

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

BETTER MOUSE COMPANY, LLC,

Plaintiff,

v.

STEELSERIES APS; AND
STEELSERIES NORTH AMERICA CORP.,

Defendants.

CIVIL ACTION NO. 2:14-cv-198

FIRST AMENDED COMPLAINT
FOR PATENT INFRINGEMENT

JURY TRIAL DEMANDED

Plaintiff Better Mouse Company, LLC (“BMC”) files this First Amended Complaint against defendants Steelseries ApS and Steelseries North America Corp. (collectively, “Steelseries”), alleging, based on its own knowledge as to itself and its own actions, and based on information and belief as to all other matters, as follows:

PARTIES

1. BMC is a limited liability company formed under the laws of the State of Texas, with a principal place of business in Tyler, Texas.

2. Defendant Steelseries ApS is an Anpartsselskab (a form of limited liability company) organized under the laws of Denmark. It has a principal place of business at Skovbogards Alle 13, 2500 Vlaby, Denmark. Steelseries ApS can be served at this principal place of business.

3. Defendant Steelseries North America Corp. is a Delaware corporation with a principal place of business at 656 W. Randolph Street, 2nd Floor East, Chicago, IL 60661. Steelseries North America Corp. can be served with process by serving its registered agent in Delaware: Incorporating Services, Ltd. 3500 S. Dupont Hwy, Dover, DE 19901.

4. Steelseries North America Corp. is a subsidiary of Steelseries ApS.

JURISDICTION AND VENUE

5. This is an action for infringement of a United States patent arising under 35 U.S.C. §§ 271, 281, and 284–85, among others. This Court has subject matter jurisdiction of the action under 28 U.S.C. § 1331 and § 1338(a).

6. Venue is proper in this district under 28 U.S.C. §§ 1391 and 1400(b). Upon information and belief, Steelseries has transacted business in this district and has committed acts of patent infringement in this district.

7. Steelseries is subject to this Court’s specific and general personal jurisdiction under due process and/or the Texas Long Arm Statute due at least to Steelseries’s substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this district.

KNOWLEDGE AND WILLFUL INFRINGEMENT

8. This lawsuit involves, as will be further described below, infringement of U.S. Patent No. 7,532,200 (“the 200 patent”).

9. Steelseries had knowledge of the patent-in-suit at least as of the filing date and/or service date of the Original Complaint.

10. Steelseries’s infringement is willful at least as of the filing date and/or service date of the Original Complaint.

11. Despite having knowledge of this patent for nearly a year, Steelseries has: (1) continued to directly infringe, including continuing to make, use, sell, offer for sale and/or

import the accused computer mice and other devices; (2) continued to induce the infringement of others, as will be further described below, but including by advertising the accused devices on its website and providing instructions on how to use them in an infringing way; and (3) continued to contribute to the infringement of others, as will be further described below.

12. Steelseries continued these infringing activities despite being informed by the Original Complaint and BMC's infringement contentions about both the identity of the accused devices and the manner in which they infringe.

13. Steelseries could have ended its sale of these accused devices and other infringing activities to avoid the infringement alleged in the Original Complaint after its filing and/or service, but did not.

14. Furthermore, Steelseries has a policy or practice of not reviewing the patents of others (including instructing its employees to not review the patents of others), and thus has been willfully blind to BMC's patent rights.

15. Steelseries's actions are at least objectively reckless as to the risk of infringing a valid patent and this objective risk was either known or should have been known by Steelseries.

16. Steelseries's infringement of the 200 Patent is, has been, and continues to be willful, intentional, deliberate, and/or in conscious disregard of BMC's rights under the patent.

COUNT I: INFRINGEMENT OF U.S. PATENT NO. 7,532,200

17. On May 12, 2009, United States Patent No. 7,532,200 was duly and legally issued by the United States Patent and Trademark Office for an invention titled "Apparatus for Setting Multi-Stage Displacement Resolution of a Mouse."

18. BMC is the owner of the 200 patent with all substantive rights in and to that patent, including the sole and exclusive right to prosecute this action and enforce the 200 patent against infringers, and to collect damages for all relevant times.

19. Steelseries made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale, and has continued and will continue to do the above, computer mice and other devices (including at least the following mouse models: Kana Optical Gaming Mouse, and the models that BMC has accused in its infringement contentions against Steelseries, which are incorporated here by reference) that infringe one or more claims of the 200 patent.

20. In addition, customers of Steelseries used, and have continued and will continue to use, computer mice and other devices (including at least the following mouse models: Kana Optical Gaming Mouse, and the models that BMC has accused in its infringement contentions against Steelseries, which are incorporated here by reference) that infringe one or more claims of the 200 patent.

21. Steelseries induced, and has continued and will continue to induce, the infringement of the abovementioned customers.

22. Steelseries took active steps, directly and/or through contractual relationships with others, to cause infringement with both knowledge of the 200 patent and the specific intent to cause the abovementioned customers to use computer mice and other devices in a manner that infringed the 200 patent, and has continued and will continue to take these steps. Such steps by Steelseries include, among other things, advising or directing the abovementioned customers to use computer mice and other devices in an infringing manner; advertising and promoting the use of computer mice and other devices in an infringing manner; and/or distributing instructions that guide users to use computer mice and other devices in an infringing manner.

23. Steelseries contributed, and has continued and will continue to contribute, to the infringement of the abovementioned customers.

24. Steelseries offered to sell, sold, or imported into the United States, and has continued and will continue to do the above, hardware and/or software components of the accused computer mice and other devices (with any of these software components being internal to the accused computer mice and other devices, and not installed or otherwise located on a connected host computer).

25. These components are especially designed to be used with the function of setting multi-stage displacement resolution of a mouse, and are especially designed to be used in an infringing way.

26. These components constitute a material part of the invention of one or more asserted claims of the 200 patent and are not staple articles of commerce suitable for substantial non-infringing use.

27. These distinct and separate components are used only to carry out the function of setting multi-stage displacement resolution of a mouse in an infringing way and not any other functionality of the accused computer mice or other devices.

28. BMC has been and will continue to be damaged as a result of the infringing conduct by Steelseries alleged above. Thus, Steelseries is liable to BMC in an amount that adequately compensates BMC for such infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

29. BMC and/or its predecessors-in-interest have satisfied any and all statutory obligations required to collect pre-filing damages for the full period allowed by law.

JURY DEMAND

BMC demands a trial by jury of any issues so triable by right.

PRAYER FOR RELIEF

BMC requests that the Court find in its favor and against Steelseries and that the Court grant BMC the following relief:

- a. Judgment that one or more claims of the 200 patent have been infringed, either literally and/or under the doctrine of equivalents, by Steelseries;
- b. Judgment that Steelseries accounts for and pays to BMC all damages to and costs incurred by BMC because of Steelseries's infringing activities and other conduct complained of herein;
- c. A permanent injunction enjoining Steelseries and its respective officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert therewith from infringement of the 200 patent or, in the alternative, an award of a reasonable ongoing royalty for future infringement of the 200 patent by such entities;
- d. Pre-judgment and post-judgment interest on the damages caused by Steelseries's infringing activities and other conduct complained of herein;
- e. A declaration by the Court that this is an exceptional case and an award to BMC of its reasonable attorneys' fees and costs in accordance with 35 U.S.C. § 285; and
- f. Other and further relief as the Court may deem just and proper under the circumstances.

Dated: March 16, 2015

Respectfully submitted,

/s/ Larry D. Thompson, Jr.
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CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of March 2015, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Larry D. Thompson, Jr.
Larry D. Thompson, Jr.