

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

PRAGMATUS MOBILE, LLC,)
)
 Plaintiff,)
)
 v.) C.A. No. _____
)
 KYOCERA CORPORATION;) JURY TRIAL DEMANDED
 KYOCERA COMMUNICATIONS, INC.;)
 KYOCERA INTERNATIONAL, INC.;)
 KYOCERA AMERICA, INC.,)
)
 Defendants)

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Pragmatum Mobile, LLC ("Pragmatum") complains and alleges as follows against Defendants Kyocera Corporation, Kyocera Communications, Inc., Kyocera International, Inc., and Kyocera America, Inc. (collectively, "Kyocera"):

THE PARTIES

1. Pragmatum is a limited liability company organized and existing under the laws of the Commonwealth of Virginia with its principal place of business at 601 North King Street, Alexandria, Virginia 22314.

2. Pragmatum is informed and believes that Kyocera Corporation is a corporation organized under the laws of Japan and its principal place of business is 6 Takeda Tobadono-cho, Fushimi-ku, Kyoto, 612-8501, Japan.

3. Pragmatum is informed and believes that Kyocera Communications, Inc. is a corporation organized under the laws of the Delaware and its principal place of business is 9520 Towne Centre Drive, San Diego, California 91923. Kyocera Communications, Inc can be served with process through its agent Corporation Service Company, 2711 Centerville Road, Suite 400,

Wilmington, DE 19808. Upon information and belief, Kyocera Communications, Inc. is a wholly owned subsidiary of Kyocera Corporation.

4. Pragmatus is informed and believes that Kyocera International, Inc. is a corporation organized under the laws of the California and its principal place of business is 8611 Balboa Avenue, San Diego, California 92123. Kyocera International, Inc can be served with process through its agent C T Corporation System, 818 W Seventh Street, Los Angeles, CA 90017. Upon information and belief, Kyocera International, Inc. is a wholly owned subsidiary of Kyocera Corporation.

5. Pragmatus is informed and believes that Kyocera America, Inc. is a corporation organized under the laws of the California and its principal place of business is 8611 Balboa Avenue, San Diego, California 92123. Kyocera America, Inc. can be served with process through its agent CSC Lawyers Incorporating Service, 2710 Gateway Oaks Dr. Ste. 150N, Sacramento, California 95833. Upon information and belief, Kyocera America, Inc. is a wholly owned subsidiary of Kyocera Corporation.

JURISDICTION AND VENUE

6. This is an action for patent infringement arising under the patent laws of the United States, United States Code, 35 U.S.C. § 271 et seq. This Court has subject matter jurisdiction over this action under Title 28 United States Code, §§ 1331 and 1338.

7. Pragmatus is informed and believes that this Court has personal jurisdiction over Kyocera because Kyocera Communications, Inc. is incorporated within this district, and/or because Kyocera has committed, and continues to commit, acts of infringement in Delaware. Pragmatus is informed and believes that Kyocera Communications, Inc. maintains a registered agent in Delaware, namely Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, DE 19808.

8. Venue is proper under 28 U.S.C. §§ 1391 and 1400 because Kyocera has committed acts of infringement in this district and/or is deemed to reside in this district.

THE PATENTS-IN-SUIT

9. On June 18, 2013, the United States Patent and Trademark Office ("USPTO") duly and legally issued United States Patent No. 8,466,795 ("the '795 Patent"), entitled "Personal Security And Tracking System." Pragmatus holds all right, title and interest in and to the '795 Patent. A true and correct copy of the '795 Patent is attached as Exhibit A.

10. On information and belief, Kyocera had knowledge of at least the '795 Patent no later than October 14, 2013 by virtue of letters sent by Pragmatus to Kyocera Corporation's President, Goro Yamaguchi, Kyocera Communications, Inc.'s President, Yasuhiro Oishi, Kyocera International, Inc.'s President, John Rigby, and Kyocera America's President, Robert Whisler.

COUNT I

(INFRINGEMENT OF THE '795 PATENT)

11. Pragmatus incorporates by reference herein the averments set forth in paragraphs 1 through 10 above.

12. Kyocera has and continues to infringe directly one or more claims of the '795 Patent by making, using, offering for sale, selling and/or practicing the inventions covered by at least claim 27 of the '795 Patent, at least by providing the Kyocera Hydro Elite smartphone.

