

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

FLASHPOINT TECHNOLOGY, INC.,

Plaintiff,

v.

KYOCERA SANYO TELECOM, INC.,

Defendant.

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Civil Action No. _____

JURY TRIAL DEMANDED

PLAINTIFF’S ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff FlashPoint Technology, Inc. (“Plaintiff” or “FlashPoint”), by and through its undersigned counsel, files this Original Complaint against Kyocera Sanyo Telecom, Inc. (“Kyocera Sanyo”) as follows:

NATURE OF THE ACTION

1. This is a patent infringement action to stop Kyocera Sanyo’s infringement of FlashPoint’s United States Patent No. 6,177,956 entitled “System and Method for Correlating Processing Data and Image Data within a Digital Camera Device” (the “956 patent”; a copy of which is attached hereto as Exhibit 1), United States Patent No. 6,222,538 entitled “Directing Image Capture Sequences in a Digital Imaging Device Using Scripts” (the “538 patent”; a copy of which is attached hereto as Exhibit 2), United States Patent No. 6,223,190 entitled “Method and System for Producing an Internet Page Description File on a Digital Imaging Device” (the “190 patent”; a copy of which is attached hereto as Exhibit 3), United States Patent No. 6,249,316 entitled “Method and System for Creating a Temporary Group of Images on a Digital Camera” (the “316 patent”; a copy of which is attached hereto as Exhibit 4), United States

Patent No. 5,903,309 entitled “Method and System for Displaying Images and Associated Multimedia Types in the Interface of a Digital Camera” (the “‘309 patent”; a copy of which is attached hereto as Exhibit 5), and United States Patent No. 6,278,447 entitled “Method and System for Accelerating a User Interface of an Image Capture Unit During Play Mode” (the “‘447 patent”; a copy of which is attached hereto as Exhibit 6). The ‘956, ‘538, ‘190, ‘316, ‘309 and ‘447 patents may be collectively referred to herein as the “patents-in-suit.” FlashPoint is the legal owner of the patents-in-suit. FlashPoint seeks injunctive relief and monetary damages.

PARTIES

2. Plaintiff FlashPoint Technology, Inc. is a corporation organized and existing under the laws of the State of Delaware. FlashPoint maintains its principal place of business at 20 Depot Street, Suite 2A, Peterborough, New Hampshire 03458. FlashPoint is the legal owner of the patents-in-suit, and possesses all rights of recovery under the patents-in-suit, including the right to sue for infringement and recover past damages.

3. Upon information and belief, Defendant Kyocera Sanyo Telecom, Inc. is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 21605 Plummer Street, Chatsworth, California 91311.

JURISDICTION AND VENUE

4. This action arises under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*, including 35 U.S.C. §§ 271, 281-285. This Court has subject matter jurisdiction over this case for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

5. Upon information and belief, Kyocera Sanyo has transacted business and committed acts of infringement within the State of Delaware, and the District of Delaware, and is subject to the personal jurisdiction of this Court.

6. Upon information and belief, Kyocera Sanyo has offered for sale, imported, or sold electronic products capable of being used, *inter alia*, to capture, process, and view digital images in this District.

7. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 1400(b).

8. Kyocera Sanyo resides in this District for the purposes of venue, insofar as it is subject to the personal jurisdiction in this District, has committed acts of infringement in this District, solicits business in this District, provides services in this District, encourages others to practice infringing methods in this District, and conducts other business in this District.

COUNT I – PATENT INFRINGEMENT

9. On January 23, 2001, the United States Patent and Trademark Office duly and legally issued the ‘956 patent to FlashPoint, as assignee of the inventors Eric C. Anderson and Mike M. Masukawa. The ‘956 patent is in full force and effect. FlashPoint is the legal owner of the ‘956 patent and possesses all rights of recovery under the ‘956 patent.

10. On April 24, 2001, the United States Patent and Trademark Office duly and legally issued the ‘538 patent to FlashPoint, as assignee of the inventor Eric C. Anderson. The ‘538 patent is in full force and effect. FlashPoint is the legal owner of the ‘538 patent and possesses all rights of recovery under the ‘538 patent.

11. On April 24, 2001, the United States Patent and Trademark Office duly and legally issued the ‘190 patent to FlashPoint, as assignee of the inventors Tim Takao Aihara and

Rodney Somerstein. The '190 patent is in full force and effect. FlashPoint is the legal owner of the '190 patent and possesses all rights of recovery under the '190 patent.

