

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

INNOVATIVE AUTOMATION LLC,

Plaintiff,

v.

RHAPSODY INTERNATIONAL, INC.,

Defendant.

Case No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Innovative Automation LLC states its Complaint against defendant Rhapsody International, Inc., and alleges as follows:

THE PARTIES

1. Plaintiff Innovative Automation LLC is a limited liability company organized and existing under the laws of the State of California, with its principal place of business at 606 North First Street, San Jose, California 95112.

2. Defendant Rhapsody International, Inc. is a corporation organized and existing under the laws of Delaware, with its principal place of business at 1420 Fifth Avenue, Suite 1500, Seattle, WA 98101.

JURISDICTION AND VENUE

3. Plaintiff realleges and incorporates by reference the above paragraphs of this Complaint, inclusive, as though fully set forth herein.

4. This action is for patent infringement pursuant to the patent laws of the United States, 35 U.S.C. § 1, *et seq.* This Court has subject matter jurisdiction over the action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Personal jurisdiction exists generally over Defendant because it has sufficient minimum contacts with the forum as a result of business conducted within the State of Texas and

within the Eastern District of Texas. Personal jurisdiction also exists specifically over Defendant because it, directly or through subsidiaries or intermediaries, makes, uses, offers for sale, sells, imports, advertises, makes available and/or markets one or more products and/or services within the State of Texas, and more particularly, within the Eastern District of Texas, that infringe the patents-in-suit, as described more particularly below.

6. Venue is proper in the Eastern District of Texas pursuant to 28 U.S.C. §§ 1391 and 1400(b), because Defendant has committed acts of infringement in the Eastern District of Texas and has transacted business in the Eastern District of Texas.

**COUNT ONE
INFRINGEMENT OF U.S. PATENT NO. 7,174,362 C1**

7. Plaintiff realleges and incorporates by reference the above paragraphs of this Complaint, inclusive, as though fully set forth herein.

8. Plaintiff is the owner of all right, title, and interest in United States Patent No. 7,174,362 C1, entitled “Method and System for Supplying Products from Pre-Stored Digital Data in Response to Demands Transmitted via Computer Network,” duly and legally issued by the United States Patent and Trademark Office on February 6, 2007 (the “’362 patent”). A true and correct copy of the ’362 patent is attached hereto as Exhibit A.

9. The ’362 patent generally describes and claims a computer-implemented method of digital data duplication. In the method of claim 1 of the ’362 patent, a request is taken at one or more user interfaces and is transmitted through a network to a computer. The computer contains a module to create a task log based on incoming requests; a module for storing the necessary data; and a module to create a subset of the data, download that subset to an output device, and command the device to transfer the subset onto blank media. The request is assigned to an output device, and the duplication process is executed. Claims 2-26 of the ’362 patent describe various other methods and systems of digital data duplication.

10. Defendant has infringed and continues to infringe, literally and/or under the doctrine of equivalents, one or more claims of the ’362 patent under 35 U.S.C. § 271 by making,

using, offering to sell, selling, and/or importing into the United States the patented invention within the United States. Specifically, Defendant has infringed and continues to infringe the '362 patent by making, using, offering to sell, selling, and/or importing into the United States the Rhapsody music distribution product and service, accessible through at least rhapsody.com and mobile device and desktop applications.

11. As a result of Defendant's infringing activities with respect to the '362 patent, Plaintiff has suffered damages in an amount not yet ascertained. Plaintiff is entitled to recover damages adequate to compensate it for Defendant's infringing activities in an amount to be determined at trial, but in no event less than reasonable royalties, together with interest and costs. Defendant's infringement of Plaintiff's exclusive rights under the '362 patent will continue to damage Plaintiff, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

COUNT TWO
INFRINGEMENT OF U.S. PATENT NO. 7,392,283

12. Plaintiff realleges and incorporates by reference the above paragraphs of this Complaint, inclusive, as though fully set forth herein.

13. Plaintiff is the owner of all right, title, and interest in United States Patent No. 7,392,283, entitled "Method and System for Supplying Products from Pre-Stored Digital Data in Response to Demands Transmitted Via Computer Network," duly and legally issued by the United States Patent and Trademark Office on June 24, 2008 (the "'283 patent"). A true and correct copy of the '283 patent is attached hereto as Exhibit B.

14. The '283 patent generally describes and claims a computer-implemented method of digital data duplication. In the method of claim 1 of the '283 patent, a request is taken at one or more user interfaces and is transmitted through a network to a computer. The computer contains a module to create a task log based on incoming requests; a module for providing data to be duplicated; and a module to retrieve data for duplication, download the data to an output device,

and command the output device to transfer the data onto media. Claims 2-14 of the '283 patent describe various other methods and systems of digital data duplication.

15. Defendant has infringed and continues to infringe, literally and/or under the doctrine of equivalents, one or more claims of the '283 patent under 35 U.S.C. § 271 by making, using, offering to sell, selling, and/or importing into the United States the patented invention within the United States. Specifically, Defendant has infringed and continues to infringe the '283 patent by making, using, offering to sell, selling, and/or importing into the United States the Rhapsody music distribution product and service, accessible through at least rhapsody.com and mobile device and desktop applications.

16. As a result of Defendant's infringing activities with respect to the '283 patent, Plaintiff has suffered damages in an amount not yet ascertained. Plaintiff is entitled to recover damages adequate to compensate it for Defendant's infringing activities in an amount to be determined at trial, but in no event less than reasonable royalties, together with interest and costs. Defendant's infringement of Plaintiff's exclusive rights under the '283 patent will continue to damage Plaintiff, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

PRAYER FOR RELIEF

Plaintiff requests entry of judgment in its favor against Defendant for the following:

- a) A declaration that Defendant has infringed one or more claims of the '362 patent and the '283 patent;
- b) An award of damages adequate to compensate Plaintiff for Defendant's infringement of the '362 patent and the '283 patent, but in no event less than a reasonable royalty, together with prejudgment and post-judgment interest and costs, in an amount according to proof;
- c) An entry of a permanent injunction enjoining Defendant, and its respective officers, agents, employees, and those acting in privity with it, from further infringement of the

'362 patent and the '283 patent, or in the alternative, awarding a royalty for post-judgment infringement; and

d) An award to Plaintiff of such other costs and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff respectfully requests a trial by jury.

Dated: June 4, 2013

Respectfully submitted,

/s/ Charles Ainsworth

Adam J. Gutride, Esq.

Seth A. Safier, Esq.

Todd Kennedy, Esq.

Anthony J. Patek, Esq.

Marie A. McCrary, Esq.

835 Douglass Street

San Francisco, California 94114

Telephone: (415) 789-6390

Facsimile: (415) 449-6469

adam@gutridesafier.com

seth@gutridesafier.com

todd@gutridesafier.com

anthony@gutridesafier.com

marie@gutridesafier.com

Victoria L.H. Booke

Peter Ajlouny

BOOKE & AJLOUNY LLP

606 North First Street

San Jose, California 95112

Telephone: (408) 286-7000

Facsimile: (408) 286-7111

vbooke@gmail.com

peter@bookelaw.com

Robert Christopher Bunt

State Bar No. 00787165

Charles Ainsworth

State Bar No. 00783521

Parker Bunt & Ainsworth

100 E. Ferguson, Suite 1114
Tyler, Texas 75702
Telephone: (903) 531-3535
Facsimile: (903) 533-9687
charley@pbatyler.com
rcbunt@pbatyler.com

Attorneys for Plaintiff Innovative
Automation LLC