

4. RIM admits that between RIM Corp. and RIM Ltd., one or more of them is engaged in one or more of the following activities: designing, marketing and selling Smartphone devices under the BlackBerry brand, that such Smartphones include the Storm, Storm 2, Tour 9630, Bold 9000 and Bold 9700. Except as so admitted, RIM denies any remaining allegations in this paragraph.

JURISDICTION AND VENUE

5. RIM admits that the Complaint purports to state a claim for patent infringement under the Patent Laws of the United States, Title 35 of the United States Code, but denies that the claim has any merit.

6. Admitted.

7. RIM denies that there is no clearly more convenient venue. RIM specifically denies that it has infringed, whether directly, indirectly, or jointly, any valid and enforceable claims of U.S. Patent Nos. 6,925,183, RE 40,077, or 7,436,795.

8. RIM admits that this Court has personal jurisdiction over RIM for the purposes of this matter. Except as so admitted, RIM denies the allegations in this paragraph.

9. RIM Corp. admits to advertising BlackBerry products and technology throughout the United States, including the State of Texas and the Eastern District of Texas. RIM Corp. further admits that it sells BlackBerry products to various third parties, such as wireless phone carriers in the United States. Except as so admitted, RIM denies the allegations in this paragraph as they pertain to RIM. To the extent this paragraph pertains to third parties, RIM lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph, and therefore denies the same.

FIRST CAUSE OF ACTION

(Infringement of U.S. Patent No. 6,925,183)

10. RIM repeats and re-alleges its responses to paragraphs 1-9 as if those allegations have been fully set forth herein.

11. RIM admits that U.S. Patent No. 6,925,183 ("the '183 Patent") was issued by the U.S. Patent and Trademark Office ("USPTO") on August 2, 2005, and is entitled "Preventing Shortened Lifetimes of Security Keys in a Wireless Communications Security System." RIM admits that a purported copy of the '183 Patent is attached to the Complaint as Exhibit A. Except as so admitted, RIM lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in this paragraph, and therefore denies the same.

12. Denied.

13. Denied.

SECOND CAUSE OF ACTION

(Infringement of U.S. Patent No. RE 40,077)

14. RIM repeats and re-alleges its responses to paragraphs 1-13 as if those allegations have been fully set forth herein.

15. RIM admits that U.S. Patent No. RE 40,077 ("the '077 Patent") was issued by the USPTO on February 19, 2008, and is entitled "Window-Based Polling Scheme for a Wireless Communications Protocol." RIM admits that a purported copy of the '077 Patent is attached to the Complaint as Exhibit B. Except as so admitted, RIM lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in this paragraph, and therefore denies the same.

16. Denied.

17. Denied.

THIRD CAUSE OF ACTION

(Infringement of U.S. Patent No. 7,436,795)

18. RIM repeats and re-alleges its responses to paragraphs 1-17 as if those allegations have been fully set forth herein.

19. (Labeled paragraph 23 in the Complaint) RIM admits that U.S. Patent No. 7,436,795 ("the '795 Patent") was issued by the U.S. Patent and Trademark Office ("USPTO") on October 14, 2008, and is entitled "Timer Based Stall Avoidance Mechanism for High Speed Wireless Communication System." RIM admits that a purported copy of the '795 Patent is attached to the Complaint as Exhibit C. Except as so admitted, RIM lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in this paragraph, and therefore denies the same.

20. (Labeled paragraph 24 in the Complaint) Denied.

21. (Labeled paragraph 19 in the Complaint) Denied.

PLAINTIFF'S PRAYER FOR RELIEF

RIM denies all allegations that Innovative Sonic is entitled to any of the relief requested in its Prayer for Relief, or any other relief.

PLAINTIFF'S DEMAND FOR JURY TRIAL

RIM acknowledges that Innovative Sonic has demanded a jury trial.

