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UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

John T. Ziemba,

Plaintiffs,

- against -

Incipio Technologies, Inc.,

Defendants.

CASE NO.: \_\_\_\_\_

JURY TRIAL DEMANDED

**COMPLAINT**

Plaintiff John T. Ziemba (“Plaintiff”) sues Defendant Incipio Technologies, Inc. (“Defendant”) for patent infringement and alleges as follows:

**PARTIES**

1. John T. Ziemba is a resident of the State of New Jersey, residing at 242 Central Avenue, Edison, NJ 08817.

2. Defendant Incipio Technologies, Inc., on information and belief, is a corporation organized and existing under the laws of the State of California, with its principal place of business located at 6001 Oak Canyon Irvine, CA 92618.

3. Defendant, on information and belief, conducts business in this judicial district and has committed the acts complained of herein in this judicial district.

### **JURISDICTION AND VENUE**

4. This is a civil action for patent infringement and arises under, among other things, the United States Patent Laws, 35 U.S.C. §§1 *et seq.* Jurisdiction is therefore based upon 28 U.S.C. §§ 1331 and 1338(a), providing for federal question jurisdiction of patent infringement actions and exclusive jurisdiction of patent infringement actions in the U.S. District Courts.

5. This Court has jurisdiction under 28 U.S.C. § 1332, in that there is complete diversity between Plaintiff and Defendant, and the amount in controversy exceeds the sum or balance of \$75,000, exclusive of interest and costs.

6. This Court has supplemental jurisdiction over the state law claims of this complaint pursuant to 28 U.S.C. § 1367(a).

7. Personal jurisdiction over Defendant is proper under at least the New Jersey long-arm statute, N.J.R. 4:4-4. Venue in this district is proper under 28 U.S.C. §§ 1391 and 1400(b). For example, on information and belief, Defendant and / or its partners and / distributors have advertised, demonstrated, offered for sale, and/or sold products in this district and elsewhere, including, but not limited to, products that infringe the patents-in-suit.

8. Defendant is actively engage in promoting, advertising, marketing, or offering its services and / or doing business within this judicial district, and otherwise has sufficient contacts with this district to confer jurisdiction to this Court.

## **BACKGROUND**

9. Plaintiff specializes in research, development and innovation of intellectual property. Through its innovation Plaintiff owns a number of patents and / or patent applications. Plaintiff markets its products and technology by manufacturing, and / or licensing or selling the patent rights to its products and technologies to name brand marketers and major retailers. Innovative products of Plaintiff include compartmentalized protective case for a portable handheld electronic device. Plaintiff's business includes discovery, research, development, manufacture, engineering, and sale of its innovative compartmentalized protective case for portable handheld electronic device products.

10. Included in Plaintiff's intellectual property portfolio are compartmentalized protective cases for portable handheld electronic devices proven effective in securing portable handheld devices and personal items such as money, credit cards, and / or identification cards in a convenient compact manner. Innovatively, the compartmentalized protective cases is constructed having a major compartment configured for receiving and housing the electronic device and a second compartment configured for receiving and housing personal items. Portable handheld electronic devices include cell phones and / or smart phones. Personal items that are contemplated include identification cards (ID), credit cards, bank cards, currency, keys, business cards, make-up, etc.

11. On April 16, 2013, the United States Patent and Trademark Office ("USPTO") issued United States Patent No. 8,418,852 ("852 Patent") entitled "Compartmentalized Protective Case for Portable Handheld Electronic Devices". A copy of the '852 Patent is

attached as Exhibit A.

12. Plaintiff is the inventor and owner of the full right, title, and interest in the '852 Patent.

13. Pursuant to 35 U.S.C. § 282, each of the claims of the '852 Patent are presumed valid.

14. Defendant manufactures, uses, offers for sale, and/or sells compartmentalized protective cases for electronic devices, including smart phones. Defendant's products are distributed throughout the United States generally, including in the District of New Jersey.

15. Defendant's compartmentalized protective cases for electronic devices include / have included, but are not herein limited to, cases sold under the brand names: 1) the STOWAWAY® Case for Samsung Galaxy S 4 (SA); 2) the STOWAWAY® Case for Apple iPhone 4/4S/5 (SA-iPhone); 3) WATSON WALLET, Folio Wallet Case with Removable Cover; and 4) STASHBACK for Apple iPhone 5. Images of these compartmentalized protective cases for electronic devices of Defendant are attached as Exhibits B, C, D and E. Defendant's compartmentalized protective cases for electronic devices have been sold and / or offered for sale throughout the United States, including on the World Wide Web found at <http://www.incipio.com/cases.html>.

**COUNT I**  
**INFRINGEMENT OF THE '852 PATENT**

16. Plaintiff realleges and incorporates into this section the preceding paragraphs of this Complaint.

17. In violation of 35 U.S.C. § 271(a), (b), and (c), Defendant has been and is still infringing, contributing to, and/or actively inducing infringement of the '852 Patent by manufacturing, using, offering to sell, and/or selling within the State of New Jersey and / or elsewhere in the United States, compartmentalized protective cases for electronic devices that are covered by one or more claims of the '852 Patent.

18. Defendant has profited and continues to profit from its manufacture, use, offers of sale, and sale of the infringing compartmentalized protective cases for electronic devices.

19. Plaintiff has been and continues to be damaged and irreparably harmed by Defendant's infringement of the '852 Patent.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully asks this Court to enter judgment for Plaintiff and against Defendant and to grant Plaintiff the following relief:

(a) A judgment pursuant to 35 U.S.C. § 271 finding that Defendant has / is infringing the '852 Patent;

(b) An order pursuant to 35 U.S.C. § 283 preliminarily and permanently enjoining Defendant from infringing the '852 Patent;

(c) An award of damages pursuant to 35 U.S.C. § 284 adequate to compensate Plaintiff for Defendant's infringement of the '852 Patent and an accounting to determine the proper amount of such damages;

(d) An award pursuant to 35 U.S.C. § 284 of costs and prejudgment and post judgment

interest on Plaintiff's compensatory damages;

(e) An award pursuant to 35 U.S.C. § 285 of Plaintiff's attorneys' fees incurred in this action;

(f) An order directing the recall and destruction of any and all existing unsold compartmentalized cases and products of Defendant that infringe the '852 Patent;

(g) Preliminary and permanent injunctive relief; and

(h) Any and all other relief that this Court deems appropriate.

**JURY DEMAND**

Plaintiff requests a trial by jury on all issues so triable.

Dated: September 19, 2013

John T. Ziemba  
By Counsel,



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