

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**Case No. :** \_\_\_\_\_

Wi-LAN USA, INC.	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
RESEARCH IN MOTION LIMITED and	)	
RESEARCH IN MOTION	)	
CORPORATION	)	
	)	
Defendants.	)	
_____	)	

**COMPLAINT**

This is a complaint for patent infringement. Plaintiff, Wi-LAN USA, Inc., for its Complaint states as follows:

**PARTIES**

1. Plaintiff Wi-LAN USA, Inc. (“Wi-LAN”) is a corporation existing under the laws of the state of Florida with its principal place of business at 175 S.W. 7<sup>th</sup> Street, No. 1803, Miami, Florida 33130. Plaintiff is involved in the business of licensing and enforcing intellectual property from its parent corporation Wi-LAN Inc., a Canadian corporation and leading technology innovation and licensing business actively engaged in the research, development, and licensing of new technologies.

2. Upon information and belief, Defendant Research In Motion Limited is a corporation organized and existing under the laws of Ontario, Canada with its

principal place of business at 295 Phillip Street, Waterloo, Ontario, Canada, N2L 3W8. Defendant Research In Motion Limited directly or indirectly through subsidiaries or affiliated companies markets, distributes, manufactures, imports, sells, and/or offers to sell consumer electronic products, including mobile phones, tablets, accessories, and associated equipment and software, in this judicial district and throughout the United States.

3. Upon information and belief, Defendant Research In Motion Corporation is a corporation organized and existing under the laws of the state of Delaware with a principal place of business at 122 West John Carpenter Freeway, Suite 430, Irving, Texas 75038 and, upon information and belief, a regional place of business in Sunrise, Florida. Defendant Research In Motion Corporation directly or indirectly through subsidiaries, parents, or affiliated companies markets, distributes, manufactures, imports, sells, and/or offers to sell consumer electronic products, including mobile phones, tablets, accessories, and associated equipment and software, in this judicial district and throughout the United States.

4. Upon information and belief, Defendant Research In Motion Corporation is a wholly owned subsidiary of Defendant Research In Motion Limited and is the managing entity of the United States operations of Defendant Research In Motion Limited. Upon information and belief, Defendant Research In Motion Limited and Defendant Research In Motion Corporation share, at least some, directors and/or officers. Upon information and belief, Defendant Research

In Motion Limited exercises operational control over Defendant Research In Motion Corporation.

### **JURISDICTION**

5. This action for patent infringement arises under the Patent Act, 35 U.S.C. § 271, et seq. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over Defendants under Florida Statute § 48.193. Defendants have engaged in business, have at least one office, and have committed or caused tortuous injury in this judicial district. Defendants have also engaged in substantial and not isolated activity within this state.

7. Upon information and belief, Defendants have conducted business in this judicial district. Upon information and belief, Defendant Research In Motion Corporation has been registered as a foreign corporation in Florida since 2002 and currently has a registered agent in this judicial district. Upon information and belief, Defendant Research In Motion Limited's website lists two offices in this judicial district located at 1200 Sawgrass Corporate Parkway, Suites 100, 200, Sunrise, Florida 33323 and 13800 Northwest 14th St., Sunrise, Florida 33323. Upon information and belief, since 2005, Defendants have annually hosted their largest BlackBerry event, "BlackBerry World" (formerly part of the "Wireless Enterprise Symposium"), in Florida.

8. Defendants have committed acts of patent infringement within this judicial district. Defendants, directly or through intermediaries, import,

manufacture, use, sell, and/or offer to sell (including through <http://www.rim.com>, an interactive web page) infringing products within this judicial district.

Defendants also purposefully and voluntarily place infringing products into the stream of commerce with the expectation that they will be purchased by consumers in this judicial district. Defendants reasonably should have anticipated being subject to suit in this judicial district. Defendants' acts of patent infringement are aimed at this judicial district and/or have effect in this judicial district.

9. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400(b).

### **COUNT I**

#### **Claim for Patent Infringement of U.S. Patent No. 6,260,168**

10. The allegations of paragraphs 1 through 9 are re-alleged as if fully set forth herein.

11. Wi-LAN is the owner of United States Patent No. 6,260,168 ("the '168 Patent") which duly and legally issued on July 10, 2001.

12. The Bluetooth Special Interest Group ("Bluetooth SIG") is a not-for-profit trade association responsible for publishing specifications for certain wireless technology under the Bluetooth name. Upon information and belief, Defendant Research In Motion Limited is a member of the Bluetooth SIG.

13. The Bluetooth Specification, published by the Bluetooth SIG, defines a Data Voice packet ("DV packet") for use in data communication wherein

the DV packet's payload is divided into a data field that is protected by forward error protection (FEC) and a voice field that is not protected by FEC. Figure 6.10, reproduced below, of the Bluetooth Specification Version 2.1 illustrates the DV packet format.

