

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

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IOTTIE INC. and HSM Co., Ltd.,

Civil Action No.

Plaintiffs,

v.

**COMPLAINT FOR PATENT  
INFRINGEMENT; DEMAND  
FOR JURY TRIAL**

Merkury Innovations

Defendants.

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Plaintiffs iOttie, Inc. and HSM Co., Ltd. (respectively, “iOttie” or “HSM”, collectively and/ or individually referred to as “Plaintiff” or “Plaintiffs”), for their complaint against Defendant Merkury Innovations (“Merkury”) for preliminary and permanent injunctive and declaratory relief and for damages, including treble or multiple damages, for patent infringement, states and alleges as follows:



## **NATURE OF THE ACTION**

1. Plaintiffs allege that Merkury has infringed and continues to infringe one or more claims of the United States Patent No. 8,627,953 (“the 953 Patent” or “Patent-in-Suit”). This is a civil action for patent infringement of the ‘953 Patent, including willful infringement of the ‘953 Patent by Merkury.
2. The technology at issue involves a holding mechanism and, more particularly, to a holder for a portable devices.

## **THE PARTIES**

3. HSM is a corporation organized under the laws of the Republic of Korea, having a place of business located in Seoul, Korea. It is the owner of the ‘953 Patent.
4. iOttie is a corporation organized under the laws of the State of New York and maintains its principal place of business at 33 W 46<sup>th</sup> Street, 6FL New York, NY 10036. iOttie is the exclusive licensee, from HSM of the ‘953 Patent.
5. On information and belief, Merkeury is a New York corporation with its principal place of business at 39 Broadway, Suite 1530 New York, New York 10006.

## JURISDICTION AND VENUE

6. This action is based upon and arises under the Patent laws of the United States, 35 U.S.C. §§ 100 *et seq.* In particular §§ 271,281,283,284 and 285 is intended to redress infringement of the '953 Patent owned and exclusively licensed by Plaintiffs.
7. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a)(b).
8. Merkury has transacted and continues to transact business in the United States and in this judicial district and division by: using or causing to be used; making; importing or causing to be imported; offering to sell or causing to be offered for sale; and/or selling or causing to be sold directly, through intermediaries and/or as an intermediary, a variety of products that infringe the '953 Patent to customers in the United States, and infringes Plaintiff's copyrights, with sales to customers in this judicial district and division, and Defendant will continue to do so unless enjoined by this Court.
9. Upon information and belief, Merkury is subject to this Court's general and/or specific personal jurisdiction, because it has committed acts of infringement in the District as alleged below;

and/or Merkury is engaged in continuous activities in the State of New Jersey. Merkury's acts caused injury to Plaintiffs in this State, and Merkury regularly does or solicits business or engages in a course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this State. Therefore, this Court has personal jurisdiction over Merkury.

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

#### **THE PATENT-IN-SUIT**

11. On January 14, 2014, the '953 Patent, entitled "Holder for portable device" was duly and legally issued by the United States Patent and Trademark Office. HSM is the owner of all rights, title, and interest in and to the '953 Patent. A copy of the '953 Patent is attached as Exhibit A.
12. iOttie is an exclusive licensee of the '953 Patent and possess the right to sue and to recover for infringement of the '953 Patent.

#### **FACTUAL BACKGROUND**

13. HSM is the owner of the '953 Patent, and has invested substantial time and money in designing, developing, manufacturing and producing holder products that incorporate the patented technology HSM, e.g., developed the "Easy One Touch" Car Mount Holder for a portable device.
14. HSM has granted to iOttie the exclusive right to sell, re-sell and distribute the products under iOttie's own brand name. iOttie has purchased and is purchasing the products from HSM. iOttie has sold and is selling the product in the United States. iOttie is the owner of the copyrighted works.
15. iOttie holds full power and authority to bring and prosecute lawsuits against third parties for infringement of the '953 Patent, the '524 registration.
16. Merkury at least uses, causes to be used, makes imports, causes to be imported, offers for sale, causes to be offered for sale, sells, and/or causes to be sold in the United States and in this judicial district a product (e.g., the Merkury 3-in-1 Smartphone Car Mount such as model no MI-UPVM1) for holding a portable device that incorporates the technology claimed in the '953 Patent.

