

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
PEORIA DIVISION**

T-REX PROPERTY AB,

Plaintiff,

vs.

TIME-O-MATIC, LLC,

Defendant.

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Civil Action No. 1:14-CV-1488-JBM-TSH

JURY TRIAL DEMANDED

PLAINTIFF’S FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff T-Rex Property AB, by and through its undersigned counsel, files its First Amended Complaint against Defendant Time-O-Matic, LLC as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*, including 35 U.S.C. §§ 271, 281, 283 and 284.

PARTIES

2. Plaintiff T-Rex Property AB is a company organized and existing under the laws of Sweden with its principal place of business at Vårvägen 6, 18273 Stocksund, Sweden.

3. On information and belief, Defendant is a limited liability company organized under the laws of the State of Delaware. On information and belief, Defendant has a principal place of business at 1015 Maple Street, Danville, Illinois 61832.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over this case for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

5. On information and belief, Defendant is subject to the jurisdiction of this Court by virtue of maintaining a principal place of business in this Judicial District. On information and

belief, Defendant is also subject to the jurisdiction of this Court by reason of its acts of patent infringement which have been committed in this Judicial District, and by virtue of its regularly conducted and systematic business contacts in this State. As such, Defendant has purposefully availed itself of the privilege of conducting business within this Judicial District; has established sufficient minimum contacts with this Judicial District such that it should reasonably and fairly anticipate being haled into court in this Judicial District; has purposefully directed activities at residents of this State; and, at least a portion of the patent infringement claims alleged herein arise out of or are related to one or more of the foregoing activities.

6. Venue is proper in this Judicial District under 28 U.S.C. §§ 1391 and 1400(b).

THE PATENTS-IN-SUIT

7. The allegations set forth in the foregoing paragraphs 1 through 6 are hereby re-alleged and incorporated herein by reference.

8. On January 16, 2007, U.S. Patent Number RE39,470, entitled “Digital Information System,” was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the ’470 Patent is attached as Exhibit A to this First Amended Complaint.

9. The innovations described by the ’470 Patent “relate[] to a method and apparatus for controlling and coordinating” electronic displays “in a digital information system for displaying information on at least one display device . . . said information being displayed in places that are accessible to and frequented by a general public.” (’470 Patent at 1:15-21; 6:25-29) “An object of the present invention is to provide a flexible system in which external information mediators are able to dynamically control in real time the transmission of display instructions to a larger public in different places” “and to enable similar or specific information to be displayed in places that are mutually far apart.” (*Id.* at 2:39-42; 2:52-54)

10. A system operating according to an embodiment of the '470 Patent can include a control center with a communication interface that connects devices to create and update a display list in real time using control instruction fields sent from external mediators and to transmit and display the desired images to one or more electronic displays that can be controlled independently of other electronic displays. (*Id.* at 3:4-19; 4:42-45) In embodiments, the control center can include one or more servers, workstations, and databases stored on one or more physical storage devices, and can include redundancy, of both computer hardware and the information stored, where the devices can be connected using a network, such as a LAN (Local Area Network) or by using a cable-carried ISDN solution (Integrated Services Digital Network) or other fixed lines that have a similar capacity. (*Id.* at 4:57-5:16; 5:59-67; 6:41-59; 12:55-13:7)

11. In one embodiment of the invention, personnel operating a work station can enter information to be displayed from an external mediator via projector control instructions in the exposure list created by the server. (*Id.* at 8:10-26) Operators are able to interrupt a queue in the server in order to update the exposure list with information generated centrally from the control center or with information from an external information mediator. (*Id.*)

12. Information mediators can use an exposure program to deliver complete images (e.g. an image, a series of images or a video clip) for display which would not require processing by the control center, these can be dynamically added to the exposure list by the exposure handler. (*Id.* at 11:19-28) External information mediators can thus deliver a complete image for display (an image, a series of images or a video clip) which can be processed automatically and inserted into the exposure list, or an administrator can select information from an external mediator and process the information so that it can be inserted into the exposure list via the exposure handler. (*Id.* at 8:27-41)

13. On June 3, 2008, U.S. Patent Number 7,382,334, entitled “Digital Information System,” was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the ’334 Patent is attached as Exhibit B to this First Amended Complaint.

