

The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

AVOCENT REDMOND CORP., a  
Washington corporation,

Plaintiff,

v.

BELKIN INTERNATIONAL, INC., a  
Delaware corporation, and BELKIN INC., a  
Delaware corporation,  
Defendants.

NO. C12-01342 RSM

AMENDED COMPLAINT FOR PATENT  
INFRINGEMENT

AND JURY DEMAND

Plaintiff, Avocent Redmond Corp. ("Avocent"), brings this action for infringement of U.S. Patent No. 5,884,096 ("the '096 patent"), U.S. Patent No. 6,112,264 ("the '264 patent"), U.S. Patent No. 7,113,978 ("the '978 patent"), and U.S. Patent No. 7,818,367 ("the '367 patent") in violation of 35 U.S.C. § 271. Plaintiff alleges the following facts upon actual knowledge with respect to itself and its own acts and upon information and belief as to all other matters.

**THE PARTIES**

1. Plaintiff, Avocent, is a corporation organized and existing under the laws of the State of Washington, having its principal place of business in Redmond, Washington. Avocent, a wholly-owned subsidiary of Avocent Corporation, and formerly known as Apex PC Solutions, Inc. and Apex Inc., is the plaintiff in a related case, Avocent Redmond Corp. v. Rose Electronics, et al., Case No. C06-1711-RSL, filed with this Court in 2006, currently awaiting a trial date.



1 insofar as Defendants are subject to personal jurisdiction in this District and have committed  
2 and/or induced acts of infringement in this District. The Belkin Defendants have agreed and/or  
3 acquiesced to jurisdiction in this District for claims of patent infringement involving the '096,  
4 '264, '978, and '367 patents.

5 **COUNT ONE – INFRINGEMENT OF THE '096 PATENT**

6 8. Plaintiff re-alleges and incorporates by reference paragraphs 1-7 above.

7 9. Avocent is the owner, by assignment, of all right, title and interest in the '096  
8 patent, which was duly issued on March 16, 1999 by the U.S. Patent and Trademark Office. The  
9 '096 patent claims inventions to KVM switches having on-screen switch control.

10 10. The Belkin Defendants have infringed and continue to infringe the '096 patent  
11 under 35 U.S.C. § 271 by making, using, offering to sell, or selling in the United States, and/or  
12 by importing into the United States, without authorization, KVM Switches having on-screen  
13 switch control that employ and embody the inventions of the '096 patent, other than those at  
14 issue in Avocent Redmond Corp. v. Rose Electronics, et al., Case No. C06-1711-RSL now  
15 pending before this Court. Further, the Belkin Defendants have infringed and continue to  
16 infringe the '096 patent under 35 U.S.C. § 271 by contributing to infringement of that patent by  
17 others, and/or by inducing others to infringe that patent.

18 11. As a result of the Belkin Defendants' infringement of the '096 patent, Avocent  
19 has been damaged and will continue to be damaged unless such infringement is enjoined by this  
20 Court. Pursuant to 35 U.S.C. § 284, Avocent is entitled to damages adequate to compensate for  
21 the infringement, including, inter alia, lost profits and/or a reasonable royalty. In addition,  
22 Avocent has suffered and will continue to suffer irreparable harm for which there is no adequate  
23 remedy at law.

24 12. The Belkin Defendants' infringement of the '096 patent has been and is willful,  
25 rendering this case exceptional.

26 **COUNT TWO – INFRINGEMENT OF THE '264 PATENT**

27 13. Plaintiff re-alleges and incorporates by reference paragraphs 1-7 above.

1           14.     Avocent is the owner, by assignment, of all right, title and interest in the ‘264  
2 patent, which was duly issued on August 29, 2000 by the U.S. Patent and Trademark Office.  
3 The ‘264 patent claims inventions to KVM switches having on-screen switch control.

4           15.     The Belkin Defendants have infringed and continue to infringe the ‘264 patent  
5 under 35 U.S.C. § 271 by making, using, offering to sell, or selling in the United States, and/or  
6 by importing into the United States, without authorization, KVM switches having on-screen  
7 switch control that employ and embody the inventions of the ‘264 patent, other than those at  
8 issue in Avocent Redmond Corp. v. Rose Electronics, et al., Case No. C06-1711-RSL now  
9 pending before this Court. Further, the Belkin Defendants have infringed and continue to  
10 infringe the ‘264 patent under 35 U.S.C. § 271 by contributing to the infringement of that patent  
11 by others, and/or by inducing others to infringe that patent.

12           16.     As a result of the Belkin Defendants’ infringement of the ‘264 patent, Avocent  
13 has been damaged and will continue to be damaged unless such infringement is enjoined by this  
14 Court. Pursuant to 35 U.S.C. § 284, Avocent is entitled to damages adequate to compensate for  
15 the infringement, including, inter alia, lost profits and/or a reasonable royalty. In addition,  
16 Avocent has suffered and will continue to suffer irreparable harm for which there is no adequate  
17 remedy at law.

18           17.     The Belkin Defendants’ infringement of the ‘264 patent has been and is willful,  
19 rendering this case exceptional.

20                   **COUNT THREE – INFRINGEMENT OF THE ‘978 PATENT**

21           18.     Plaintiff re-alleges and incorporates by reference paragraphs 1-7 above.