17. Merkury has induced and continues to induce infringement of the '953 Patent in the United States and in this judicial district.
18. Merkury will continue to do so unless enjoined.

### **COUNT 1**

### **CLAIM FOR DIRECT INFRINGEMENT OF THE '953 PATENT**

19. Plaintiffs reallege and incorporate by reference as if fully set forth herein the allegations contained in paragraphs 1 through 24.
20. On January 14, 2014, United States Letters Patent No. 8,627,953 was issued to the HSM for an invention in a holder for a portable device. HSM owned the patent throughout the period of Merkury's infringing acts and still owns the '953 Patent.
21. Merkury has used, made, sold, imported or offered a Car Mount Holder (e.g., the Merkury 3-in-1 Smartphone Car Mount such as model no MI-UPVM1) for sale in the United States, and has used the Car Mount Holder (e.g., the Merkury 3-in-1 Smartphone Car Mount such as model no MI-UPVM1) in conjunction with a portable device in the United States. Such sales and offers for sale are in this judicial district and division.

22. Merkury has infringed and is still infringing the Letters Patent by making, selling, offering for sale, and using the Car Mount Holder (e.g., the Merkury 3-in-1 Smartphone Car Mount such as model no MI-UPVM1) for a portable device that embodies the patented invention, and Merkury will continue to do so unless enjoined by this court.
23. Plaintiffs have complied with the statutory requirement of placing a notice of the Letters Patent on Plaintiff's Car Mount Holder for the portable device it manufactures and sells and has given Defendant written notice of the infringement.
24. For at least some period of time, Merkury has known that the Car Mount Holder (e.g., the Merkury 3-in-1 Smartphone Car Mount such as model no MI-UPVM1) used in conjunction with Merkury's portable devices, infringe certain claims of the '953 patent.
25. Merkury's actions constitute direct patent infringement under 35 U.S.C. § 271 (a).
26. Plaintiffs are informed and believe that Merkury's infringement of the '953 patent will continue unless enjoined by this Court.
27. Merkury's direct infringement has been intentional, willful, and with a reckless disregard for the rights of Plaintiffs.

28. Merkury has caused Plaintiffs substantial injury, including lost profits, for which Plaintiffs are entitled to damages adequate to compensate them for direct infringement.
29. Merkury's direct infringement warrants the assessment of increased damages pursuant to 35 U.S.C. § 284, and an award of attorneys' fees pursuant to 35 U.S.C. § 285.

## **COUNT II**

### **CLAIM FOR CONTRIBUTORY INFRINGEMENT OF THE**

### **'953 PATENT**

30. Plaintiffs reallege and incorporate by reference as if fully set forth herein the allegations contained in paragraphs 1 through 35.
31. Merkury has made, sold, imported or offered the Car Mount Holder (e.g., the Merkury 3-in-1 Smartphone Car Mount such as model no MI-UPVM1) for sale in the United States.
32. The Merkury Car Mount Holder (e.g., the Merkury 3-in-1 Smartphone Car Mount such as model no MI-UPVM1) is especially made, or especially adapted, for using in the making of device that infringe certain claims of the '953 patent.



33. The Merkury Car Mount Holder (e.g., the Merkury 3-in-1 Smartphone Car Mount such as model no MI-UPVM1) has no substantial non-infringing use.
34. For at least some period of time, Merkury has known that the Car Mount Holder (e.g., the Merkury 3-in-1 Smartphone Car Mount such as model no MI-UPVM1) is especially made, advertised, and offered for sale for use by third party users, infringing certain claims of the '953 patent.
35. Merkury's actions constitute contributory patent infringement under 35 U.S.C. §271 (c).
36. Plaintiffs are informed and believe that Merkury's contributory infringement of the '953 patent will continue unless enjoined by this Court.
37. Merkury's contributory infringement has been intentional, willful, and with a reckless disregard for the rights of the Plaintiffs.
38. Merkury has caused Plaintiffs substantial injury, including lost profits, for which Plaintiffs are entitled to damages adequate to compensate them for contributory infringement.
39. Merkury's contributory infringement warrants the assessment of increased damages pursuant to 35 U.S.C. § 285.

