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OVERLAND STORAGE, INC.

14
15 UNITED STATES DISTRICT COURT
16 SOUTHERN DISTRICT OF CALIFORNIA

17 OVERLAND STORAGE, INC.,
18 Plaintiff,
19
20 v.
21 QUALSTAR CORPORATION,
22 Defendant.

Case No. **'12CV1605 JAH MDD**

**PLAINTIFF OVERLAND STORAGE,
INC.'S COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

23
24 Plaintiff Overland Storage, Inc. ("Overland Storage"), by and through its undersigned
25 attorneys, complains and alleges against Defendant Qualstar Corporation ("Qualstar") as follows:

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27 ////

28 ////

1 **NATURE OF THE ACTION**

2 1. This is a civil action for infringement of United States Patent No. 6,328,766. This
3 action arises under the laws of the United States relating to patents, including 35 U.S.C. § 281.

4 **JURISDICTION AND VENUE**

5 2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and
6 1338(a) and pursuant to the patent laws of the United States of America, 35 U.S.C. § 101, *et seq.*

7 3. Venue properly lies within the Southern District of California pursuant to the
8 provisions of 28 U.S.C. §§ 1391(b), (c), and (d) and 1400(b). On information and belief, Qualstar
9 conducts substantial business directly and/or through third parties or agents in this judicial district
10 by selling and/or offering to sell the infringing products, including media libraries, systems and
11 components, and/or by conducting other business in this judicial district. Furthermore, Plaintiff
12 Overland Storage is headquartered and has its principal place of business in this district, sells
13 competing media libraries and systems in this district, and has been harmed by Qualstar's
14 conduct, business transactions and sales in this district.

15 4. This Court has personal jurisdiction over Qualstar because, on information and
16 belief, Qualstar transacts continuous and systematic business within the State of California and
17 the Southern District of California. In addition, this Court has personal jurisdiction over Qualstar
18 because, on information and belief, this lawsuit arises out of Qualstar's infringing activities,
19 including without limitation Qualstar's making, using, selling and/or offering to sell infringing
20 products in the State of California and the Southern District of California. Finally, this Court has
21 personal jurisdiction over Qualstar because, on information and belief, Qualstar has made, used,
22 sold and/or offered for sale its infringing products and placed such infringing products in the
23 stream of interstate commerce with the expectation that such infringing products would be made,
24 used, sold and/or offered for sale within the State of California and the Southern District of
25 California.

26 **THE PARTIES**

27 5. Plaintiff Overland Storage is a California corporation with its headquarters and
28 principal place of business at 9112 Spectrum Center Boulevard, San Diego, California 92123.

1 6. On information and belief, Defendant Qualstar is a California corporation with its
2 headquarters and principal place of business at 3990-B Heritage Oak Court, Simi Valley, CA
3 93063.

4 **THE ASSERTED PATENT**

5 7. On December 11, 2001, United States Patent No. 6,328,766 (“the ’766 patent”),
6 entitled “Media Element Library with Non-Overlapping Subset of Media Elements and Non-
7 Overlapping Subset of Media Element Drives Accessible to First Host and Unaccessible to
8 Second Host,” was duly and legally issued by the United States Patent and Trademark Office.
9 The named inventor is Robert M. Long. Overland Storage is the assignee and owner of the entire
10 right, title and interest in and to the ’766 patent and has the right to bring this suit for damages
11 and other relief. A true and correct copy of the ’766 patent is attached as Exhibit A.

12 8. The ’766 patent teaches an innovative data storage system containing a plurality of
13 media elements, in which each media element may be a member of one of a plurality of sets of
14 media elements, and a controller configured so that a subset of media elements and media
15 element drives are available for read/write access by one set of host computers, but are
16 unavailable for read/write access by another set of host computers. The patent also discloses
17 methods where host computers can store and retrieve data to and from separate portions of the
18 media library without interfering with one another.

19 **BACKGROUND**

20 9. A company’s data is one of its most critical assets. Businesses must retain data for
21 extended periods of time to comply with regulatory requirements, conduct internal audits and
22 ensure best practices. Keeping data stored, accessible, and secure has become increasingly
23 complex and expensive as companies are faced with massive data growth, increasingly stringent
24 regulatory requirements and distributed environments that can range from across the hall to across
25 the globe. As companies’ data storage needs have increased from megabytes to gigabytes to
26 terabytes, automated media libraries have become vital. Automated media libraries allow users to
27 store digital data in a central location, then search for and retrieve that data from networked
28

1 computers when necessary. This data can be stored on a variety of storage media within the
2 library, including disks or magnetic tapes.

3 10. Compact, high capacity, low-cost data management systems are common today
4 among businesses, but it was not always that way. Prior data management solutions required
5 cabinet and even room-sized systems, and often could be connected to only a single host
6 computer at any given time. Also, prior data management solutions often imposed unacceptably
7 long periods of downtime in cases where individual files and directories needed to be quickly
8 restored. These cumbersome, expensive and inefficient systems were being outpaced by the high
9 performance data storage demands of businesses.

10 11. Overland Storage's patented data management and data protection solutions
11 addressed these challenges. These patented technologies encompass both the apparatus that
12 houses the media library and the methods of storing and retrieving that data from host computers.
13 Using Overland Storage's technologies, customers can create network-based, virtual media
14 libraries to maintain data for continuous local backup and remote disaster recovery, or to store
15 data for long-term archiving and compliance requirements. The result is that these cutting-edge
16 products provide a more cost-effective way of keeping customers' data stored, accessible and
17 secure.

