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15 Attorneys for Plaintiff  
16 SOFTVAULT SYSTEMS, INC.

*E-filing*

**ADR**

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

20 SOFTVAULT SYSTEMS, INC.  
21  
22 Plaintiff,  
23 vs.  
24 INTERNATIONAL BUSINESS  
MACHINES CORPORATION.  
25 Defendant.

CASE NO. **CV 12-05546**

HR

**COMPLAINT FOR  
INFRINGEMENT OF  
U.S. PATENT NOS. 6,249,868  
AND 6,594,765**

**JURY TRIAL DEMANDED**

1 Plaintiff SOFTVAULT SYSTEMS, INC. files its Complaint against  
2 Defendant INTERNATIONAL BUSINESS MACHINES CORPORATION,  
3 alleging as follows:

4 **THE PARTIES**

5 1. Plaintiff SOFTVAULT SYSTEMS, INC. ("SOFTVAULT") is a  
6 corporation organized and existing under the laws of the State of Washington with  
7 its principle place of business in the State of Washington.

8 2. Upon information and belief INTERNATIONAL BUSINESS  
9 MACHINES CORPORATION ("DEFENDANT" or "IBM") is a corporation  
10 organized and existing under the laws of the State of New York, with its principal  
11 place of business in Armonk, New York. Defendant may be served with process  
12 through its registered agent CT Corporation System, 818 West 7<sup>th</sup> Street, Los  
13 Angeles, CA 90017-3407.

14 **JURISDICTION AND VENUE**

15 3. This is an action for infringement of United States patents. This Court  
16 has exclusive jurisdiction of such action under Title 28 U.S.C. § 1338(a).

17 4. Upon information and belief, IBM is subject to personal jurisdiction  
18 by this Court. IBM has committed such purposeful acts and/or transactions in the  
19 State of California that it reasonably knew and/or expected that it could be hailed  
20 into a California court as a future consequence of such activity. IBM makes, uses,  
21 and/or sells infringing products within the Northern District of California and has a  
22 continuing presence and the requisite minimum contacts with the Northern District  
23 of California, such that this venue is a fair and reasonable one. Upon information  
24 and belief, IBM has transacted and, at the time of the filing of this Complaint, is  
25 continuing to transact business within the Northern District of California. For all  
26 of these reasons, personal jurisdiction exists and venue is proper in this Court  
27 under 28 U.S.C. §§ 1391(b)(1), (2) and (c)(2) and 28 U.S.C. § 1400(b).

28

1  
2 **PATENTS-IN-SUIT**

3 5. On June 19, 2001, United States Patent No. 6,249,868 BI (“the ‘868  
4 Patent”) was duly and legally issued for “METHOD AND SYSTEM FOR  
5 EMBEDDED, AUTOMATED, COMPONENT-LEVEL CONTROL OF  
6 COMPUTER SYSTEMS AND OTHER COMPLEX SYSTEMS.” A true and  
7 correct copy of the ‘868 Patent is attached hereto as Exhibit A and made a part  
8 hereof.

9 6. On July 15, 2003, United States Patent No. 6,594,765 B2 (“the ‘765  
10 Patent”) was duly and legally issued for “METHOD AND SYSTEM FOR  
11 EMBEDDED, AUTOMATED, COMPONENT-LEVEL CONTROL OF  
12 COMPUTER SYSTEMS AND OTHER COMPLEX SYSTEMS.” A true and  
13 correct copy of the ‘765 Patent is attached hereto as Exhibit B and made a part  
14 hereof.

15 7. The ‘868 Patent and the ‘765 Patent are sometimes referred to herein  
16 collectively as “the Patents-in-Suit.”

17 8. As it pertains to this lawsuit, the Patents-in-Suit, very generally  
18 speaking, relate to a method and system of protecting electronic, mechanical, and  
19 electromechanical devices and systems, such as for example a computer system,  
20 and their components and software from unauthorized use. Specifically, certain  
21 claims of the ‘868 and ‘765 Patents disclose the utilization of embedded agents  
22 within system components to allow for the enablement or disablement of the  
23 system component in which the agent is embedded. The invention disclosed in the  
24 Patents-in-Suit discloses a server that communicates with the embedded agent  
25 through the use of one or more handshake operations to authorize the embedded  
26 agent. When the embedded agent is authorized by the server, it enables the device  
27 or component, and when not authorized the embedded agent disables the device or  
28 component.