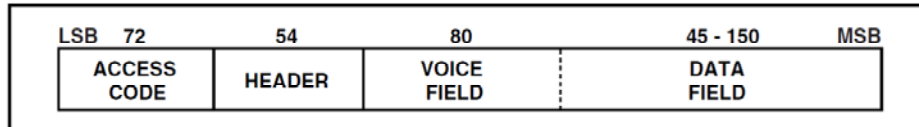


Figure 6.10: DV packet format

14. Defendants make, import, sell, use, and/or offer to sell mobile phones, tablets, and/or accessories that, upon information and belief, incorporate the use of DV packets for data communication as defined in the Bluetooth Specification (these products hereinafter “Bluetooth-Compliant Products”). Defendants have caused to be listed at least 60 product models as being compliant with Bluetooth Specification on the Bluetooth SIG’s “Qualified Listings” accessible at <https://www.bluetooth.org/>. Examples of Defendants’ Bluetooth-Compliant Products include, but are not limited to, the BlackBerry PlayBook, Bold, Torch, Curve, Style, Pearl, Storm, Storm2, Tour, Wireless Headset, Visor Mount Speakerphone, Presenter, and Smart Card Reader. Bluetooth-Compliant Products of Defendants are being sold, offered for sale, and used in this judicial district.

15. Defendants’ making, importing, selling, using and/or offering for sale their Bluetooth-Compliant Products that incorporate the use of DV packets for data communication directly infringes the ‘168 patent.

16. Upon information and belief, Defendants have been and are indirectly infringing, e.g., at least as contributory infringers, one or more claims of the '168 Patent by their actions relating to making, using, importing, selling and/or offering for sale their Bluetooth-Compliant Products that incorporate the use of DV packets for data communication.

17. Defendants' Bluetooth-Compliant Products that incorporate the use of DV packets for data communication constitute at least a material component of the invention claimed in the '168 Patent in that these devices when implementing DV packets determine portions of a data link layer that do not require forward error correction and assign portions of the data link layer segments to include forward error correction and portions to be unprotected based on that determination. See, e.g., Bluetooth Specification Version 2.1 at Section 6.5.2.4 "DV packet". The components and functionality (including software) for generating the DV packets have no substantial non-infringing use and are not a staple article of commerce.

18. Defendants know and have known their Bluetooth-Compliant Products are especially made or especially adapted for use in infringing the '168 Patent. At least as early as service of this Complaint, Defendants had knowledge of the '168 Patent. Upon information and belief, Defendants had knowledge of the '168 Patent prior to service of this Complaint through competition, collaboration, and litigation with the original assignee of the '168 Patent. The original assignee of the '168 Patent, Glenayre Electronics Inc. ("Glenayre"), was a

direct competitor with Defendants. During the same year the '168 patent issued, Glenayre and Defendants were involved in patent infringement litigation, *Research In Motion v. Glenayre Elecs.*, 01-cv-00322 (D. Del. 2001). After the parties settled the patent litigation, Defendants and Glenayre entered into a collaboration relationship to integrate Glenayre's messaging services with Defendants' BlackBerry Wireless Handheld. Upon information and belief, Defendants would have been aware of the '168 Patent based on its competition, collaboration, and litigation with Glenayre.

19. The use of Defendants' Bluetooth-Compliant Products to transmit DV packets for data communication results in direct infringement of the '168 Patent. Upon information and belief, users of Defendants' Bluetooth-Compliant Products, including employees of Defendants, use the products to infringe the '168 Patent.

20. Plaintiff has provided notice pursuant to and in satisfaction of 35 U.S.C. § 287.

21. Plaintiff has been and continues to be irreparably harmed and monetarily harmed by Defendants' infringement of the '168 Patent. If Defendants' infringement is not enjoined, Plaintiff will continue to be irreparably and monetarily harmed.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests the following relief:

- A. A judgment that Defendants have infringed the '168 Patent;
- B. A judgment and order requiring Defendants to pay all appropriate damages under 35 U.S.C. § 284;
- C. A judgment and order requiring Defendants to pay the costs of this action, including all disbursements, and attorney fees, if this case is exceptional as provided by 35 U.S.C. § 285; and
- D. Both preliminary and permanent injunctions against Defendants and their officers, agents, employees, attorneys, and all persons in active concert or participation with them, prohibiting infringement of the '168 Patent; and
- E. Such other and further relief that this Court may deem just and equitable.



**DEMAND FOR A JURY TRIAL**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff  
demands a trial by jury of all issues so triable.

Dated: December 10, 2012

**Wi-LAN USA, Inc.**

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