14. The innovations described by the ’334 Patent relate to methods and arrangements “for controlling and coordinating” digital display devices “in a digital information system for displaying information on at least one display device” “wherein the information is displayed in places that are accessible to and frequented by a general public.” (’334 Patent at Abstract; 1:13-24; 5:20-32) The present invention is able “to provide a flexible system in which external information mediators are able to dynamically control in real time the transmission of display instructions to a larger public in different places” “and to enable similar or specific information to be displayed in places that are mutually far apart.” (*Id.* at 2:56-60; 3:5-11)

15. A system operating according to an embodiment of the ’334 Patent can include a control center with a communication interface that connects devices to create and update a display list in real time using control instruction fields sent from external mediators and to transmit and display the desired images to one or more electronic displays that can be controlled independently of other electronic displays. (*Id.* at 3:38-60; 5:29-30) In embodiments, the control center can include one or more servers, workstations, and databases stored on one or more physical storage devices, and can include redundancy, of both computer hardware and the information stored, where the devices can be connected using a network, such as a LAN (Local Area Network) or by using a cable-carried ISDN solution (Integrated Services Digital Network) or other fixed lines that have a similar capacity. (*Id.* at 6:17-45; 7:17-29; 11:60-67) In some embodiments, a relational database can be used to store image and video data and each electronic display can be assigned a unique TCP/IP (Transmission Control Protocol/Internet Protocol)

address such that each display can be individually addressed and sent content for display. (*Id.* at 14:50-15:8)

16. In one embodiment of the invention, personnel operating a work station can enter information to be displayed from an external mediator via projector control instructions in the exposure list created by the server. (*Id.* at 9:45-61) Operators are able to interrupt a queue in the server in order to update the exposure list with information generated centrally from the control center or with information from an external information mediator. (*Id.*)

17. Information mediators can use an exposure program to deliver complete images (e.g. an image, a series of images or a video clip) for display which would not require processing by the control center, these can be dynamically added to the exposure list by the exposure handler. (*Id.* at 12:12-22) External information mediators can thus deliver a complete image for display (an image, a series of images or a video clip) which can be processed automatically and inserted into the exposure list, or an administrator can select information from an external mediator and process the information so that it can be inserted into the exposure list via the exposure handler. (*Id.* at 9:62-10:9)

18. T-Rex is the assignee and owner of the right, title and interest in and to the '470 and '334 Patents (henceforth collectively the "patents-in-suit"), including the right to assert all causes of action arising under the patents-in-suit and the right to any remedies for infringement.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. RE39,470

19. The allegations set forth in the foregoing paragraphs 1 through 18 are hereby re-alleged and incorporated herein by reference.

20. Upon information and belief, in violation of 35 U.S.C. § 271(a), Defendant has directly infringed and continues to directly infringe, literally or under the doctrine of equivalents, one or more claims of the '470 Patent by making, using, offering for sale, selling, or importing

devices or systems, in this judicial district and elsewhere in the United States (directly or through intermediaries), that perform the steps of receiving control instructions from at least one external information mediator, using the control instructions to generate an exposure list that specifies three or more of the following items: i) what information content is to be displayed; ii) at which of a plurality of locations the information content is to be displayed; iii) when the information content is to be displayed for each location at which content is to be displayed; and iv) how long the information content is to be displayed for each location at which content is to be displayed, displaying images at one or more of the locations in accordance with the exposure list, and permitting the exposure list to be dynamically updated as claimed in at least claim 25 of the '470 Patent, without the authority of T-Rex.

21. Upon information and belief, Defendant has directly infringed and continues to directly infringe one or more claims of the '470 Patent by employing content management systems, which include, for example and without limitation, Ignite software to manage and schedule broadcast content for display at its headquarters in Danville, Illinois.