12. On June 19, 2001, the United States Patent and Trademark Office duly and legally issued the '316 patent to FlashPoint, as assignee of the inventor Eric C. Anderson. The '316 patent is in full force and effect. FlashPoint is the legal owner of the '316 patent and possesses all rights of recovery under the '316 patent.

13. On May 11, 1999, the United States Patent and Trademark Office duly and legally issued the '309 patent to FlashPoint, as assignee of the inventor Eric C. Anderson. The '309 patent is in full force and effect. FlashPoint is the legal owner of the '309 patent and possesses all rights of recovery under the '309 patent.

14. On August 21, 2001, the United States Patent and Trademark Office duly and legally issued the '447 patent to FlashPoint, as assignee of the inventors Michael A. Ramirez and Eric C. Anderson. The '447 patent is in full force and effect. FlashPoint is the legal owner of the '447 patent and possesses all rights of recovery under the '447 patent.

15. In 1996, FlashPoint was founded as a spin-off of the Imaging Division of Apple Computer, Inc. ("Apple"). FlashPoint continued the research and development of the core technologies started at Apple, and perfected such technologies.

16. Those technologies, protected by the patents-in-suit, enable users to, among other things, capture, process, and view digital images.

17. The marketplace has long recognized the value of FlashPoint's inventions, including the patents-in-suit. Licensees include Canon Inc., Casio Computer Co., Ltd., Concord Camera Corp., Seiko Epson Corp., Fuji Photo Film Co., Ltd., Hewlett-Packard Co., Eastman Kodak Co., Konica Corp., Matsushita Electric Industrial Co., Minolta Co., Ltd., Pentax Corp.,

Ricoh Corp., Samsung Techwin Co., Ltd., Sanyo Electric Co., Ltd., Sharp Corp., Toshiba Corp., and Vivitar Corp.

18. Digital image devices have been integrated into cellular telephones for several years. Today, digital image devices are commonplace in a wide variety of Kyocera Sanyo's cellular telephones.

19. Upon information and belief, Kyocera Sanyo practices inventions covered by the patents-in-suit.

20. Upon information and belief, Kyocera Sanyo has infringed and continues to infringe one or more claims of each of the patents-in-suit by making, using, importing, providing, offering to sell, and selling (directly or through intermediaries) infringing products and/or services, in this District and elsewhere in the United States. Upon information and belief, Kyocera Sanyo has also contributed to the infringement of one or more claims of each of the patents-in-suit, and/or actively induced others to infringe one or more claims of each of the patents-in-suit, in this District and elsewhere in the United States.

21. Kyocera Sanyo's aforesaid activities have been without authority and/or license from FlashPoint.

22. FlashPoint is entitled to recover from Kyocera Sanyo the damages sustained by FlashPoint as a result of Kyocera Sanyo's wrongful acts in an amount subject to proof at trial.

23. Upon information and belief, the infringement of one or more claims of each of the patents-in-suit by Kyocera Sanyo is willful and deliberate. Upon information and belief, the inducement and contributory infringement of one or more claims of each of the patents-in-suit by Kyocera Sanyo is willful and deliberate. As a result, Flashpoint is entitled to increased damages

under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285 with respect to Kyocera Sanyo.

24. Kyocera Sanyo's infringement of Flashpoint's exclusive rights under the patents-in-suit will continue to damage Flashpoint, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

JURY DEMAND

25. Plaintiff demands a trial by jury on all issues.

PRAYER FOR RELIEF

Plaintiff FlashPoint Technology, Inc. respectfully requests the following relief:

- A. An adjudication that Kyocera Sanyo has infringed and continues to infringe claims of the patents-in-suit;
- B. An award to Flashpoint of damages adequate to compensate Flashpoint for Kyocera Sanyo's acts of infringement together with prejudgment interest;
- C. An award of enhanced damages, up to and including trebling of Flashpoint damages pursuant to 35 U.S.C. § 284 for willful infringement;
- D. An award of Flashpoint's costs of suit and reasonable attorneys' fees pursuant to 35 U.S.C. § 285 due to the exceptional nature of this case, or as otherwise permitted by law;
- E. A grant of permanent injunction pursuant to 35 U.S.C. § 283, enjoining Kyocera Sanyo from further acts of (1) infringement, (2) contributory infringement, and

(3) actively inducing infringement with respect to the claims of the patents-in-suit; and

F. Any further relief that this Court deems just and proper.

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Dated: December 9, 2008

/s/ David J. Margules

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