

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SONICWALL, INC.,

Plaintiff,

v.

INNOVATIO IP VENTURES, LLC,

Defendant.

C.A. No. _____

DEMAND FOR JURY TRIAL

COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiff SonicWALL, Inc. (“SonicWALL”), for its Complaint for Declaratory Judgment against Innovatio IP Ventures, LLC (“Innovatio”), alleges as follows:

NATURE OF THIS ACTION

1. This is an action under the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, against Innovatio for a declaration that pursuant to the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.*, certain patents allegedly owned by Innovatio are invalid and not infringed by SonicWALL.

THE PARTIES

2. Plaintiff SonicWALL, Inc. is a Delaware corporation with its principal place of business in San Jose, California.

3. On information and belief, defendant Innovatio is a Delaware limited liability company with its principal place of business in Chicago, Illinois.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over these claims for declaratory relief arising under the patent laws of the United States, pursuant to 28 U.S.C. §§ 1331, 1338(a), and the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

5. On information and belief, this Court has personal jurisdiction over Innovatio, because Innovatio is incorporated in Delaware and has constitutionally sufficient contacts with Delaware so as to make personal jurisdiction proper in this Court.

6. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400(b).

THE PATENTS-IN-SUIT

7. U.S. Patent No. 6,714,559 (“the ’559 patent”) is entitled “Redundant Radio Frequency Network Having a Roaming Terminal Communication Protocol” and bears an issuance date of March 30, 2004. A copy of the ’559 patent is attached hereto as Exhibit 1.

8. U.S. Patent No. 7,386,002 (“the ’002 patent”) is entitled “Redundant Radio Frequency Network Having a Roaming Terminal Communication Protocol” and bears an issuance date of June 10, 2008. A copy of the ’002 patent is attached hereto as Exhibit 2.

9. U.S. Patent No. 7,535,921 (“the ’921 patent”) is entitled “Redundant Radio Frequency Network Having a Roaming Terminal Communication Protocol” and bears an issuance date of May 19, 2009. A copy of the ’921 patent is attached hereto as Exhibit 3.

10. U.S. Patent No. 7,548,553 (“the ’553 patent”) is entitled “Redundant Radio Frequency Network Having a Roaming Terminal Communication Protocol” and bears an issuance date of June 16, 2009. A copy of the ’553 patent is attached hereto as Exhibit 4.

11. U.S. Patent No. 5,740,366 (“the ’366 patent”) is entitled “Communication Network Having a Plurality of Bridging Nodes Which Transmit a Beacon to Terminal Nodes in Power Saving State That It Has Messages Awaiting Delivery” and bears an issuance date of April 14, 1998. A copy of the ’366 patent is attached hereto as Exhibit 5.

12. U.S. Patent No. 5,940,771 (“the ’771 patent”) is entitled “Network Supporting Roaming, Sleeping Terminals” and bears an issuance date of August 17, 1999. A copy of the ’771 patent is attached hereto as Exhibit 6.

13. U.S. Patent No. 6,374,311 (“the ’311 patent”) is entitled “Communication Network Having a Plurality of Bridging Nodes Which Transmit a Beacon to Terminal Nodes in

Power Saving State That It Has Messages Awaiting Delivery” and bears an issuance date of April 16, 2002. A copy of the ’311 patent is attached hereto as Exhibit 7.

14. U.S. Patent No. 7,457,646 (“the ’646 patent”) is entitled “Radio Frequency Local Area Network” and bears an issuance date of November 25, 2008. A copy of the ’646 patent is attached hereto as Exhibit 8.

15. U.S. Patent No. 5,546,397 (“the ’397 patent”) is entitled “High Reliability Access Point for Wireless Local Area Network” and bears an issuance date of August 13, 1996. A copy of the ’397 patent is attached hereto as Exhibit 9.

