IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

GRAFTECH INTERNATIONAL HOLDINGS INC.,	)	
Plaintiff,	)	
vs.	)	**Civil Action No. _____**
RESEARCH IN MOTION, LTD. and RESEARCH IN MOTION CORP.,	)	**Jury Trial Requested**
Defendants.	)	

COMPLAINT

GrafTech International Holdings Inc. ("GTI" or "Plaintiff") files this complaint for infringement of U.S. Patent Nos. 6,482,520 and 6,982,874 (collectively, "the GTI patents") against Research In Motion, Ltd. and Research In Motion Corp. (collectively, "RIM"). This Court has jurisdiction over this action in accordance with the provisions of 28 U.S.C. §§ 1331, 1332, and 1338.

THE PARTIES

1. GTI is a Delaware corporation having its principal place of business at 12900 Snow Road, Parma, Ohio 44130.

2. Upon information and belief, Research in Motion, Ltd. is an Ontario, Canada corporation with its principal offices at 295 Philip Street, Waterloo, Ontario, Canada N2L 3W8.

3. On information and belief, defendant Research In Motion Corporation is a Delaware corporation having its principal place of business at 122 West John Carpenter Parkway, Suite 430, Irving, Texas 75039.

4. On information and belief, RIM and its affiliates employ approximately 14,000 employees worldwide, and in fiscal year 2010 RIM's annual revenue was approximately $15 billion.

JURISDICTION AND VENUE

5. This Court has jurisdiction over this action in accordance with the provisions of 28 U.S.C. §§1331, 1332, and 1338.

6. The Court has personal jurisdiction over RIM because RIM maintains a significant, regular and principal place of business in this District.

7. Venue is proper in this District because RIM resides in this District. 28 U.S.C. §1391(b).

BACKGROUND

8. One of the principal challenges in making electronic devices smaller and faster is heat management. The ability to effectively dissipate heat from heat-generating components without harming adjacent components is critical to the development of ever-smaller devices like cell phones, laptop computers, workbooks and the like.

9. GTI pioneered the use of sheets of compressed particles of exfoliated graphite to solve this problem and created the market for the use of this material for electronic thermal management.

10. The GTI sheets are thermally anisotropic; that is, heat conduction in the in-plane direction (i.e., along the length and width of the sheet) is many times greater than heat conduction in the through-plane direction.

11. The GTI graphite sheets can be produced so as to be at least as thermally conductive as copper along their in- plane while acting as a heat shield in the through-plane direction (copper or aluminum cannot), at a fraction of the weight of copper.

12. Thus these very thin GTI graphite sheets can not only move significant heat in the desired direction but at the same time can insulate an object[s] from the heat being removed.

13. Materials like copper or aluminum cannot perform this crucial dual function especially in ever thinner ever smaller electronic devices.

14. GTI graphite sheets make possible thin, high functionality cells phones such as the Apple iPhone, and others from Motorola, Sony Ericsson, and Kyocera; thinner, brighter and lighter-weight plasma, LCD and OLED televisions and public information displays available from Samsung Display Inc., Sony and Sharp; and thin, lightweight laptops, netbooks and workbooks available from Apple, Sony, Panasonic and others.

COUNT I

PATENT INFRINGEMENT

15. GTI repeats and realleges the allegations contained in Paragraphs 1-14 of the complaint as if set forth fully herein.

16. GTI is the owner of U.S. Patent No. 6,482,520 ("the '520 patent") (Exhibit "A"), validly issued by the PTO on November 19, 2002.

17. On July 20, 2005, a third party request for reexamination of the '520 patent was filed, citing prior art not previously considered by the PTO and asserting that a substantial new question of patentability of the '520 patent existed.

18. After consideration of the newly cited prior art and the arguments proffered by the third party requestor, the PTO issued a Certificate of Reexamination affirming the patentability of the claims of the '520 patent (as amended) on October 24, 2007.

19. On July 24, 2007, a second third party request for reexamination of the '520 patent was filed, again citing prior art not previously considered by the PTO and asserting that a substantial new question of patentability of the '520 patent existed.

20. After consideration of the newly cited prior art and the arguments proffered by the third party requestor, the PTO has issued a Certificate of Reexamination affirming the patentability of the claims of the '520 patent (as amended).

21. The '520 patent discloses and claims (as amended during the two reexaminations) a thermal management system comprising a heat source having an external surface and an anisotropic flexible graphite sheet formed of compressed particles of exfoliated natural graphite and having a planar area greater than the area of the external surface of the heat source, the flexible graphite sheet having first and second major planar surfaces and having axes of higher thermal conductivity parallel to said major planar surfaces wherein the ratio of thermal conductivity of the flexible graphite sheet parallel to said major planar surfaces to the thermal conductivity of the flexible graphite sheet transverse to said major planar surfaces is at least about 20, one of said major planar surfaces being in operative contact with the heat source.

