

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

NXP B.V.,

Plaintiff,

v.

RESEARCH IN MOTION LTD.,
RESEARCH IN MOTION CORP.,

Defendant.

Case No. 6:12-cv-498-ORL-22-GJK

JURY TRIAL REQUESTED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff NXP B.V. (“NXP”), for its Complaint against Defendants Research In Motion Ltd. (“RIM Canada”) and Research In Motion Corp. (“RIM USA”) (collectively “RIM”), on personal knowledge as to its own actions and on information and belief as to all others based on its investigation, hereby alleges as follows:

PARTIES

1. Plaintiff NXP is incorporated under the laws of The Netherlands with its principal place of business at High Tech Campus 60, 5656 AG, Eindhoven, The Netherlands.
2. Upon information and belief, Defendant RIM Canada is a Canadian corporation having its principal place of business at 295 Phillip Street, Waterloo, Ontario, Canada, N2L 3W8.
3. Upon information and belief, Defendant RIM USA is a Delaware corporation, with its principal place of business at 122 West John Carpenter Parkway, Suite 430, Irving, Texas 75038. RIM USA’s registered agent, registered with the Florida Department of State, Division of Corporations, is CT Corporation System located at 1200 Pine Island Road, Plantation, Florida 33324.

JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code, § 100 *et seq.* Accordingly, this Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over RIM because RIM has established minimum contacts with the State of Florida, including in the Middle District of Florida. RIM manufactures (directly or indirectly through third party manufacturers) and/or assembles products that are and have been used, offered for sale, sold, and purchased in the Middle District of Florida. RIM also, directly and/or through its distribution network, places electronic products within the stream of commerce, which stream is directed at this District, with the knowledge and/or understanding that such products will be sold in the State of Florida, including in the Middle District of Florida.

6. RIM has also has regularly conducted and continues to regularly conduct business in the Middle District of Florida, and has committed acts of patent infringement in this District. For example, RIM organizes and promotes BlackBerry World™ —“the largest annual gathering of the BlackBerry® ecosystem”—held annually since at least 2005 in Orlando, Florida.¹ This year’s BlackBerry World™ is occurring May 1-3 at the Orlando World Center Marriott. Upon information and belief, at each of the past BlackBerry World™ events held in Orlando, Florida, RIM has advertised, demonstrated, used, offered to sell, and/or sold its BlackBerry® products.

7. Jurisdiction over RIM in this matter is also proper given that RIM has voluntarily registered its business in the State of Florida and maintains a registered agent in Florida.

8. RIM maintains an office in Florida located at 1200 Sawgrass Corporate Parkway, Suites 100 and 200, Sunrise, Florida 33323.

¹ Upon information and belief, the predecessor to RIM’s BlackBerry World™ was RIM’s “Wireless Enterprise Symposium.”

9. RIM has also submitted to personal jurisdiction in Florida, including in an action pending before this Court.

10. RIM has purposefully availed itself of the privilege of conducting business activities within the State of Florida and this District, which activities, upon information and belief, use systems or perform methods that infringe one or more claims of a United States patent owned by NXP, causing injury in Florida and this District. Therefore, the exercise of jurisdiction over RIM is appropriate under the applicable jurisdictional statutes and would not offend traditional notions of fair play and substantial justice.

11. Venue is proper in the Middle District of Florida pursuant to 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b) because RIM is has committed, and continues to commit, acts of infringement, including by using, demonstrating, and providing electronic products that are used, offered for sale, sold, and have been purchased in the State of Florida, including in the Middle District of Florida.

STATEMENT OF FACTS

12. United States Patent No. 7,330,455 (“the ‘455 patent”), titled *Method and Communication Device For Expanding The Range Of Data Transmission Rates In Wireless Local Area Networks*, was duly and lawfully issued February 12, 2008. NXP is the sole owner of all rights, title and interest in the ‘455 patent. A true and correct copy of the ‘455 patent is attached as Exhibit 1.

13. United States Patent No. 6,434,654 (“the ‘654 patent”), titled *System Bus With A Variable Width Selectivity Configurable At Initialization*, was duly and lawfully issued August 13, 2002. NXP is the sole owner of all rights, title and interest in the ‘654 patent. A true and correct copy of the ‘654 patent is attached as Exhibit 2.