16. U.S. Patent No. 5,844,893 (“the ’893 patent”) is entitled “System for Coupling Host Computer Means with Base Transceiver Units on a Local Area Network” and bears an issuance date of December 1, 1998. A copy of the ’893 patent is attached hereto as Exhibit 10.

17. U.S. Patent No. 6,665,536 (“the ’536 patent”) is entitled “Local Area Network Having Multiple Channel Wireless Access” and bears an issuance date of December 16, 2003. A copy of the ’536 patent is attached hereto as Exhibit 11.

18. U.S. Patent No. 6,697,415 (“the ’415 patent”) is entitled “Spread Spectrum Transceiver Module Utilizing Multiple Mode Transmission” and bears an issuance date of February 24, 2004. A copy of the ’415 patent is attached hereto as Exhibit 12.

19. U.S. Patent No. 7,013,138 (“the ’138 patent”) is entitled “Local Area Network Having Multiple Channel Wireless Access” and bears an issuance date of March 14, 2006. A copy of the ’138 patent is attached hereto as Exhibit 13.

20. U.S. Patent No. 7,710,907 (“the ’907 patent”) is entitled “Local Area Network Having Multiple Channel Wireless Access” and bears an issuance date of May 4, 2010. A copy of the ’907 patent is attached hereto as Exhibit 14.

21. U.S. Patent No. 7,916,747 (“the ’747 patent”) is entitled “Redundant Radio Frequency Network Having a Roaming Terminal Communication Protocol” and bears an issuance date of March 29, 2011. A copy of the ’747 patent is attached hereto as Exhibit 15.

22. U.S. Patent No. 7,873,343 (“the ’343 patent”) is entitled “Communication Network Terminal with Sleep Capability” and bears an issuance date of January 18, 2011. A copy of the ’343 patent is attached hereto as Exhibit 16.

23. U.S. Patent No. 7,536,167 (“the ’167 patent”) is entitled “Network Supporting Roaming, Sleeping Terminals” and bears an issuance date of May 19, 2009. A copy of the ’167 patent is attached hereto as Exhibit 17.

EVENTS GIVING RISE TO THIS SUIT

24. On March 8, 2011, Innovatio filed suit in the Northern District of Illinois against ABP Corporation, Accor North America, Caribou Coffee Co., Inc., CBC Restaurant Corp., Cosi, Inc., Dominick’s Supermarkets, Inc., Kimpton Hotel & Restaurant Group, LLC, LQ Management LLC, Meijer, Inc., and Panera Bread Company (collectively the “*ABP* Defendants”) in an action styled *Innovatio v. ABP Corp. et al.*, Civil Action No. 1:11-cv-01638 (“the *ABP* action”).

25. In the *ABP* action, Innovatio claims to own, and accused the *ABP* Defendants of infringing U.S. Patent Nos. 6,714,559, 7,386,002, 7,535,921, 7,548,553, 5,740,366, 5,940,771, 6,374,311, 7,457,646, 5,546,397, 5,844,893, 6,665,536, 6,697,415, 7,013,138, 7,710,907, 7,916,747, 7,873,343, and 7,536,167 (the “Patents-In-Suit”) by, *inter alia*, by using “WLAN products” and/or “WLANs.”

26. In the *ABP* action, Innovatio served initial infringement contentions (“Infringement Contentions”), which identified “SonicWALL wireless access points” as Accused Instrumentalities of at least one *ABP* Defendant.

27. In its Infringement Contentions, Innovatio alleges that certain “SonicWALL wireless access points” and/or wireless local area networks (“WLANs”) comprising “SonicWALL wireless access points” infringe the Patents-In-Suit.

28. Innovatio filed at least ten additional suits, accusing other entities of infringing the Patents-In-Suit in connection with their alleged use of WLANs and/or wireless local area network products (“WLAN products”).

