

FILED by **LB**  
ELECTRONIC  
**July 17, 2009**  
STEVEN M. LARIMORE  
CLERK U.S. DIST. CT.  
S.D. OF FLA. - MIAMI

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NUMBER: **09-CV-81046-RYSKAMP/VITUNAC**

INNOVATIVE BIOMETRIC	)	
TECHNOLOGY, LLC,	)	
	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	JURY DEMAND
	)	
LENOVO (UNITED STATES), INC.	)	
and FUJITSU AMERICA, INC.	)	
	)	
Defendants.	)	

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Innovative Biometric Technology, LLC sues Defendants Lenovo (United States) Inc. and Fujitsu America, Inc. (collectively "Defendants") and states as follows:

**NATURE OF ACTION**

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code, including 35 U.S.C. §§ 271, 281 and 284.

**INNOVATIVE BIOMETRIC TECHNOLOGY AND THE PATENT-IN-SUIT**

2. Innovative Biometric Technology, LLC ("IBT") is a Florida limited liability company with offices in Delray Beach and Fort Lauderdale, Florida.

3. The patent-in-suit is United States Patent No. 7,134,016, entitled "Software System for Biometric Dongle Function" which issued on November 7, 2006 ("the '016 patent).

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4. IBT owns all right, title and interest in and, thus, has standing to sue for infringement of the '016 patent.

#### **DEFENDANTS**

5. Lenovo (United States) Inc. ("Lenovo") is a Delaware corporation with an office located at 1009 Think Place, Morrisville, North Carolina 27560. Lenovo designs, develops, offers for sale and sells products nationwide, as well as within this judicial district, that permit the practice of the method of claim 1 of the '016 patent.

6. Fujitsu America, Inc. ("Fujitsu") is a California corporation with an office located at 1250 E. Arques Ave, Sunnyvale, CA 94085. Fujitsu designs, develops, offers for sale and sells products nationwide, as well as in this judicial district, that permit the practice of the method of claim 1 of the '016 patent.

#### **JURISDICTION AND VENUE**

7. This Court has exclusive jurisdiction over the subject matter of this case under 28 U.S.C. § 1338(a).

8. Each of the Defendants is subject to personal jurisdiction in this judicial district because each one has transacted business and has committed acts of infringement in this district.

9. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400(b) because each of the Defendants is subject to personal jurisdiction, does business and has committed acts of infringement in this judicial district.

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### **INFRINGEMENT**

10. Lenovo has infringed and continues to infringe the '016 Patent by, at least, knowingly and actively inducing, aiding and abetting others' use of its computer products with biometric capabilities, including but not limited to the U330 with VeriFace computer products. Lenovo is inducing acts of infringement of others by, among other activities, providing consumers with instructions on how to use Lenovo computer products as defined in claim 1 of the '016 patent. Lenovo had knowledge of the '016 patent at the time it acted and continues to act with the specific intent to induce infringement.

11. Fujitsu has infringed and continues to infringe the '016 Patent by, at least, knowingly and actively inducing, aiding and abetting others' use of its computer products with biometric capabilities, including but not limited to the Lifebook Series computer products. Fujitsu is inducing acts of infringement of others by, among other activities, providing consumers with instructions on how to use Fujitsu computer products as defined in claim 1 of the '016 patent. Fujitsu had knowledge of the '016 patent at the time it acted and continues to act with the specific intent to induce infringement.

12. Accordingly, IBT is entitled to recover damages adequate to compensate it for each of the Defendant's infringement, but in no event less than a reasonable royalty.

13. Defendants' infringement has caused irreparable harm to IBT, who has no adequate remedy at law, and will continue to injure IBT, unless and until this Court enters an injunction prohibiting further infringement of the '016 patent.

**RUTHERFORD MULHALL  
PROFESSIONAL ASSOCIATION**

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14. IBT has complied with the requirements of 35 U.S.C. §287.

15. Defendants' infringement of the '016 patent has been willful, deliberate and objectively reckless.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, Innovative Biometric Technology, LLC, respectfully requests this Court enter judgment against each of the Defendants, and against their respective subsidiaries, successors, parents, affiliates, officers, directors, agents, servants, employees, and all persons in active concert or participation with them, granting the following relief:

A. The entry of judgment in favor of IBT and against each of the Defendants;

B. An award of damages adequate to compensate IBT for the infringement that has occurred (together with prejudgment interest from the date the infringement began), but in no event less than a reasonable royalty as permitted by 35 U.S.C. § 284;

C. A finding that this case is exceptional and an award to IBT of its attorneys' fees and costs as provided by 35 U.S.C. § 285;

D. A permanent injunction prohibiting further infringement and/or inducement of infringement of the '016 patent; and,

E. Such other relief that IBT is entitled to under law and any other relief that this Court or a jury may deem just and proper.

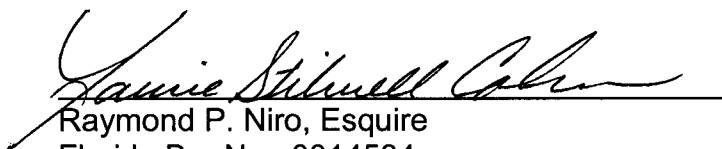
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**JURY DEMAND**

IBT demands a trial by jury on all issues presented in this Complaint.

Dated: July 14, 2009

INNOVATIVE BIOMETRIC TECHNOLOGY, LLC.



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JS 44 (Rev. 2/08)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.) NOTICE: Attorneys MUST Indicate All Re-filed Cases

July 17, 2009

STEVEN M. LARIMORE CLERK U.S. DIST. CT. S.D. OF FLA. - MIAMI

I. (a) PLAINTIFFS

Innovative Biometric Technology, LLC

(b) County of Residence of First Listed Plaintiff Palm Beach (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Stanley Dale Klett, Jr., Esquire, Rutherford Mulhall, P.A., 777 South Flagler Drive, Suite 1601, West Palm Beach, FL. 33401; (561) 820-9414

DEFENDANTS

Lenovo (United States), Inc. and Fujitsu Amc...

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT LAND INVOLVED.

Attorneys (If Known)

(d) Check County Where Action Arose: MIAMI-DADE MONROE BROWARD PALM BEACH MARTIN ST. LUCIE INDIAN RIVER OKEECHOBEE HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
3 Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

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IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, LABOR, SOCIAL SECURITY, FEDERAL TAX SUITS, BANKRUPTCY, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Re-filed (see VI below)
4 Reinstated or Reopened
5 Transferred from another district (specify)
6 Multidistrict Litigation
7 Appeal to District Judge from Magistrate Judgment

VI. RELATED/RE-FILED CASE(S).

(See instructions second page): JUDGE DOCKET NUMBER

VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity): Title 35 of the United States Code, including 35 U.S.C. Sections 271, 281 and 284. Patent Infringement. LENGTH OF TRIAL via days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMANDS CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

SIGNATURE OF ATTORNEY OF RECORD

DATE

Handwritten signature and date 7/14/09

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