IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

MICROPAIRING TECHNOLOGIES LLC, Plaintiff, v. BMW OF NORTH AMERICA, LLC, Defendant.	CIVIL ACTION NO. 24-CV-00259 **JURY TRIAL DEMANDED**

PLAINTIFF'S COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff MicroPairing Technologies LLC files this Complaint against BMW of North America, LLC for infringement of U.S. Patent No. 7,793,136 ("the '136 Patent"), U.S. Patent No. 8,006,117 ("the '117 Patent"), and U.S. Patent No. 8,020,028 ("the '028 Patent"), collectively, the "Asserted Patents."

THE PARTIES

1.   Plaintiff MicroPairing Technologies LLC ("MicroPairing") is a Texas limited liability company located in Plano, Texas.

2.   On information and belief, Defendant BMW of North America, LLC ("BMW") is a limited liability company organized under the laws of Delaware, with its principal place of business at 300 Chestnut Ridge Road, Woodcliff Lake, NJ 07677. BMW may be served with process through its registered agent: The Corporation Trust Company, located at the Corporation Trust Center, 1209 Orange St., Wilmington, Delaware 19801.

JURISDICTION AND VENUE

3.   This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 1 *et seq*., including, without limitation, 35 U.S.C. §§ 271, 281, 284, and 285. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4.   This Court has specific and general personal jurisdiction over BMW consistent with the requirements of the Due Process Clause of the United States Constitution and the New Jersey Long Arm Statute because, *inter alia*, (i) BMW has engaged in continuous, systematic, and substantial business in New Jersey, (ii) BMW's principal place of business is located in New Jersey, (iii) BMW is registered to do business in New Jersey, and (iv) BMW has committed and continues to commit, directly or through intermediaries (including subsidiaries, agents, distributors, affiliates, retailers, suppliers, integrators, customers, and others), acts of patent infringement in this State and this District. Such acts of infringement include making, using, testing, offering for sale, selling, and/or importing Accused Products (as more particularly identified and described throughout this Complaint) in this State and this District and/or inducing others to commit acts of patent infringement in this State and District. Indeed, BMW has purposefully and voluntarily placed, and is continuing to place, one or more Accused Products into the stream of commerce through established distribution channels (including the Internet) with the expectation and intent that such products will be sold to and purchased by consumers in the United States, this State, and this District; and with the knowledge and expectation that such products (whether in standalone form or as integrated in downstream products) will be imported into the United States, this State, and this District.

5.   In addition, BMW has derived substantial revenues from its infringing acts occurring within this State and this District. It has substantial business in this State and this

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District, including (i) at least part of its infringing activities alleged herein and (ii) regularly doing or soliciting business, engaging in other persistent conduct, and/or deriving substantial revenue from infringing goods offered for sale, sold, and imported, and services provided to New Jersey residents vicariously through and/or in concert with its agents, intermediaries, distributors, importers, customers, subsidiaries, and/or consumers.

6.   In addition, BMW has knowingly induced, and continues to knowingly induce, infringement within this State and this District by advertising, marketing, offering for sale and/or selling Accused Products that incorporate the fundamental technologies covered by the Asserted Patents. Such advertising, marketing, offering for sale and/or selling of Accused Products is directed to consumers, customers, manufacturers, integrators, suppliers, distributors, resellers, partners, and/or end users, and this includes providing instructions, user manuals, advertising, and/or marketing materials facilitating, directing and encouraging use of infringing functionality with BMW's knowledge thereof.

7.   BMW has, thus, in the multitude of ways described above, availed itself of the benefits and privileges of conducting business in this State and willingly subjected itself to the exercise of this Court's personal jurisdiction over it. Indeed, BMW has sufficient minimum contacts with this forum through its transaction of substantial business in this State and this District and its commission of acts of patent infringement as alleged in this Complaint that are purposefully directed towards this State and District.

8.   Venue is proper in this District under 28 U.S.C. §§ 1391 and 1400(b) because, among other things, (i) BMW is subject to personal jurisdiction in this District, (ii) BMW has committed acts of patent infringement in this District, and (iii) BMW has regular and established

places of business in this District, including its principal place of business in Woodcliff Lake, New Jersey.

