

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

RICHARD J BAKER.,

Plaintiff,

Case Number: 6:15-cv-00146-JRG-KNM

VS.

JURY TRIAL DEMANDED

**MICROSOFT CORPORATION; UBISOFT,
INC. ; RESPONDESIGN, INC: NINTENDO OF
AMERICA INC. : ELECTRONIC ARTS INC:
HARMONIX MUSIC SYSTEMS, INC.,
THQ INC; MAJESCO ENTERTAINMENT
COMPANY**

Defendants.

**AMENDED GENERAL COMPLAINT FOR PATENT INFRINGEMENT
& UNJUST ENRICHMENT**

I. Introduction

This is an action to remedy violations of Intellectual Property rights of Plaintiff under 35 U.S.C. § 271 Infringement of Patent. Damages maybe awarded under 35 US Code § 284

II. Subject Matter Jurisdiction and Venue

1. The Court has jurisdiction under 28 U.S.C. § 1338(a).
2. Venue lies in this district under 28 U.S.C. §~ 1391(b), (c), (d), and 1400 (b).
3. Plaintiff has an overseas address. Is a non-U.S. citizen. Diversity jurisdiction codified at 28 U.S.C. § 1332 allows district court in the federal judiciary to hear a civil case where the parties are "diverse" in citizenship of different states or non-U.S. citizens. All the defendants are US Corporations, trade in all States of America including Eastern District of Texas.

4. To satisfy 35 U.S.C., Chapter 29, section 299 the various products, programs the joined defendants produced all work the same way for Joinder, have used inventive process covered by U.S. Patent No. 5,486,001 and disregarded pioneer inventors further rights to claim infringement under Doctrine of Equivalents and After-Arising Technology rights.

III **Parties to this suit:**

A. Plaintiff:

Richard J Baker, 9 Deloraine Court, Mermaid Waters, Queensland, Australia 4218.

B. Defendants:

Defendant 1. Upon information and belief, Defendant Microsoft Corporation (“Microsoft”) is a corporation organized and existing under the laws of Texas with its principal place of business at 1 Microsoft Way, Redmond, Washington 98052. Microsoft manufacturers for sale *and/or* sells video game consoles, motion tracking equipment, software and video games to consumers in the United States and, more particularly, in the Eastern District of Texas

Defendant 2. Upon information and belief, Defendant Ubisoft, Inc. (“Ubisoft”) is a corporation organized and existing under the laws of Texas with its principle place of business at 625 Third Street, 3rd Floor, San Francisco, California 94017. Ubisoft manufacturers for sale *and/or* sells motion tracking equipment and video games to consumers in the United States and, more particularly, in the Eastern District of Texas

Defendant 3. Upon information and belief, Defendant Respondesign Inc (also trading as “RespondWell”) is a corporation organized and existing under the laws of Texas with its principle place of business at 1750 Southwest Skyline Boulevard, Portland, Oregon. Respondesign manufacturers for sale *and/or* sells software, digital fitness trainer for video game consoles to consumers and licenses it to other companies in the United States and, more particularly, in the Eastern District of Texas who then produce and sell digital fitness trainer programs under their own trading name or in partnership with others.

Defendant 4. Upon information and belief, Defendant Nintendo of America Inc. (“Nintendo”) is a corporation organized and existing under the laws of Texas, having its principle place of business at

4600 150th Ave NE Redmond, WA 98052. Nintendo manufacturers for sale and/or sells software, game consoles, motion tracking equipment and video games to consumers in the United States and, more particularly, in the Eastern District of Texas.

Defendant 5. Upon information and belief, Defendant Electronic Arts, Inc. ("EA") is a corporation organized and existing under the laws of Texas with its principle place of business at 209 Redwood Shores Parkway, Redwood City, California. EA manufacturers for sale and/or sells software, video games to consumers in the United States and, more particularly, in the Eastern District of Texas.

