

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

SanDisk Corporation,)	
)	
<i>Plaintiff,</i>)	
)	
vs.)	
)	
Kingston Technology Co., Inc., Kingston Technology Corp.,)	Civil Action No.: 10-CV-243
)	
)	JURY TRIAL DEMANDED
Imation Corp., Imation Enterprises Corp., Memorex Products, Inc.,)	
)	
<i>Defendants.</i>)	
)	

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff SanDisk Corporation (“SanDisk”), for its Complaint, avers as follows:

PLAINTIFF SANDISK

1. SanDisk is a Delaware corporation with its principal place of business in Milpitas, California. SanDisk is in the business of designing, manufacturing and marketing a wide range of flash storage products including memory cards, flash drives and media players. These products include SanDisk’s patented flash memory and controller technology.
2. Through its focus on innovation and developing cutting-edge technological solutions for the storage needs of its customers, SanDisk has established itself as the leading company in the flash memory industry. SanDisk is the worldwide market leader in flash memory products, including flash drives.
3. SanDisk has over 1400 patents relating to flash memory processes, designs, devices and storage systems. These patents are fundamental to the success of the company and cover many key aspects of flash memory technology.
4. SanDisk has a long-standing policy and practice of promoting the growth of the flash memory industry and the use of flash memory technology. SanDisk has established

programs to license its patented technology to companies throughout the flash memory industry. For example, SanDisk has a program to license flash memory system companies who sell memory cards and flash drives.

5. Through its licensing activities, SanDisk enables companies to benefit from the hundreds of millions of dollars the company has spent on research and development. SanDisk license agreements provide licensees the right to make, use and sell products that incorporate SanDisk's patented technology.

6. SanDisk license agreements serve another important purpose. The agreements protect the company from the unauthorized exploitation of its technology. The agreements assure that SanDisk receives a fair return on its investment in research and development.

7. Because it has broadly licensed its technology, SanDisk receives substantial royalties for use of its patented technology. Patent royalties represent a significant percentage of SanDisk's total revenue. SanDisk uses these royalties to fund further research and development in flash memory technology and systems and, thus, maintains its competitive edge over its many well-funded competitors.

8. In furtherance of the licensing program, both to protect its investment in research and development and to protect companies that enter into license agreements with SanDisk, SanDisk is taking legal action to prevent the unauthorized use of its patented technology in the United States.

JURISDICTION AND VENUE

9. This is an action arising under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction based on 28 U.S.C. §§ 1331 and 1338(a). Venue is based on 28 U.S.C. §§ 1391 and 1400(b).

THE DEFENDANTS

KINGSTON

10. On information and belief, defendant Kingston Technology Co., Inc. is a corporation organized under the laws of the State of Delaware, with its principal place of business in Fountain Valley, California.

11. On information and belief, defendant Kingston Technology Corp. is a corporation organized under the laws of the State of California, with its principal place of business in Fountain Valley, California.

12. On information and belief, defendants Kingston Technology Co., Inc. and Kingston Technology Corp. (collectively, "Kingston") design, develop, manufacture, and/or sell flash memory products, including flash drives and memory cards.

13. On information and belief, Kingston has a website, <http://www.kingston.com>, which advertises Kingston's flash memory products.

14. Kingston's infringing flash drives have been sold at retail stores in the Western District of Wisconsin, including the Circuit City in Madison, Wisconsin.

15. Kingston's "online store," <http://www.shop.kingston.com>, allows customers to purchase flash memory products directly from Kingston.

16. Kingston's infringing flash memory products have been purchased from the Kingston online store, and shipped by Kingston to Madison, Wisconsin.

17. Kingston's webpage states that the Kingston flash memory products may be purchased through the Amazon.com website.

18. Kingston's infringing flash memory products can be, and have been, purchased from Amazon.com, and shipped to Madison, Wisconsin.

19. RadioShack.com is a large, ubiquitous online store. Products may be purchased from RadioShack.com via the website, and shipped anywhere in the United States, including the Western District of Wisconsin.

20. Kingston's infringing flash memory products can be, and have been, purchased from RadioShack.com, and shipped to Madison, Wisconsin.