### **COUNT III**

#### **CLAIM FOR ACTIVE INDUCEMENT OF INFRINGEMENT**

##### **OF THE '953 PATENT**

40. Plaintiffs reallege and incorporate by reference as if fully set forth herein the allegations contained in paragraphs 1 through 43.
41. Plaintiffs are informed and believe that third party users of the Merkury Car Mount Holder (e.g., the Merkury 3-in-1 Smartphone Car Mount such as model no MI-UPVM1) are directly infringing certain claims of the '953 patent.
42. Plaintiffs are informed and believe that by advertising, offering for sale, selling and supporting the Merkury Car Mount Holder (e.g., the Merkury 3-in-1 Smartphone Car Mount such as model no MI-UPVM1), Merkury has knowingly and intentionally caused third party users of the Merkury Car Mount Holder (e.g., the Merkury 3-in-1 Smartphone Car Mount such as model no MI-UPVM1) to infringe certain claims of the '953 patent.
43. Plaintiffs are informed and believe that, after having been put on notice of the existence of the '953 patent and the infringing use of the Merkury Car Mount Holder (e.g., the Merkury 3-in-1 Smartphone Car Mount such as model no MI-UPVM1), Merkury has continued to

advertise, offer for sale, sell and support the Merkury Car Mount Holder (e.g., the Merkury 3-in-1 Smartphone Car Mount such as model no MI-UPVM1) to third party users with the intent to induce third party users to infringing the '953 patent.

44. Merkury's actions constitute active inducement of patent infringement under 35 U.S.C. § 271 (b).
45. Plaintiffs are informed and believe that Merkury's active inducement of infringement of the '953 patent will continue unless enjoined by this Court.
46. Merkury's active inducement of infringement has been intentional, willful, and with a reckless disregard for the rights of the Plaintiffs.
47. Merkury has caused Plaintiffs substantial injury, including lost profits, for which Plaintiffs are entitled to damages adequate to compensate them for direct infringement.
48. Merkury's active inducement of infringement warrants the assessment of increased damages pursuant to 35 U.S.C. § 284, and an award for attorney's fees pursuant to 35 U.S.C. § 285.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for judgment and seek relief against

Defendant as follows:

- A. An adjudication that one or more claims of the Patent-in-suit has been infringed, either literally and/or under the doctrine of equivalents, by the Defendant and/or the Defendant in conjunction with its customers;
- B. An adjudication that Defendant has induced infringement of one or more claims of the Patent-in-suit;
- C. An adjudication that Defendant has contributed to the infringement of one or more claims of the Patent-in-suit;
- D. An award to Plaintiff of damages adequate to compensate Plaintiff for the Defendant's acts of infringement together with prejudgment interest pursuant to 35 U.S.C. § 284;
- F. That, should Defendant's acts of infringement be found to be willful from the time that Defendant became aware of the infringing nature of its actions, that the Court award treble damages for the period of such willful infringement pursuant to 35 U.S.C. § 284;
- G. A grant of permanent injunction pursuant to 35 U.S.C. § 283, enjoining the Defendant from further acts of infringement with respect to the claims of the Patent-in-suit;

- H. That this Court declare this to be an exceptional case and award Plaintiff its reasonable attorneys' fees and costs in accordance with 35 U.S.C. § 285;
- I. A preliminary and final injunction against the continuing infringement;
- J. An accounting for damages;
- K. Interest and costs; and
- L. Any further relief that this Court deems just and proper.

Dated: August 28, 2015

Respectfully submitted,



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