AFFIRMATIVE DEFENSES

RIM alleges and asserts the following defenses in response to the allegations of the Complaint, undertaking the burden of proof only as to those defenses deemed affirmative defenses by law, regardless of how such defenses are denominated herein. RIM reserves the right to amend its Answer, including asserting additional defenses and counterclaims once discovery progresses. In addition, RIM alleges as follows:

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Claim)

1. Innovative Sonic's Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

(Non-infringement)

2. RIM does not and has not infringed, literally or under the doctrine of equivalents, directly, contributorily, by inducement, or jointly, any valid and enforceable claim of the '183, '077 and '795 Patents, willfully or otherwise.

THIRD AFFIRMATIVE DEFENSE

(Invalidity)

3. Upon information and belief, the claims of the '183, '077 and '795 Patents are invalid because they fail to satisfy one or more conditions for patentability set forth in 35 U.S.C. § 101 *et seq.*, including but not limited to sections 102, 103, and 112, and the applicable provisions of Title 37 of the Code of Federal Regulations.

FOURTH AFFIRMATIVE DEFENSE

(Limitations on Recovery)

4. Innovative Sonic is barred in whole or in part from recovering any damages for any alleged infringement of the '183, '077, and '795 Patents pursuant to 35 U.S.C. §§ 286 and/or 287.

5. Innovative Sonic is precluded from recovering costs under 35 U.S.C. § 288.

FIFTH AFFIRMATIVE DEFENSE

(Barring of Claims for Injunctive Relief)

6. Innovative Sonic is not entitled to injunctive relief against RIM because Innovative Sonic has an adequate remedy at law.

SIXTH AFFIRMATIVE DEFENSE

(Barring Claims Under Section 1498)

7. Innovative Sonic's claims are barred, at least in part, by 28 U.S.C. § 1498. To the extent that Innovative Sonic's claims relate to the sale to and/or use or manufacture by or for the United States government of the allegedly infringing products, Innovative Sonic's sole remedy is an action for damages filed in the United States Court of Federal Claims pursuant to 28 U.S.C. § 1498.

SEVENTH AFFIRMATIVE DEFENSE

(License and/or Exhaustion)

8. To the extent that Innovative Sonic's accusations of infringement relate to products or services that were provided by or for any licensee of the '183, '077 and '795 Patents and/or provided to RIM by or through a licensee of the '183, '077 and '795 Patents or under a covenant not to sue, Innovative Sonic's claims are barred.

EIGHTH AFFIRMATIVE DEFENSE

(Prosecution History Estoppel)

9. The doctrine of prosecution history estoppel precludes a finding of infringement, either directly, contributorily, or by inducement, for any claim of the '183, '077, and '795 Patents.

10. By reason of proceedings in the United States Patent and Trademark Office during prosecution of the '183, '077, and '795 Patents, and specifically statements, arguments,

amendments, assertions, and/or representations made by or on behalf of the applicants for the '183, '077, and '795 Patents; and/or by reason of prior statements, assertions, and/or representations made by or on behalf of alleged predecessors-in-interest to the '183, '077, and '795 Patents, Innovative Sonic is estopped to construe the claims of the patents-in-suit in any way to cover any product, method, or service of RIM under the Doctrine of Equivalents.

NINTH AFFIRMATIVE DEFENSE

(Intervening Rights – '077 Patent)

11. RIM is entitled to intervening rights pursuant to 35 U.S.C. § 252.

TENTH AFFIRMATIVE DEFENSE

(Reservation of Rights)

12. RIM reserves the right to add any additional defenses or counterclaims which may now exist or in the future may be available based on discovery and further factual investigation in this case, including laches, waiver, estoppels, misuse, inequitable conduct and/or unclean hands.

COUNTERCLAIMS

In further response to the Complaint for Patent Infringement ("Complaint") by Innovative Sonic Limited ("Innovative Sonic"), Research In Motion Limited and Research In Motion Corporation (collectively "RIM") assert the following Counterclaims against Innovative Sonic:

PARTIES

1. Counterclaimant Research In Motion Limited is a Canadian corporation, with a principal place of business in Waterloo, Canada.
2. Counterclaimant Research In Motion Corporation is a Delaware Corporation with a principal place of business in Irving, Texas.