Defendant 6. Upon information and belief, Defendant Harmonix Music Systems, Inc. ("Harmonix") is a corporation organized and existing under the laws of Texas, having its principle place of business at 625 Massachusetts Avenue, Cambridge, MA. Harmonix manufacturers for sale and/or sells software, video games to consumers in the United States and, more particularly, in the Eastern District of Texas.

Defendant 7. Upon information and belief, Defendant THQ Inc. ("THQ") is a corporation organized and existing under the laws of Texas with its principle place of business at 29903 Agoura Road, Agoura Hills, California. THQ manufacturers for sale and/or sells software, video games to consumers in the United States and, more particularly, in the Eastern District of Texas.

Defendant 8. Upon information and belief, Defendant Majesco Entertainment Company ("Majesco") is a corporation organized and existing under the laws of Texas with its principle place of business at 404I-T Hadley Road S. Plainfield, New Jersey 07080. Majesco manufacturers for sale and/or sells software, video games to consumers in the United States and, more particularly, Eastern District of Texas.

IV: Statement of Claim:

What the patent specifically does is allow a computer to automatically produce for the first time a personalised audio-visual teaching presentation whereby a person can see their movement on a screen against a preferred expert's movement. The patent also allows the generation of audio instructional comments to go with above visual presentation so a person can receive coaching like face to face communications today with an expert but the expert never has to view person's technique.

From 2009 until U.S. Patent No. 5,486,001 expired January 23, 2013 the defendants produced and sold without a license from the Plaintiff Personalised Audio-Visual Trainer programs mentioned in pleading under Defendants Activities Section VI, which when loaded on a personal computer (PC) and run with the association of motion tracking software and camera hardware allowed the computer to automatically produce for a user of the program a “visual” presentation which shows the user their captured movement on screen against an experts stored movement. These same programs mentioned in Defendants Activities also via the software programs loaded, act like a database mentioned in U.S. Patent No. 5,486,001 and are able to generate with the above visual for the user “audio” instructional comments, which when all is compiled allow a computer to automatically produce a personalised audio-visual instructional presentation for a person mentioned in U.S. Patent No. 5,486,001.

The wrong alleged.

Defendants without a license from Richard Baker the inventor of U.S. Patent No. 5,486,001 produced his invention between 2009-2013 and showed it working from a local PC computer for Fitness and Dance associated programs where they gained an unjust enrichment from software and hardware sales because of an association with the invention.

When the defendants showed the invention working from a PC they infringed upon claims and process mentioned within U.S. Patent No. 5,486,001 and pioneer inventors Doctrine of Equivalent, After Arising Technology rights. Plaintiff now wants and looks to the court for just remuneration for the infringements.

Relief for the Plaintiff

Can be granted via determination of infringement against issued U.S. Patent No. 5,486,001 and the Plaintiffs pioneer inventor Doctrine Of Equivalent, After Arising Technology rights with monetary compensation awarded.

V: The Patent-In-Suit

U.S. Patent No. 5,486,001 (the ‘001 patent) entitled “Personalised Instructional Aid” was lawfully and duly issued on January 23, 1996. Richard Baker is the owner of all right, title, and interest in the ‘001 patent, including the right to sue and recover damages for infringement.