THE ASSERTED PATENTS AND TECHNOLOGY

9.   MicroPairing is the sole and exclusive owner of all right, title, and interest in the '136 Patent, the '117 Patent, and the '028 Patent and holds the exclusive right to take all actions necessary to enforce its rights in, and to, the Asserted Patents, including the filing of this patent infringement lawsuit. MicroPairing also has the right to recover all damages for past infringements of the Asserted Patents.

10.   The '136 Patent is entitled, "Application Management System with Configurable Software Applications." The '136 Patent lawfully issued on September 7, 2010 and stems from U.S. Patent Application No. 10/132,886, which was filed on April 24, 2002. A copy of the '136 Patent is attached hereto as Ex. A.

11.   The '117 Patent is entitled, "Method for Multi-Tasking Multiple Java Virtual Machines in a Secure Environment." The '117 Patent lawfully issued on August 23, 2011 and stems from U.S. Patent Application No. 10/132,886, which was filed on April 24, 2002. A copy of the '117 Patent is attached hereto as Ex. B.

12.   The '028 Patent is entitled, "Application Management System for Mobile Devices." The '028 Patent lawfully issued on September 13, 2011 and stems from U.S. Patent Application No. 10/132,886, which was filed on April 24, 2002. A copy of the '028 Patent is attached hereto as Ex. C.

13.   MicroPairing's claims do not have damages limited by 35 U.S.C. § 287. MicroPairing is only seeking damages for: (i) infringement of method claims of the '028 Patent;

and (ii) infringement of claims of the '136 and '117 Patents accruing upon and after notice of infringement to BMW.

14.   The claims of the Asserted Patents are directed to patent eligible subject matter under 35 U.S.C. § 101. They are not directed to an abstract idea, and the technologies covered by the claims comprise systems and/or consist of ordered combinations of features and functions that, at the time of invention, were not, alone or in combination, well-understood, routine, or conventional.

15.   Indeed, the specifications of the Asserted Patents disclose shortcomings in the prior art and then explain in detail the technical way the claimed inventions resolve or overcome those shortcomings. For example, the specification of the '136 Patent discusses Java virtual machines (JVMs), which make "it possible for Java application programs to be built that can run on any platform without having to be rewritten or recompiled by the programmer for each separate platform."   Ex. A at 1:27-34.   The specification also describes the Jini system, which "extends the Java application environment from a single virtual machine to a network of machines . . . . The Jini infrastructure provides mechanisms for devices, services, and users to join and detach from a network. Jini systems are more dynamic than is currently possible in networked groups where configuring a network is a centralized function done by hand." *Id*. at 1:34-47.

16.   "However, the Java/Jini approach is not without its disadvantages. Both Java and Jini are free, open source applications. The Java application environment is not designed for controlling messaging between different machines." *Id*. at 1:48-51. "For example, the Java application is not concerned about the protocols between different hardware platforms. Jini has some built-in security that allows code to be downloaded and run from different machines in confidence. However, this limited security is insufficient for environments where it is necessary

to further restrict code sharing or operation sharing among selected devices in a secure embedded system." *Id*. at 1:51-58.

17.   To solve these problems, the '136 Patent proposes a "Secure Real-time Executive (SRE) 14 [which] provides an extension to the JVM 16 and allows Java to run on different processors for real-time applications. The SRE 20 manages messaging, security, critical data, file I/O multiprocessor task control and watchdog tasks in the Java environment as described below." *Id*. at 2:35-40. "For example, the SRE 14 may prevent noncritical vehicle applications, such as audio control, from being loaded onto processor 16." *Id*. at 2:66-3:1.

18.   The advantages of the invention of the '136 Patent are taught as follows:

> The SRE 14 allows any variety of real-time, mission critical, nonreal-time and nonmission critical Java applications to be loaded onto the multiprocessor system 15. The SRE 14 then automatically manages the different types of applications and messages to ensure that the critical vehicle applications are not corrupted and processed with the necessary priority. The SRE 14 is secure software that cannot be manipulated by other Java applications.

> The SRE 14 provides priority preemption on a message scale across the entire system 15 and priority preemption on a task scale across the entire system 15. So the SRE 14 controls how the JVMs 10 talk to each other and controls how the JVMs 10 are started or initiated to perform tasks. The SRE 14 allows programmers to write applications using Java in a safe and secure real time environment. Thus, viruses can be prevented by SRE 14 from infiltrating the system 15.