29. Innovatio has sent correspondence to numerous entities (“Accused Entities”) alleging that Innovatio owns “controlling patents in the area of WLAN (e.g., Wi-Fi) and mesh networking technologies,” and that “[c]laims of the Innovatio Patents cover, among other things, WLANs that use the IEEE 802.11 communication protocols.” Also, Innovatio has alleged that Accused Entities infringe certain patents owned by Innovatio by operating “WLANs at [their] retail locations, which networks provide [Accused Entity] customers and/or employees wireless network access.”

30. Plaintiff SonicWALL manufactures and sells products that are the subject of the *ABP* action and accusations against one or more Accused Entities referenced above.

31. The Accused Entities include purchasers of SonicWALL products.

32. SonicWALL has received requests from *ABP* Defendants and/or Accused Entities for indemnity in connection with Innovatio’s patent infringement claims.

33. On information and belief, SonicWALL products include devices that are licensed to the Patents-In-Suit.

34. On information and belief, Broadcom Corporation (“Broadcom”) is licensed to make, have made, use, sell, offer for sale or import products covered by the Patents-In-Suit. To the extent that Innovatio’s allegations of infringement are premised on the alleged making, use, sale, offer for sale, or importation of products that incorporate Broadcom parts, such allegations are barred pursuant to such license and/or the doctrine of exhaustion.

35. On information and belief, Broadcom granted Qualcomm, Inc. (“Qualcomm”) a license that includes rights to make, have made, use, sell, offer for sale, or import products covered by the Patents-In-Suit. To the extent that Innovatio’s allegations of infringement are premised on the alleged making, use, sale, offer for sale, or importation of products that incorporate Qualcomm or Qualcomm Atheros parts, such allegations are barred pursuant to such license and/or the doctrine of exhaustion.

36. On information and belief, Broadcom granted Agere Systems Inc. (“Agere”) a license that includes rights to make, have made, use, sell, offer for sale, or import products

covered by the Patents-In-Suit. To the extent that Innovatio's allegations of infringement are premised on the alleged making, use, sale, offer for sale, or importation of products that incorporate Agere parts, such allegations are barred pursuant to such license and/or the doctrine of exhaustion.

37. On information and belief, Broadcom granted STMicroelectronics a license that includes rights to make, have made, use, sell, offer for sale, or import products covered by the Patents-In-Suit. To the extent that Innovatio's allegations of infringement are premised on the alleged making, use, sale, offer for sale, or importation of products that incorporate STMicroelectronics parts, such allegations are barred pursuant to such license and/or the doctrine of exhaustion.

38. On information and belief, Broadcom granted Intermec Inc. ("Intermec") a license that includes rights to make, have made, use, sell, offer for sale, or import products covered by the Patents-In-Suit. To the extent that Innovatio's allegations of infringement are premised on the alleged making, use, sale, offer for sale, or importation of products that incorporate Intermec parts, such allegations are barred pursuant to such license and/or the doctrine of exhaustion.

39. On information and belief, at least some of the products accused of infringement by Innovatio are licensed to the Patents-In-Suit

40. SonicWALL and its products have not infringed and do not infringe, either directly or indirectly, any valid and enforceable claim of any of the Patents-in-Suit, either literally or under the doctrine of equivalents.

41. A substantial controversy exists between the parties which is of sufficient immediacy and reality to warrant declaratory relief.

**COUNT I – DECLARATION OF NONINFRINGEMENT OF
U.S. PATENT NO. 6,714,559**

42. SonicWALL incorporates by reference paragraphs 1 through 41 above as though fully set forth herein.

43. SonicWALL has not directly infringed, contributed to the infringement of, or induced others to infringe, any valid and enforceable claim of the '559 patent, either literally or under the doctrine of equivalents.

44. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

45. A judicial declaration is necessary and appropriate so that SonicWALL may ascertain its rights regarding the '559 patent.

**COUNT II – DECLARATION OF INVALIDITY OF
U.S. PATENT NO. 6,714,559**

46. SonicWALL incorporates by reference paragraphs 1 through 45 above as though fully set forth herein.

47. The '559 patent is invalid for failure to meet the conditions of patentability and/or otherwise comply with one or more of 35 U.S.C. §§ 100 *et seq.*, 101, 102, 103, and 112.

48. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

49. A judicial declaration is necessary and appropriate so that SonicWALL may ascertain its rights with respect to the '559 patent.

**COUNT III – DECLARATION OF NONINFRINGEMENT OF
U.S. PATENT NO. 7,386,002**

50. SonicWALL incorporates by reference paragraphs 1 through 49 above as though fully set forth herein.

51. SonicWALL has not directly infringed, contributed to the infringement of, or induced others to infringe, any valid and enforceable claim of the '002 patent, either literally or under the doctrine of equivalents.

52. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

53. A judicial declaration is necessary and appropriate so that SonicWALL may ascertain its rights regarding the '002 patent.

**COUNT IV – DECLARATION OF INVALIDITY OF
U.S. PATENT NO. 7,386,002**

54. SonicWALL incorporates by reference paragraphs 1 through 53 above as though fully set forth herein.

55. The '002 patent is invalid for failure to meet the conditions of patentability and/or otherwise comply with one or more of 35 U.S.C. §§ 100 *et seq.*, 101, 102, 103, and 112.

56. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

57. A judicial declaration is necessary and appropriate so that SonicWALL may ascertain its rights with respect to the '002 patent.

**COUNT V – DECLARATION OF NONINFRINGEMENT OF
U.S. PATENT NO. 7,535,921**

58. SonicWALL incorporates by reference paragraphs 1 through 57 above as though fully set forth herein.

59. SonicWALL has not directly infringed, contributed to the infringement of, or induced others to infringe, any valid and enforceable claim of the '921 patent, either literally or under the doctrine of equivalents.

60. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

61. A judicial declaration is necessary and appropriate so that SonicWALL may ascertain its rights regarding the '921 patent.

**COUNT VI – DECLARATION OF INVALIDITY OF
U.S. PATENT NO. 7,535,921**

62. SonicWALL incorporates by reference paragraphs 1 through 61 above as though fully set forth herein.

63. The '921 patent is invalid for failure to meet the conditions of patentability and/or otherwise comply with one or more of 35 U.S.C. §§ 100 *et seq.*, 101, 102, 103, and 112.

64. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

65. A judicial declaration is necessary and appropriate so that SonicWALL may ascertain its rights with respect to the '921 patent.

**COUNT VII – DECLARATION OF NONINFRINGEMENT OF
U.S. PATENT NO. 7,548,553**

66. SonicWALL incorporates by reference paragraphs 1 through 65 above as though fully set forth herein.

67. SonicWALL has not directly infringed, contributed to the infringement of, or induced others to infringe, any valid and enforceable claim of the '553 patent, either literally or under the doctrine of equivalents.

68. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

69. A judicial declaration is necessary and appropriate so that SonicWALL may ascertain its rights regarding the '553 patent.

**COUNT VIII – DECLARATION OF INVALIDITY OF
U.S. PATENT NO. 7,548,553**

70. SonicWALL incorporates by reference paragraphs 1 through 69 above as though fully set forth herein.

71. The '553 patent is invalid for failure to meet the conditions of patentability and/or otherwise comply with one or more of 35 U.S.C. §§ 100 *et seq.*, 101, 102, 103, and 112.

72. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

73. A judicial declaration is necessary and appropriate so that SonicWALL may ascertain its rights with respect to the '553 patent.

**COUNT IX – DECLARATION OF NONINFRINGEMENT OF
U.S. PATENT NO. 5,740,366**

74. SonicWALL incorporates by reference paragraphs 1 through 73 above as though fully set forth herein.

75. SonicWALL has not directly infringed, contributed to the infringement of, or induced others to infringe, any valid and enforceable claim of the '366 patent, either literally or under the doctrine of equivalents.

76. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

77. A judicial declaration is necessary and appropriate so that SonicWALL may ascertain its rights regarding the '366 patent.