VI: Defendants Activities

1. First Claim for Relief (Microsoft)

- 1.1 Upon information and belief, Microsoft has made, used, offered to sell, and/or sold within the United States, and/or has imported into the United States, products incorporating motion tracking technology including at least the Kinect for Xbox 360 game console, Xbox 360, Your Shape Fitness Evolved & Your Shape Fitness Evolved 2012 for Kinect, Dance Central for Kinect, Dance Central 2 for Kinect, Dance Central 3 for Kinect, The Biggest Loser Ultimate Workout for Kinect, Zumba Fitness for Kinect, EA Sports Active 2 for Kinect.
- 1.2 Richard Baker alleges Microsoft infringes one or more patent 'process', "method" claims of the '001 patent under 35 U.S.C. § 271 (a), (b), and/or (c).and his pioneer inventor Doctrine of Equivalents, After-Arising Technology rights.
- 1.3 Microsoft has had actual notice of the '001 patent or constructive notice of '001, before the filing of the Complaint.
- 1.4 At least as early as 29th October, 2010, Microsoft was notified by letter of the existence of at the '001 patent but still went ahead an infringed.
- 1.5. In pre-suit correspondence, Microsoft was informed October 29, 2010 via signature proof of delivery that Richard Baker's patent '001 covered sensing a person's movement, transmitting the movement to a computer database and having a computer analyse person's movement against a preferred movement and producing a personalised audio-visual teaching presentation. Richard Baker advised interest in licensing the '001 patent to Microsoft before infringement. Microsoft used '001 patent at least between November 24, 2010 and patent expiry date of January 23, 2013 with Kinect camera & Xbox 360 to show new interactive home entertainment services to people via a computer, help Microsoft sell the Kinect camera & Xbox 360 games console in America. Help Microsoft compete against Nintendo Wii & Sony Playstation interactive home entertainment services. Microsoft promoted the new personalised audio-visual instructional teaching features of "001 patent with defendants

heavily during this time thus removing all credit for the invention from Richard Baker.

- 1.6. Microsoft is liable for direct infringement of one or more claims of the '001 patent and inventor Doctrine of Equivalents, After-Arising Technology rights by making, using, associating, offering to sell, and/or selling, and/or importing into the United States, products including at least, Your Shape Fitness Evolved & Your Shape Fitness Evolved 2012 for Kinect, Dance Central for Kinect, Dance Central 2 for Kinect, Dance Central 3 for Kinect, The Biggest Loser Ultimate Workout for Kinect, Zumba Fitness for Kinect, EA Sports Active 2 for Kinect.
- 1.7. Microsoft is liable for inducing infringement as it has actively induced end user customers to use its products, including at least the Kinect, the Xbox 360 system, Your Shape Fitness Evolved & Your Shape Fitness Evolved 2012 for Kinect, Dance Central for Kinect, Dance Central 2 for Kinect, Dance Central 3 for Kinect, The Biggest Loser Ultimate Workout for Kinect, Zumba Fitness for Kinect, EA Sports Active 2 for Kinect, intending that the end users will use its products in a manner that infringes one or more claims of the '001 patent, inventor Doctrine of Equivalents, After-Arising Technology rights. Despite knowledge of the '001 patent, Microsoft has actively sold its products and shown end user customers how to use its products, including at least the Kinect, the Xbox 360 system with Your Shape Fitness Evolved and Your Shape Fitness Evolved 12 for Kinect, Dance Central for Kinect, Dance Central 2 for Kinect, Dance Central 3 for Kinect, The Biggest Loser Ultimate Workout for Kinect, Zumba Fitness for Kinect and EA Sports Active 2 for Kinect, through online and hardcopy resources and literature in a manner that infringes one or more claims of the '001 patent and inventor Doctrine of Equivalents, After-Arising Technology rights.
- 1.8. Microsoft is also liable for contributory infringement as it had knowledge that its products, including at least the Kinect, the Xbox 360 system, Your Shape Fitness Evolved and Your Shape Fitness Evolved 2012 for Kinect, Dance Central for Kinect, Dance Central 2 for Kinect, Dance Central 3 for Kinect, The Biggest Loser Ultimate Workout for Kinect, Zumba Fitness for Kinect, EA Sports Active 2 for Kinect, is a component that is especially made or adapted for use in infringement of one or more claims of the '001 patent. Microsoft's products along with the third party software

developers products mentioned herein are material components of a combination, where the combination is the personalised instructional teaching presentation for use in practicing the '001 patent. Microsoft Kinect products mentioned above are specifically made and licensed exclusively to Microsoft by Ubisoft, Respondesign, EA, THQ, Harmonix, Majesco, for use with Kinect Camera and Xbox 360 gaming console and are not a staple article of commerce suitable for substantial non-infringing use.

