

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
Civil Action No. 5:10-CV-0594

LENOVO (SINGAPORE) PTE. LTD.

Plaintiff,

vs.

MOTION COMPUTING, INC.

Defendant.

JURY TRIAL DEMANDED

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Lenovo (Singapore) Pte. Ltd. (“Lenovo”) for its Complaint against Motion Computing, Inc. (“Defendant” or “Motion”), hereby alleges as follows:

**THE PARTIES**

1. Lenovo is a Singapore company with its principal place of business at 151, Lorong Chuan, #02-01, New Tech Park, Singapore 556741.

2. Upon information and belief, Defendant is incorporated under the laws of the state of Delaware, with its principal place of business at 8601 RR 2222, Building II, Austin, Texas 78730. Defendant is engaged in the design, manufacture, importation into the United States, and sale after importation of Motion computer devices and services.

**NATURE OF ACTION**

3. This is an action brought by Lenovo against Defendant for Defendant’s direct, contributory and induced infringement of Lenovo’s patents. Specifically, Lenovo seeks remedies for Defendant’s infringement of Lenovo’s U.S. Patent Nos. 5,388,156 (the “156 patent”), 5,513,359 (the “359 patent”), 5,548,763 (the “763 patent”), and 5,630,142 (the “142 patent”) (collectively, the “Asserted Patents”).

## **JURISDICTION AND VENUE**

4. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over Defendant because Defendant is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the North Carolina Long-Arm Statute, due to at least substantial business in this forum, including at least a portion of the infringements alleged herein, the sale or offer for sale, directly and/or through third-parties, of Motion's computer devices that are and have been offered for sale, sold, purchased, and used within the state of North Carolina and this district, the regular placement of products, directly and/or through Defendant's distribution networks, within the stream of commerce, with the knowledge and/or understanding that such products will be sold in the state of North Carolina and this district.

6. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b), (c), and 1400(b). Defendant transacts business in this district because, among other things, Defendant manufactures and distributes Motion's computer devices that are imported into, offered for sale, sold, purchased, and/or used within this district. Defendant has also committed tortious acts of patent infringement in this district and is subject to personal jurisdiction in this district.

## **FACTUAL BACKGROUND**

### **A. The Patented Technologies**

7. The Asserted Patents cover generally various software and/or hardware technologies that can be incorporated into computer devices, including laptop computers and portable computers, among various other types of products.

8. On February 7, 1995, the United States Patent and Trademark Office (the “PTO”) duly and legally issued U.S. Patent No. 5,388,156, entitled “Personal Computer System with Security Features and Method.” A true and correct copy of the ‘156 patent is attached as Exhibit A.

9. On April 30, 1996, the PTO duly and legally issued U.S. Patent No. 5,513,359, entitled “Desktop Computer Having a Single-Switch Suspend/Resume Function.” A true and correct copy of the ‘359 patent is attached as Exhibit B.

10. On October 12, 2010, the PTO duly and legally issued Ex Parte Reexamination Certificate (7799<sup>th</sup>) confirming the patentability of claims 1, 3-5, and 11-16 of U.S. Patent No. 5,513,359. A true and correct copy of Ex Parte Reexamination Certificate (7799<sup>th</sup>) is attached as Exhibit C.

11. On August 20, 1996, the PTO duly and legally issued U.S. Patent No. 5,548,763, entitled “Desktop Computer Having Multi-Level Power Management.” A true and correct copy of the ‘763 patent is attached as Exhibit D.

12. On May 13, 1997, the PTO duly and legally issued U.S. Patent No. 5,630,142, entitled “Multifunction Power Switch and Feedback LED for Suspend Systems.” A true and correct copy of the ‘142 patent is attached as Exhibit E.

13. In accordance with 35 U.S.C. § 282, the Asserted Patents are presumed valid.

14. Lenovo is the owner of all right, title, and interest in and to each of the Asserted Patents, including the right to pursue damages for past infringement.

**B. Defendant and Its Unlawful Activities**

15. Defendant offers for sale, sells, uses, and/or imports into the United States various computer devices, including, for example, the Motion Computing J3500 Tablet PC (the “Motion Products”).

16. Defendant has had notice of the Asserted Patents. At least as early as 2005, Lenovo notified Defendant of the Asserted Patents and provided information demonstrating Defendant’s infringement of one or more of the Asserted Patents. Defendant refused to address, or pay any compensation for, its ongoing infringement.

17. Since 2005, Lenovo has continued to provide Defendant with information concerning Defendant’s infringement of the Asserted Patents. Defendant, however, has continuously refused to address its ongoing infringement and instead has continuously promoted sales and use of the Motion Products, directly or through various distributors, to end users and knowingly induced those end users to infringe the Asserted Patents.

18. Defendant’s infringement is, has been and continues to be willful. As a direct and proximate result of Defendant’s unlawful acts of willful infringement of the Asserted Patents, Lenovo has suffered injury and damages for which it is entitled to relief, including, but not limited to, monetary recovery of no less than a reasonable royalty and appropriate injunctive relief.

**COUNT ONE – INFRINGEMENT OF U.S. PATENT NO. 5,388,156**

19. Lenovo realleges and incorporates herein by reference all the allegations stated in the foregoing paragraphs of this Complaint.

