

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.

CUSTOMPLAY, LLC,

Plaintiff,

v.

UNIVERSAL CITY STUDIOS, LLC and
UNIVERSAL STUDIOS HOME ENTERTAINMENT, LLC,

Defendants.

COMPLAINT FOR PATENT INFRINGEMENT

CustomPlay, LLC (“CustomPlay”) hereby sues Universal City Studios, LLC and Universal Studios Home Entertainment, LLC (collectively, “Universal”) for patent infringement, and alleges as follows:

THE PARTIES

1. CustomPlay is a limited liability company organized and existing under the laws of the State of Florida with a principal place of business in Delray Beach, Florida. CustomPlay is engaged in the business of developing, marketing and distributing innovative video-playback and content-customization technologies. CustomPlay currently has over 20 employees at its offices in Delray Beach, Florida.

2. Universal City Studios LLC is a Delaware limited liability company with a principal place of business in California.

3. Universal Studios Home Entertainment LLC is a Delaware limited liability company with a principal place of business in California, and is a wholly owned subsidiary of Universal City Studios LLC.

JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the patent laws of the United States, more specifically, under Title 35 of the United States Code, Section 271 *et seq.*

5. This Court has federal question jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a) because CustomPlay seeks relief under the Patent Act, 35 U.S.C. § 271 *et seq.*, including remedies for infringement of a United States Patent owned by CustomPlay.

6. Universal is subject to personal jurisdiction in this state under Florida Statutes § 48.193 because it has transacted and continues to transact business in this state, has contracted to supply services or products in this state, and/or has caused tortious injury in this state.

7. Venue is proper pursuant to 28 U.S.C. §§ 1391 and 1400(b) because a substantial part of the events giving rise to these claims occurred in this judicial district, because CustomPlay has suffered injury in this district, and because Universal resides in this district under the patent venue statute by having committed acts of alleged patent infringement in this district.

CUSTOMPLAY’S PATENT AND UNIVERSAL’S INFRINGEMENT

8. CustomPlay is the owner of United States Patent No. 6,408,128 B1 (“the ‘128 patent”), entitled “Replaying with Supplementary Information a Segment of a Video.” Mr. Max Abecassis, the president, CEO and owner of CustomPlay, is the inventor of the ‘128 patent. The ‘128 patent was duly and lawfully issued on June 18, 2002 by the United States Patent and Trademark Office and is now, and has been at all

times since its date of issue, valid and enforceable. A copy of the '128 patent is attached hereto as Exhibit A.

9. The inventions taught in the '128 patent include technology for “enhanc[ing] the viewing of a video by providing an elegant means and method for replaying for a viewer a non-understood segment of the video. Accordingly, a Multimedia Player's software is enhanced to serve those situations in which a viewer has failed to understand the dialogue, i.e. ““What was said?”” Ex. A, '128 patent, col. 47, ll. 20-25. The patent continues:

A remote control capable of activating a replay function comprises a WHAT? button, key, or other replay function key or means, to enable a viewer by activating the replay function to automatically cause the system to: i) rewind or skip backwards the playing of the video a system default or a viewer specific previously defined amount, e.g. 20 seconds; ii) turn on the subtitle to a system default or a viewer specific previously selected subtitle language, e.g. English; iii) turn off the subtitle at either the point the WHAT? button was pressed or at some viewer specific previously defined point with respect to the time at which the WHAT? button was pressed, e.g. five seconds prior to, or after, the point the WHAT? button was pressed; and iv) increase the audio/dialog volume during the segment replayed.

Thus, advantageously, by, for example, the pressing of a single WHAT? button or issuing, a single word command, a viewer accomplishes a function which cannot be accomplished, as efficiently and elegantly, with the pressing of at least three buttons in, for example, the operation of [a conventional video disc] player.