- 1.9. As a consequence of Microsoft's patent infringement of the '001 patent and inventor Doctrine of Equivalents, After-Arising Technology rights, Microsoft has had "Unjust Enrichment" whilst Richard Baker has suffered harm and injury, loss royalties, interest, monetary damages in an amount exceeding US\$58,084,490 to the defendant.

2. **Second Claim for Relief (Ubisoft)**

- 2.1 Upon information and belief, Ubisoft has made, used, offered to sell, and/or sold within the United States, and/or has imported into the United States, products incorporating motion tracking technology for use with the Kinect for the Xbox 360 including at least Your Shape, Your Shape Fitness Evolved & 2012 for Kinect which operate on at least Xbox 360, Wii & PC.
- 2.2 Richard Baker alleges Ubisoft infringes one or more patent 'process', "method" claims of the '001 patent under 35 U.S.C. § 271 (a), (b), and/or (c).and his pioneer inventor Doctrine of Equivalents, After-Arising Technology rights.
- 2.3. Ubisoft has had actual notice of the '001 patent or constructive notice of the '001 patent before the filing of the Complaint.
- 2.4 At least as early as June 26, 2009, Ubisoft Senior Legal counsel was notified of the existence of Richard Baker's patent '001, and that it covered the way Ubisoft /Respondesign "Your Shape" was shown to work. Sensing a person's movement, transmitting the movement to a computer database and having a computer analyse person's movement against a preferred movement and automatically producing a personalised audio-visual teaching presentation after Richard Baker saw that Ubisoft had an interest in motion tracking a

person's movement via camera, software and providing a "Personalised Audio-Visual Trainer" from a computer system. Richard Baker advised interest in licensing the '001 patent to Ubisoft before infringement and provided copy of the issued '001 patent.

- 2.5 Ubisoft is liable for direct infringement of '001 patent and pioneer inventors Doctrine of Equivalents, After-Arising Technology rights by making, using, offering to sell, and/or selling, and/or importing into the United States in partnership with Respondesign Inc, products which go with Microsoft Xbox 360 and Kinect Camera, including at least 'Your Shape for Wii, Your Shape for PC, Your Shape Fitness Evolved, Your Shape Fitness Evolved 2012 '.
- 2.6. Ubisoft is liable for inducing infringement as it has actively induced end user customers to use its products, including at least 'Your Shape for Wii, Your Shape for PC, Your Shape Fitness Evolved, Your Shape Fitness Evolved 2012 ', intending that the end users will use its products in a manner that infringes one or more claims of the '001 patent and pioneer inventors Doctrine of Equivalents, After-Arising Technology rights. Despite knowledge of the '001 patent, Ubisoft has actively sold its products and shown end user customers how to use its products, including at least 'Your Shape, Your Shape Fitness Evolved & 2012' for Xbox 360, Kinect and 'Your Shape for Wii, Your Shape for PC, Your Shape Fitness Evolved, Your Shape Fitness Evolved 2012 'through online and hardcopy resources and literature in a manner that infringes one or more claims of the '001 patent and pioneer inventors Doctrine of Equivalents, After-Arising Technology rights.
- 2.7. Ubisoft is also liable for contributory infringement as it had knowledge that at least 'Your Shape, Your Shape Fitness Evolved & 2012' for Xbox 360, Kinect and "Your Shape for Wii, Your Shape for PC, Your Shape Fitness Evolved, Your Shape Fitness Evolved 2012 ', is a component that if especially made or adapted for use with Microsoft Xbox 360 & Kinect, Nintendo Wii, Personal Computer are material components of a combination, where the combination is the personalised audio-visual instructional trainer for practicing '001 patent.
- 2.8. 'Your Shape for Wii, Your Shape for PC, Your Shape Fitness Evolved, Your Shape Fitness Evolved 2012 ' was specifically

made for use with Xbox 360, Nintendo Wii and Personal Computer with motion sensing Kinect or Ubisoft Camera and are not a staple article of commerce suitable for substantial non-infringing use.

