

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
Miami Division

Case Number: 16-23535-CIV-MORENO

BLACKBERRY LIMITED,

Plaintiff,

vs.

BLU PRODUCTS, INC.,

Defendant.

BLACKBERRY'S
FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff BlackBerry Limited (“BlackBerry”), for its First Amended Complaint against Defendant BLU Products, Inc. (“BLU”), alleges as follows:

THE PARTIES

1. Plaintiff BlackBerry Limited is a Canadian company with its principal place of business at 2200 University Avenue East, Waterloo, Ontario, Canada N2K 0A7.

2. BlackBerry revolutionized the mobile communications industry. Its innovative, cutting-edge products changed the way millions of people around the world connect, converse, and share digital information.

3. BlackBerry was founded in 1984 in Waterloo, Ontario by two engineering students, Mike Lazaridis and Douglas Fregin. In its early years, the company—then named Research In Motion (“RIM”)—focused its inventive energies on wireless data transmission.

4. From its modest beginnings more than 30 years ago, BlackBerry has gone on to offer a portfolio of award-winning products, services, and embedded technologies to tens of

millions of individual consumers and organizations around the world, including governments, educational institutions, and over 90% of Fortune 500 companies. By transforming the way people communicate, BlackBerry laid a foundation for today's multibillion-dollar modern smartphone industry.

5. In the course of developing its ground-breaking mobile communications devices, BlackBerry (and the BlackBerry family of companies) has invented a broad array of new technologies that cover everything from enhanced security protocols, to mobile device user interfaces, to communication advancements, to battery conservation, and many other areas. As just one example, security posed a critical challenge for BlackBerry to address when bringing its mobile devices to market. Commercial acceptance of such mobile devices required providing mechanisms to ensure safe and secure use of software applications that are downloaded from the Internet, so that users and businesses could be confident that their confidential and private information stayed that way in spite of ever increasing data breaches. Due to its innovative technologies, BlackBerry has been universally recognized as the gold standard when it comes to secure mobile devices.

6. Throughout its history, BlackBerry has demonstrated a commitment to innovation, including through its investments in research and development, which have totaled more than \$5.5 billion over the past five years. BlackBerry has protected the technical innovations resulting from these investments, including through seeking patent protection, and BlackBerry owns rights to a wide array of patented technologies in the United States and worldwide.

7. As a result of its innovative efforts, among other patents, BlackBerry also built a substantial portfolio of patents declared essential to critical mobile telecommunications standards

that enable the widely used 2G, 3G, and LTE communications networks¹ implemented in the United States. BlackBerry developed these technologies and then helped develop these standards in conjunction with the Third Generation Partnership Project (“3GPP”).

8. As part of the standard development process, BlackBerry committed to license its patents essential to these standards (standard essential patents or “SEPs”) on terms and conditions that are fair, reasonable, and non-discriminatory (“FRAND”). SEPs are particularly powerful patents because all implementers must practice them in order to be able to make, use, or sell standard-compliant products. FRAND licenses are therefore used in connection with SEPs to strike a balance that ensures SEP owners receive appropriate compensation for their intellectual property rights but also allows for implementers to widely adopt the standard.

9. Upon information and belief, Defendant BLU Products, Inc. is a Delaware corporation with its principal place of business at 10814 N.W. 33rd Street, Building 100, Doral, Florida 33172.

10. On information and belief, BLU Products, Inc. may be served through its registered agent, Bernard L. Egozi of Egozi & Bennett, P.A. 2999 NE 191st, Suite 407, Aventura, FL 33180. BLU operates and/or owns the website located at <http://bluproducts.com/>.

11. BLU infringes multiple BlackBerry standard essential and non-standard essential patents by using, without authorization, BlackBerry’s proprietary technology in a number of BLU’s commercial products including mobile phones, smartphones, tablets, and software for mobile communication devices.

¹ This standard technology is set forth in at least the following specification numbers: 4G: 3GPP TS 23.122, 23.401, 24.229, 24.301, 36.211, 36.212, 36.213, 36.300, 36.321, 36.322, 36.331; 3G: 3GPP TS 23.002, 25.133, 25.201, 25.211, 25.212, 25.213, 25.214, 25.215, 25.301, 25.309, 25.321, 25.331, 25.401, 25.433.

12. As a result of its infringement, BLU has earned substantial revenue selling devices, including 2G, 3G, and LTE-compliant products, that use BlackBerry's technology. BLU makes, sells, uses, offers to sell, markets, and/or imports numerous smartphones, including those compatible with the 2G, 3G, and LTE standard, throughout the United States without a license from BlackBerry.

13. BlackBerry offered BLU a license to certain of its SEPs on FRAND terms, but BLU never responded. Despite efforts by BlackBerry to negotiate, BLU has persisted in importing, selling, and offering for sale a substantial volume of standard-compliant products that use BlackBerry's SEP technology without a license. Based on these actions, BlackBerry brings claims for patent infringement against BLU under 35 U.S.C. § 271, *et seq.*

JURISDICTION AND VENUE

14. This is a civil action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 101, *et seq.*

15. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1332, 1338(a), and 1367.

16. This Court has personal jurisdiction over BLU for at least the following reasons: (1) BLU's principal place of business is located in this District; and (2) BLU regularly does business or solicits business, engages in other persistent courses of conduct, and/or derives substantial revenues from products and/or services provided to individuals in Florida.

17. BLU committed and continues to commit acts of infringement in violation of 35 U.S.C. § 271. BLU has made, used, offered for sale, sold, marketed, and/or imported infringing products in the State of Florida, including in this District. BLU's acts cause injury to BlackBerry, including within this District.

18. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1400(b) for at least the following reasons: (1) BLU's principal place of business is located in this District; and (2) BLU regularly does business or solicits business, engages in other persistent courses of conduct, and/or derives substantial revenues from products and/or services provided to individuals in Florida.

FACTUAL BACKGROUND

19. BlackBerry is a global leader in the mobile communications industry. Through its significant investment in research and development over the past 30 years, BlackBerry has developed innovative, cutting-edge technologies that have changed the face of telecommunications.

20. In the late 1990s, BlackBerry began to release a series of game-changing handheld mobile devices that enabled users to send and receive email and messages on the go, without needing to be tethered to a modem or a desktop computer. The innovative nature of the 1998 RIM 950 Wireless Handheld, for example, was instantly recognized, garnering both an Editor's Choice Award from CNET and Andrew Seybold's Outlook Award.

21. In 2002, BlackBerry released the BlackBerry 6710 and 6720—the first BlackBerry devices capable of both sending emails and making phone calls, and some of the earliest smartphones released in the United States. The next year, BlackBerry introduced smartphone models that added built-in audio hardware and color screens. Since those first smartphones, BlackBerry has continued to offer handheld wireless products incorporating its proprietary technologies in security, communications, mobile device user interfaces, and other areas, including those fundamental and essential to wireless communication standards.

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