IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

MICRON ELECTRONICS, LLC,

Plaintiff, Civil Action No. _____

v.

M2M SOLUTIONS, LLC,

Defendant.
_____/

COMPLAINT FOR DECLARATORY JUDGMENT OF
PATENT INVALIDITY AND NON-INFRINGEMENT

Plaintiff, Micron Electronics, LLC ("Micron" or "Plaintiff"), brings this declaratory judgment action against Defendant, M2M Solutions, LLC ("M2M" or "Defendant"), to declare that Micron is not infringing U.S. Patent No.'s 7,583,197 (the "'197 Patent") [Exhibit A] and 8,094,010 (the "'010 Patent") [Exhibit B] (collectively the "Patents in Suit") and that the Patents in Suit are invalid, and states and alleges as follows:

PARTIES

1. Plaintiff Micron is a limited liability company organized and existing under the laws of the State of Florida and conducts business from Palm Beach County, Florida

2. Defendant M2M is a limited liability company organized and existing under the laws of the State of Delaware, having its principal place of business at Camden House, School Lane, Tiddington, Stratford-upon-Avon, CV37 7AJ, United Kingdom.

3. M2M has accused Micron of infringing the Patents in Suit in Florida.

JURISDICTION AND VENUE

4. This action is for a declaratory judgment of patent invalidity and non-infringement.

5. The Court has subject matter jurisdiction under 28 U.S.C. §§ 1331, 1338(a), 2201, and 2202.

6. This Court has personal jurisdiction over M2M because, knowing that Micron is a Florida resident and that its principal place of business is in Florida, M2M has publicly unlawfully accused Micron of infringing its patents knowing that Micron would be damaged in Florida by M2M's public actions.

7. Moreover, M2M intentionally and in bad faith directed its baseless accusations at Micron in Florida knowing that Micron's principal place of business is in Florida and those such allegations would have a substantial impact, and harm Micron and Micron's business in Florida.

8. M2M does not practice the Patents in Suit anywhere in the United States, yet M2M contacted Micron in Florida for purposes of soliciting royalties from Micron's sales of Machine to Machine products.

9. M2M has solicited royalties and licensing agreements from other parties for sales in Florida.

10. M2M has no significant presence in Delaware and only incorporated in Delaware a few days before filing suit in that district.

11. Micron has no business or contacts with Delaware. Delaware Courts have no personal jurisdiction over Micron.

12. Most of the likely witnesses reside in Florida, Europe or China.

13. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and (c), and 1400(b).

GENERAL ALLEGATIONS FOR ALL CLAIMS

14. M2M claims to be the owner of the Patents in Suit.

15. Moore's law observes that over the history of computing hardware, the number of

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transistors on integrated circuits doubles approximately every two years.

16. In part, because of Moore's law, many science fiction books, television series, movies and scholarly articles predicted "convergence" of computing technology into tiny personal communication devices.

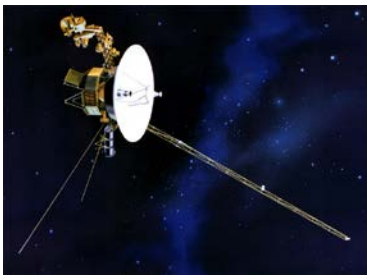
17. For instance, long before May 23, 2000, Star Trek's Starfleet has made use of tricorders, personal communicators, PADDS and other devices with programmable communications circuits. These fictional devices used antenna and secure communications channels to route and transmit data. Also, in Star Trek the Borg were known to communicate with a hive as they assimilated life forms and technology (through the use of nanobots) into a collective network of drones.

18. Since the 1940s', comic book detective, Dick Tracy, had a wristwatch communicator programmed to communicate with the police chief.

19. In the 1960s television series, Get Smart, Maxwell Smart used a shoe phone, programmed with a direct line to the chief's telephone. In the 1980 movie spin-off, *The Nude Bomb, a.k.a. The Return of Maxwell Smart* (1980), the shoe phones were updated to include touch-tone dialing and an answering machine.

20. Since the 1960s, Ian Flemming's James Bond ("Agent 007") has had unique communicators and homing beacons that he has used in his films, and in 1997, Agent 007 even used an Ericson™ smartphone to remotely control his BMW™ 750iL. In early 2000, Ericson released a similar looking r380 smartphone which ran the Symbian Operating System ("OS").