Id. at 3:7-22.

19.   An important aspect of the invention of the '136 patent is the message manager:

> The message manager 50 determines the priority of sent and received messages. If the data transmitted and received by the sensor fusion thread 76 is higher priority than other data transmitted and received on the processor 84, then the sensor fusion data will be given priority over the other data. The task manager 58 controls the priority that the sensor fusion thread 76 is giving by processor 84. If the sensor fusion thread 76 has higher priority than, for example, an audio application that is also being run by processor 84, then the sensor fusion thread 76 will be performed before the audio application.

Id. at 4:60-5:3.

20.   Solutions to the problems outlined by the '136 Patent are embodied in, for example,

claim 31:

An apparatus, comprising:

a multiprocessor system configured to:

identify a new device that is not currently coupled to the multiprocessor system;

detect a communication protocol used by the new device and connect the new device to the multiprocessor system when signaling from the new device conforms to a communication protocol used in the multiprocessor system;

configure the new device into the multiprocessor system when a data protocol operated by the new device conforms with a data protocol used in the multiprocessor system;

display an image representing the new device on a graphical interface;

identify data codes in the signaling from the new device identifying an application running on the new device, a data type used on the new device, and a security level associated with data stored in the new device;

use the identified security level to prevent unauthorized data from being loaded into the multiprocessor system;

identify a stored application in memory in the multiprocessor system that uses the same data type used on the new device and download the stored application from memory into a processor in the multiprocessor system;

display an image on the graphical user interface representing the stored application loaded into the processor in the multiprocessor system; and

use the stored application to direct data exchanged with the portable device to a selectable output or a selectable input identified on the graphical interface.

Id. at claim 31.

21.   The specifications of the '028 Patent and '117 Patent also disclose shortcomings in

the prior art and then explain in detail the technical way the claimed inventions resolve or

overcome those shortcomings. For example, the specification of the '028 Patent (which closely

mirrors the '117 Patent specification) discusses that Java and Jini work together to "extend[] the Java application environment from a single virtual machine to a network of machines. The Java application environment provides a good computing platform for distributed computing because both code and data can move from machine to machine. The Jini infrastructure provides mechanisms for devices, services, and users to join and detach from a network. Jini systems are more dynamic than is currently possible in networked groups where configuring a network is a centralized function done by hand." Ex. C at 1:38-50.

22.   However,

> [T]he Java/Jini approach is not without its disadvantages. Both Java and Jini are free, open source applications. The Java application environment is not designed for controlling messaging between different machines. For example, the Java application is not concerned about the protocols between different hardware platforms. Jini has some built-in security that allows code to be downloaded and run from different machines in confidence. However, this limited security is insufficient for environments where it is necessary to further restrict code sharing or operation sharing among selected devices in a secure embedded system.

Id. at 1:51-61.

23.   The specifications of the '028 Patent and '117 Patent thus describe an embodiment of the invention that solves the problem posed by the patents, as follows:

> A Secure Real-time Executive (SRE) 14 provides an extension to the JVM 16 and allows Java to run on different processors for real-time applications. The SRE 20 manages messaging, security, critical data, file I/0 multiprocessor task control and watchdog tasks in the Java environment as described below. The JVM 16, Jini 12 and SRE 14 can all be implemented in the same JVM 10, However, for explanation purposes, the JVM 10 and the SRE 14 will be shown as separate elements.

Id. at 2:39-47.

24.   The patents also describe how this invention would apply to motor vehicles:

> The SRE 14 runs below the JVMs 10 in each processor and control tasks, messaging, security, etc. For example, the Java application 26 controls vehicle braking according to the sensor data collected by the sensor fusion Java application

32. The SRE 14 in one example prevents unauthorized data from being loaded into the processor 16 that runs brake control application 26. The SRE 14 also prevents other Java applications that are allowed to be loaded into processor 16 from disrupting critical braking operations, or taking priority over the braking operations, performed by Java application 26.

For example, the SRE 14 may prevent noncritical vehicle applications, such as audio control, from being loaded onto processor 16. In another example, noncritical operations, such as security control application 28, are allowed to be loaded onto processor 16. However, the SRE 14 assigns the security messages low priority values that will only be processed when there are no braking tasks in application 26 that require processing by processor 16.