21. During the period of alleged infringement, advertisements for Kingston's flash memory products have appeared in newspapers in the Western District of Wisconsin, indicating that Kingston's flash memory products could be purchased at the Circuit City in Madison, Wisconsin.

22. This Court has personal jurisdiction over defendant Kingston.

IMATION

23. On information and belief, defendant Imation Corp. is a corporation organized under the laws of the State of Delaware, with its principal place of business in Oakdale, Minnesota.

24. On information and belief, defendant Imation Enterprises Corp. ("Imation Enterprises") is a corporation organized under the laws of the State of Delaware, with its principal place of business in Oakdale, Minnesota.

25. On information and belief, defendant Imation Enterprises is a wholly-owned subsidiary of Imation Corp.

26. On information and belief, defendant Memorex Products, Inc. ("Memorex") is a corporation organized under the laws of the State of California, with its principal place of business in Cerritos, California.

27. On information and belief, defendant Memorex is a wholly owned subsidiary of defendant Imation Corp.

28. On information and belief, defendant Imation Corp. acquired defendant Memorex in April 2006.

29. On information and belief, defendant Memorex is also known as Imation Consumer Division and may do business under that name.

30. On information and belief, defendant Imation Corp. has acquired the TDK brand.

31. On information and belief, defendant Imation Corp. has acquired Memcorp.

32. On information and belief, defendants Imation Corp., Imation Enterprises, and Memorex (collectively, "Imation") design, develop, manufacture, distribute and/or sell Flash memory products, including flash drives, memory cards, and media players.

33. On information and belief, Imation's memory products are supplied under the brand names of at least Imation, Memorex, and TDK.

34. On information and belief, Imation maintains branch offices in Menomonee, Wisconsin and Nekoosa, Wisconsin.

35. On information and belief, Imation has a website, http://www.imation.com/products/flash_devices/index.html, which advertises Imation's Flash memory products.

36. Imation's "online store," <http://www.shopimation.com/category.asp?CAT=flash>, allows customers to purchase flash drives directly from Imation.

37. On information and belief, Imation has a website, <http://www.memorex.com>, which advertises Memorex brand flash drives.

38. On information and belief, Imation has another “online store,” <http://www.ememorex.com/>, which advertises and allows customers to purchase Memorex brand flash drives. Infringing Imation flash drives have been sold at retail stores in the Western District of Wisconsin, including the Office Max, Office Depot, Circuit City, Target, and CompUSA in Madison, Wisconsin.

39. Infringing Imation flash drives can be, and have been, purchased through the Amazon.com website, and shipped to Madison, Wisconsin.

40. This Court has personal jurisdiction over defendant Imation.

THE ACCUSED PRODUCTS

41. Each defendant makes, uses, sells and/or offers to sell, and/or imports into the United States, flash drives, memory cards, photo viewers, and other flash products (collectively referred to herein as “flash memory products”).

42. Flash memory products allow users to easily carry and transfer data (such as documents, pictures, or music) from one computer to another. For example, a flash drive is a flash data storage device that includes a Universal Serial Bus (USB) interface or a hard disk drive interface (*e.g.*, SATA or PATA). This interface enables the device to communicate, directly or indirectly, with a processor, such as the processor in a host computer system, over a bus.

43. Memory cards are also flash memory products. Memory cards come in a variety of formats including: CompactFlash®, CompactFlash® Type I and CompactFlash® Type II (collectively referred to as “CF”); MultiMedia Card, Reduced Size MMC and MMCmicro (collectively referred to as “MMC”); xD-Picture Card™ (“xD”); Secure Digital™, miniSD™, and microSD™ (collectively referred to as “SD”), and Memory Stick Duo™, Memory Stick PRO Duo™, Memory Stick PRO-HG Duo, and Memory Stick Micro M2 (collectively referred to as “Memory Stick”).

44. Another example of a flash memory product is a flash media player, which allows users to play audio or video files. Typically, the files stored on a flash media player are managed by software operating on a host computer system. Flash media players store the files in flash memory, and commonly include a USB interface. For the purposes of reading and transferring files, the host computer system views and treats the flash media player as if it were a USB drive.