21. Meanwhile, in the real world, during the 1970s, the U.S. National Aeronautics and Space Administration ("NASA") put probes into outer-space which NASA continues to maintain wireless communication links as they reach the farthest depths of our solar system (e.g. Voyager I and Voyager II).

22. Other NASA programs put rovers on Mars capable of uplink and downlink communications. For example, in 1996, after many prototypes and years of tests on Earth, the Pathfinder mission launched the Sojourner and the Carl Sagan Memorial Station to space.



23. The Pathfinder Lander and Rover landed on Mars and used a Lander-to-Rover telecommunications link which was able to communicate with mission control back on Earth.

24. Prior to May 23, 2000, various private and public satellites were placed into orbit around the planet Earth. Many of these satellites had the ability to securely authenticate and communicate with other machines and satellites over packet switched networks.

25. In 1969, the Advanced Research Projects Agency Network ("ARPANET") was the world's first operational packet switching network and the progenitor of what was to become the global Internet.

26. In 1983 the ARPANET is generally credited with becoming the original subnet of

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the Internet when it switched to the Transport Communication Protocol ("TCP") and Internet Protocol ("IP") (collectively "TCP/IP") as its primary protocol.

27. Throughout the 1990s, the United States Military operated drones and other unmanned air and ground vehicles that securely communicated with global communications networks, satellites and other machines through the Internet and alternative secure packet switched networks.

28. For example, a number of satellites used in the 1990s were part of the "Star Wars" program of the Strategic Defense Initiative started by Ronald Regan in the 1980s.

29. In the 1983 film, Wargames, David Lightman, played by Mathew Broderick, uses his telephone to hack into a North American Aerospace Defense Command ("NORAD") computer. After some research, Lightman discovers a backdoor password. Lightman then programs the NORAD computer and launches a simulation of World War III. In the film, Government officials at NORAD believe the attack is real and plan to retaliate. The NORAD computer automatically, though a brute force method attempts to guess the actual missile launch codes so that as a programming computer the NORAD computer can remotely transmit the missile silos to imitate attack. However, before the computer sends the codes, Lightman defeats the NORAD computer by teaching it that playing Tic Tac Toe against itself is futile.

30. In 1984 and 1991, James Cameron's fictional TERMINATOR™ franchise also capitalized on the concept of such a military communications network becoming self-aware and aiming to wipeout the human race. Cameron called it SkyNet.

31. Concerns were raised in the few incidents when Presidents Regan, Carter, and William Jefferson Clinton were separated from their emergency satchel, commonly known as the "Nuclear Football." Using special "unique identifiers" and "access codes" contained on the

biscuit, which is kept in a ZERO HALLIBURTON ™ briefcase, the U.S. President could authorize a nuclear strike from securely computer controlled remote missile silos.

32. Developed during the cold war, Russia's similar "nuclear briefcase" is code-named Cheget. Cheget is connected to the Russian special communications system code-named Kavkaz, which supports communication between senior government officials while they are making the decision whether to use nuclear weapons. Cheget is securely connected to the Russian communications system Kazbek.

33. In the 1980s, Miss Fletcher used LIFE ALERT™ when she fell and could not get up. Her transmitter would activate an automatic dialer which would call a preprogrammed number to alert emergency services. Other similar dialers had been in use since at least 1975.

34. Additionally, in the 1980s sitcom, Knight Rider, the fictional Knight Rider Industries' KITT was well known to have an artificial intelligence module and the ability to authenticate its users and call the "Foundation," a mobile garage (a/k/a "the Rook"), or call others as requested and authorized by KITT.

35. In the Knight Rider sitcom, Michael Knight, played by actor David Hasselhoff, was able to maintain contact with KITT via a two-way communication wristwatch (a modified '80s LCD AM radio watch). The watch also had a micro camera and scanner that KITT could access to gather information.

36. In the 1980s series, Michael Knight also had a homing beacon inside a gold pendant he wore around his neck (much like the "Life Alert" used by Ms. Fletcher, but on a larger range network). Knight's beacon would send a signal to remotely activate KITT and override KITT's programming so that KITT would rush to Knight's aid.

37. In the 1980s' NICKELODEON™ animated series Inspector Gadget, the cartoon

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character Penny Gadget and her dog Brain communicated wirelessly through an advance wristwatch with mapping capabilities. Penny's wristwatch was capable of wirelessly activating sensors in Brain's collar. Similar devices appeared in the 1960s "The Jetsons."