**COUNT X – DECLARATION OF INVALIDITY OF
U.S. PATENT NO. 5,740,366**

78. SonicWALL incorporates by reference paragraphs 1 through 77 above as though fully set forth herein.

79. The '366 patent is invalid for failure to meet the conditions of patentability and/or otherwise comply with one or more of 35 U.S.C. §§ 100 *et seq.*, 101, 102, 103, and 112.

80. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

81. A judicial declaration is necessary and appropriate so that SonicWALL may ascertain its rights with respect to the '366 patent.

**COUNT XI – DECLARATION OF NONINFRINGEMENT OF
U.S. PATENT NO. 5,940,771**

82. SonicWALL incorporates by reference paragraphs 1 through 81 above as though fully set forth herein.

83. SonicWALL has not directly infringed, contributed to the infringement of, or induced others to infringe, any valid and enforceable claim of the '771 patent, either literally or under the doctrine of equivalents.

84. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

85. A judicial declaration is necessary and appropriate so that SonicWALL may ascertain its rights regarding the '771 patent.

**COUNT XII – DECLARATION OF INVALIDITY OF
U.S. PATENT NO. 5,940,771**

86. SonicWALL incorporates by reference paragraphs 1 through 85 above as though fully set forth herein.

87. The '771 patent is invalid for failure to meet the conditions of patentability and/or otherwise comply with one or more of 35 U.S.C. §§ 100 *et seq.*, 101, 102, 103, and 112.

88. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

89. A judicial declaration is necessary and appropriate so that SonicWALL may ascertain its rights with respect to the '771 patent.

**COUNT XIII – DECLARATION OF NONINFRINGEMENT OF
U.S. PATENT NO. 6,374,311**

90. SonicWALL incorporates by reference paragraphs 1 through 89 above as though fully set forth herein.

91. SonicWALL has not directly infringed, contributed to the infringement of, or induced others to infringe, any valid and enforceable claim of the '311 patent, either literally or under the doctrine of equivalents.

92. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

93. A judicial declaration is necessary and appropriate so that SonicWALL may ascertain its rights regarding the '311 patent.

**COUNT XIV – DECLARATION OF INVALIDITY OF
U.S. PATENT NO. 6,374,311**

94. SonicWALL incorporates by reference paragraphs 1 through 93 above as though fully set forth herein.

95. The '311 patent is invalid for failure to meet the conditions of patentability and/or otherwise comply with one or more of 35 U.S.C. §§ 100 *et seq.*, 101, 102, 103, and 112.

96. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

97. A judicial declaration is necessary and appropriate so that SonicWALL may ascertain its rights with respect to the '311 patent.

**COUNT XV – DECLARATION OF NONINFRINGEMENT OF
U.S. PATENT NO. 7,457,646**

98. SonicWALL incorporates by reference paragraphs 1 through 97 above as though fully set forth herein.

99. SonicWALL has not directly infringed, contributed to the infringement of, or induced others to infringe, any valid and enforceable claim of the '646 patent, either literally or under the doctrine of equivalents.

100. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

101. A judicial declaration is necessary and appropriate so that SonicWALL may ascertain its rights regarding the '646 patent.

**COUNT XVI – DECLARATION OF INVALIDITY OF
U.S. PATENT NO. 7,457,646**

102. SonicWALL incorporates by reference paragraphs 1 through 101 above as though fully set forth herein.

103. The '646 patent is invalid for failure to meet the conditions of patentability and/or otherwise comply with one or more of 35 U.S.C. §§ 100 *et seq.*, 101, 102, 103, and 112.

104. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

105. A judicial declaration is necessary and appropriate so that SonicWALL may ascertain its rights with respect to the '646 patent.