3. On information and belief, Counterclaim-Defendant Innovative Sonic is a corporation organized under the laws of the Republic of Mauritius having its principal place of business in Taiwan, Republic of China.

JURISDICTION AND VENUE

4. These Counterclaims arise under the patent laws of the United States, 35 U.S.C. § 1 *et. seq.*, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201-02. The Court has subject matter jurisdiction over these Counterclaims pursuant to 28 U.S.C. §§ 1331, 1338, and 2201-02.

5. Innovative Sonic has consented to personal jurisdiction in this district by filing the Complaint in this action in this Court.

6. Venue for these Counterclaims is proper in this judicial district under 28 U.S.C. §§ 1391 (b) and (c) because Innovative Sonic is a corporation subject to the personal jurisdiction of this Court.

COUNT I

Declaratory Judgment of Non-infringement of U.S. Patent Nos. 6,925,183, RE 40,077 and 7,436,795

7. RIM incorporates by reference the allegations contained in Paragraphs 1 through 6 of its Counterclaims.

8. An actual controversy exists with respect to the alleged infringement of U.S. Patent Nos. 6,925,183, RE 40,077, or 7,436,795 (collectively "the '183, '077 and '795 Patents").

9. RIM does not and has not infringed, literally or under the doctrine of equivalents, directly, contributorily, by inducement, or jointly, any valid and enforceable claim of the '183, '077 and '795 Patents, willfully or otherwise.

10. A judicial determination of the respective rights of the parties with respect to the infringement of the claims of the '183, '077 and '795 Patents is now necessary and appropriate under 28 U.S.C. § 2201.

COUNT II

Declaratory Judgment of Invalidity of the '183 Patent, the '077 Patent , and the '795 Patent

11. RIM incorporates by reference the allegations contained in Paragraphs 1 through 10 of its Counterclaims.

12. An actual controversy exists with respect to the invalidity of the '183, '077 and '795 Patents.

13. The claims of the '183, '077 and '795 Patents are invalid because they fail to satisfy one or more conditions for patentability set forth in 35 U.S.C. § 101 *et seq.*, including but not limited to sections 102, 103, and 112.

14. A judicial determination of the respective rights of the parties with respect to the invalidity of the claims of the '183, '077 and '795 Patents is now necessary and appropriate under 28 U.S.C. § 2201.

DEMAND FOR JURY TRIAL

RIM hereby demands a trial by jury of all issues so triable in this action.

PRAYER FOR RELIEF

WHEREFORE, RIM prays for the following relief:

- A. That Innovative Sonic's claims against RIM be dismissed with prejudice and that Innovative Sonic take nothing by way of its Complaint;
- B. That judgment be rendered in favor of RIM;

C. For a declaration that RIM does not and has not infringed, literally or under the doctrine of equivalents, directly, contributorily, by inducement, or jointly, any valid and enforceable claim of the '183, '077 and '795 Patents, willfully or otherwise;

D. For a declaration that each and every claim of the '183, '077 and '795 Patents is invalid;

E. For an order finding this case exceptional pursuant to 35 U.S.C. § 285 and awarding RIM its reasonable attorneys fees;

F. That RIM be awarded its costs of suit incurred in this action; and

G. For such other and further relief as the Court deems just and proper.

Dated: December 14, 2010

Respectfully submitted,

By: /s/ Li Chen

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**ATTORNEYS FOR DEFENDANTS
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CERTIFICATE OF SERVICE

I hereby certify on this 14th day of December, 2010 that a copy of the foregoing was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel of record who have consented to electronic service through the Court's CM/ECF system pursuant to Local Rule CV-5(a)(3).

/s/ John Wisse _____