38. In the late 1990's some General Motors ("GM") cars came equipped with ONSTAR™, a vehicle telematics and communication system that featured a HUGHES™ cellular telephone connected to a Global Position System ("GPS"). The system enabled remote starting, opening and locating of GM vehicles, and voice dialing of stored phone numbers. Although ONSTAR™ shared some functions similar to the decades-old technology of LOJACK™, initial ONSTAR™ commercials showed the Batmobile outfitted with ONSTAR™ that enabled DC Comic's Batman to open the doors with a cellular telephone, contact ONSTAR™ when his airbags went off, and permitted voice calling of stored phone numbers.

39. Additionally, long before May 23, 2000, Dr. Steven Mann was famous for building, programming and "glogging" with wearable computers which communicated with other machines. This picture below shows how some of Mr. Mann's inventions evolved.

See http://wearcam.org/steve5.htm for the original JPEG file.

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40. In fact, in the 1990s, many electronics and software developers were using the Linux and BSD OSes to create embedded wireless systems for use in clothing, vehicles, mobile, stationary, wired and wireless devices. Programmers could "telnet" into the Linux systems and reprogram and configure their authentication protocols through programs like tcpwrappers. In the late 1990s, tcpwrappers came standard in many Linux distributions including Slackware.

41. Prior to May 23, 2000, and even back in the early 1990s, many OSes used an /etc/passwd file (the "Password File") as text file that describes user login accounts for the system. For instance, prior to May 23, 2000, the Password File in Slackware Linux when presented in human readable format used each line to described a single user in the following syntax: account:password:UID:GID:GECOS:directory:shell.

42. The information from the Slackware Linux Password File could be programmed by authorized users and was used by various operating system protocols for authentication. For example, in 1999, a user logging into a wireless Slackware Linux system generally would be required to provide their account and password.

43. In 1999, an authorized user could also log into one wireless Linux computer and then telnet from said Linux computer into another wireless Linux computer.

44. In 1999, a user with sufficient privileges could connect to a wireless Slackware Linux system and add, delete, or modify authorized users from the Password File or authorized hosts list.

45. In 1999, an authorized Linux user was able to program Linux computers to execute code based on certain conditions/triggers or at certain times using utilities such as "cron" or take input from a variety of probes, sensors or other devices.

46. In 1999, large libraries of computer programs were available for Linux and

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extensive documentation for using the programs were available in Linux "man" pages, Internet forums, and text books.

47. For example, in 1999, a Slackware Linux user could use Comprehensive Perl Archive Network ("CPAN") to automatically install thousands of preexisting modules for programing purposes and integration into a Practical Extraction and Reporting Language ("PERL") script.

48. In 1999, PERL regularly came standard in Linux Slackware distributions, and had modules for authenticating and connecting to other machines over a wireless network.

49. In the 1990s, Internet Appliances ("IA") were available including Internet enabled toasters, refrigerators, ovens, robots and cameras. Some IA contained Hypertext Transport Protocol ("HTTP") daemons and others included full Internet services such as telnetd and libwrap.

50. Some pre-year-2000 IA used BLUETOOTH™, which is credited to be created by ERICSON™ scientists in 1994 as a wireless alternative to serial data cables.

51. In late 1990s and early 2000, alternative mobile OSes were also available including Symbian and MICROSOFT™ ("MS") WINDOWS CE™ (codenamed "Rapier") which were designed to run on mobile devices including Global System for Mobile Communications ("GSM") communicators. Many of the pre-May 23, 2000 OSes supported, and the available portable hardware provided, interfaces for Personal Computer Memory Card International Association ("PCMCIA") GSM and GPS cards, as well as a robust library of compatible software and hardware, including means to store and authenticate phone numbers and IP addresses.

52. For many years, long before May 23, 2000, electronic ankle bracelets were also

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used to monitor probationers. Typically, these communicator devices would trigger a telephone call to the probation officer when the probationer moves more than a specified distance from a location. Similar devices were designed and used for the wrists of children before May 23, 2000.

53. Prior to May 23, 2000, there was extensive information known in the art regarding programing MS WINDOWS™ and WINDOWS CE available through the MS Microsoft Developers Network ("MSDN").