13. Kyocera has and continues to infringe indirectly one or more claims of the '795 Patent by inducing others to infringe at least claim 27 of the '795 Patent by knowingly and intentionally encouraging or aiding third parties (e.g., Kyocera's users) to use, *inter alia*, the Kyocera Hydro Elite smartphone in a way that infringes and will continue to infringe the '795 Patent. Kyocera, through at least its online user manuals, marketing materials and help materials

actively induced and continues to induce its users of, *inter alia*, the Kyocera Hydro Elite smartphone to infringe the '795 Patent.

14. Kyocera has and continues to contributorily infringe one or more claims of the '795 Patent, including at least claim 27, by offering to users of, *inter alia*, the Kyocera Hydro Elite smartphone components that embody a material part of the inventions described in the '795 Patent that are known by Kyocera to be especially made or especially adapted for use in infringement of the '795 Patent and are not staple articles or commodities suitable for substantial, non-infringing use. Pragmatus is informed and believes that the third party users of, *inter alia*, the Kyocera Hydro Elite smartphone have infringed and will continue to infringe the '795 Patent by using the Kyocera Hydro Elite smartphone.

15. Pragmatus has provided Kyocera written notice of Kyocera's infringement prior to the filing of this suit, and Kyocera also has written notice of its infringement by virtue of the filing and service of this Complaint. Pragmatus is informed and believes that from the time that Kyocera received notice of its infringement of the '795 patent on or about October 14, 2013 in letters from William Marino to Goro Yamaguchi, Yasuhiro Oishi, John Rigby, and Robert Whisler, Kyocera knew that users of, *inter alia*, the Kyocera Hydro Elite smartphone infringed the '795 patent and knew that it facilitated infringement by providing the Kyocera Hydro Elite smartphone to end users and encouraged infringement by providing online user manuals, marketing materials and help materials that explain how to infringe the '795 Patent. In addition to identifying the '795 Patent in the letters received on October 14, 2013, Mr. Marino also included representative claim comparisons showing how the '795 Patent reads on the Kyocera Hydro Elite smartphone.

16. Pragmatus is informed and believes that following notice Kyocera did nothing to remedy its infringement and continues to infringe to this day. Kyocera has continued to infringe despite an objectively high likelihood that its, *inter alia*, Kyocera Hydro Elite smartphone infringes the '795 Patent. Moreover, this risk was either known or so obvious that it should have been known to Kyocera. Accordingly, Kyocera has willfully infringed the '795 Patent.

17. As a result of Kyocera's acts of infringement, Pragmatus has suffered and will continue to suffer damages in an amount to be proved at trial.

PRAYER FOR RELIEF

WHEREFORE, Pragmatus respectfully requests the following relief:

- a) A judgment that Kyocera has infringed one or more claims of United States Patent No. 8,466,795;
- b) A judgment that United States Patent No. 8,466,795 is valid and enforceable;
- c) Pragmatus be awarded damages adequate to compensate Pragmatus for Kyocera's infringement of United States Patent No. 8,466,795 up until the date such judgment is entered, including prejudgment and post-judgment interest, costs, and disbursements as justified under 35 U.S.C. § 284 and, if necessary, to adequately compensate Pragmatus for Kyocera's infringement, an accounting;
- d) A judgment that Pragmatus be awarded attorney fees, costs, and expenses incurred in prosecuting this action;
- e) A judgment that Pragmatus be awarded such further relief at law or in equity as the Court deems just and proper; and
- f) A judgment permanently enjoining Kyocera from further infringement of United States Patent No. 8,466,795.

g) A judgment that Kyocera's infringement of United States Patent No. 8,466,795 was willful and enhancing Pragmatius' damages to three times its actual damages as a result.

DEMAND FOR JURY TRIAL

Pragmatius hereby demands trial by jury on all claims and issues so triable.

Respectfully submitted,

Dated: October 15, 2013

FARNAN LLP

By: /s/ Brian E. Farnan

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