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11 *Counsel for Plaintiff,*
12 *Soteria Encryption II, LLC*

13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**
15 **SOUTHERN DIVISION**

16 SOTERIA ENCRYPTION II, LLC, an
17 Arizona limited liability company,

18 Plaintiff,

19 v.

20 TOSHIBA AMERICA, INC., a
21 Delaware corporation,

22 Defendant.

Case No. 8:21-cv-01213

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 For its Complaint against Defendant Toshiba America, Inc. (“Toshiba” or
2 “Defendant”), Plaintiff Soteria Encryption II, LLC (“Soteria” or “Plaintiff”) alleges
3 as follows:

4 **THE PARTIES**

5 1. Plaintiff Soteria Encryption II, LLC is an Arizona limited liability
6 company having a principal place of business in Peoria, Arizona.

7 2. On information and belief, Toshiba is a corporation organized and
8 existing under the laws of the State of Delaware, with its principal place of business
9 at 9740 Irvine Boulevard, Irvine, California 92618. Toshiba may be served with
10 process through its registered agent, The Corporation Company, 555 Capitol Mall,
11 Suite 1150, Sacramento, California 95814.

12 **JURISDICTION AND VENUE**

13 3. This is a civil action for patent infringement arising under the Patent
14 Act of the United States, 35 U.S.C. §§ 1 *et seq.* This court has subject matter
15 jurisdiction of such federal question claims pursuant to 28 U.S.C. §§ 1331 and
16 1338(a).

17 4. This Court has personal jurisdiction over Defendant in this action
18 because Defendant has committed acts within this district giving rise to this action
19 and has established minimum contacts with this forum such that the exercise of
20 jurisdiction would not offend traditional notions of fair play and substantial justice.
21 Defendant, directly and indirectly, has committed and continue to commit acts of
22 infringement in this district by, among other things, offering to sell and selling
23 products and/or services that infringe the asserted patent; and derives substantial
24 revenue from goods and services provided to individuals in California and in this
25 district.

26 5. Venue is proper under 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b) in
27 that the acts and transactions complained of herein were conceived, carried out, made
28 effective, and had effect within the State of California and within this district, among

1 other places. Defendant resides in this district by virtue of its principal place of
2 business and business activities in this district, including its regular and established
3 place of business, and acts of infringement and inducement of infringement within
4 this district.

5 **SOTERIA’S PATENT-IN-SUIT**

6 6. On June 27, 2006, the United States Patent & Trademark Office duly
7 and legally issued United States Patent No. 7,069,447 (“the ’447 Patent”), entitled
8 “Apparatus and Method for Secure Data Storage.” The ’447 Patent is owned by
9 Soteria.

10 7. Mr. James Shea is the president of Soteria. He is listed as a co-inventor
11 on the ’447 Patent. He has over thirty-five years of experience in computer and
12 memory technology. Mr. Shea rose to the rank of Sergeant in the U.S. Army before
13 his honorable discharge in 1968.

14 8. The ’447 Patent claims, among other things, a secure mass data storage
15 device operable in conjunction with a host computer. This device allows for the safe
16 and secure storage of sensitive and confidential information in portable memory
17 storage devices.

18 9. The ’447 Patent has already been litigated, and licensed to numerous
19 leading companies in this space, including Apricorn Inc., Corsair Components,
20 Lenovo (United States) Inc., Global Silicon Electronics, Inc., dba Buslink Media,
21 Datalocker, Hitachi, and SanDisk Corporation.

22 **FIRST CLAIM FOR RELIEF**

23 **AGAINST TOSHIBA FOR DIRECT AND**

24 **INDIRECT INFRINGEMENT OF U.S. PATENT NO. 7,069,447**

25 Plaintiff incorporates herein by reference the allegations set forth in paragraphs
26 1-9 of the Complaint as though fully set forth herein.

27 10. A true and correct copy of the ’447 Patent is attached as Exhibit A and
28 incorporated herein by reference.

1 11. Toshiba has been and now is infringing at least claim 1 of the '447
2 Patent in this district, and elsewhere in the United States by, among other things;
3 making, using, importing, offering for sale, and/or selling mass data storage devices
4 that contain mass storage media, a command/sector buffer, an encryption/decryption
5 unit, a user authentication unit, a media controller and a host computer interface. Said
6 mass data storage devices offer the benefits of encryption to Toshiba's customers
7 without the need for software installation or the risk of infected machines stealing
8 login credentials by using the technology contained in the mass data storage devices
9 themselves to authenticate users without going through software or through the host
10 computer interface. Examples of such devices include, but are not limited to,
11 Toshiba's Encrypted USB Flash Drive.

12 12. The mass storage device of Claim 1 offers significant improvements for
13 data security over those that existed in the art. Traditional data security relies on
14 software solutions but offer little in the way of security measures to prevent physical
15 data theft or security in the event of a compromised host computer. While the
16 contents of a drive may be encrypted, any machine that already had the encryption
17 key could readily decode them, whether or not the use of that machine was allowed.
18 The invention of the '447 Patent as embodied in Claim 1 for example, solves this
19 problem by moving the security from the host computer or computer network to the
20 physical mass storage device. By ensuring that the data is inaccessible and encrypted
21 without an authorized use of the mass storage device, it become significantly more
22 difficult for even well-positioned data thieves to access any of the data. By
23 authenticating the user on the mass storage device directly, the security of the data
24 can be ensured even if someone picks up and carries off the computer and mass
25 storage device—something traditional network or software security is ill-positioned
26 to combat.