**COUNT XVII – DECLARATION OF NONINFRINGEMENT OF
U.S. PATENT NO. 5,546,397**

106. SonicWALL incorporates by reference paragraphs 1 through 105 above as though fully set forth herein.

107. SonicWALL has not directly infringed, contributed to the infringement of, or induced others to infringe, any valid and enforceable claim of the '397 patent, either literally or under the doctrine of equivalents.

108. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

109. A judicial declaration is necessary and appropriate so that SonicWALL may ascertain its rights regarding the '397 patent.

**COUNT XVIII – DECLARATION OF INVALIDITY OF
U.S. PATENT NO. 5,546,397**

110. SonicWALL incorporates by reference paragraphs 1 through 109 above as though fully set forth herein.

111. The '397 patent is invalid for failure to meet the conditions of patentability and/or otherwise comply with one or more of 35 U.S.C. §§ 100 *et seq.*, 101, 102, 103, and 112.

112. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

113. A judicial declaration is necessary and appropriate so that SonicWALL may ascertain its rights with respect to the '397 patent.

**COUNT XIX – DECLARATION OF NONINFRINGEMENT OF
U.S. PATENT NO. 5,844,893**

114. SonicWALL incorporates by reference paragraphs 1 through 113 above as though fully set forth herein.

115. SonicWALL has not directly infringed, contributed to the infringement of, or induced others to infringe, any valid and enforceable claim of the '893 patent, either literally or under the doctrine of equivalents.

116. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

117. A judicial declaration is necessary and appropriate so that SonicWALL may ascertain its rights regarding the '893 patent.

**COUNT XX – DECLARATION OF INVALIDITY OF
U.S. PATENT NO. 5,844,893**

118. SonicWALL incorporates by reference paragraphs 1 through 117 above as though fully set forth herein.

119. The '893 patent is invalid for failure to meet the conditions of patentability and/or otherwise comply with one or more of 35 U.S.C. §§ 100 *et seq.*, 101, 102, 103, and 112.

120. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

121. A judicial declaration is necessary and appropriate so that SonicWALL may ascertain its rights with respect to the '893 patent.

**COUNT XXI – DECLARATION OF NONINFRINGEMENT OF
U.S. PATENT NO. 6,665,536**

122. SonicWALL incorporates by reference paragraphs 1 through 121 above as though fully set forth herein.

123. SonicWALL has not directly infringed, contributed to the infringement of, or induced others to infringe, any valid and enforceable claim of the '536 patent, either literally or under the doctrine of equivalents.

124. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

125. A judicial declaration is necessary and appropriate so that SonicWALL may ascertain its rights regarding the '536 patent.

**COUNT XXII – DECLARATION OF INVALIDITY OF
U.S. PATENT NO. 6,665,536**

126. SonicWALL incorporates by reference paragraphs 1 through 125 above as though fully set forth herein.

127. The '536 patent is invalid for failure to meet the conditions of patentability and/or otherwise comply with one or more of 35 U.S.C. §§ 100 *et seq.*, 101, 102, 103, and 112.

128. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

129. A judicial declaration is necessary and appropriate so that SonicWALL may ascertain its rights with respect to the '536 patent.

**COUNT XXIII – DECLARATION OF NONINFRINGEMENT OF
U.S. PATENT NO. 6,697,415**

130. SonicWALL incorporates by reference paragraphs 1 through 129 above as though fully set forth herein.

131. SonicWALL has not directly infringed, contributed to the infringement of, or induced others to infringe, any valid and enforceable claim of the '415 patent, either literally or under the doctrine of equivalents.

132. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

133. A judicial declaration is necessary and appropriate so that SonicWALL may ascertain its rights regarding the '415 patent.

**COUNT XXIV – DECLARATION OF INVALIDITY OF
U.S. PATENT NO. 6,697,415**

134. SonicWALL incorporates by reference paragraphs 1 through 133 above as though fully set forth herein.

135. The '415 patent is invalid for failure to meet the conditions of patentability and/or otherwise comply with one or more of 35 U.S.C. §§ 100 *et seq.*, 101, 102, 103, and 112.

136. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

137. A judicial declaration is necessary and appropriate so that SonicWALL may ascertain its rights with respect to the '415 patent.

**COUNT XXV – DECLARATION OF NONINFRINGEMENT OF
U.S. PATENT NO. 7,013,138**

138. SonicWALL incorporates by reference paragraphs 1 through 137 above as though fully set forth herein.

139. SonicWALL has not directly infringed, contributed to the infringement of, or induced others to infringe, any valid and enforceable claim of the '138 patent, either literally or under the doctrine of equivalents.

140. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

141. A judicial declaration is necessary and appropriate so that SonicWALL may ascertain its rights regarding the '138 patent.

**COUNT XXVI – DECLARATION OF INVALIDITY OF
U.S. PATENT NO. 7,013,138**

142. SonicWALL incorporates by reference paragraphs 1 through 141 above as though fully set forth herein.

143. The '138 patent is invalid for failure to meet the conditions of patentability and/or otherwise comply with one or more of 35 U.S.C. §§ 100 *et seq.*, 101, 102, 103, and 112.

144. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

145. A judicial declaration is necessary and appropriate so that SonicWALL may ascertain its rights with respect to the '138 patent.

**COUNT XXVII – DECLARATION OF NONINFRINGEMENT OF
U.S. PATENT NO. 7,710,907**

146. SonicWALL incorporates by reference paragraphs 1 through 145 above as though fully set forth herein.

147. SonicWALL has not directly infringed, contributed to the infringement of, or induced others to infringe, any valid and enforceable claim of the '907 patent, either literally or under the doctrine of equivalents.

148. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

149. A judicial declaration is necessary and appropriate so that SonicWALL may ascertain its rights regarding the '907 patent.

**COUNT XXVIII – DECLARATION OF INVALIDITY OF
U.S. PATENT NO. 7,710,907**

150. SonicWALL incorporates by reference paragraphs 1 through 149 above as though fully set forth herein.

151. The '907 patent is invalid for failure to meet the conditions of patentability and/or otherwise comply with one or more of 35 U.S.C. §§ 100 *et seq.*, 101, 102, 103, and 112.

152. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

153. A judicial declaration is necessary and appropriate so that SonicWALL may ascertain its rights with respect to the '907 patent.

**COUNT XXIX – DECLARATION OF NONINFRINGEMENT OF
U.S. PATENT NO. 7,916,747**

154. SonicWALL incorporates by reference paragraphs 1 through 153 above as though fully set forth herein.

155. SonicWALL has not directly infringed, contributed to the infringement of, or induced others to infringe, any valid and enforceable claim of the '747 patent, either literally or under the doctrine of equivalents.

156. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

157. A judicial declaration is necessary and appropriate so that SonicWALL may ascertain its rights regarding the '747 patent.

**COUNT XXX – DECLARATION OF INVALIDITY OF
U.S. PATENT NO. 7,916,747**

158. SonicWALL incorporates by reference paragraphs 1 through 157 above as though fully set forth herein.

159. The '747 patent is invalid for failure to meet the conditions of patentability and/or otherwise comply with one or more of 35 U.S.C. §§ 100 *et seq.*, 101, 102, 103, and 112.

160. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

161. A judicial declaration is necessary and appropriate so that SonicWALL may ascertain its rights with respect to the '747 patent.

**COUNT XXXI – DECLARATION OF NONINFRINGEMENT OF
U.S. PATENT NO. 7,873,343**

162. SonicWALL incorporates by reference paragraphs 1 through 161 above as though fully set forth herein.

163. SonicWALL has not directly infringed, contributed to the infringement of, or induced others to infringe, any valid and enforceable claim of the '343 patent, either literally or under the doctrine of equivalents.

164. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

165. A judicial declaration is necessary and appropriate so that SonicWALL may ascertain its rights regarding the '343 patent.