Id. at 2:60-3:10.

25.   Solutions to the problems outlined by the '028 Patent are embodied, for example,

in claim 18:

A method for reconfiguring applications in a multiprocessor, comprising:

operating a wireless device manager in at least one processor in the multiprocessor system, the wireless device manager configured to:

a. monitor for wireless signals from a new device not currently coupled to the multiprocessor system, wherein the new device runs a first software application that processes a first type of data; and

b. wirelessly connect the new device to the multiprocessor system;

operating a configuration manager in one of the multiple processors in the multiprocessor system, the configuration manager configured to:

c. monitor operations of the multiple processors in the multiprocessor system;

d. identify data codes in the wireless signals from the new device and use the data codes to identify the first type of data processed by the first software application running on the new device;

e. responsive to identifying the data codes from the new device, select a second software application from among multiple different software applications stored within memory in the multiprocessor system, wherein the second software application is associated with the first type of data processed by the new device and is not currently loaded into one of the multiple processors in the multiprocessor system;

f. download a copy of the second software application selected from the memory to one of the multiple processors in the multiprocessor system;

g. reconfigure one of the multiple processors in the multiprocessor system to run the second software application downloaded from the memory and take over control and operation of the new device; and

h. process data from the new device with the second software application operating in and controlled by the particular one of the multiple processors in the multiprocessor system; and

i. operating a security manager configured to determine authority to access at least some of the new devices, software applications or data used in the multiprocessor system.

Id. at claim 18.

26.   Solutions to the problems outlined by the '117 Patent are embodied, for example, in claim 1:

A computer system, comprising:

a memory;

a real-time operating system;

a user interface;

one or more processors in a processing system, wherein the processing system is configured to:

operate a transceiver,

detect a new device within communication range of the transceiver,

detect a protocol used by the new device,

communicate with the new device in response to the detected protocol conforming with a protocol used by the processing system;

an application management system configured to:

identify data parameters that include at least one of data codes, data type and device ID associated with the new device,

verify the new device data parameters as at least one of authorized or unauthorized; and

responsive to verifying the data parameters as authorized, connect to the new device, dynamically configure an application to process the data types and launch the application in the processing system, wherein the application in response to launching is configured to take over control and operation of the new device including:

initiating transfer of data from the new device to the operating system; and

initiate processing of the data received from the new device.

Ex. B at claim 1.

27.   In essence, the Asserted Patents relate to novel and non-obvious inventions in the field of in-vehicle device connectivity, specifically infotainment systems implemented in cars, trucks, and motorcycles.

DEFENDANT'S PRE-SUIT KNOWLEDGE OF ITS INFRINGEMENT

28.   Prior to filing this Complaint, MicroPairing attempted to engage BMW and/or its agents in licensing discussions related to its patent portfolio including the Asserted Patents. On October 4, 2021, MicroPairing sent a letter to BMW's headquarters addressed to Mr. Sebastian Mackensen (BMW's President and CEO) identifying the Asserted Patents as being infringed by exemplary BMW-branded vehicles equipped with the BMW iDrive infotainment system, and further including claim charts demonstrating how the identified products infringe the Asserted Patents.

29.   BMW ignored MicroPairing's attempt to communicate and open a licensing dialogue. As a result, MicroPairing was left with no other choice but to seek relief through litigation.

30.   BMW's past and continuing sales of the Accused Products (i) willfully infringe the Asserted Patents, and (ii) impermissibly usurp the significant benefits of MicroPairing's patented technologies without fairly compensating MicroPairing.

COUNT I
(INFRINGEMENT OF U.S. PATENT NO. 7,793,136)

31.   MicroPairing incorporates the preceding paragraphs herein by reference.

32.   This cause of action arises under the patent laws of the United States, and, in particular, 35 U.S.C. §§ 271, *et seq*.

33.   MicroPairing is the owner of all substantial rights, title, and interest in and to the '136 Patent including the right to exclude others and to enforce, sue, and recover damages for past and future infringements.

34.   The '136 Patent is valid, enforceable, and was duly and legally issued by the United States Patent and Trademark Office on September 7, 2010, after full and fair examination.

35.   Attached hereto as Ex. D, and incorporated herein by reference, is a claim chart detailing how BMW infringes the '136 Patent.