20. Defendant has infringed and continues to infringe the ‘156 patent by making, using, selling, offering for sale within the United States or importing into the United States

devices that embody one or more of the claims of the '156 patent, by contributing to infringement, by inducing others to infringe the '156 patent, and/or by carrying out acts constituting infringement under 35 U.S.C. § 271(f). Such infringing conduct includes, but is not limited to, selling, offering for sale, importing, and/or inducing others to use one or more of the Motion Products.

21. Defendant has received notice of the '156 patent. Defendant's infringement of the '156 patent is, has been, and continues to be willful and deliberate.

22. As a direct and proximate result of Defendant's infringement of the '156 patent, Lenovo has been and continues to be damaged in an amount yet to be determined.

**COUNT TWO – INFRINGEMENT OF U.S. PATENT NO. 5,513,359**

23. Lenovo realleges and incorporates herein by reference all the allegations stated in the foregoing paragraphs of this Complaint.

24. Defendant has infringed and continues to infringe the '359 patent by making, using, selling, offering for sale within the United States or importing into the United States devices that embody one or more of the claims of the '359 patent, by contributing to infringement, inducing others to infringe the '359 patent, and/or by carrying out acts constituting infringement under 35 U.S.C. § 271(f). Such infringing conduct includes, but is not limited to, selling, offering for sale, importing, and/or inducing others to use one or more of the Motion Products.

25. Defendant has received notice of the '359 patent. Defendant's infringement of the '359 patent is, has been, and continues to be willful and deliberate.

26. As a direct and proximate result of Defendant's infringement of the '359 patent, Lenovo has been and continues to be damaged in an amount yet to be determined.

**COUNT THREE – INFRINGEMENT OF U.S. PATENT NO. 5,548,763**

27. Lenovo realleges and incorporates herein by reference all the allegations stated in the foregoing paragraphs of this Complaint.

28. Defendant has infringed and continues to infringe the ‘763 patent by making, using, selling, offering for sale within the United States or importing into the United States devices that embody one or more of the claims of the ‘763 patent, by contributing to infringement, inducing others to infringe the ‘763 patent, and/or by carrying out acts constituting infringement under 35 U.S.C. § 271(f). Such infringing conduct includes, but is not limited to, selling, offering for sale, importing, and/or inducing others to use one or more of the Motion Products.

29. Defendant has received notice of the ‘763 patent. Defendant’s infringement of the ‘763 patent is, has been, and continues to be willful and deliberate.

30. As a direct and proximate result of Defendant’s infringement of the ‘763 patent, Lenovo has been and continues to be damaged in an amount yet to be determined.

**COUNT FOUR – INFRINGEMENT OF U.S. PATENT NO. 5,630,142**

31. Lenovo realleges and incorporates herein by reference all the allegations stated in the foregoing paragraphs of this Complaint.

32. Defendant has infringed and continues to infringe the ‘142 patent by making, using, selling, offering for sale within the United States or importing into the United States devices that embody one or more of the claims of the ‘142 patent, by contributing to infringement, inducing others to infringe the ‘142 patent, and/or by carrying out acts constituting infringement under 35 U.S.C. § 271(f). Such infringing conduct includes, but is not limited to,

selling, offering for sale, importing, and/or inducing others to use one or more of the Motion Products.

33. Defendant has received notice of the '142 patent. Defendant's infringement of the '142 patent is, has been, and continues to be willful and deliberate.

34. As a direct and proximate result of Defendant's infringement of the '142 patent, Lenovo has been and continues to be damaged in an amount yet to be determined.

### **PRAYER FOR RELIEF**

Wherefore, Lenovo respectfully requests that the Court:

A. render judgment finding that Defendant has infringed and is infringing each and every one of the Asserted Patents;

B. find that Defendant's infringement of each and every one of the Asserted Patents is willful;

C. issue appropriate injunctive relief preventing Defendant and those in active concert or participation with Defendant from further infringement, inducement of infringement, or contributory infringement of each and every one of the Asserted Patents without authority from, or compensation to, Lenovo;

D. award compensatory damages in an amount to be determined at trial;

E. award enhanced damages pursuant to 35 U.S.C. § 284;

F. award interest as allowed by law;

G. declare that this case is exceptional pursuant to 35 U.S.C. § 285 and award the costs and reasonable attorney fees incurred in connection with this action; and

H. grant such other and further relief as the Court and the jury deem just and proper.

**DEMAND FOR JURY TRIAL**

Lenovo, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues triable of right by a jury.

Respectfully submitted this 29th day of December 2010.

KILPATRICK STOCKTON LLP

Mitchell G. Stockwell  
K. James Sangston  
1100 Peachtree Street, NE, Suite 2800  
Atlanta, GA 30309  
Phone: (404) 815-6500  
Fax: (404) 815-6555

KILPATRICK STOCKTON LLP

/s/ Alan D. McInnes

---

Alan D. McInnes  
NC State Bar Number 20938  
3737 Glenwood Avenue, Suite 400  
Raleigh, NC 27612  
Phone: (919) 420-1829  
Fax: (919) 510-6120

*Attorneys for Plaintiff Lenovo (Singapore) Pte. Ltd*