22. GTI is the owner of U.S. Patent No. 6,982,874 ("the '874 patent") (Exhibit "B"), validly issued by the PTO on January 3, 2006.

23. The '874 patent discloses and claims a thermal dissipation and shielding system for an electronic device, comprising an electronic device comprising a first component which comprises a heat source, wherein the first component transmits heat to an external surface or a

second component of the electronic device; a thermal solution comprising two major surfaces, the thermal solution positioned such that one of its major surfaces is in operative contact with the first component such that it is interposed between the first component and the external surface or the second component of the electronic device, wherein the thermal solution comprises at least one sheet of compressed particles of exfoliated graphite which thermally shields the external surface or the second component of the electronic device from heat generated by the first component.

24. In early 2011 a request for reexamination of the '874 patent was rejected as improper. On March 8, 2011, the requesting party filed a new request for reexamination of the '874 patent citing prior art not previously considered by the PTO and asserting that a substantial new question of patentability of the '874 existed.

25. GTI waived its right to file a patent owner's statement in order to be placed in a pilot program being developed by the PTO to significantly expedite the treatment of reexaminations.

26. After consideration of the newly cited prior art and the arguments proffered by the third party requester, the PTO determined that "no substantial new question of patentability" was raised and denied the Request for Reexamination on May 20, 2011.

27. GTI is the owner of U.S. Patent No. 7,292,441 ("the '441 patent"), validly issued by the PTO on November 6, 2007. The '441 patent descends from the '874 patent and deals with heat dissipation in a particular electronic device - cell phones.

28. On March 15, 2011, a third party request for reexamination of the '441 patent was filed citing prior art not previously considered by the PTO and asserting that a substantial new question of patentability of the '441 patent existed.

29. GTI waived its right to file a patent owner's statement in order to be placed in a pilot program being developed by the PTO to significantly expedite the treatment of reexaminations.

30. After consideration of the newly cited prior art and the arguments proffered by the third party requester, the United States Patent and Trade Office determined that "no substantial new question of patentability" was raised and denied the Request for Reexamination on May 19, 2011.

31. Since 1981 ex parte applications for reexam have been granted in over 90% of the requests.

32. In the space of a few months, GTI has had two requests for reexam filed by unknown third parties concerning GTI patents dealing with the use of graphite sheets in electronic devices. Both were denied by the PTO before any response by GTI was filed.

33. In December of 2008, GTI instituted suit in the United States District Court for the Central District of California, Southern Division, Case No. 8:08-cv-0412 DOC (RNBx). The case involved an individual and his company who, in violation of the same patents at issue here, were attempting to supply Apple compressed sheets of exfoliated graphite for use in the Apple iPhone.

34. That litigation ended in a Stipulation for Entry of Final Judgment and Permanent Injunction filed with the Court on November 8, 2009. In that document the defendant agreed that the GTI patents in suit were valid, enforceable and that the act of offering expanded graphite sheets for sale in the United States constituted acts of direct and/or indirect infringement of at least the following claims of the GTI patents.

a. claims 1 and 24 of the '520 patent; and

b. claim 11 of the ‘874 patent.

35. The defendants also consented to the entry of a permanent injunction.

36. RIM sells a product sometimes referred to as the PlayBook.

37. There were three parts in the device which were designed to use sheets of exfoliated compressed graphite for heat dissipation.

38. The design specifications called for the use of GTI graphite.

39. RIM is using exfoliated graphite from a third party for use in the PlayBook.

40. The RIM PlayBook as described above, directly infringes one or more claims of the ‘520 patent, and the ‘874 patent.

41. RIM’s infringement has caused and will continue to cause both compensable and irreparable damage to GTI.

42. RIM’s infringement is willful.

43. Because of RIM’s infringement, GTI is entitled to the greater of GTI’s lost profits and/or a reasonable royalty based upon RIM’s sales, and a permanent injunction prohibiting RIM from making, using, selling, or offering to sell the products which create infringement.

WHEREFORE, GTI prays:

a. For an injunction prohibiting RIM and their subsidiaries, agents, employees and those acting in concert with them, from directly infringing the ‘520 patent, and the ‘874 patent;

b. For an order directing that all materials which are in the possession, custody, or control of RIM and their subsidiaries, agents, employees and those acting in concert with them which infringe the ‘520 patent, and the ‘874 patent, be delivered to the Court for impoundment;

c. For an award of GTI’s damages;

d. For an award of treble damages due to RIM's willful violation of GTI's rights;

e. For an assessment of costs and an award of GTI's reasonable attorney fees in prosecuting this action against RIM; and

f. For such other and further relief as this Court may deem just and proper.

Plaintiff demands a jury to determine all issues of fact.

Dated: October 7, 2011

Respectfully submitted,

SPENCER CRAIN CUBBAGE HEALY & McNAMARA, pllc

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