22. Upon information and belief, in violation of 35 U.S.C. § 271(b), Defendant has induced its customers and continues to induce its customers to infringe, literally or under the doctrine of equivalents, the '470 Patent by providing instructions via its website, through its software, software manuals, instructions and training, or through other documents that induce its customers to directly infringe the '470 Patent and by making, using, offering for sale, selling, or importing devices or systems in the United States, including within this judicial district, that perform the steps of receiving control instructions from at least one external information mediator, using the control instructions to generate an exposure list that specifies three or more of the following items: i) what information content is to be displayed; ii) at which of a plurality

of locations the information content is to be displayed; iii) when the information content is to be displayed for each location at which content is to be displayed; and iv) how long the information content is to be displayed for each location at which content is to be displayed, displaying images at one or more of the locations in accordance with the exposure list, and permitting the exposure list to be dynamically updated as claimed in at least claim 25 of the '470 Patent, without the authority of T-Rex.

23. Defendant induces its customers to infringe the '470 Patent by, for example and without limitation, actively promoting the use of Watchfire digital billboards and Ignite software to perform the claimed steps. According to Defendant's website, "Watchfire digital billboards use Ignite Online to easily create complex advertising schedules, including dayparting, multiple ads per advertiser, time/temp and counters." (<http://www.watchfiresigns.com/case-studies/mile-high-outdoor>) "Ignite Online is web-based mak[ing] it easy for operators to manage their Watchfire board from anywhere." (*Id.*) "Make the most of digital advertising by delivering advertising content that changes depending on factors like the weather, news, sports scores or a calendar of events." (<http://www.watchfiresigns.com/digital-billboards/ignite-online/>) "Conditional content is a feature of Ignite that makes use of RSS or XML feeds, and allows advertisers to promote hot coffee when the weather drops below a certain temperature, or post images from an Instagram or Twitter feed to engage the community or a specific event." (*Id.*) "[A]dvertisers can access Ignite to upload their own creative or update a campaign." (*Id.*) "[Y]our billboard is always connected, either through broadband wireless internet or DSL." (*Id.*) Defendant also instructs its customers regarding the "installation procedure for Ignite" software including directions to "follow the procedure below" in order to install the software. (http://watchfiresigns.custhelp.com/app/answers/detail/a_id/1402) Defendant's website, and specifically

the previously cited webpage, contains detailed, step by step installation instructions, including a link to a troubleshooting page entitled “Troubleshooting Ignite Auto Configuration” for use by Defendant’s customers should the “Ignite Auto Configuration Wizard fail[.]” (*Id.*)

24. Defendant also induces its customers to infringe the ’470 Patent through, for example and without limitation, the information printed in its “Watchfire Ignite Software Manual” which actively promotes the use of Watchfire digital billboards and Ignite software to perform the claimed steps. A copy of the Watchfire Ignite Software Manual is attached as Exhibit C to this First Amended Complaint. The software manual instructs Defendant’s customers that “the Text Message Wizard is as simple as point, choose, and click” and that “you will learn to create your first message” by simply “follow[ing] the easy step-by-step instructions provided in the Text Message Wizard.” (Exhibit C, Watchfire Ignite Software Manual, 12) “The schedule details window” includes information “displaying the Time & Date and Days of the Week” “where you decide when you want to run your message.” (*Id.* at 18) “Now that you have created a schedule, you are ready to connect to the sign. Your schedule will tell it what messages to run and when.” (*Id.* at 19) “Ignite now has the ability to display dynamic information on your sign using RSS, ATOM, and XML feeds. This power feature allows you to use existing feeds right from the Internet or allows you to use feeds created on your own.” (*Id.* at 45) “The RSS Feeds feature works with our Data Link product to perform timed updates of RSS messages to your sign. Once RSS messages are created and scheduled, Data Link will automatically update them.” (*Id.*)

25. Defendant has had actual notice of the ’470 Patent since at least June 10, 2010, when T-Rex sent Defendant a notice letter specifically including the entirety of claim 25 of the ’470 Patent.

26. Defendant has had actual knowledge of the '470 Patent since at least the date that Defendant received the June 10, 2010 letter. Defendant has had constructive knowledge of the infringing nature of its activities, or at least a willful blindness regarding the infringing nature of its activities, with respect to the '470 Patent since at least the date that Defendant received the June 10, 2010 letter.

