

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

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INTERACTIVE MUSIC TECHNOLOGY,)
LLC, a Wyoming Limited Liability Company,)

Plaintiff,)

vs.)

ROLAND CORPORATION U.S., a Delaware)
corporation; OPEN LABS, INC., a Texas)
corporation; YAMAHA CORPORATION OF)
AMERICA, a California corporation, and)
DOES 1 through 10,)

Defendants.)

CV 08-01678

CIVIL ACTION NO. 6:07-CV-282-LED

JURY TRIAL DEMANDED

**PLAINTIFF'S ORIGINAL COMPLAINT FOR
PATENT INFRINGEMENT AND JURY DEMAND**

Plaintiff INTERACTIVE MUSIC TECHNOLOGY, LLC ("IMT") as its Complaint against Defendants ROLAND CORPORATION U.S. ("Roland"), OPEN LABS, INC. ("Open Labs"), YAMAHA CORPORATION OF AMERICA ("Yamaha") and Does 1 through 10, inclusive (collectively, "Defendants") respectfully shows the Court as follows:

I. JURISDICTION AND VENUE.

1. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35, United States Code. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1338(a) (action arising under an Act of Congress relating to patents) and 28 U.S.C. § 1331 (federal question).

L/N
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N/S

2. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) and (c) and 28 U.S.C. § 1400(b). Each of the Defendants “resides” in this judicial district because each is subject to personal jurisdiction in this district. On information and belief, each of the Defendants has conducted a significant amount of business in this judicial district, including significant sales and/or offers to sell the infringing products.

II. THE PARTIES

3. Plaintiff IMT is a Wyoming Limited Liability Company with its principal place of business in Sheridan, Wyoming.

4. On information and belief, Defendant Roland is a Delaware corporation with its principal place of business located at 5100 S. Eastern Avenue, Los Angeles, California 90040. Roland makes, uses, offers to sell, sells and/or imports into the United States electronic music instruments, including electronic keyboards.

5. On information and belief, Defendant Open Labs is a Texas corporation with its principal place of business located at 5810 Trade Center Drive, Building 1, Suite 100, Austin, TX 78744. Open Labs makes, uses, offers to sell, sells and/or imports into the United States electronic music instruments, including electronic keyboards.

6. On information and belief, Defendant Yamaha is a California corporation with its principal place of business located at 6600 Orangethorpe Ave., Buena Park, CA 90620. Yamaha makes, uses, offers to sell, sells and/or imports into the United States electronic music instruments, including electronic keyboards.

7. The true names and capacities, whether individual, corporate, associate or otherwise, of defendants DOES 1 through 10, inclusive, are unknown to IMT, which therefore sues said defendants by such fictitious names. IMT will seek leave of this Court to amend this

Complaint to include their proper names and capacities when they have been ascertained. IMT is informed and believes, and based thereon alleges, that each of the fictitiously named defendants participated in and are in some manner responsible for the acts described in this Complaint and the damage resulting therefrom.

8. IMT alleges on information and belief that each of the defendants named herein as Does 1 through 10, inclusive, performed, participated in, or abetted in some manner, the acts alleged herein, proximately caused the damages alleged hereinbelow, and are liable to IMT for the damages and relief sought herein.

9. IMT alleges on information and belief that, in performing the acts and omissions alleged herein, and at all times relevant hereto, each of the Defendants was the agent and employee of each of the other Defendants and was at all times acting within the course and scope of such agency and employment with the knowledge and approval of each of the other Defendants.

III. GENERAL ALLEGATIONS

10. On June 1, 1999, United States Patent No. 5,908,997, entitled "Electronic Music Instrument System With Musical Keyboard" (the "997 patent"), was duly and legally issued by the United States Patent and Trademark Office (the "USPTO").

11. IMT is the owner of all rights, title and interest in and to the '997 patent, including all rights to recover for any and all past infringement thereof.

12. IMT alleges on information and belief that Roland has actual knowledge of the '997 patent, and has had such knowledge for several years.

13. IMT alleges on information and belief that Open Labs has actual knowledge of the '997 patent, and has had such knowledge for several years.

14. IMT alleges on information and belief that Yamaha has actual knowledge of the '977 patent, and has had such knowledge for several years.