27 13. The '447 Patent has been cited by at least 50 issued United States patents
28 and published patent applications as relevant prior art.

1 14. By making, using, selling, and offering for sale such devices, and all like
2 products and related services that are covered by one or more claims of the '447
3 Patent, including at least claim 1, Toshiba has infringed and continues to infringe the
4 '447 Patent, including infringement under 35 U.S.C. § 271.

5 15. On information and belief, Toshiba has also indirectly infringed and
6 continues to indirectly infringe the '447 Patent by actively inducing direct
7 infringement by other persons, such as its customers and end users, who operate
8 methods and systems that embody or otherwise practice one or more of the claims of
9 the '447 Patent, when Toshiba had knowledge (or willful blindness thereto) of the
10 '447 Patent and that the activities they were inducing would result in direct
11 infringement by others and intended that its actions would induce direct infringement
12 by others. Toshiba intended and was aware that the normal and customary use of the
13 accused products would infringe the '447 Patent.

14 16. Toshiba intended to induce other persons, such as its customers and end
15 users, to directly infringe the '447 Patent by (1) advising or directing them to make,
16 use, sell, or import the infringing products or perform the infringing method, (2)
17 advertising and promoting the use of the infringing products and performance of the
18 infringing method, and (3) distributing instructions for using the infringing products
19 and performing the infringing methods. On information and belief, Toshiba engaged
20 in such inducement to promote the sales of the accused products, e.g., through user
21 manuals, product support, and marketing materials to actively induce the users of the
22 accused products to infringe the '447 Patent.

23 17. Toshiba has had knowledge of the '447 Patent since, at least, the receipt
24 date of a letter sent by Soteria on or about January 15, 2021, wherein said letter
25 included a detailed claim chart showing infringement.

26 18. On information and belief, Toshiba will continue to infringe the '447
27 Patent unless enjoined by this Court.

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1 19. On information and belief, Toshiba’s infringement is willful. Toshiba
2 has disregarded, and continues to disregard, an objectively high likelihood that its
3 actions infringe at least claim 1 of the ’447 Patent, where such action constitutes
4 egregious misconduct. Given the prior litigations concerning the ’447 Patent,
5 including the issuance of a *Markman* decision, upon information and belief, Toshiba
6 knew, or it was so obvious that Toshiba should have known, that its actions
7 constituted infringement of a valid and enforceable patent.

8 20. As a direct and proximate result of Toshiba’s infringement of the ’447
9 Patent, Soteria has been and continues to be, damaged in an amount yet to be
10 determined, but in no event less than a reasonable royalty for the use made of the
11 invention by Toshiba, together with interest and costs as fixed by the Court.

12 21. Unless a preliminary and permanent injunction are issued enjoining
13 Toshiba and its officers, agents, servants and employees, and all others acting on its
14 behalf or in concert with Toshiba, from infringing the ’447 Patent, Soteria, will be
15 greatly and irreparably harmed.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Soteria prays for judgment against Toshiba as follows:

18 A. For a judicial decree that Toshiba has infringed, and continue to
19 infringe, the ’447 Patent;

20 B. For a judicial decree that Toshiba, its respective subsidiaries, officers,
21 agents, servants, employees, licensees, and all other persons or entities acting or
22 attempting to act in active concert or participation with it or acting on its behalf, be
23 preliminarily and permanently enjoined from further infringement of the ’447
24 Patent;

25 C. For a judicial decree that orders Toshiba to account for and pay to
26 Soteria all damages caused to Soteria by reason of Toshiba’s infringement pursuant
27 to 35 U.S.C. Section 284, including enhanced damages;

28 D. For a judicial decree finding that this is an exceptional case within the

1 meaning of 35 U.S.C. § 285 and awarding to Soteria its reasonable attorneys' fees;

2 E. For a judicial decree that Toshiba pays an ongoing royalty in an
3 amount to be determined for continued infringement after the date of judgment;

4 F. For a judicial decree awarding to Soteria pre-judgment and post-
5 judgment interest on the damages caused to it by Toshiba's infringement; and

6 G. For any such other and further relief as the Court may deem just and
7 proper under the circumstances.

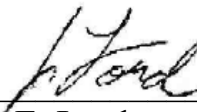
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9 Dated: July 14, 2021

ONE LLP

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By: 

John E. Lord
Joey K. Liu

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*Attorneys for Plaintiff,
Soteria Encryption II, LLC*

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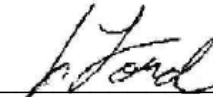
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DEMAND FOR JURY TRIAL

Plaintiff Soteria hereby demands trial by jury in this action.

Dated: July 14, 2021

ONE LLP

By:  _____
John E. Lord
Joey K. Liu

*Attorneys for Plaintiff,
Soteria Encryption II, LLC*