54. Prior to May 23, 2000, security flaws in wired and wireless communications profiles were frequently discussed through the SecurityFocus electronic mailing list BugTraq including ways of compromising passwords and authentication on wireless and wired networks.

55. Prior to May 23, 2000, the Internet Engineering Task Force ("IETF") and Institute of Electrical and Electronics Engineers Standards Association ("IEEE-SA") made a large number of protocols and standardization documents available in part for the purpose of promoting cross compatibility. Many of these documents were available as Standards ("STDs"), Requests for Comments ("RFCs"), and Best Common Practices ("BCPs"). The documents included the protocols for standards such as TCP/IP, TELNET, MAIL, Post Office Protocol ("POP"), Simple Mail Transfer Protocol ("SMTP"), IEEE-STD 802.11, etc.

56. Prior to May 23, 2000, it was well known that most computers communicated in a coded format, generally ones "1" and zeros "0." Computer code is also often represented in hexadecimal or human readable format. The latter of which could be a low level (e.g., assembly a/k/a ASM) or high level language (e.g., C++, JAVA, PERL, etc.).

57. In the 1990s, n-tier networks, and distributed computing were common concepts where more than one wirelessly or otherwise connected machines would: take input and commands; process information; and, serve as databases. In 1999, these programmable machines

and n-tier systems often communicated over packet switched networks both in wired and wireless fashions.

58. Prior to May 23, 2000, wireless/Global System for Mobile Communications ("GSM") Programmable Communicator devices, modems, and circuits existed and were publicly available that could be programmed with the Hayes "AT" command set. *See, e.g.*, SIEMENS™ M1.

59. Thus, for these reasons and others, on May 23, 2000, the idea of a programmable communication device (a "Programmable Communicator") that could authenticate and store addresses (whether by IP address, phone number, MAC address or otherwise) was nothing new, and connecting a Programmable Communicator to a wide array of monitoring equipment was known or obvious. In fact, many prior art devices, in addition to those above, encouraged their users to configure a portable Programmable Communicator in such a fashion -- cross-compatibility was a common goal of many software and hardware designers.

60. The alleged inventor of the Patents in Suit, her counsel, and the others that assisted with preparation of the applications for the Patents in Suit, knew of the prior art technology during prosecution of the Patents in Suit, but did not disclose the prior art to the USPTO. Notably, Eveline Wesby Van Swaay was not the inventor of the Patents in Suit.

61. M2M now knows of the above facts and prior art and other prior art, but baselessly continues to assert the Patents in Suit against Micron for at least the following products: SIM900L (a GSM/GPRS Module); SIM908 (GSM/GPRS+GPS Module); SIM300DZ & SIM300D (a GSM/GPRS Module); SIM900 (a GSM/GPRS+EGSM Module); SIM548CZ & SIM548C (GSM/GPRS+GPS Module); SIM300EZ & SIM300E (Tri-band GSM/GPRS Module); SIM700DZ & SIM700D (Quad-band GSM/GPRS/EDGE Module); SIM700Z & SIM700 (Quad-

band GSM/GPRS/EDGE Module); Prime AT; Prime PT; Car Security System; GPS Black Box; 3G PC Card; Payphone; Kids Phone; SiRFstarIII; RINGSLIC; UBlox LEA-4S; Ublox LEA-4A; TOUCH SCREEN CONTROL; POWER AMP MODULE; 16-128 SDRAM Modules; SIM card holders; Antenna/RF Connectors; DIP BTB Connectors; BTB Connectors; GSM/GPRS Antennas; and, GPS Antennas (the "Micron/SimCom Products").

COUNT I
DECLARATORY JUDGMENT OF INVALIDITY OF
U.S. PATENT NO. 7,583,197

62. Micron incorporates by reference and re-alleges, as if fully set forth herein, the allegations contained in Paragraphs 1 through 61, above.

63. The '197 Patent is invalid under 35 U.S.C. § 101 et seq., and fails to meet the patentability standards under 35 U.S.C. § 112, and/or because it is anticipated by, or obvious in view of the prior art under 35 U.S.C. §§ 102 and 103.

64. As evidenced by the Amended Complaint in Case No. 12-00034, in the U.S. District Court for the District of Delaware, and M2M's accusations of infringement, there exists a real and actual controversy between Micron and M2M concerning the validity of the '197 Patent.

