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 7
 8 IN THE UNITED STATES DISTRICT COURT FOR THE
 9 CENTRAL DISTRICT OF CALIFORNIA

10
 11 INCOM CORPORATION, a) Civil Action No.
 California corporation,)
 12) COMPLAINT FOR PATENT
 Plaintiff,) INFRINGEMENT
 13 vs.)
) (Demand For Jury Included)
 14 THE WALT DISNEY COMPANY, a)
 Delaware corporation,)
 15)
 Defendants.)
 16)

17 COMPLAINT FOR PATENT INFRINGEMENT

18 Plaintiff InCom, by its attorneys, sues Defendant, The Walt Disney
 19 Company, for infringing US Patent Nos. 8,353,705 B2 (“the 705 patent”),
 20 7,336,185 B2 (“the 185 patent”), and 7,812,779 B2 (“the 779 patent”), and

1 alleges as follows:

2 PARTIES

3 1. Plaintiff InCom (“InCom”) is a corporation organized under the laws
4 of the State of California and has its principal place of business in Sutter,
5 California.

6 2. Defendant The Walt Disney Company (“Disney”) is a corporation
7 organized under the laws of the State of Delaware, and has its principal
8 place of business at 500 S. Buena Vista Street, Burbank, California.

9 JURISDICTION AND VENUE

10 3. This is an action for pecuniary and injunctive relief from patent
11 infringement arising under the Patent Laws of the United States, Title 35
12 of the United States Code.

13 4. This Court has jurisdiction over the subject matter of this action as
14 provided for in 28 U.S.C. § 1331 and § 1338. Venue is proper in this
15 District pursuant to 28 U.S.C. § 1391 and § 1400.

16 5. This Court has jurisdiction over Disney because Disney is a resident
17 of the Central District of California and on information and belief because
18 Disney has committed acts of patent infringement during the course of its
19 business in this District.

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THE PATENTS IN SUIT

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2 6. On January 15, 2013, the 705 patent, entitled “Attendance Tracking
3 System” was duly and legally issued to Michael Dobson, Douglas Ahlers,
4 and Bernie DiDario, who have assigned all of their rights in the 705 patent
5 to InCom. InCom has been and is still the owner of the entire right, title
6 and interest in and to the 705 patent. A copy of the 705 patent is attached
7 as Exhibit A.

8 7. On February 26, 2008, the 185 patent, entitled “Combination ID/Tag
9 Holder” was duly and legally issued to Florrie Turner, Douglas Ahlers, and
10 Bernie DiDario, who have assigned all of their rights in the 185 patent to
11 InCom. InCom has been and is still the owner of the entire right, title and
12 interest in and to the 185 patent. A copy of the 185 patent is attached as
13 Exhibit B.

14 8. On October 12, 2010, the 779 patent, entitled “RFID Transceiver
15 Sensitivity Focusing System” was duly and legally issued to Florrie Turner
16 and Douglas Ahlers, who have assigned all of their rights in the 779 patent
17 to InCom. InCom has been and is still the owner of the entire right, title
18 and interest in and to the 779 patent. A copy of the 779 patent is attached
19 as Exhibit C.

20 9. InCom has fully complied with the requirements of 35 U.S.C. §

1 287(a) by affixing the word “patent” or the abbreviation “pat”, together
2 with the number of the appropriate patent on all apparatuses
3 manufactured or sold by InCom which embody the patented inventions.

4 10. InCom developed the three patents in suit to implement an
5 Attendance Tracking System which it markets to schools, colleges,
6 universities, and other venues. A principal inventive concept is the use of
7 Radio Frequency Identification (“RFID”) to recognize human beings and
8 keep track of their attendance through the use of RFID in conjunction with
9 other apparatus. Prior to these inventions, this had been unavailable
10 because RFID did not work effectively while near human beings for
11 several reasons which were overcome by the inventions and the patents
12 sued upon. Attendance information for the large number of students
13 rushing into a school entrance over a short time frame can be logged in
14 effectively with this Attendance Tracking System. This attendance
15 information is a required mine of information upon which the funding of
16 the school is based.

17 FIRST CAUSE OF ACTION

18 (Infringement of the 705 Patent)

19 11. Disney has infringed and continues to infringe one or more of
20 the claims of the 705 patent. Disney’s infringing activities in the United

1 States and this District include development, manufacture, use and sale of
2 an attendance tracking system, including an attendance tracking device
3 known as the “MagicBand.” Such infringing activities violate 35 U.S.C.
4 §271(a).

