

II. JURISDICTION

3. The Court has subject matter jurisdiction over this matter because it is a patent 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).

4. Acticon is informed and believes, and thereon alleges, that Defendants are subject to personal jurisdiction in this District, because Defendants reside in this District, regularly solicit business in this District and/or derive substantial revenue from sales of goods, including infringing goods in this District, and/or otherwise have engaged in a persistent course of conduct in this District. Each of the Defendants solicit and transact business related to at least one patent claim of at least one of the Patents-in-Suit in this District.

III. VENUE

5. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because Defendants reside in this District and the allegedly infringing activities of Defendants took place in this District.

IV. PARTIES

6. Plaintiff Acticon is a limited liability company organized and existing under the laws of the State of New York, with its principal place of business in Suffern, New York.

7. Acticon is informed and believes, and thereon alleges, that CREATIIVE LABS, INC. (“Creative”) is a California corporation, which has its principal place of business at 1901 McCarthy Blvd. Milpitas, CA 95035. Acticon is further informed and believes, and thereon alleges, that Creative designs, manufactures, markets, distributes, imports, sells and/or offers for sale in the United States PCMCIA and Express Card form factor electronic connectors.

8. Acticon is informed and believes, and thereon alleges, that E-MU SYSTEMS, INC. (“E-MU”) is a California corporation, which has its principal place of business at 1600 Green Hills Road, Scotts Valley, CA 95067-0015. Acticon is further informed and believes, and

thereon alleges, that E-MU designs, manufactures, markets, distributes, imports, sells and/or offers for sale in the United States PCMCIA form factor electronic connectors.

V. GENERAL ALLEGATIONS

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

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

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

12. Acticon is informed and believes, and thereon alleges, that Creative makes, uses, imports, distributes, offers for sale and/or sells certain products in the United States that infringe upon the Patents-in-Suit, including, but not limited to, PCMCIA and Express Card form factor devices such as Sound Blaster and Modem Blaster cards, as well as other PCMCIA and Express Card form factor devices which may be further identified during the course of discovery.

13. Acticon is informed and believes, and thereon alleges, that E-MU makes, uses, imports, distributes, offers for sale and/or sells certain products in the United States that infringe upon the Patents-in-Suit, including, but not limited to, PCMCIA form factor devices such as its Cardbus cards, as well as other devices which may be further identified during the course of discovery.

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

15. Despite Defendants having been placed on actual notice as to their infringing activity prior to the filing of this complaint, Defendants have failed and/or refused to cease and

desist from their manufacture, distribution, importation, sale, or offer for sale of the above-referenced Accused Products, and have refused to enter into any licensing agreements with Acticon.

VI. CLAIMS

COUNT I

Patent Infringement – U.S. Patent No. 4,603,320

(Against Creative and E-MU)

16. Acticon repeats and realleges each of the allegations set forth in paragraphs 1 through 15, as though fully set forth herein.

17. Acticon is informed and believes, and thereon alleges, that Defendants make, use, import, distribute, offer for sale and/or sell the Accused Products, and possibly other products that infringe the '320 Patent, and will continue to do so unless enjoined by this Court.

18. Defendants' conduct in making, using, importing, distributing, offering for sale and/or selling the Accused Products, and possibly other infringing products, constitutes an infringement of Acticon's rights under the '320 Patent.

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

20. Acticon has been damaged by Defendants' infringing conduct, and Defendants are therefore liable to Acticon for actual damages suffered by Acticon as well as any statutory damages, such as treble damages. Moreover, such conduct is likely to cause substantial harm to Acticon, unless this Court enjoins the infringing conduct.

21. Acticon is informed and believes, and thereon alleges, that Defendants' infringement of the '320 Patent has been, and continues to be, willful and deliberate.

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

COUNT II

Patent Infringement – U.S. Patent No. 4,972,470

(Against Creative and E-MU)

22. Acticon repeats and realleges each of the allegations set forth in paragraphs 1 through 21, as though fully set forth herein.

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

24. Defendants' conduct in making, using, importing, distributing, offering for sale and/or selling the Accused Products, and possibly other infringing products, constitutes an infringement of Acticon's rights under the '470 Patent.

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

26. Acticon has been damaged by Defendants' infringing conduct, and Defendants are therefore liable to Acticon for actual damages suffered by Acticon, as well as any statutory damages, such as treble damages. Moreover, such conduct is likely to cause substantial harm to Acticon, unless this Court enjoins the infringing conduct.

27. Acticon is informed and believes, and thereon alleges, that Defendants' infringement of the '470 Patent has been, and continues to be, willful and deliberate.

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

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VII. 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.

VIII. PRAYER FOR RELIEF

WHEREFORE, Acticon prays for judgment against Defendants as follows:

1. On Counts I and II, for judgment that Defendants have infringed the '320 Patent and the '470 Patent;
2. On Counts I and II, for judgment that Defendants have induced the infringement of and/or contributed to the infringement of the '320 Patent and the '470 Patent;
3. On Counts I and II, for judgment that Defendants' infringement of the Patents-In-Suit is, and has been, willful and deliberate;
4. On Counts I and II, for a preliminary and permanent injunction enjoining Defendants, their 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;
5. On Counts I and II, for an award of damages pursuant to 35 U.S.C. § 284 adequate to compensate Acticon for Defendants' infringement of the Patents-In-Suit; but not less than a reasonable royalty, with interest, including pre-judgment interest, and a trebling of such damages in view of the willful and deliberate nature of the infringement.
6. On Counts I and II, for costs, including expenses and reasonable attorney's fees pursuant to 35 U.S.C. §§ 284 and 285; and
7. For further and/or alternative relief as deemed just and proper.

Respectfully submitted,



Dated: May 15, 2008

By: _____

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