

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

VCODE HOLDINGS, INC. and VDATA, LLC,	§	
	§	
	§	
Plaintiffs,	§	Civil Action No. 6:07-CV-394
	§	
v.	§	JURY TRIAL DEMANDED
	§	
DATALOGIC SCANNING, INC.,	§	
DATALOGIC MOBILE, INC.,	§	
DATALOGIC AUTOMATION, INC. and	§	
SIEMENS ENERGY & AUTOMATION,	§	
INC.,	§	
	§	
Defendants.	§	

PLAINTIFFS' SECOND AMENDED COMPLAINT

Plaintiffs VCODE HOLDINGS, INC. ("VCode") and VDATA, LLC ("VData") (collectively and/or individually referred to as "Plaintiffs" herein) file this Second Amended Complaint against Defendants DATALOGIC SCANNING, INC., DATALOGIC MOBILE, INC., DATALOGIC AUTOMATION, INC. and SIEMENS ENERGY & AUTOMATION, INC., alleging as follows:

PARTIES

1. VCode is a Minnesota corporation with its principal place of business at 2445 Winnetka Avenue, N. Golden Valley, Minnesota 55427. VCode is the wholly-owned subsidiary of Veritec and owns patents relating to two-dimensional (2D) matrix coding technologies and related equipment and systems.

2. VData is an Illinois limited liability company with a principal place of business at 500 Newport Center Drive, Newport Beach, California 92660. VData is in the business of

acquiring and licensing patented two-dimensional (2D) matrix coding technologies and related equipment and systems.

3. Upon information and belief, DataLogic Scanning, Inc. (“DSI”) is a corporation organized and existing under the laws of the state of Delaware, with a principal place of business located at 959 Terry Street, Eugene, OR 97402. DSI has been served with process, filed answer herein and is before the court for all purposes.

4. Upon information and belief, DataLogic Mobile, Inc. (“DMI”) is a corporation organized and existing under the laws of the state of Delaware, with a principal place of business located at 1505 Westec Drive, Eugene, OR 97402. DMI may be served with process by serving its registered agent, Corporation Service Company at 285 Liberty Street NE, Salem, OR 97301.

5. Upon information and belief, DataLogic Automation, Inc. (“DAI”) is a corporation organized and existing under the laws of the state of Kentucky, with a principal place of business located at 3000 Earhart Court, Suite 135, Hebron, KY 41048. DAI may be served with process by serving its registered agent, Acme Agent, Inc., 2335 Buttermilk Crossing, Suite 332, Crescent Springs, KY 41017.

6. Upon information and belief, Siemens Energy & Automation, Inc. (“Siemens”) is a corporation organized and existing under the laws of the state of Delaware, with a principal place of business located at 3333 Old Milton Parkway, Alpharetta, GA 30005. Siemens has been served with process, filed answer herein and is before the court for all purposes.

JURISDICTION AND VENUE

7. This lawsuit is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.* This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1338(a).

8. This Court has personal jurisdiction over Defendants because they conduct business in the State of Texas and have committed acts of patent infringement and/or have contributed to or induced acts of patent infringement by others in the Eastern District of Texas.

9. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b), (c), (d), and 1400(b) because Defendants have regularly conducted business in this judicial district, and certain of the acts complained of herein occurred in this judicial district.

PATENT INFRINGEMENT

10. Plaintiffs incorporate by reference Paragraphs 1-9 appearing above as though set forth at length.

11. On July 19, 1994, United States Patent No. 5,331,176 (“the ‘176 patent”) was duly and legally issued for a “Hand Held Two Dimensional Symbol Reader with a Symbol Illumination Window.” A true and correct copy of the ‘176 patent is attached hereto as “Exhibit A” and made a part hereof.

12. VData and VCode together own all right, title, and interest in and have all rights to enforce and collect damages for all acts of past, present, and future infringement of the ‘176 patent, including all rights to enforce this action.

13. Upon information and belief, Defendant DSI manufactures, makes, has made, uses, markets, sells and/or offers for sale devices and/or systems that infringe the ‘176 patent. Upon further information and belief, these devices and/or systems include, but are not necessarily limited to, the Gryphon, Lynx, and PowerScan series products marketed and sold by DSI. In manufacturing, making, having made, using, marketing selling and/or offering to sell such devices and/or systems, DSI is directly infringing claims in the ‘176 patent.