45. Flash memory products, such as the flash drives, memory cards and media players that are the subject of this Complaint, typically consist of one or more flash memory chips, and a controller to operate the flash memory chip(s). For example, a host computer system may request data from a flash USB drive, memory card or media player. The controller will receive the request via the USB or other interface, read the data from the flash memory chips, and provide the data to the host via the USB or other interface. In a flash media player, the host computer system can be a separate computer (such as a user's laptop computer) or another part of the media player (such as a microprocessor in the media player).

46. On information and belief, the defendants purchase controllers from third-party vendors such as Phison Electronics Corp., Silicon Motion, Inc., Skymedi Corp., ITE Technologies Inc., and Solid State System Co., Ltd. The defendants incorporate these controllers, along with flash memory chip(s), into the flash memory products that are subject to this Complaint.

COUNT ONE – INFRINGEMENT OF THE '713 PATENT

47. On July 8, 2008, the United States Patent and Trademark Office (“USPTO”) duly and legally issued United States Patent No. 7,397,713 (“the '713 patent”) to Eliyahou Harari, Robert Norman, and Sanjay Mehrotra. At all relevant times, SanDisk has been the owner, by valid assignment, of all right, title and interest in and to the '713 patent. A copy of the '713 patent is attached hereto as Exhibit A.

48. Kingston has infringed and is continuing to infringe one or more claims of the '713 patent, directly, contributorily, and/or by inducement, by making, using, selling and/or

offering to sell in this country, and/or importing into this country flash memory products in violation of 35 U.S.C. § 271. For example, one or more Kingston flash memory products include a controller that operates the flash memory chip(s) such that the one or more flash memory products infringe claims of the '713 patent.

49. Imation has infringed and is continuing to infringe one or more claims of the '713 patent, directly, contributorily, and/or by inducement, by making, using, selling and/or offering to sell in this country, and/or importing into this country flash memory products in violation of 35 U.S.C. § 271. For example, one or more Imation flash memory products include a controller that operates the flash memory chip(s) such that the one or more flash memory products infringe claims of the '713 patent.

50. The defendants' infringement of the '713 patent has been and continues to be deliberate and willful, thereby rendering this an exceptional case pursuant to 35 U.S.C. §§ 284 and 285.

COUNT TWO – INFRINGEMENT OF THE '660 PATENT

51. On February 17, 2009, the USPTO duly and legally issued United States Patent No. 7,492,660 ("the '660 patent") to Eliyahou Harari, Robert Norman, and Sanjay Mehrotra. At all relevant times, SanDisk has been the owner, by valid assignment, of all right, title and interest in and to the '660 patent. A copy of the '660 patent is attached hereto as Exhibit B.

52. Kingston has infringed and is continuing to infringe one or more claims of the '660 patent, directly, contributorily, and/or by inducement, by making, using, selling and/or offering to sell in this country, and/or importing into this country flash memory products in violation of 35 U.S.C. § 271. For example, one or more Kingston flash memory products include a controller that operates the flash memory chip(s) such that the one or more flash memory products infringe claims of the '660 patent.

53. Imation has infringed and is continuing to infringe one or more claims of the '660 patent, directly, contributorily, and/or by inducement, by making, using, selling and/or offering to sell in this country, and/or importing into this country flash memory products in violation of

35 U.S.C. § 271. For example, one or more Imation flash memory products include a controller that operates the flash memory chip(s) such that the one or more flash memory products infringe claims of the '660 patent.

54. The defendants' infringement of the '660 patent has been and continues to be deliberate and willful, thereby rendering this an exceptional case pursuant to 35 U.S.C. §§ 284 and 285.

COUNT THREE – INFRINGEMENT OF THE '702 PATENT

55. On February 2, 2009, the USPTO duly and legally issued United States Patent No. 7,657,702 ("the '702 patent"), "Partial Block Data Programming and Reading Operations in a Non-Volatile Memory," to Kevin M. Conley. At all relevant times, SanDisk has been the owner, by valid assignment, of all right, title and interest in and to the '702 patent. A copy of the '702 patent is attached hereto as Exhibit C.

56. Kingston has infringed and is continuing to infringe one or more claims of the '702 patent, directly, contributorily, and/or by inducement, by making, using, selling and/or offering to sell in this country, and/or importing into this country flash memory products in violation of 35 U.S.C. § 271. For example, one or more Kingston flash memory products include a controller that operates the flash memory chip(s) such that the one or more flash memory products infringe claims of the '702 patent.