5 12. Disney specifically acknowledged notice of the 705 patent by
6 correspondence on January 6, 2014.

7 13. Disney has installed its attendance tracking system at a
8 number of its theme or amusement parks at Walt Disney World Resort
9 also known as Walt Disney World also known as Disney World (“Disney
10 World”) where the system is used, among other things, to track attendance
11 at each park, to track attendance on a system known as “FastPass,” to
12 monitor a record of attendees at the parks and Disney hotels, to maintain
13 a record of those utilizing FastPass, and to maintain a record of purchases
14 made by attendees at the parks, all utilizing elements which infringe the
15 705 patent. On information and belief, Disney has sold ten million
16 MagicBands, or more, at a price of \$12.95 each and continues to sell
17 MagicBands at this time.

18 14. On information and belief, Disney is currently installing an
19 attendance tracking system at its venues in Anaheim, California
20 (commonly known as Disneyland and California Adventure), which will

1 infringe the 705 patent.

2 15. Disney has continued in the infringement of one or more claims
3 of the 705 patent. With knowledge of the 705 patent, Disney has installed
4 devices at its venues in Orlando, Florida, that infringe one or more of the
5 claims of the 705 patent. Such infringing activities violate 35 U.S.C. §
6 271(c).

7 16. Disney has deliberately persisted in its infringing acts despite
8 its knowledge of the patent, and as such is willfully infringing.

9 17. As a consequence of the infringing activities of Disney
10 regarding the 705 patent as complained of herein, InCom has suffered
11 monetary damages in an amount not yet determined, and InCom will
12 continue to suffer such damages in the future unless and until Disney's
13 infringing activities are enjoined by this Court.

14 SECOND CAUSE OF ACTION

15 (Infringement of the 185 Patent)

16 18. Disney has infringed and continues to infringe one or more of
17 the claims of the 185 patent. Disney's infringing activities in the United
18 States and this District include development, manufacture, use and sale of
19 an attendance tracking system, including an attendance tracking device
20 known as the "MagicBand." Such infringing activities violate 35 U.S.C.

1 §271(a).

2 19. Disney specifically acknowledged notice of the 185 patent by
3 correspondence on January 6, 2014

4 20. Disney has installed its attendance tracking system at a
5 number of its theme or amusement parks at Disney World where the
6 system is used, among other things, to track attendance at each park, to
7 track attendance on a system known as “FastPass,” to monitor a record of
8 attendees at the parks and Disney hotels, to maintain a record of those
9 utilizing FastPass, and to maintain a record of purchases made by
10 attendees at the parks, all utilizing elements which infringe the 185
11 patent. On information and belief, Disney has sold ten million
12 MagicBands, or more, at a price of \$12.95 each and continues to sell
13 MagicBands at this time.

14 21. On information and belief, Disney is currently installing an
15 attendance tracking system at its venues in Anaheim, California
16 (commonly known as Disneyland and California Adventure), which will
17 infringe the 185 patent.

18 22. Disney has continued in the infringement of one or more claims
19 of the 185 patent. With knowledge of the 185 patent, Disney has installed
20 devices at its venues in Orlando, Florida, that infringe one or more of the

1 claims of the 185 patent. Such infringing activities violate 35 U.S.C. §
2 271(c).

3 23. Disney has deliberately persisted in its infringing acts despite
4 its knowledge of the patent, and as such is willfully infringing.

5 24. As a consequence of the infringing activities of Disney
6 regarding the 185 patent as complained of herein, InCom has suffered
7 monetary damages in an amount not yet determined, and InCom will
8 continue to suffer such damages in the future unless and until Disney's
9 infringing activities are enjoined by this Court.

10 THIRD CAUSE OF ACTION

11 (Infringement of the 779 Patent)

12 25. Disney has infringed and continues to infringe one or more of
13 the claims of the 779 patent. Disney's infringing activities in the United
14 States and this District include development, manufacture, use and sale of
15 an attendance tracking system, including an attendance tracking device
16 known as the "MagicBand." Such infringing activities violate 35 U.S.C.
17 §271(a).

18 26. Disney specifically acknowledged notice of the 779 patent by
19 correspondence on January 6, 2014

20 27. Disney has installed its attendance tracking system at a

1 number of its theme or amusement parks at Disney World where the
2 system is used, among other things, to track attendance at each park, to
3 track attendance on a system known as “FastPass,” to monitor a record of
4 attendees at the parks and Disney hotels, to maintain a record of those
5 utilizing FastPass, and to maintain a record of purchases made by
6 attendees at the parks, all utilizing elements which infringe the 779
7 patent. On information and belief, Disney has sold ten million
8 MagicBands, or more, at a price of \$12.95 each and continues to sell
9 MagicBands at this time.