Direct Infringement (35 U.S.C. § 271(a))

36.   BMW has directly infringed and continues to directly infringe one or more claims of the '136 Patent in this District and elsewhere in New Jersey and the United States.

37.   BMW has directly infringed and continues to directly infringe, either by itself or via its agent(s), at least claim 31 of the '136 Patent[1] as set forth under 35 U.S.C. § 271(a) by

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[1] Throughout this Complaint, wherever MicroPairing identifies specific claims of the Asserted Patents infringed by BMW, MicroPairing expressly reserves the right to identify additional claims and products in its infringement contentions in accordance with applicable local rules and the Court's docket control order. Specifically-identified claims throughout this Complaint are provided for notice pleading only.

making, using, selling, offering to sell, and/or importing BMW-branded vehicles that incorporate the fundamental technologies covered by the '136 Patent, including, but not limited to, BMW-branded vehicles equipped with the BMW iDrive infotainment system (the head units for which are supplied to BMW by at least Marelli and Garmin).

Indirect Infringement (Inducement – 35 U.S.C. § 271(b))

38.   In addition and/or in the alternative to its direct infringements, BMW has indirectly infringed and continues to indirectly infringe one or more claims of the '136 Patent by knowingly and intentionally inducing others, including its customers and/or other end users, to directly infringe the '136 Patent.

39.   At a minimum, BMW has had knowledge of the '136 Patent since being served with this Complaint. BMW also has knowledge of the '136 Patent since receiving the detailed correspondence from MicroPairing dated October 4, 2021, alerting BMW to its infringements. Since receiving notice of its infringements, BMW has actively induced the direct infringements of its customers and/or other end users as set forth under U.S.C. § 271(b). Such inducements have been committed with the knowledge, or with willful blindness to the fact, that the acts induced constitute infringement of the '136 Patent. Indeed, BMW has intended to cause, continues to intend to cause, and has taken, and continues to take, affirmative steps to induce infringement by, among other things, creating and disseminating advertisements and instructive materials that promote the infringing use of the Accused Products, including marketing materials, user manuals (available via https://www.bmwusa.com/owners-manuals.html, for instance), online instruction materials (available via https://www.youtube.com/user/BMWUSA, for instance), as well as ongoing technical support and/or related services (e.g., the BMW Genius Program)[2] that

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[2] *See* https://www.bmwusa.com/owners/genius.html (last visited November 6, 2023).

specifically teach and encourage customers and other end users to use the infotainment systems equipped within BMW's vehicles in an infringing manner. By providing such instructions and support, BMW knows (and has known), or should know (and should have known), that its actions have actively induced, and continue to actively induce, infringement of the '136 Patent.

Damages

40.   MicroPairing has been damaged as a result of BMW's infringing conduct described in this Count. BMW is, thus, liable to MicroPairing in an amount that adequately compensates it for BMW's infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

41.   On information and belief, despite having knowledge of the '136 Patent and knowledge that it is directly and/or indirectly infringing one or more claims of the '136 Patent, BMW has nevertheless continued its infringing conduct and disregarded an objectively high likelihood of infringement. BMW's infringing activities relative to the '136 Patent have been, and continue to be, willful, wanton, and deliberate in disregard of MicroPairing's rights with respect to the '136 Patent, justifying enhanced damages under 35 U.S.C. § 284.

COUNT II
(INFRINGEMENT OF U.S. PATENT NO. 8,006,117)

42.   MicroPairing incorporates the preceding paragraphs herein by reference.

43.   This cause of action arises under the patent laws of the United States, and, in particular, 35 U.S.C. §§ 271, *et seq.*

44.   MicroPairing is the owner of all substantial rights, title, and interest in and to the '117 Patent including the right to exclude others and to enforce, sue, and recover damages for past infringements.

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45.   The '117 Patent is valid, enforceable, and was duly and legally issued by the United States Patent and Trademark Office on August 23, 2011, after full and fair examination.

46.   Attached hereto as Ex. E, and incorporated herein by reference, is a claim chart detailing how BMW has infringed the '117 Patent.

Direct Infringement (35 U.S.C. § 271(a))

47.   BMW has directly infringed one or more claims of the '117 Patent in this District and elsewhere in New Jersey and the United States.

