

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

JOHN B. ADRAIN,

Plaintiff,

vs.

FUJI HEAVY INDUSTRIES LTD.
and SUBARU OF AMERICA, INC.

Defendants.

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Case No. 2:15-cv-82

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff John B. Adrain (õAdrainö) brings this action against defendants Subaru of America, Inc. and Fuji Heavy Industries Ltd. (collectively õSubaruö or õDefendantö) and alleges:

THE PARTIES

1. Adrain is the inventor of and owns the entire right, title, and interest in the patent at issue in this case.

2. On information and belief, Fuji Heavy Industries Ltd. is a corporation organized and existing under the laws of Japan, with its principal place of business located at Ebisu Subaru Bldg., 1-20-8, Ebisu, Shibuya-Ku, Tokyo 150-8554, Japan. Service of process can be made on Fuji Heavy Industries Ltd. by way of The Hague Service Convention.

3. On information and belief, Subaru of America Inc. is a corporation organized and existing under the laws of New Jersey, with its principal place of business located at 2235 Marlton Pike W., Cherry Hill, New Jersey 08002. It can be served with process in Texas through its registered agent, C T Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136.

JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the provisions of the Patent Laws of the United States of America, Title 35, United States Code.

5. Subject-matter jurisdiction over Adrain's claims is conferred upon this Court by 28 U.S.C. §§ 1331 and 1338(a).

6. On information and belief, Subaru has operated, conducted, engaged in, and/or carried on business in the state of Texas.

7. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b), (c) and (d), and/or 1400(b).

PATENT INFRINGEMENT

8. On November 3, 1998, U.S. Patent No. 5,831,669, entitled "Facility Monitoring System with Image Memory and Correlation" was duly and legally issued to the inventor, John B. Adrain. A Reexamination Certificate for U.S. Patent No. 5,831,669 issued on August 21, 2012. A second Reexamination Certificate for U.S. Patent No. 5,831,669 issued on June 16, 2014. A true and correct copy of U.S. Patent 5,831,669 with the Reexamination Certificates is attached hereto as Exhibit A. (U.S. Patent 5,831,669 and the Reexamination Certificates are collectively referred to as "the '669 patent.") Adrain owns all right, title and interest in the '669 patent, including the right to sue for and recover all past, present and future damages for infringement of the '669 patent.

9. The '669 patent is presumed valid.

10. Subaru manufactures, imports, advertises and sells vehicles that are equipped with monitoring systems that include components such as a movably mounted digital camera that outputs digital image data, computer equipment that processes and stores various image data, and an output interface (such as on the vehicle dashboard) for reporting results of comparisons of image data.

11. By way of further specific example, Subaru manufactures, imports, advertises and sells Subaru Legacy, Outback, Forrester and Impreza vehicles with a system identified as "EyeSight." (Subaru's systems described in this paragraph may also be referred to as "Accused Products.") EyeSight utilizes two digital cameras mounted near the front windshield. As an example of EyeSight's operation, when EyeSight determines that its vehicle is approaching another vehicle ahead too quickly, EyeSight will alert the driver and may even automatically apply the brakes to help avoid a collision or minimize the impact when a collision is inevitable.

12. Upon information and belief, Subaru, either alone or in conjunction with others, has in the past and continues to infringe and/or induce infringement of the '669 patent by using, selling, offering to sell, and/or importing, and/or causing others to use, sell, offer to sell, and/or import, in this judicial district and/or elsewhere in the United States, Accused Products that alone or in use are covered by one or more of the claims of the '669 patent.

13. Consumers purchase and use Subaru's Accused Products and are instructed by Subaru to use such Accused Products to perform methods that infringe one or more claims of the '669 patent.

14. Subaru provides instructions, such as a "Quick Reference Guide," that instruct consumers on how to use EyeSight in an infringing manner, specifically intending such consumers will operate the Accused Products in such a manner, and knowing of such actions, which constitutes infringement of one or more claims of the '669 patent.

15. Subaru indirectly infringes one or more claims of the '669 patent in violation of 35 U.S.C. 271(b) by inducing consumers of its Accused Products to directly infringe one or more claims of the '669 patent through their use of such Accused Products in accordance with Subaru's instructions.

16. For example, Subaru induces direct infringement of the -669 patent by providing manuals and instructions, such as a "Quick Reference Guide," for the Accused Products that show users how to operate the Accused Products such that, by following Subaru's instructions, the end users of the Accused Products directly infringe one more claims of the -669 patent. Subaru engages in such inducement knowingly and, at least from the time of receipt of this Complaint, has done so with knowledge that such activity encourages consumers of its Accused Products to directly infringe the -669 patent.

17. Subaru is liable for infringement of the -669 patent pursuant to 35 U.S.C. § 271.

18. Subaru's acts of infringement have caused damage to Adrain, and Adrain is entitled to recover from Subaru the damages sustained by Adrain as a result of Subaru's wrongful acts in an amount subject to proof at trial.

19. As a consequence of the infringement complained of herein, Adrain has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged by such acts in the future unless Subaru is enjoined by this Court from committing further acts of infringement.

PRAYER FOR RELIEF

WHEREFORE, Adrain prays for entry of judgment that:

- A. Subaru has directly infringed and/or induced infringement of the -669 patent;
- B. Subaru accounts for and pays to Adrain all damages caused by its infringement of the -669 patent;
- C. Adrain be granted permanent injunctive relief pursuant to 35 U.S.C. § 283 enjoining Subaru and its officers, agents, servants, employees and those persons in active concert or participation with it from further acts of patent infringement;

- D. Adrain be granted pre-judgment and post-judgment interest on the damages caused to him by reason of Subaru's patent infringement;
- E. Adrain be granted his reasonable attorneys' fees;
- F. Costs be awarded to Adrain; and,
- G. Adrain be granted such other and further relief as the Court may deem just and proper under the circumstances.

DEMAND FOR JURY TRIAL

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

Respectfully submitted,

Dated: January 26, 2015

By: /s/John T. Polasek (by Otis Carroll)

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