14. United States Patent No. 6,501,420 (“the ‘420 patent”), titled *Mobile Cellular Telephone Comprising A GPS Receiver*, was duly and lawfully issued December 31, 2002. NXP is the sole owner of all rights, title and interest in the ‘420 patent. A true and correct copy of the ‘420 patent is attached as Exhibit 3.

15. United States Patent No. 5,597,668 (“the ’668 patent”), titled *Patterned Filled Photo Mask Generation For Integrated Circuit Manufacturing*, was duly and lawfully issued January 28, 1997. NXP is the sole owner of all rights, title and interest in the ’668 patent. A true and correct copy of the ’668 patent is attached as Exhibit 4.

16. United States Patent No. 5,639,697 (“the ’697 patent”), titled *Dummy Underlayers For Improvement In Removal Rate Consistency During Chemical Mechanical Polishing*, was duly and lawfully issued June 17, 1997. NXP is the sole owner of all rights, title and interest in the ’697 patent. A true and correct copy of the ’697 patent is attached as Exhibit 5.

17. United States Patent No. 5,763,955 (“the ’955 patent”), titled *Patterned Filled Layers For Integrated Circuit*, was duly and lawfully issued June 9, 1998. NXP is the sole owner of all rights, title and interest in the ’955 patent. A true and correct copy of the ’955 patent is attached as Exhibit 6.

COUNT I

(Infringement of the ’455 patent)

18. NXP incorporates by reference the allegations of Paragraphs 1 through 17 above as if fully set forth herein.

19. Upon information and belief, in violation of 35 U.S.C. § 271, RIM is and has been directly infringing, contributing to the infringement of, and/or inducing others to infringe the ’455 patent by making, using, selling, and/or offering to sell in the United States, or importing into the United States, without authority, products or processes that practice the inventions claimed in the ’455 patent, including without limitation, RIM’s BlackBerry® Torch™.

20. Upon information and belief, RIM has induced the infringement and/or contributed to the infringement of the ’455 patent by knowingly and with intent, actively encouraging customers to use RIM’s infringing products, including without limitation, BlackBerry® Torch™, in a manner that constitutes direct infringement of one or more claims of the ’455 patent.

21. RIM had prior notice and knowledge of the '455 patent. Upon information and belief, RIM lacks any justifiable belief that there is no infringement or that the infringed claims are invalid. RIM has therefore acted with objective recklessness in its infringing activity, making RIM's infringement of the '455 patent willful. As a result, NXP is entitled to an award of exemplary damages, attorneys' fees, and costs in bringing this action.

22. Upon information and belief, RIM intends to continue its unlawful infringing activity related to the '455 patent.

23. RIM's acts of infringement have caused damage to NXP, and NXP is entitled to recover from RIM the damages sustained by NXP as a result of RIM's wrongful acts in an amount subject to proof at trial.

COUNT II

(Infringement of the '654 patent)

24. NXP incorporates by reference the allegations of Paragraphs 1 through 17 above as if fully set forth herein.

25. Upon information and belief, in violation of 35 U.S.C. § 271, RIM is and has been directly infringing the '654 patent by making, using, selling, and/or offering to sell in the United States, or importing into the United States, without authority, products or processes that practice the inventions claimed in the '654 patent, including without limitation, RIM's BlackBerry® Torch™ and Playbook™.

26. Upon information and belief, RIM intends to continue its unlawful infringing activity related to the '654 patent.

27. RIM's acts of infringement have caused damage to NXP, and NXP is entitled to recover from RIM the damages sustained by NXP as a result of RIM's wrongful acts in an amount subject to proof at trial.

COUNT III

(Infringement of the '420 patent)

28. NXP incorporates by reference the allegations of Paragraphs 1 through 17 above as if fully set forth herein.

29. Upon information and belief, in violation of 35 U.S.C. §271, RIM is and has been directly infringing, contributing to the infringement of, and/or inducing others to infringe the '420 patent by making, using, selling, and/or offering to sell in the United States, or importing into the United States, without authority, products or processes that practice the inventions claimed in the '420 patent, including without limitation, RIM's BlackBerry® Curve™.

30. Upon information and belief, RIM has induced the infringement and/or contributed to the infringement of the '420 patent by knowingly and with intent, actively encouraging customers to use RIM's infringing products, including without limitation, RIM's BlackBerry® Curve™.

