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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AVOCENT REDMOND CORP., a Washington
corporation,

Plaintiff,

v.

ATEN TECHNOLOGY INC., a California
corporation; and ATEN INTERNATIONAL
CO., LTD., a Taiwanese Company;

Defendants.

NO.

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”), and U.S. Patent No. 7,113,978 (“the ‘978 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

1 Solutions, Inc. and Apex Inc., is the plaintiff in a related case, *Avocent Redmond Corp. v. Rose*
2 *Electronics, et al.*, Case No. C06-1711-RSL, filed with this Court in 2006, currently set for trial
3 on October 1, 2012.

4 2. Avocent develops and markets computer hardware devices and systems,
5 including Keyboard, Video, Mouse (“KVM”) switches that enable workstations to
6 communicate with, and switch between, connected computers.

7 3. Defendant Aten Technology, Inc. is a corporation organized and existing under
8 the laws of the State of California, having its principal place of business at 23 Hubble Drive,
9 Irvine, California 92618. Defendant Aten International Co., Ltd. is a foreign corporation
10 organized and existing under the laws of Taiwan and has its principal place of business at 3F,
11 No. 125, Sec. 2, Datung Rd., Shijr City, Taipei, Taiwan. Aten Technology, Inc. and its foreign
12 parent Aten International Co., Ltd. are referred to hereafter collectively as the “Aten
13 Defendants.”

14 4. The Aten Defendants are in the business of developing, making, using,
15 importing, selling, offering to sell, marketing, and/or distributing, directly or through their
16 agents or affiliates, KVM switch products that enable workstations to communicate with, and
17 switch between, remote computers. The Aten Defendants transact business in this District and
18 elsewhere by making, using, selling and/or offering for sale products (including products that
19 are the subject of this action) in this District.

20 **JURISDICTION AND VENUE**

21 5. This is an action for patent infringement arising under the Patent Laws of the
22 United States, particularly 35 U.S.C. §§ 271 and 281-285. This Court has jurisdiction over the
23 subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338.

24 6. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b), (c) and/or (d),
25 and 1400(b).

1 7. The Aten Defendants are each subject to the personal jurisdiction of this Court.
2 Among other things, the Aten Defendants have transacted business and committed and/or
3 induced acts of infringement in the State of Washington and, more particularly, within this
4 District. The Aten Defendants have sold, and continue to sell, accused KVM switch products
5 directly and/or through intermediaries to customers in the State of Washington including
6 customers in this District. The Aten Defendants reside in this District for purposes of venue,
7 insofar as Defendants are subject to personal jurisdiction in this District and have committed
8 and/or induced acts of infringement in this District. The Aten Defendants have agreed and/or
9 acquiesced to jurisdiction in this District for claims of patent infringement involving the '096,
10 '264, and '978 patents.

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

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

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

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

24 11. As a result of the Aten Defendants' infringement of the '096 patent, Avocent
25 has been damaged and will continue to be damaged unless such infringement is enjoined by

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

5 12. The Aten Defendants' infringement of the '096 patent has been and is willful,
6 rendering this case exceptional.

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

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

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

12 15. The Aten Defendants have infringed and continue to infringe the '264 patent
13 under 35 U.S.C. § 271 by making, using, offering to sell, or selling in the United States, and/or
14 by importing into the United States, without authorization, KVM switches having on-screen
15 switch control that employ and embody the inventions of the '264 patent, other than those at
16 issue in *Avocent Redmond Corp. v. Rose Electronics, et al.*, Case No. C06-1711-RSL now
17 pending before this Court. Further, the Aten Defendants have infringed and continue to
18 infringe the '264 patent under 35 U.S.C. § 271 by contributing to the infringement of that
19 patent by others, and/or by inducing others to infringe that patent.

20 16. As a result of Aten Defendants' infringement of the '264 patent, Avocent has
21 been damaged and will continue to be damaged unless such infringement is enjoined by this
22 Court. Pursuant to 35 U.S.C. § 284, Avocent is entitled to damages adequate to compensate
23 for the infringement, including, inter alia, lost profits and/or a reasonable royalty. In addition,
24 Avocent has suffered and will continue to suffer irreparable harm for which there is no
25 adequate remedy at law.

1 17. The Aten Defendants' infringement of the '264 patent has been and is willful,
2 rendering this case exceptional.

3 **COUNT THREE – INFRINGEMENT OF THE '978 PATENT**

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

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

8 20. The Aten Defendants have infringed and continue to infringe the '978 patent
9 under 35 U.S.C. § 271 by making, using, offering to sell, or selling in the United States, and/or
10 by importing into the United States, without authorization, KVM Switches having on-screen
11 switch control that employ and embody the inventions of the '978 patent, other than those at
12 issue in *Avocent Redmond Corp. v. Rose Electronics, et al.*, Case No. C06-1711-RSL now
13 pending before this Court. Further, the Aten Defendants have infringed and continue to
14 infringe the '978 patent under 35 U.S.C. § 271 by contributing to infringement of that patent by
15 others, and/or by inducing others to infringe that patent.

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

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

PRAYER FOR RELIEF

1
2 WHEREFORE, Plaintiff Avocent prays that the Court enter a judgment against the
3 Aten Defendants as follows:

4 A. A decree that the Aten Defendants have each infringed the '096 patent, the '264
5 patent and the '978 patent;

6 B. Permanent injunctions restraining the Aten Defendants and their officers,
7 directors, partners, agents, employees, representatives, distributors, servants, attorneys and all
8 persons in active concert or participation with them from further acts of infringement of the
9 '096 patent, the '264 patent and the '978 patent, pursuant to 35 U.S.C. § 283;

10 C. An award of damages against the Aten Defendants sufficient to compensate
11 Avocent for the Aten Defendants' infringement of the '096 patent, the '264 patent and the '978
12 patent in an amount not less than Avocent's lost profits and/or a reasonable royalty, pursuant to
13 35 U.S.C. § 284;

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

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

19 F. An award of reasonable attorneys' fees against the Aten Defendants pursuant to
20 35 U.S.C. § 285, and Avocent's costs of suit against the Aten Defendants, pursuant to 35
21 U.S.C. § 284, based on the Aten Defendants' infringement of the '096 patent, the '264 patent
22 and the '978 patent; and

23 G. Such other and further relief as this Court deems just and appropriate.
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DEMAND FOR JURY TRIAL

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

DATED this 7th day of August, 2012.

s/John A. Knox, WSBA #12707
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