1 **FIRST CLAIM FOR RELIEF**

2 **(Patent Infringement)**

3 9. SoftVault repeats and realleges every allegation set forth above.

4 10. SoftVault is the owner of the Patents-in-Suit with the exclusive right  
5 to enforce the Patents-in-Suit against infringers, and collect damages for all  
6 relevant times, including the right to prosecute this action.

7 11. Upon information and belief, IBM is liable under 35 U.S.C. §271(a)  
8 for direct infringement of the Patents-in-Suit because it manufactures, makes, has  
9 made, uses, practices, imports, provides, supplies, distributes, sells, and/or offers  
10 for sale products and/or systems that practice one or more claims of the Patents-in-  
11 Suit.

12 12. More specifically, IBM infringes the Patents-in-Suit because it  
13 manufactures, makes, has made, uses, practices, imports, provides, supplies,  
14 distributes, sells, and/or offers for sale products and systems which prevent  
15 unauthorized use of a computer system through the ability to enable or disable the  
16 operation of a device's components through an authorization process performed by  
17 an embedded agent in the component device and a server. By way of example  
18 only, IBM's Tivoli Endpoint Manager, at a minimum, in the past directly infringed  
19 and continues to directly infringe at least Claims 1 and 44 of the '868 Patent, as  
20 well as at least Claim 9 of the '765 Patent.

21 13. IBM's Tivoli Endpoint Manager system includes the capability to  
22 enable or disable a mobile device, such as a laptop or smart phone, to prevent  
23 misuse of the system by rogue devices and/or rogue servers. The Endpoint  
24 Manager system includes an intelligent agent that is installed on a mobile device  
25 and communicates with an Endpoint Manager server. This communication  
26 includes a series of message exchanges constituting a handshake operation  
27 between the intelligent agent and the Endpoint Manager server. Through these  
28 exchanges the Endpoint Manager server can authenticate and authorize a device in

1 which the intelligent agent is embedded. When the intelligent agent is authorized  
2 by the Endpoint Manager server, the mobile device operates normally and when  
3 the intelligent agent is not authorized, the mobile device is remotely locked and  
4 disabled.

5 14. IBM has actual notice of the Patents-in-Suit at least as early as the  
6 filing of this Complaint.

7 15. SoftVault has been damaged as a result of IBM's infringing conduct.  
8 IBM is, thus, liable to SoftVault in an amount that adequately compensates  
9 SoftVault for IBM's infringement, which, by law, cannot be less than a reasonable  
10 royalty, together with interest and costs as fixed by this Court under 35 U.S.C. §  
11 284.

#### 12 PRAYER FOR RELIEF

13 SoftVault requests that the Court find in its favor and against IBM, and that  
14 the Court grant SoftVault the following relief:

- 15 a. Judgment that one or more claims of the Patents-in-Suit have been  
16 infringed, either literally and/or under the doctrine of equivalents, by  
17 IBM;
- 18 b. Judgment that IBM account for and pay to SoftVault all damages to  
19 and costs incurred by SoftVault because of IBM's infringing activities  
20 and other conduct complained of herein;
- 21 c. That IBM, its officers, agents, servants and employees, and those  
22 persons in active concert and participation with any of them, be  
23 permanently enjoined from infringement of the Patents-in-Suit. In the  
24 alternative, if the Court finds that an injunction is not warranted,  
25 SoftVault requests an award of post judgment royalty to compensate  
26 for future infringement;

- 1 d. That SoftVault be granted pre-judgment and post-judgment interest on  
2 the damages caused to it by reason of IBM's infringing activities and  
3 other conduct complained of herein;  
4 e. That this Court declare this an exceptional case and award SoftVault  
5 its reasonable attorney's fees and costs in accordance with 35 U.S.C.  
6 § 285; and  
7 f. That SoftVault be granted such other and further relief as the Court  
8 may deem just and proper under the circumstances.

9 **JURY DEMAND**

10 Plaintiff hereby requests a trial by jury pursuant to Rule 38 of the Federal  
11 Rules of Civil Procedure.

12  
13  
14 DATED: October 26, 2012.

/s/ Benedict O'Mahoney

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