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*Attorneys for Plaintiff SmartMetric Inc.,*

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

SMARTMETRIC INC., a Nevada  
corporation,

Plaintiff,

vs.

MASTERCARD INTERNATIONAL  
INCORPORATED a Delaware  
corporation, and  
VISA, INC., a Delaware corporation

Defendants.

CASE NO.

**COMPLAINT FOR  
INFRINGEMENT OF U. S.  
PATENT 6,792,464**

**JURY TRIAL DEMANDED**

1. Plaintiff SmartMetric Inc. ("SmartMetric"), a Nevada Corporation, for its complaint, and demanding trial by jury under Rule 38, Fed. R. Civ. P., and Local Rule 38-1, alleges that Defendants MasterCard International Incorporated ("MC") and VISA, Inc. ("VISA"), are infringing U.S. Patent 6,792,464 (the "'464 patent"), in this judicial district, by selling, offering to sell and using contact and contact/contactless credit card systems that use datacards that, when inserted into a data card reader, help to establish connection to a network (the "Systems"), that infringe at least claims 1 and 14 of the '464 patent.

1 2. Claim 1 of the '464 patent reads as follows: "A computer system for  
2 allowing a user to automatically access one of a plurality of network service  
3 providers which require information specific to the user and/or the network service  
4 provider to be accessed, the computer system comprising: a data card which  
5 contains the information specific to the user and/or the network service provider to  
6 be accessed; a data card reader adapted to access at least part of the information  
7 contained on the data card when the data card is in communication therewith; a data  
8 processor in communication with the data card reader and adapted to be connected  
9 to a network; and an application program resident on the data processor, said  
10 application program being configured to automatically retrieve at least part of the  
11 information contained on the data card when the data card is in communication  
12 with said data card reader and to use said information to gain access to one of the  
13 plurality of network service providers via the network by using one of a default  
14 access number indicating a designated network service provider and a local access  
15 number from a database containing a list of access numbers or the plurality of  
16 network service providers along with corresponding location information for each  
17 access number in the list, wherein said application program is immediately  
18 triggered upon insertion of said data card into said data card reader." The accused  
19 system is such a computer system. This system permits users with contact and  
20 contact/contactless cards, which contain information specific to the users and/or the  
21 network service provider to be accessed, to access such networks by inserting the

1 cards into a reader. These systems include data processors in communication with  
2 the data card readers, and application programs resident on the processors, as called  
3 for in claim 1. These programs automatically retrieve at least part of the  
4 information contained on the data cards when the cards are in communication with  
5 the reader, and use this information to gain access to one of the plurality of network  
6 service providers via the network, using one of a default access number indicating a  
7 designated network service provider and a local access number from a database  
8 containing a list of access numbers or the plurality of network service providers  
9 along with corresponding location information for each access number in the list,  
10 such that the programs are immediately triggered upon insertion of such cards into  
11 such readers.  
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16 3. Claim 14 of the '464 patent reads as follows: A method for allowing a user to  
17 automatically access one of a plurality of network service providers which require  
18 information specific to the user and/or the network service provider to be accessed,  
19 comprising the steps of: configuring an application program resident on a data  
20 processor to automatically retrieve at least part of the information specific to the  
21 user and/or the network service provider to be accessed contained on a data card  
22 when said data card is in communication with a data card reader and to use said  
23 information to gain access to one of the plurality of network service providers via a  
24 network by using one of a default access number indicating a designated network  
25 service provider and a local access number from a database containing a list of  
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1 access numbers for the plurality of network service providers along with  
2 corresponding location information for each access number in the list; and  
3 immediately triggering said application program upon insertion of said data card  
4 into said data card reader.” On information and belief, the accused methods allow a  
5 user to automatically access one of a plurality of network service providers which  
6 require information specific to the user and/or the network service provider to be  
7 accessed. These methods configure an application program, resident on a data  
8 processor, to automatically retrieve at least part of the information specific to the  
9 user and/or the network service provider to be accessed contained on a contact or  
10 contact/contactless data card when such a card is in communication with a data card  
11 reader. The program uses such information to gain access to one of the plurality of  
12 network service providers via a network by using one of a default access number  
13 indicating a designated network service provider and a local access number from a  
14 database containing a list of access numbers for the plurality of network service  
15 providers along with corresponding location information for each access number in  
16 the list. These methods immediately trigger the application program, upon insertion  
17 of the data card into the data card reader. That is, these methods permit users with  
18 contact and contact/contactless data cards, which contain information specific to the  
19 users and/or the network service provider to be accessed, to access such networks  
20 by inserting a contact or contact/contactless card into a data card reader that is part  
21 of such a system.  
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1 4. MC's and VISA's accused systems therefore provide for automatic access to  
2 a network by inserting such data cards into data card readers and relaying  
3 information to/from the electric connectors of the data card and the data card  
4 reader.  
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7 5. This is a civil action for patent infringement and arises under, among other  
8 things, the United States Patent Laws, 35 U. S. C. section 101 et seq. Jurisdiction is  
9 therefore based upon 28 U. S. C. sections 1331 and 1338(a), providing for federal  
10 question jurisdiction of patent infringement actions and exclusive jurisdiction of  
11 patent infringement actions in the U. S. district courts.  
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14 6. Plaintiff SmartMetric is informed and believes, and thereon alleges, that  
15 venue in this court is proper under 28 U. S. C. section 1391(b)-(c) and section  
16 1400(b) because the acts of patent infringement alleged herein took place, at least  
17 in part, within this judicial district.  
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20 7. Plaintiff SmartMetric is a corporation organized and existing under the laws  
21 of the State of Nevada and has a place of business at Bay Harbour, FL.  
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23 8. Defendant MC is, on information and belief, a corporation of the State of  
24 Delaware, and has a place of business in El Segundo, California.  
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27 9. Defendant VISA is, on information and belief, a corporation of the State of  
28 Delaware, and has a place of business in Los Angeles, California.