10 28. On information and belief, Disney is currently installing an
11 attendance tracking system at its venues in Anaheim, California
12 (commonly known as Disneyland and California Adventure).

13 29. Disney has continued in the infringement of one or more claims
14 of the 779 patent. With knowledge of the 779 patent, Disney has installed
15 devices at its venues in Orlando, Florida, that infringe one or more of the
16 claims of the 779 patent. Such infringing activities violate 35 U.S.C. §
17 271(c).

18 30. Disney has deliberately persisted in its infringing acts despite
19 its knowledge of the patent, and as such is willfully infringing.

20 31. As a consequence of the infringing activities of Disney

1 regarding the 779 patent as complained of herein, InCom has suffered
2 monetary damages in an amount not yet determined, and InCom will
3 continue to suffer such damages in the future unless and until Disney's
4 infringing activities are enjoined by this Court.

5 REQUESTED RELIEF

6 WHEREFORE, InCom prays for judgment against Disney as follows:

7 AS TO THE FIRST CAUSE OF ACTION

8 A. That Disney be declared to have infringed and/or committed acts of
9 contributory infringement with respect to the claims of the 705 patent;

10 B. That Disney, its officers, agents, servants, employees, attorneys,
11 parents, subsidiaries, affiliates, successors, and all others in active concert
12 or participation with them or acting on their behalf be permanently
13 enjoined from further infringement of the 705 patent;

14 C. That Disney be ordered to account for and pay to InCom all damages
15 caused to InCom by reason of Disney's infringement of the 705 patent
16 pursuant to 35 U.S.C. § 284, including any enhanced damages;

17 D. That InCom be granted pre-judgment and post-judgment interest on
18 the damages caused to it by reason of Disney's infringement of the 705
19 patent;

20 E. That this be declared an "exceptional case" pursuant to 35 U.S.C. §

1 285 and that Disney be ordered to pay InCom's attorney fees and costs;
2 and

3 F. That InCom be granted such other and further relief as the case may
4 require and the Court may deem just and proper.

5 AS TO THE SECOND CAUSE OF ACTION

6 G. That Disney be declared to have infringed and/or committed acts of
7 contributory infringement with respect to the claims of the 185 patent;

8 H. That Disney, its officers, agents, servants, employees, attorneys,
9 parents, subsidiaries, affiliates, successors, and all others in active concert
10 or participation with them or acting on their behalf be permanently
11 enjoined from further infringement of the 185 patent;

12 I. That Disney be ordered to account for and pay to InCom all damages
13 caused to InCom by reason of Disney's infringement of the 185 patent
14 pursuant to 35 U.S.C. § 284, including any enhanced damages;

15 J. That InCom be granted pre-judgment and post-judgment interest on
16 the damages caused to it by reason of Disney's infringement of the 185
17 patent;

18 K. That this be declared an "exceptional case" pursuant to 35 U.S.C. §
19 285 and that Disney be ordered to pay InCom's attorney fees and costs;
20 and

1 L. That InCom be granted such other and further relief as the case may
2 require and the Court may deem just and proper.

3 AS TO THE THIRD CAUSE OF ACTION

4 M. That Disney be declared to have infringed and/or committed acts of
5 contributory infringement with respect to the claims of the 779 patent;

6 N. That Disney, its officers, agents, servants, employees, attorneys,
7 parents, subsidiaries, affiliates, successors, and all others in active concert
8 or participation with them or acting on their behalf be permanently
9 enjoined from further infringement of the 779 patent;

10 O. That Disney be ordered to account for and pay to InCom all damages
11 caused to InCom by reason of Disney's infringement of the 779 patent
12 pursuant to 35 U.S.C. § 284, including any enhanced damages;

13 P. That InCom be granted pre-judgment and post-judgment interest on
14 the damages caused to it by reason of Disney's infringement of the 779
15 patent;

16 Q. That this be declared an "exceptional case" pursuant to 35 U.S.C. §
17 285 and that Disney be ordered to pay InCom's attorney fees and costs;
18 and

19 R. That InCom be granted such other and further relief as the case may
20 require and the Court may deem just and proper.

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JURY DEMAND

InCom demands a jury trial on all issues triable to a jury in this matter.

Dated: April 22, 2015

Law Offices of THOMAS J McDERMOTT



THOMAS J. McDERMOTT, Attorney for
Plaintiff, InCom Corporation

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