65. Micron is entitled to a declaratory judgment that the '197 Patent is invalid.

66. Given the prior art known to it, M2M knows or should know that the claims of the '197 Patent that M2M has asserted against Micron are invalid.

67. Due to the exceptional circumstances of this case, the Court should award Micron its attorneys' fees pursuant to 35 U.S.C. § 285.

WHEREFORE, Micron respectfully requests this Court: i) enter a declaratory judgment and decree holding that the '197 Patent is invalid; and ii) grant such relief as is just, fair, and

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equitable.

COUNT II
DECLARATORY JUDGMENT OF NON-INFRINGMENT OF
U.S. PATENT NO. 7,583,197

68. Micron incorporates by reference and re-alleges, as if fully set forth herein, the allegations contained in Paragraphs 1 through 61, above.

69. The Micron/SimCom Products have substantial non-infringing uses.

70. Micron has not infringed and is not infringing the '197 Patent.

71. As evidenced by the Amended Complaint in Case No. 12-00034, in the U.S. District Court for the District of Delaware, and M2M's accusations of infringement, there exists a real and actual controversy between Micron and M2M concerning the infringement of the '197 patent.

72. Micron is entitled to a declaratory judgment that it has not directly or indirectly infringed and is not infringing the '197 Patent.

73. Due to the exceptional circumstances of this case, the Court should award Micron its attorneys' fees pursuant to 35 U.S.C. § 285.

WHEREFORE, Micron respectfully requests this Court: i) enter a declaratory judgment and decree holding that the '197 Patent is not infringed by Micron; and ii) grant such further relief as is just, fair, and equitable.

COUNT III
DECLARATORY JUDGMENT OF INVALIDITY OF
U.S. PATENT NO. 8,094,010

74. Micron incorporates by reference and re-alleges, as if fully set forth herein, the allegations contained in Paragraphs 1 through 61, above.

75. The '010 patent is invalid under 35 U.S.C. § 101 et seq., and fails to meet the

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patentability standards under 35 U.S.C. § 112, and/or because it is anticipated by, or obvious in view of the prior art under 35 U.S.C. §§ 102 and 103.

76. As evidenced by the Amended Complaint in Case No. 12-00034, in the U.S. District Court for the District of Delaware, and M2M's accusations of infringement, there exists a real and actual controversy between Micron and M2M concerning the validity of the '010 Patent.

77. Micron is entitled to a declaratory judgment that the '010 Patent is invalid.

78. Due to the exceptional circumstances of this case, the Court should award Micron its attorneys' fees pursuant to 35 U.S.C. § 285.

WHEREFORE, Micron respectfully requests this Court: i) enter a declaratory judgment and decree holding that the '010 Patent is invalid; and ii) grant such relief as is just, fair, and equitable.

COUNT IV
DECLARATORY JUDGMENT OF NON-INFRINGMENT OF
U.S. PATENT NO 8,094,010

79. Micron incorporates by reference and re-alleges, as if fully set forth herein, the allegations contained in Paragraphs 1 through 61, above.

80. The Micron/SimCom Products have substantial non-infringing uses.

81. Micron has not infringed and is not infringing the '010 Patent.

82. As evidenced by the Amended Complaint in Case No. 12-00034, in the U.S. District Court for the District of Delaware, and M2M's accusations of infringement, there exists a real and actual controversy between Micron and M2M the alleged infringement of the '010 Patent.

83. Micron is entitled to a declaratory judgment that it has not infringed and is not

infringing the '010 Patent.

84. Due to the exceptional circumstances of this case, the Court should award Micron its attorneys' fees pursuant to 35 U.S.C. § 285.

WHEREFORE, Micron respectfully requests this Court: i) enter a declaratory judgment and decree holding that the '010 patent is not infringed by Micron; and ii) grant such further relief as is just, fair, and equitable.

DEMAND FOR JURY TRIAL

Micron hereby demands a jury trial on all issues triable of right by a jury in this declaratory judgment action and under the patent laws of the U.S.

Dated: October 24, 2012

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via the methods referenced below this day October 24, 2012 on all counsel or parties of record on the service list indicated below:

By: s/ *Peter A. Koziol*
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SERVICE LIST

Micron Electronics, LLC v. M2M Solutions, LLC
CASE NO: _____
United States District Court, Southern District of Florida

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