22           19.     Avocent is the owner, by assignment, of all right, title and interest in the ‘978  
23 patent, which was duly issued on September 26, 2006 by the U.S. Patent and Trademark Office.  
24 The ‘978 patent claims inventions to KVM switches having on-screen switch control.

25           20.     The Belkin Defendants have infringed and continue to infringe the ‘978 patent  
26 under 35 U.S.C. § 271 by making, using, offering to sell, or selling in the United States, and/or  
27 by importing into the United States, without authorization, KVM Switches having on-screen

1 switch control that employ and embody the inventions of the '978 patent, other than those at  
2 issue in Avocent Redmond Corp. v. Rose Electronics, et al., Case No. C06-1711-RSL now  
3 pending before this Court. Further, the Belkin Defendants have infringed and continue to  
4 infringe the '978 patent under 35 U.S.C. § 271 by contributing to infringement of that patent by  
5 others, and/or by inducing others to infringe that patent.

6 21. As a result of the Belkin Defendants' infringement of the '978 patent, Avocent  
7 has been damaged and will continue to be damaged unless such infringement is enjoined by this  
8 Court. Pursuant to 35 U.S.C. § 284, Avocent is entitled to damages adequate to compensate for  
9 the infringement, including, inter alia, lost profits and/or a reasonable royalty. In addition,  
10 Avocent has suffered and will continue to suffer irreparable harm for which there is no adequate  
11 remedy at law.

12 22. The Belkin Defendants' infringement of the '978 patent has been and is willful,  
13 rendering this case exceptional.

14 **COUNT FOUR – INFRINGEMENT OF THE '367 PATENT**

15 23. Plaintiff re-alleges and incorporates by reference paragraphs 1-7 above.

16 24. Avocent is the owner, by assignment, of all right, title and interest in the '367  
17 patent, which was duly issued on October 19, 2010 by the U.S. Patent and Trademark Office.  
18 The '367 patent claims inventions to KVM switches having on-screen switch control.

19 25. The Belkin Defendants have infringed and continue to infringe the '367 patent  
20 under 35 U.S.C. § 271 by making, using, offering to sell, or selling in the United States, and/or  
21 by importing into the United States, without authorization, KVM Switches having on-screen  
22 switch control that employ and embody the inventions of the '367 patent. Further, the Belkin  
23 Defendants have infringed and continue to infringe the '367 patent under 35 U.S.C. § 271 by  
24 contributing to infringement of that patent by others, and/or by inducing others to infringe that  
25 patent.

26 26. As a result of the Belkin Defendants' infringement of the '367 patent, Avocent  
27 has been damaged and will continue to be damaged unless such infringement is enjoined by this

1 Court. Pursuant to 35 U.S.C. § 284, Avocent is entitled to damages adequate to compensate for  
2 the infringement, including, inter alia, lost profits and/or a reasonable royalty. In addition,  
3 Avocent has suffered and will continue to suffer irreparable harm for which there is no adequate  
4 remedy at law.

5 27. The Belkin Defendants' infringement of the '367 patent has been and is willful,  
6 rendering this case exceptional.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiff Avocent prays that the Court enter a judgment against the  
9 Belkin Defendants as follows:

10 A. A decree that the Belkin Defendants have each infringed the '096 patent, the '264  
11 patent, the '978 patent and the '367 patent;

12 B. Permanent injunctions restraining the Belkin Defendants and their officers,  
13 directors, partners, agents, employees, representatives, distributors, servants, attorneys and all  
14 persons in active concert or participation with them from further acts of infringement of the '096  
15 patent, the '264 patent, the '978 patent and the '367 patent, pursuant to 35 U.S.C. § 283;

16 C. An award of damages against the Belkin Defendants sufficient to compensate  
17 Avocent for the Belkin Defendants' infringement of the '096 patent, the '264 patent, the '978  
18 patent, and the '367 patent in an amount not less than Avocent's lost profits and/or a reasonable  
19 royalty, pursuant to 35 U.S.C. § 284;

20 D. An award of treble the damages, pursuant to 35 U.S.C. § 284;

21 E. An award of prejudgment interest, pursuant to 35 U.S.C. § 284, from the date of  
22 each act of infringement of the '096 patent, the '264 patent, the '978 patent, and the '367 patent  
23 by the Belkin Defendants to the day a damages judgment is entered, and a further award of post-  
24 judgment interest, pursuant to 28 U.S.C. § 1961, continuing until such judgment is paid;

25 F. An award of reasonable attorneys' fees against the Belkin Defendants pursuant to  
26 35 U.S.C. § 285, and Avocent's costs of suit against the Belkin Defendants, pursuant to 35  
27

1 U.S.C. § 284, based on the Belkin Defendants' infringement of the '096 patent, the '264 patent,  
2 the '978 patent, and the '367 patent; and,

3 G. Such other and further relief as this Court deems just and appropriate.

4 **DEMAND FOR JURY TRIAL**

5 Avocent hereby demands a jury trial on all issues triable by a jury in this action.

6 DATED this 6th day of December, 2012.

7  
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on December 6, 2012, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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DATED this 6th day of December, 2012.

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