18 12. Overland Storage has been granted a number of patents relating to its innovative
19 data management and protection systems. In the 1990s, Overland Storage marketed the first
20 scalable automated media library solution that eliminated the physical limitations of conventional
21 tape library designs. Overland Storage has continued to improve on its media library technology
22 and has marketed product line families including but not limited to its SnapServer, Ultimus
23 RAID, ARCvault, NEO Series Tape Libraries, and REO Series Virtual Tape Libraries.

24 13. Following Overland Storage's introduction of its patent-protected media libraries
25 into the market, Qualstar began making, offering for sale, and/or selling media libraries that use
26 Overland Storage's patented technology.

27 14. Qualstar manufactures and sells automated tape libraries in the United States,
28 including but not limited to the XLS-812300 Tape Library, XLS-810160 Tape Library, XLS-

810240 Tape Library, XLS-820500 Tape Library, XLS-832700 Tape Library, XLS-8161100 Tape Library, XLS-88700 Tape Library, TLS-8211 Tape Library, TLS-8222 Tape Library, TLS-8433 Tape Library, TLS-8466 Tape Library, RLS-8236 Tape Library, RLS-8236D Tape Library, RLS-8244 Tape Library, RLS-8204 Tape Library, RLS-8202 Tape Library, RLS-8444 Tape Library, RLS-8444D Tape Library, RLS-8404 Tape Library, RLS-8404D Tape Library, RLS-8560 Tape Library, RLS-85120 Tape Library and RLS-8350 Tape Library. Qualstar states that its tape libraries “provide combinations of capacity and throughput to match any storage management requirement.” On information and belief, the Qualstar accused products consist of automated media libraries with one or more tape drives and more than two tape cartridges, which are integrated in a rack configuration or a free-standing floor unit. The Qualstar accused products are able to move tape cartridges from one drive to another without human intervention through actuators that reside inside the media library.

15. On information and belief, Qualstar has made, used, sold, offered for sale and/or imported accused products that practice the claims of the ’766 patent, as set forth more fully below.

COUNT ONE

Infringement of the ’766 Patent by Qualstar

16. Overland Storage incorporates by reference each of the allegations set forth above.

17. On information and belief, Qualstar, without authority, has directly infringed and continues to directly infringe, under 35 U.S.C. § 271(a), the ’766 patent by making, using, offering to sell, or selling within the United States, or importing into the United States, the accused products, including but not limited to the XLS-812300 Tape Library, XLS-810160 Tape Library, XLS-810240 Tape Library, XLS-820500 Tape Library, XLS-832700 Tape Library, XLS-8161100 Tape Library, XLS-88700 Tape Library, TLS-8211 Tape Library, TLS-8222 Tape Library, TLS-8433 Tape Library, TLS-8466 Tape Library, RLS-8236 Tape Library, RLS-8236D Tape Library, RLS-8244 Tape Library, RLS-8204 Tape Library, RLS-8202 Tape Library, RLS-8444 Tape Library, RLS-8444D Tape Library, RLS-8404 Tape Library, RLS-8404D Tape Library, RLS-8560 Tape Library, RLS-85120 Tape Library and RLS-8350 Tape Library. The

1 accused products, alone or in combination with other products, practice each of the limitations
2 of independent claims 1, 2 and 10 and dependent claims 3, 4, 5, 7, 8 and 9 of the '766 patent.

3 18. As a result of the infringement of the '766 patent by Qualstar, Overland Storage
4 has suffered and will continue to suffer damages in an amount to be proven at trial.

5 19. Overland Storage has been irreparably harmed by these acts of infringement and
6 will continue to be harmed unless Qualstar's further acts of infringement are restrained and
7 enjoined by order of this Court. Overland Storage has no adequate remedy at law.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Overland Storage prays for judgment:

10 1. That Overland Storage be adjudged the owner of the '766 patent and entitled to all
11 rights of recovery thereunder, and that the '766 patent is valid and enforceable;

12 2. That Qualstar be adjudged to have directly infringed the '766 patent;

13 3. That Qualstar and its officers, principals, agents, attorneys, servants, employees
14 and all others in active concert or participation with them, and its successors and assigns, be
15 enjoined by preliminary and permanent injunction from infringement of the '766 patent, including
16 but not limited to making, using, importing, offering to sell and selling the accused products;

17 4. That Overland Storage be awarded damages adequate to compensate Overland
18 Storage for infringement of the '766 patent in an amount to be proven at trial, together with
19 interest and costs as fixed by the Court;

20 5. That this case be declared an exceptional case within the meaning of 35 U.S.C.
21 § 285 and that Overland Storage be awarded the attorneys' fees, costs, and expenses that it incurs
22 prosecuting this action;

23 6. That Overland Storage be awarded prejudgment interest; and

24 7. For such other and further equitable relief as the Court deems proper.

25 **DEMAND FOR JURY TRIAL**

26 Overland Storage demands a trial by jury for all issues so triable pursuant to Federal Rule
27 of Civil Procedure 38(b).

1 Dated: June 28, 2012

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2
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