57. Imation has infringed and is continuing to infringe one or more claims of the '702 patent, directly, contributorily, and/or by inducement, by making, using, selling and/or offering to sell in this country, and/or importing into this country flash memory products in violation of 35 U.S.C. § 271. For example, one or more Imation flash memory products include a controller that operates the flash memory chip(s) such that the one or more flash memory products infringe claims of the '702 patent.

58. The defendants' infringement of the '702 patent has been and continues to be deliberate and willful, thereby rendering this an exceptional case pursuant to 35 U.S.C. §§ 284 and 285.

COUNT FOUR – INFRINGEMENT OF THE '511 PATENT

59. On May 12, 2009, the USPTO duly and legally issued United States Patent No. 7,532,511 ("the '511 patent"), "Flash EEPROM System With Simultaneous Multiple Data Sector Programming and Storage of Physical Block Characteristics in Other Designated Blocks," to Kevin M. Conley, John S. Mangan, and Jeffrey G. Craig. At all relevant times, SanDisk has been the owner, by valid assignment, of all right, title and interest in and to the '511 patent. A copy of the '511 patent is attached hereto as Exhibit D.

60. Kingston has infringed and is continuing to infringe one or more claims of the '511 patent, directly, contributorily, and/or by inducement, by making, using, selling and/or offering to sell in this country, and/or importing into this country flash memory products in violation of 35 U.S.C. § 271. For example, a Kingston flash memory product includes a controller that operates the flash memory chip(s) such that the flash memory product infringes claims of the '511 patent.

61. Imation has infringed and is continuing to infringe one or more claims of the '511 patent, directly, contributorily, and/or by inducement, by making, using, selling and/or offering to sell in this country, and/or importing into this country flash memory products in violation of 35 U.S.C. § 271. For example, a Imation flash memory product includes a controller that operates the flash memory chip(s) such that the flash memory product infringes claims of the '511 patent.

62. The defendants' infringement of the '511 patent has been and continues to be deliberate and willful, thereby rendering this an exceptional case pursuant to 35 U.S.C. §§ 284 and 285.

COUNT FIVE – INFRINGEMENT OF THE '666 PATENT

63. On January 12, 2010, the USPTO duly and legally issued United States Patent No. 7,646,666 (“the ’666 patent”), “Flash EEPROM System with Simultaneous Multiple Data Sector Programming and Storage of Physical Block Characteristics in Other Designated Blocks,” to Kevin M. Conley, John S. Mangan, and Jeffrey G. Craig. At all relevant times, SanDisk has been the owner, by valid assignment, of all right, title and interest in and to the ’666 patent. A copy of the ’666 patent is attached hereto as Exhibit E.

64. Kingston has infringed and is continuing to infringe one or more claims of the ’666 patent, directly, contributorily, and/or by inducement, by making, using, selling and/or offering to sell in this country, and/or importing into this country flash memory products in violation of 35 U.S.C. § 271. For example, a Kingston flash memory product includes a controller that operates the flash memory chip(s) such that the flash memory product infringes claims of the ’666 patent.

65. Imation has infringed and is continuing to infringe one or more claims of the ’666 patent, directly, contributorily, and/or by inducement, by making, using, selling and/or offering to sell in this country, and/or importing into this country flash memory products in violation of 35 U.S.C. § 271. For example, a Imation flash memory product includes a controller that operates the flash memory chip(s) such that the flash memory product infringes claims of the ’666 patent.

66. The defendants’ infringement of the ’666 patent has been and continues to be deliberate and willful, thereby rendering this an exceptional case pursuant to 35 U.S.C. §§ 284 and 285.

COUNT SIX – INFRINGEMENT OF THE '667 PATENT

67. On January 12, 2010, the USPTO duly and legally issued United States Patent No. 7,646,667 (“the ’667 patent”), “Flash EEPROM System with Simultaneous Multiple Data Sector Programming and Storage of Physical Block Characteristics in Other Designated Blocks,” to Kevin M. Conley, John S. Mangan, and Jeffrey G. Craig. At all relevant times, SanDisk has

been the owner, by valid assignment, of all right, title and interest in and to the '667 patent. A copy of the '667 patent is attached hereto as Exhibit F.