27. Despite Defendant's knowledge of the '470 Patent and its constructive knowledge of its infringing actions, on information and belief, Defendant thereafter continued to infringe the '470 Patent. On information and belief, Defendant's infringement has been and continues to be willful since at least June 10, 2010.

28. Because of Defendant's infringing activities, T-Rex has suffered damages and will continue to suffer damages in the future. T-Rex is entitled to recover from Defendant the damages sustained by T-Rex as a result of Defendant's wrongful acts in an amount subject to proof at trial, 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.

COUNT II – INFRINGEMENT OF U.S. PATENT NO. 7,382,334

29. The allegations set forth in the foregoing paragraphs 1 through 28 are hereby re-alleged and incorporated herein by reference.

30. Upon information and belief, in violation of 35 U.S.C. § 271(a), Defendant has directly infringed and continues to directly infringe, literally or under the doctrine of equivalents, one or more claims of the '334 Patent by making, using, offering for sale, selling, or importing devices or systems, in this judicial district and elsewhere in the United States (directly or through intermediaries), that perform the steps of generating an exposure list comprising control instructions for coordinating and controlling electronic displays with regard to what shall be exposed, when it shall be exposed, where it shall be exposed and for how long it shall be

exposed, using a control center for coordinating and controlling electronic displays, where the control center is able to create and update the exposure list in real time, with control instruction fields via dynamic booking of information, in time for exposure, from mediators, and where the exposure list enables each electronic display to be controlled, independently of other electronic displays, to receive the same or different information in accordance with the exposure list for the exposure of respective electronic display as claimed in at least claim 22 of the '334 Patent, without the authority of T-Rex.

31. Upon information and belief, Defendant has directly infringed and continues to directly infringe one or more claims of the '334 Patent by employing content management systems, which include, for example and without limitation, Ignite software to manage and schedule broadcast content for display at its headquarters in Danville, Illinois.

32. Upon information and belief, in violation of 35 U.S.C. § 271(b), Defendant has induced its customers and continues to induce its customers to infringe, literally or under the doctrine of equivalents, the '334 Patent by providing instructions via its website, through its software, software manuals, instructions and training, or through other documents that induce its customers to directly infringe the '334 Patent and by making, using, offering for sale, selling, or importing devices or systems in the United States, including within this judicial district, that perform the steps of generating an exposure list comprising control instructions for coordinating and controlling electronic displays with regard to what shall be exposed, when it shall be exposed, where it shall be exposed and for how long it shall be exposed, using a control center for coordinating and controlling electronic displays, where the control center is able to create and update the exposure list in real time, with control instruction fields via dynamic booking of information, in time for exposure, from mediators, and where the exposure list enables each

electronic display to be controlled, independently of other electronic displays, to receive the same or different information in accordance with the exposure list for the exposure of respective electronic display as claimed in at least claim 22 of the '334 Patent, without the authority of T-Rex.

33. Defendant induces its customers to infringe the '334 Patent by, for example and without limitation, actively promoting the use of Watchfire digital billboards and Ignite software to perform the claimed steps. According to Defendant's website, "Watchfire digital billboards use Ignite Online to easily create complex advertising schedules, including dayparting, multiple ads per advertiser, time/temp and counters." (<http://www.watchfiresigns.com/case-studies/mile-high-outdoor>) "Ignite Online is web-based mak[ing] it easy for operators to manage their Watchfire board from anywhere." (*Id.*) "Make the most of digital advertising by delivering advertising content that changes depending on factors like the weather, news, sports scores or a calendar of events." (<http://www.watchfiresigns.com/digital-billboards/ignite-online/>) "Conditional content is a feature of Ignite that makes use of RSS or XML feeds, and allows advertisers to promote hot coffee when the weather drops below a certain temperature, or post images from an Instagram or Twitter feed to engage the community or a specific event." (*Id.*) "[A]dvertisers can access Ignite to upload their own creative or update a campaign." (*Id.*) "[Y]our billboard is always connected, either through broadband wireless internet or DSL." (*Id.*) Defendant also instructs its customers regarding the "installation procedure for Ignite" software including directions to "follow the procedure below" in order to install the software. (http://watchfiresigns.custhelp.com/app/answers/detail/a_id/1402) Defendant's website, and specifically the previously cited webpage, contains detailed, step by step installation instructions, including a

link to a troubleshooting page entitled “Troubleshooting Ignite Auto Configuration” for use by Defendant’s customers should the “Ignite Auto Configuration Wizard fail[.]” (*Id.*)