15. On December 12, 2000, United States Patent No. 6,160,213, entitled "Electronic Music Instrument System With Musical Keyboard" (the "213 patent"), was duly and legally issued by the USPTO.

16. IMT is the owner of all rights, title and interest in and to the '213 patent, including all rights to recover for any and all past infringement thereof.

17. IMT alleges on information and belief that Open Labs has actual knowledge of the '213 patent, and has had such knowledge for several years.

18. IMT alleges on information and belief that Yamaha has actual knowledge of the '213 patent, and has had such knowledge for several years.

FIRST CLAIM FOR RELIEF

(Infringement of the '997 Patent Against all Defendants)

19. IMT realleges each and every allegation set forth in paragraphs 1 through 18 above, and incorporates them herein.

20. By making, using, selling, offering for sale, and/or importing into the United States electronic music instruments that contain each and all of the elements of one or more claims of the '997 patent, Defendants have infringed and are infringing the '997 patent.

21. Defendants' infringement of the '997 patent has been and will continue to be willful, wanton and deliberate with full knowledge and awareness of IMT's patent rights and without license from IMT.

22. IMT has been damaged in an amount to be determined at trial, but which is no less than a reasonable royalty, and irreparably injured by Defendants' infringing activities. IMT

will continue to be so damaged and irreparably injured unless such infringing activities are enjoined by this Court.

SECOND CLAIM FOR RELIEF

(Infringement of the '213 Patent Against Yamaha and Open Labs)

23. IMT realleges each and every allegation set forth in paragraphs 1 through 18 above, and incorporates them herein.

24. By making, using, selling, offering for sale, and/or importing into the United States electronic music instruments that contain each and all of the elements of one or more claims of the '213 patent, Defendants Yamaha and Open Labs have infringed and are infringing the '213 patent.

25. Defendants' infringement of the '213 patent has been and will continue to be willful, wanton and deliberate with full knowledge and awareness of IMT's patent rights and without license from IMT.

26. IMT has been damaged in an amount to be determined at trial, but which is no less than a reasonable royalty, and irreparably injured by Defendants' infringing activities. IMT will continue to be so damaged and irreparably injured unless such infringing activities are enjoined by this Court.

PRAYER

WHEREFORE, IMT prays for the following relief:

(a) Preliminary and permanent injunctions pursuant to 35 U.S.C. § 283 enjoining and restraining Defendants, their officers, directors, agents, employees, successors and assigns, and all those acting in privity or concert with Defendants or any of them, from further infringement of the '997 patent and the '213 patent;

(b) A judgment by the Court that all Defendants have infringed and are infringing the '997 patent;

(c) A judgment by the Court that Defendants Yamaha and Open Labs have infringed and are infringing the '213 patent;

(d) An award of damages for infringement of the '997 patent and '213 patent, together with prejudgment interest and costs, said damages to be trebled by reason of the intentional and willful nature of Defendants' infringement, as provided by 35 U.S.C. § 284;

(e) An award of IMT's reasonable attorneys' fees pursuant to 35 U.S.C. § 285 in that this is an exceptional case;

(f) IMT's costs of suit herein; and

(g) For such other and further relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff respectfully requests a trial by jury on all issues triable thereby.

Dated: June 18, 2007

Respectfully submitted,

/s/ Ronald P. Oines

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**United States District Court
Office of the Clerk
Eastern District of Texas**

2/29/08

**David J. Maland
Clerk**

**Tyler Clerk's Office
211 W. Ferguson, Rm. 106
Tyler, TX 75702**

**6:07cv282
INTERACTIVE MUSIC VS. ROLAND CORP US, et al**

U.S. District Clerk's Office
Central District of California, Los Angeles Division
G-8 United States Courthouse
312 North Spring St.
Los Angeles, CA 90012


Dear Clerk:

Pursuant to an order from our court, we are transferring to your District the above entitled cause of action. We are forwarding certified copies of the order of transfer, and docket sheet.

Please acknowledge receipt of these documents on the copy of this letter and return it to this office in the enclosed envelope.

The documents in the case may be accessed through CM/ECF by using your PACER login and password.

Sincerely,
David J. Maland, Clerk

By 
Deputy Clerk

Enclosures

Received items described above on this date 3/12/08
and assigned Case Number CV 08-01678

PSG/VBK
Signature L. Horn