68. Kingston has infringed and is continuing to infringe one or more claims of the '667 patent, directly, contributorily, and/or by inducement, by making, using, selling and/or offering to sell in this country, and/or importing into this country flash memory products in violation of 35 U.S.C. § 271. For example, a Kingston flash memory product includes a controller that operates the flash memory chip(s) such that the flash memory product infringes claims of the '667 patent.

69. Imation has infringed and is continuing to infringe one or more claims of the '667 patent, directly, contributorily, and/or by inducement, by making, using, selling and/or offering to sell in this country, and/or importing into this country flash memory products in violation of 35 U.S.C. § 271. For example, a Imation flash memory product includes a controller that operates the flash memory chip(s) such that the flash memory product infringes claims of the '667 patent.

70. The defendants' infringement of the '667 patent has been and continues to be deliberate and willful, thereby rendering this an exceptional case pursuant to 35 U.S.C. §§ 284 and 285.

COUNT SEVEN- INFRINGEMENT OF THE '421 PATENT

71. On November 22, 2005, the USPTO duly and legally issued United States Patent No. 6,968,421 ("the '421 patent"), "Partial Block Data Programming and Reading Operations in a Non-Volatile Memory," to Kevin M. Conley. At all relevant times, SanDisk has been the owner, by valid assignment, of all right, title and interest in and to the '421 patent. A copy of the '421 patent is attached hereto as Exhibit G.

72. Kingston has infringed and is continuing to infringe one or more claims of the '421 patent, directly, contributorily, and/or by inducement, by making, using, selling and/or

offering to sell in this country, and/or importing into this country flash memory products in violation of 35 U.S.C. § 271. For example, one or more Kingston flash memory products include a controller that operates the flash memory chip(s) such that the one or more flash memory products infringe claims of the '421 patent.

73. Imation has infringed and is continuing to infringe one or more claims of the '421 patent, directly, contributorily, and/or by inducement, by making, using, selling and/or offering to sell in this country, and/or importing into this country flash memory products in violation of 35 U.S.C. § 271. For example, one or more Imation flash memory products include a controller that operates the flash memory chip(s) such that the one or more flash memory products infringe claims of the '421 patent.

PRAYER FOR RELIEF

Wherefore, SanDisk prays for judgment that:

74. The defendants' have directly infringed, contributed to the infringement of, and induced infringement of the '667, '713, '660, '702, '511, '666, and '421 patents (collectively, the "Asserted Patents");

75. Permanently enjoin the defendants', their officers, agents, servants, employees, attorneys, successors and assigns, and all others in active concert or participation with any one of them, from infringing the Asserted Patents;

76. Awards SanDisk damages adequate to compensate for the infringement by the defendants' of the Asserted Patents together with interest and costs;

77. Increasing the damages to three times the amount found or assessed by virtue of the deliberate and willful nature of the defendants' infringement, in accordance with 35 U.S.C. § 284;

78. Awards such other and further relief as this Court may deem proper.

REQUEST FOR JURY TRIAL

Plaintiff SanDisk hereby demands a trial by jury.

Dated this 4th day of May, 2010

RESPECTFULLY SUBMITTED,

By: /s/ James R. Troupis

James R. Troupis
John C. Scheller
MICHAEL BEST & FRIEDRICH LLP
One South Pinckney Street, Suite 700
P.O. Box 1806
Madison, WI 53701-1806
Telephone: (608) 257-3501
Facsimile: (608) 283-2275

James C. Yoon
Monica Mucchetti Eno
Ryan R. Smith
WILSON SONSINI GOODRICH & ROSATI
Professional Corporation
650 Page Mill Road
Palo Alto, California 94304-1050
Telephone: (650) 493-9300
Facsimile: (650) 493-6811

Allen A. Arntsen
FOLEY & LARDNER LLP
150 E. Gilman Street
Madison, WI 53703-1481
P.O. Box 1497
Madison, WI 53701-1497
Telephone: (608) 257-5035
Facsimile: (608) 258-4258

Attorneys for Plaintiff SanDisk Corporation