1 lawfully issued the '464 patent under the title SYSTEM FOR AUTOMATIC  
2 CONNECTION TO A NETWORK. A true and correct copy of the '464 patent is  
3 attached hereto as Exhibit 1. By assignment, SmartMetric is the owner of the '464  
4 patent.  
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7 11. On information and belief, Defendant MC has infringed the '464 patent by  
8 selling, and offering for sale, systems claimed in the '464 patent in this judicial  
9 district and elsewhere in the United States. On information and belief, this  
10 infringement will continue unless enjoined by this Court.  
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13 12. On information and belief, Defendant VISA has infringed the '464 patent by  
14 selling, and offering for sale, systems claimed in the '464 patent in this judicial  
15 district and elsewhere in the United States. On information and belief, this  
16 infringement will continue unless enjoined by this Court.  
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19 13. On information and belief, Defendant MC's infringement of the '464 patent  
20 has damaged SmartMetric in an unknown amount. These damages continue to grow  
21 as MC's infringement continues. Under Section 284 of Title 35 of the United States  
22 Code, SmartMetric seeks damages adequate to compensate for this infringement in  
23 an amount no less than a reasonable royalty, together with interest and costs affixed  
24 by the Court.  
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1 14. Defendant VISA's infringement of the '464 patent has damaged SmartMetric  
2 in an unknown amount. These damages continue to grow as VISA's infringement  
3 continues. Under Section 284 of Title 35 of the United States Code, SmartMetric  
4 seeks damages adequate to compensate for this infringement in an amount no less  
5 than a reasonable royalty, together with interest and costs affixed by the Court.  
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8 15. Defendants' continuing infringement of the '464 patent has caused and  
9 continues to cause irreparable harm to SmartMetric, including impairing the value  
10 of the '464 patent in an amount yet to be determined. Pursuant to Section 283 of  
11 Title 35 of the United States Code, SmartMetric seeks a preliminary and a  
12 permanent injunction against further infringement of the '464 patent.  
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16 **PRAYER FOR RELIEF**  
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18 WHEREFORE, SmartMetric prays for the following relief from this court  
19 against each of the Defendants:

20 For an order, pursuant to 35 U. S. C. section 271, declaring that each  
21 Defendant's System has infringed one or more claims of the '464 patent;  
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23 A preliminary and a permanent injunction against each Defendant,  
24 prohibiting each of them from further infringement of the '464 patent.  
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26 An award of the actual damages SmartMetric has suffered by reason of the  
27 infringement charged in this Complaint, in an amount not less than a reasonable  
28 royalty on each Defendant's infringement of the '464 patent.

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An award to Plaintiff SmartMetric of their costs herein.

Such further relief as the Court may deem just and proper.

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Dated: August 29, 2011

WAGNER, ANDERSON & BRIGHT PC

Patrick F. Bright

by: Patrick F. Bright  
Patrick F. Bright



1 DEMAND FOR JURY TRIAL

2 Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, and  
3 Local Rule 38-1, Plaintiff SmartMetric does hereby demand trial by jury of each  
4 and every issue or claim as to which it is entitled to trial by jury under Rule 38(a) of  
5 the Federal Rules of Civil Procedure.  
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7 //

8 Dated: August 29, 2010  
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