48.   BMW has directly infringed, either by itself or via its agent(s), at least claim 1 of the '117 Patent as set forth under 35 U.S.C. § 271(a) by making, using, selling, offering to sell, and/or importing BMW-branded vehicles that incorporate the fundamental technologies covered by the '117 Patent, including, but not limited to, BMW-branded vehicles equipped with the BMW iDrive infotainment system (the head units for which are supplied to BMW by at least Marelli and Garmin).

Indirect Infringement (Inducement – 35 U.S.C. § 271(b))

49.   In addition and/or in the alternative to its direct infringements, BMW has indirectly infringed one or more claims of the '117 Patent by knowingly and intentionally inducing others, including its customers and/or other end users, to directly infringe the '117 Patent.

50.   At a minimum, BMW has had knowledge of the '117 Patent since being served with this Complaint. BMW also has knowledge of the '117 Patent since receiving the detailed correspondence from MicroPairing dated October 4, 2021, alerting BMW to its infringements. Since receiving notice of its infringements, BMW has actively induced the direct infringements of its customers and/or other end users as set forth under U.S.C. § 271(b). Such inducements have been committed with the knowledge, or with willful blindness to the fact, that the acts induced

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constitute infringement of the '117 Patent. Indeed, BMW has intended to cause, continues to intend to cause, and has taken, and continues to take affirmative steps to induce infringement by, among other things, creating and disseminating advertisements and instructive materials that promote the infringing use of the Accused Products, including marketing materials, user manuals (available via https://www.bmwusa.com/owners-manuals.html, for instance), online instruction materials (available via https://www.youtube.com/user/BMWUSA, for instance), as well as ongoing technical support and/or related services (e.g., the BMW Genius Program)[3] that specifically teach and encourage customers and other end users to use the infotainment systems equipped within BMW's vehicles in an infringing manner. By providing such instructions and support, BMW knows (and has known), or should know (and should have known), that its actions have actively induced, and continue to actively induce, infringement of the '117 Patent.

Damages

51.   MicroPairing has been damaged as a result of BMW's infringing conduct described in this Count. BMW is, thus, liable to MicroPairing in an amount that adequately compensates it for BMW's infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

52.   On information and belief, despite having knowledge of the '117 Patent and knowledge that it is directly and/or indirectly infringing one or more claims of the '117 Patent, BMW has nevertheless continued its infringing conduct and disregarded an objectively high likelihood of infringement. BMW's infringing activities relative to the '117 Patent have been willful, wanton, and deliberate in disregard of MicroPairing's rights with respect to the '117 Patent, justifying enhanced damages under 35 U.S.C. § 284.

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[3] *See* https://www.bmwusa.com/owners/genius.html (last visited November 6, 2023).

COUNT III

(INFRINGEMENT OF U.S. PATENT NO. 8,020,028)

53.   MicroPairing incorporates the preceding paragraphs herein by reference.

54.   This cause of action arises under the patent laws of the United States, and, in particular, 35 U.S.C. §§ 271, *et seq*.

55.   63.   MicroPairing is the owner of all substantial rights, title, and interest in and to the '028 Patent including the right to exclude others and to enforce, sue, and recover damages for past infringements.

56.   The '028 Patent is valid, enforceable, and was duly and legally issued by the United States Patent and Trademark Office on September 13, 2011, after full and fair examination.

57.   Attached hereto as Ex. F, and incorporated herein by reference, is a claim chart detailing how BMW has infringed the '028 Patent.

Direct Infringement (35 U.S.C. § 271(a))

58.   BMW has directly infringed one or more claims of the '028 Patent in this District and elsewhere in New Jersey and the United States.

59.   BMW has directly infringed, either by itself or via its agent(s), at least claim 18 of the '028 Patent as set forth under 35 U.S.C. § 271(a) by making, using, selling, offering to sell, and/or importing BMW-branded vehicles that incorporate the fundamental technologies covered by the '028 Patent, including, but not limited to, BMW-branded vehicles equipped with the BMW iDrive infotainment system (the head units for which are supplied to BMW by at least Marelli and Garmin). To this end, BMW has infringed, either by itself or via an agent, at least claim 18 of the '028 Patent by, among other things, testing and using the Accused Products, and/or by directing, controlling, and setting into operation the performance of the claimed methods of the '028 Patent (e.g., by providing software that is not accessible to end users and automatically performs the steps

of the claimed methods) while obtaining substantial benefit from such direction and control (e.g., offering seamless integration of key infotainment system functionality consistent with consumer expectations).

