antitrust laws.

F. CRI be awarded damages in an amount to be determined at trial.

G. CRI be awarded increased, treble, exemplary, and punitive damages for VISA INC.'s willful and malicious conduct.

H. An award of prejudgment interest, attorneys' fees, costs and such other and further relief as the Court may deem just and proper.

Dated: March 27, 2008

FENWICK & WEST LLP

By: /s/ JEDEDIAH WAKEFIELD
Jedediah Wakefield

Attorneys for Plaintiff
CRYPTOGRAPHY RESEARCH, INC.

DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38, Plaintiff Cryptography Research, Inc. demands a jury trial as to all matters triable of right by a jury.

Dated: March 27, 2008

FENWICK & WEST LLP

By: /s/ JEDEDIAH WAKEFIELD
Jedediah Wakefield

Attorneys for Plaintiff
CRYPTOGRAPHY RESEARCH, INC.

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