14. Upon information and belief, Defendant DMI manufactures, makes, has made, uses, markets, sells and/or offers for sale devices and/or systems that infringe the '176 patent. Upon further information and belief, these devices and/or systems include, but are not necessarily limited to, the Kyman, Jet and Falcon series products marketed and sold by DMI. In manufacturing, making, having made, using, marketing selling and/or offering to sell such devices and/or systems, DMI is directly infringing claims in the '176 patent.

15. Upon information and belief, DAI manufactures, makes, has made, uses, markets, sells and/or offers for sale devices and/or systems that infringe the '176 patent. Upon further information and belief, these devices and/or systems include, but are not necessarily limited to, the Matrix series products marketed and sold by DAI. In manufacturing, making, having made, using, marketing selling and/or offering to sell such devices and/or systems, DAI is directly infringing claims in the '176 patent.

16. Upon information and belief, DMI, DSI and DAI may also be infringing claims in the '176 patent by inducement and/or by contributing to the infringement of the '176 patent by others. VCode's and VData's investigation of this potential infringement is ongoing. Plaintiffs will further investigate this potential infringement through discovery and will identify all instances of infringement pursuant to the schedule entered by the Court, as appropriate.

17. Upon information and belief, DMI, DSI and DAI have actual notice of the '176 patent, and since obtaining notice, their infringing acts have been and continue to be willful.

18. Upon information and belief, Defendant Siemens manufactures, makes, has made, uses, markets, sells and/or offers for sale devices and/or systems that infringe the '176 patent. Upon further information and belief, these devices and/or systems include, but are not necessarily limited to, the Hawkeye readers marketed and sold by Siemens. In manufacturing,

making, having made, using, marketing selling and/or offering to sell such devices and/or systems, Siemens is directly infringing claims in the '176 patent.

19. Upon information and belief, Siemens may also be infringing claims in the '176 patent by inducement and/or by contributing to the infringement of the '176 patent by others. VCode's and VData's investigation of this potential infringement is ongoing. Plaintiffs will further investigate this potential infringement through discovery and will identify all instances of infringement pursuant to the schedule entered by the Court, as appropriate.

20. Upon information and belief, Siemens has actual notice of the '176 patent, and since obtaining notice, Siemens' infringing acts have been and continue to be willful.

21. VCode and VData have been damaged as a result of Defendants' infringing conduct. Defendants are liable to Plaintiffs in an amount that adequately compensates them for Defendants' infringement, which, by law, cannot be less than a reasonable royalty.

22. Upon information and belief, Defendants will continue their infringement unless enjoined by the Court.

23. VCode and VData have suffered irreparable damage as a result of Defendants' infringing conduct, and will continue to be irreparably damaged unless Defendants are enjoined from committing future acts of infringement by the Court.

DEMAND FOR JURY TRIAL

Plaintiffs hereby request a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that the Court find in its favor and against Defendants, and that the Court grant Plaintiffs the following relief:

- a. Judgment that one or more claims of United States Patent No. 5,331,176 have been infringed, either literally and/or under the doctrine of equivalents, by Defendants and/or by others to whose infringement Defendants have contributed and/or by others whose infringement has been induced by Defendants;
- b. Judgment that Defendants account for and pay to Plaintiffs all damages to and costs incurred by Plaintiffs because of Defendants' infringing activities and other conduct complained of herein;
- c. That such damages be trebled as a result of Defendants' actions complained of herein;
- d. That Plaintiffs be granted pre-judgment and post-judgment interest on the damages caused to them by reason of Defendants' infringing activities and other conduct complained of herein;
- e. That the Court declare this an exceptional case and award Plaintiffs their reasonable attorney's fees and costs in accordance with 35 U.S.C. § 285;
- f. That Defendants be permanently enjoined from any further activity or conduct that infringes one or more claims of United States Patent No. 5,331,176; and
- g. That Plaintiffs be granted such other and further relief as the Court may deem just and proper under the circumstances.

Dated: February 11, 2008.

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of February, 2008, I electronically filed the foregoing document with the clerk of the court for the U.S. District Court, Eastern District of Texas, Tyler Division, using the electronic case filing system of the court. The electronic case filing system sent a "Notice of Electronic Filing" to the attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means.

/s/ Edward E. Casto, Jr.