31. RIM had prior notice and knowledge of the '420 patent. Upon information and belief, RIM lacks any justifiable belief that there is no infringement or that the infringed claims are invalid. RIM has therefore acted with objective recklessness in its infringing activity, making RIM's infringement of the '420 patent willful. As a result, NXP is entitled to an award of exemplary damages, attorneys' fees, and costs in bringing this action.

32. Upon information and belief, RIM intends to continue its unlawful infringing activity related to the '420 patent.

33. RIM's acts of infringement have caused damage to NXP, and NXP is entitled to recover from RIM the damages sustained by NXP as a result of RIM's wrongful acts in an amount subject to proof at trial.

COUNT IV

(Infringement of the '668 patent)

34. NXP incorporates by reference the allegations of Paragraphs 1 through 17 above as if fully set forth herein.

35. RIM has infringed and is infringing the '668 patent by making, using, selling, and/or offering to sell in the United States, or importing into the United States, without authority, products such as RIM's BlackBerry® Bold™, Curve™, and Torch™ containing integrated circuits that practice the inventions claimed in the '668 patent.

36. RIM had prior notice and knowledge of the '668 patent. Upon information and belief, RIM lacks any justifiable belief that there is no infringement or that the infringed claims are invalid. RIM has therefore acted with objective recklessness in its infringing activity, making RIM's infringement of the '668 patent willful. As a result, NXP is entitled to an award of exemplary damages, attorneys' fees, and costs in bringing this action.

37. Upon information and belief, RIM intends to continue it unlawful infringing activity related to the '668 patent.

38. RIM's acts of infringement have caused damage to NXP, and NXP is entitled to recover from RIM the damages sustained by NXP as a result of RIM's wrongful acts in an amount subject to proof at trial.

COUNT V

(Infringement of the '697 patent)

39. NXP incorporates by reference the allegations of Paragraphs 1 through 17 above as if fully set forth herein.

40. RIM has infringed and is infringing the '697 patent by making, using, selling, and/or offering to sell in the United States, or importing into the United States, without authority, products such as RIM's BlackBerry® Curve™ containing integrated circuits that practice the inventions claimed in the '697 patent.

41. Upon information and belief, RIM intends to continue it unlawful infringing activity related to the '697 patent.

42. RIM's acts of infringement have caused damage to NXP, and NXP is entitled to recover from RIM the damages sustained by NXP as a result of RIM's wrongful acts in an amount subject to proof at trial.

COUNT VI

(Infringement of the '955 patent)

43. NXP incorporates by reference the allegations of Paragraphs 1 through 17 above as if fully set forth herein.

44. RIM has infringed and is infringing the '955 patent by making, using, selling, and/or offering to sell in the United States, or importing into the United States, without authority, products such as RIM's BlackBerry® Bold™ and Torch™ containing integrated circuits that practice the inventions claimed in the '955 patent.

45. Upon information and belief, RIM intends to continue its unlawful infringing activity related to the '955 patent.

46. RIM's acts of infringement have caused damage to NXP, and NXP is entitled to recover from RIM the damages sustained by NXP as a result of RIM's wrongful acts in an amount subject to proof at trial.

DAMAGES

47. As a result of RIM's acts of infringement, NXP has suffered and will suffer actual and consequential damages; however, NXP does not yet know the full extent of such infringement and such extent cannot be ascertained except through discovery and special accounting. To the fullest extent permitted by law, NXP seeks recovery of damages at least for lost profits, reasonable royalties, unjust enrichment, and benefits received by RIM as a result of using the misappropriated technology. NXP seeks any other damages to which it would be entitled in law or in equity.

ATTORNEYS' FEES

48. NXP is entitled to recover reasonable and necessary attorneys' fees under applicable law.

DEMAND FOR JURY TRIAL

49. NXP respectfully demands a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.


PRAYER FOR RELIEF

WHEREFORE, Plaintiff NXP respectfully prays for judgment against the Defendant for the following:

- A. Patent infringement;
- B. Actual economic damages;
- C. Exemplary treble damages as allowed by law;
- D. An injunction;
- E. Attorneys' fees;
- F. Pre-judgment interest as allowed by law;
- G. Costs of suit; and
- H. All other relief in law or in equity to which Plaintiff may show itself justly entitled.

Dated: April 2, 2012

Respectfully submitted,

By: 
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