Indirect Infringement (Inducement – 35 U.S.C. § 271(b))

60.   In addition and/or in the alternative to its direct infringements, BMW has indirectly infringed one or more claims of the '028 Patent by knowingly and intentionally inducing others, including its customers and/or other end users, to directly infringe the '028 Patent.

61.   At a minimum, BMW has had knowledge of the '028 Patent since being served with this Complaint. BMW also has knowledge of the '028 Patent since receiving the detailed correspondence from MicroPairing dated October 4, 2021, alerting BMW to its infringements. Since receiving notice of its infringements, BMW has actively induced the direct infringements of its customers and/or other end users as set forth under U.S.C. § 271(b). Such inducements have been committed with the knowledge, or with willful blindness to the fact, that the acts induced constitute infringement of the '028 Patent. Indeed, BMW has intended to cause, continues to intend to cause, and has taken, and continues to take, affirmative steps to induce infringement by, among other things, creating and disseminating advertisements and instructive materials that promote the infringing use of the Accused Products, including marketing materials, user manuals (available via https://www.bmwusa.com/owners-manuals.html, for instance), online instruction materials (available via https://www.youtube.com/user/BMWUSA, for instance), as well as ongoing technical support and/or related services (e.g., the BMW Genius Program)[4] that specifically teach and encourage customers and other end users to use the infotainment systems equipped within BMW's vehicles in an infringing manner. By providing such instructions and

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[4] *See* https://www.bmwusa.com/owners/genius.html (last visited November 6, 2023).

support, BMW knows (and has known), or should know (and should have known), that its actions have actively induced, and continue to actively induce, infringement of the '028 Patent.

Damages

62.   MicroPairing has been damaged as a result of BMW's infringing conduct described in this Count. BMW is, thus, liable to MicroPairing in an amount that adequately compensates it for BMW's infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

63.   On information and belief, despite having knowledge of the '028 Patent and knowledge that it is directly and/or indirectly infringing one or more claims of the '028 Patent, BMW has nevertheless continued its infringing conduct and disregarded an objectively high likelihood of infringement. BMW's infringing activities relative to the '028 Patent have been willful, wanton, and deliberate in disregard of MicroPairing's rights with respect to the '028 Patent, justifying enhanced damages under 35 U.S.C. § 284.

CONCLUSION

64.   MicroPairing is entitled to recover from BMW the damages sustained by MicroPairing as a result of BMW's wrongful acts, and willful infringements, in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court.

65.   MicroPairing has incurred and will incur attorneys' fees, costs, and expenses in the prosecution of this action. The circumstances of this dispute may give rise to an exceptional case within the meaning of 35 U.S.C. § 285, and MicroPairing is entitled to recover its reasonable and necessary attorneys' fees, costs, and expenses.

JURY DEMAND

66.   MicroPairing hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

67.   MicroPairing respectfully requests that the Court find in its favor and against BMW, and that the Court grant MicroPairing the following relief:

(i)   A judgment that one or more claims of the Asserted Patents have been infringed, either literally and/or under the doctrine of equivalents, by BMW;

(ii)   A judgment that one or more claims of the Asserted Patents have been willfully infringed, either literally and/or under the doctrine of equivalents, by BMW;

(iii)   A judgment that BMW account for and pay to MicroPairing all damages and costs incurred by MicroPairing because of BMW's infringing activities and other conduct complained of herein, including an accounting for any sales or damages not presented at trial;

(iv)   A judgment that BMW account for and pay to MicroPairing a reasonable, ongoing, post-judgment royalty because of BMW's infringing activities, including continuing infringing activities, and other conduct complained of herein;

(v)   A judgment that MicroPairing be granted pre-judgment and post-judgment interest on the damages caused by BMW's infringing activities and other conduct complained of herein;

(vi)   A judgment that this case is exceptional under the provisions of 35 U.S.C. § 285 and award enhanced damages; and

(vii)   Such other and further relief as the Court deems just and equitable.

Dated: January 16, 2024

Respectfully submitted,

s/ Noam J. Kritzer

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