34. Defendant also induces its customers to infringe the ’334 Patent through, for example and without limitation, the information printed in its “Watchfire Ignite Software Manual” which actively promotes the use of Watchfire digital billboards and Ignite software to perform the claimed steps. A copy of the Watchfire Ignite Software Manual is attached as Exhibit C to this First Amended Complaint. The software manual instructs Defendant’s customers that “the Text Message Wizard is as simple as point, choose, and click” and that “you will learn to create your first message” by simply “follow[ing] the easy step-by-step instructions provided in the Text Message Wizard.” (Exhibit C, Watchfire Ignite Software Manual, 12) “The schedule details window” includes information “displaying the Time & Date and Days of the Week” “where you decide when you want to run your message.” (*Id.* at 18) “Now that you have created a schedule, you are ready to connect to the sign. Your schedule will tell it what messages to run and when.” (*Id.* at 19) “Ignite now has the ability to display dynamic information on your sign using RSS, ATOM, and XML feeds. This power feature allows you to use existing feeds right from the Internet or allows you to use feeds created on your own.” (*Id.* at 45) “The RSS Feeds feature works with our Data Link product to perform timed updates of RSS messages to your sign. Once RSS messages are created and scheduled, Data Link will automatically update them.” (*Id.*)

35. Defendant has had constructive notice of the ’334 Patent since at least June 10, 2010, when T-Rex sent Defendant a notice letter specifically including the entirety of claim 25 of the ’470 Patent, which shares the same parent application as the ’334 Patent. Defendant has had actual knowledge of the ’334 Patent since at least the filing date of the Original Complaint.

36. Defendant has had constructive knowledge of the infringing nature of its activities, or at least a willful blindness regarding the infringing nature of its activities, with respect to the '334 Patent since at least the date that Defendant received the June 10, 2010 letter.

37. Despite Defendant's knowledge of the '334 Patent and its constructive knowledge of its infringing actions, on information and belief, Defendant thereafter continued to infringe the '334 Patent. On information and belief, Defendant's infringement has been and continues to be willful since at least June 10, 2010.

38. Because of Defendant's infringing activities, T-Rex has suffered damages and will continue to suffer damages in the future. T-Rex is entitled to recover from Defendant the damages sustained by T-Rex as a result of Defendant's wrongful acts in an amount subject to proof at trial, 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.

JURY DEMAND

Plaintiff hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

Plaintiff respectfully requests that the Court find in its favor and against Defendant, and that the Court grant Plaintiff the following relief:

- A. an adjudication that Defendant has infringed the '470 and '334 Patents;
- B. an award of damages to be paid by Defendant adequate to compensate T-Rex for Defendant's past infringement of the '470 and '334 Patents and any continuing or future infringement through the date such judgment is entered, including prejudgment and post-judgment interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;

- C. an injunction ordering Defendant to pay an ongoing royalty in an amount to be determined for any continued infringement after the date judgment is entered;
- D. an award of treble damages under 35 U.S.C. § 284; and,
- E. an award to T-Rex of such further relief at law or in equity as the Court deems just and proper.

Dated: April 10, 2015

Respectfully submitted,

/s/ David P. Swenson

David P. Swenson

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Attorneys for Plaintiff

T-Rex Property AB

CERTIFICATE OF SERVICE

I hereby certify that on April 10, 2015, I electronically filed the foregoing filing with the Clerk of Court using the CM/ECF system which will send notification of such filing *via* electronic mail to all counsel of record.

/s/ David P. Swenson

David P. Swenson