A viewer may activate the replay function in a Multimedia Player (100 FIG. 1) by, for example, pressing the WHAT? key (289 FIG. 2) on a remote control (200 FIG. 2), a WHAT? function key in a personal computer keyboard, a mouse click on a WHAT? button on a monitor display (311 FIG. 3), or a voice command comprising the verbalization, speaking, or pronouncement of, for example, the word “What”. Various skipping back capabilities and functions may be activated by the WHAT? key, other dedicated keys, e.g., RFP (Replay) key, or by keys, e.g., the SKIP REV key, which may serve a plurality of functions depending on the particular player activity. The replay capabilities may, at the option of the


viewer, supplement or replace the conventional functions of, for example, the REV key.

Id. col. 47, ll. 2-60. *See also id.* col. 47, l. 61 to col. 53, l. 19; *id.* col. 76, l. 20 to col. 78, l. 55 (claims 1-36).

10. CustomPlay's video player, available as a software application for download to end-users at www.customplay.com, practices the '128 patent. CustomPlay also marks its video player with notice of the '128 patent, pursuant to 35 U.S.C. § 287.

11. Without authorization under the '128 patent from CustomPlay, Universal makes, uses, imports, sells and/or offers to sell, within the United States, a computer software application called "uHear" embedded in Blu-ray discs. Universal's website describes uHear as follows:

Did you miss a critical line of dialogue while watching? Play it back instantly with subtitles via *uHear*TM to see (and hear again) what you were missing.

Press the  button on your *Blu-ray*TM remote and *uHear*TM jumps the track back 15 seconds, then replaying those seconds again, accompanied by subtitles. Once you're back to where you were, the subtitles turns [sic] back off, and regular play continues.

Universal Studios Home Entertainment, LLC, *Experience uHear*TM, <https://www.universalthidef.com/home/experiencebluray/uhear.aspx> (last visited Jan. 7, 2015). A copy of Universal's website promoting uHear is attached hereto as Exhibit B.

12. Upon information and belief, Universal has knowledge of the '128 patent and, despite such knowledge, has used the '128 patent with the intent to infringe and to cause users of uHear to infringe the '128 patent. Among other things, Universal has sought to obtain a license from CustomPlay to CustomPlay's patents.

13. Universal's activities with respect to uHear directly infringe the '128 patent in violation of 35 U.S.C. § 271(a), and on information and belief such infringement has been willful.

14. By distributing uHear embedded in Blu-ray discs to end-users, and on information and belief having knowledge of the '128 patent and intent to infringe, Universal actively induces end-users to infringe the '128 patent in violation of 35 U.S.C. § 271(b).

15. By distributing uHear embedded in Blu-ray discs to end-users, Universal contributorily infringes the '128 patent in violation of 35 U.S.C. § 271(c), where uHear embedded in Blu-ray discs is a component of a system patented by the '128 patent as well as a material used in practicing a process patented by the '128 patent, and where uHear constitutes a material part of the invention, is known by Universal, on information and belief, to be especially made or especially adapted for use in the infringement of the '128 patent, and is not a staple article or commodity of commerce suitable for substantial non-infringing use.

16. Universal will continue to infringe the '128 patent in the future unless enjoined by the Court.

17. CustomPlay has been damaged by Universal's infringement of the '128 patent in an amount to be proven at trial, but at a minimum in the amount of a reasonable royalty pursuant to 35 U.S.C. § 284.

WHEREFORE, CustomPlay prays:

a. That the Court find Universal liable for infringement of the '128 patent, either literally or under the doctrine of equivalents;

b. That Universal, and all of its agents, servants, employees, successors and assigns, and all persons acting in concert or in active participation with Universal, be preliminarily and permanently enjoined and restrained from infringing the '128 patent;

c. That the Court award CustomPlay damages due to Universal's infringement of the '128 patent, and that the Court enter judgment three (3) times such amount pursuant to 35 U.S.C. § 284.

d. That the Court find this case exceptional within the meaning of 35 U.S.C. § 285 and award CustomPlay its reasonable attorneys' fees and expenses.

e. That the Court award CustomPlay its taxable costs and disbursements.

f. That the Court award CustomPlay pre-judgment and post-judgment interest.

g. For such other and further relief as the Court deems just and proper.

JURY DEMAND

CustomPlay demands trial by jury on all issues so triable.

Dated: January 9, 2015

Respectfully submitted,

s/John C. Carey

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