**COUNT XXXII – DECLARATION OF INVALIDITY OF
U.S. PATENT NO. 7,873,343**

166. SonicWALL incorporates by reference paragraphs 1 through 165 above as though fully set forth herein.

167. The '343 patent is invalid for failure to meet the conditions of patentability and/or otherwise comply with one or more of 35 U.S.C. §§ 100 *et seq.*, 101, 102, 103, and 112.

168. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

169. A judicial declaration is necessary and appropriate so that SonicWALL may ascertain its rights with respect to the '343 patent.

**COUNT XXXIII –DECLARATION OF NONINFRINGEMENT OF
U.S. PATENT NO. 7,536,167**

170. SonicWALL incorporates by reference paragraphs 1 through 169 above as though fully set forth herein.

171. SonicWALL has not directly infringed, contributed to the infringement of, or induced others to infringe, any valid and enforceable claim of the '167 patent, either literally or under the doctrine of equivalents.

172. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

173. A judicial declaration is necessary and appropriate so that SonicWALL may ascertain its rights regarding the '167 patent.

**COUNT XXXIV – DECLARATION OF INVALIDITY OF
U.S. PATENT NO. 7,536,167**

174. SonicWALL incorporates by reference paragraphs 1 through 173 above as though fully set forth herein.

175. The '167 patent is invalid for failure to meet the conditions of patentability and/or otherwise comply with one or more of 35 U.S.C. §§ 100 *et seq.*, 101, 102, 103, and 112.

176. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

177. A judicial declaration is necessary and appropriate so that SonicWALL may ascertain its rights with respect to the '167 patent.

COUNT XXXV – LICENSE

178. SonicWALL incorporates by reference paragraphs 1 through 177 above as though fully set forth herein.

179. As set forth above, to the extent that Innovatio’s allegations of infringement are premised on the alleged making, use, sale, offer for sale, or importation of licensed products, such allegations are barred pursuant to such a license.

180. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

181. A judicial declaration is necessary and appropriate so that SonicWALL may ascertain its rights with respect to the Patents-In-Suit.

COUNT XXXVI – EXHAUSTION

182. SonicWALL incorporates by reference paragraphs 1 through 181 above as though fully set forth herein.

183. As set forth above, to the extent that Innovatio’s allegations of infringement are premised on the alleged making, use, sale, offer for sale, or importation of licensed products, such allegations are barred pursuant to the doctrine of exhaustion.

184. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

185. A judicial declaration is necessary and appropriate so that SonicWALL may ascertain its rights with respect to the Patents-In-Suit.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff SonicWALL, Inc. respectfully request that the Court enter judgment in favor of Plaintiff granting the following relief:

- A. A declaration that SonicWALL has not infringed and does not infringe any valid and enforceable claim of any of the Patents-in-Suit;
- B. A declaration that the Patents-in-Suit are invalid for failure to meet the conditions of patentability and/or otherwise comply with the requirements of 35 U.S.C. §§ 100 *et seq.*, 101, 102, 103, and/or 112;
- C. A declaration that Innovatio's allegations of infringement are barred;
- D. An injunction against Innovatio and its officers, agents, servants, employees, attorneys, and others in active concert or participation with them from asserting infringement or instituting or continuing any legal action for infringement of the Patents-in-Suit against SonicWALL or its suppliers, manufacturers, distributors, resellers of its products, customers or end users of its products;
- E. An order declaring that this is an exceptional case and awarding SonicWALL its costs, expenses, disbursements and reasonable attorney fees under 35 U.S.C. § 285 and all other applicable statutes, rules and common law; and
- F. Such other and further relief as this Court may deem just and proper.

JURY DEMAND

In accordance with Rule 38 of the Federal Rules of Civil Procedure and Rule 38.1 of the Local Rules of Civil Practice and Procedure of the United States District Court for the District of Delaware, SonicWALL respectfully demands a jury trial of all issues triable to a jury in this action.

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Dated: October 7, 2011

/s/ Elena C. Norman

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