- 2.9 As a consequence of Ubisoft patent infringement with Respondesign, Microsoft & Nintendo of the '001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights, the defendants have had "Unjust Enrichment" and Richard Baker has suffered harm and injury, loss profits, loss royalties, interest, monetary damages in an amount exceeding US\$4,000,000 to the defendant.

3. **Third Claim for Relief (Respondesign)**

- 3.1. Upon information and belief, Respondesign has made, used, offered to sell, and/or sold within the United States, and/or has imported into the United States, products incorporating motion tracking technology for use with Nintendo Wii, Xbox 360 or a Personal Computer including at least Your Shape, Your Shape for Wii, Your Shape for PC, Your Shape Fitness Evolved for Kinect & Your Shape Fitness Evolved 2012 for Kinect.
- 3.2 Richard Baker alleges Respondesign infringes one or more patent 'process', "method" claims of the '001 patent under 35 U.S.C. § 271 (a), (b), and/or (c).and his pioneer inventor Doctrine of Equivalents, After-Arising Technology rights.
- 3.3 Respondesign is liable for direct infringement of '001 patent and pioneer inventors Doctrine of Equivalents, After-Arising Technology rights by making, using, offering to sell, and/or selling, and/or importing into the United States, products which go with Ubisoft Camera, Nintendo Wii, Microsoft Xbox 360 and Kinect, including at least 'Your Shape for Wii, Your Shape for PC, Your Shape Fitness Evolved, Your Shape Fitness Evolved 2012 '.
- 3.4 Respondesign is liable for inducing infringement as it has actively induced end user customers to use its products, including at least 'Your Shape for Wii, Your Shape for PC, Your Shape Fitness Evolved, Your Shape Fitness Evolved 2012 ', intending that the end users will use its products in a manner that infringes one or more claims of the '001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights. Respondesign through online and

hardcopy resources and literature in a manner that infringes one or more claims of the '001 patent and pioneer inventors Doctrine of Equivalents, After-Arising Technology rights.

3.5 Respondesign is also liable for contributory infringement "Your Shape for Wii, Your Shape for PC, Your Shape Fitness Evolved, Your Shape Fitness Evolved 2012", is a component that if especially made or adapted for use with at least Microsoft Xbox 360 computer, Nintendo Wii, a PC, Kinect and Ubisoft motion sensing camera, are material components of a combination, where the combination is the personalised audio-visual instructional trainer for practicing the '001 patent. Respondesign "Your Shape for Wii, Your Shape for PC, Your Shape Fitness Evolved, Your Shape Fitness Evolved 2012" was specifically made software, interactive computer teaching program for use with at least Xbox 360, Wii, PC and Ubisoft and Microsoft Kinect motion sensing camera, are not a staple article of commerce suitable for substantial non-infringing use.

3.6. As a consequence of Respondesign patent infringement with at least Ubisoft, Microsoft & Nintendo of the '001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights, the defendants have had had "Unjust Enrichment" and Richard Baker has suffered harm and injury, loss profits, loss royalties, interest, monetary damages in an amount exceeding US\$4,000,000 to the defendant.

4. **Fourth Claim for Relief (Nintendo)**

4.1 Upon information and belief, Nintendo has made, used, offered to sell, and/or sold within the United States, and/or has imported into the United States, products incorporating motion tracking technology for use with Nintendo Wii including at least Your Shape, Your Shape for Wii.

4.2. Richard Baker alleges Nintendo infringes one or more patent 'process', "method" claims of the '001 patent under 35 U.S.C. § 271 (a), (b), and/or (c).and his pioneer inventor Doctrine of Equivalents, After-Arising Technology rights.

4.3 Nintendo has had actual notice of the '001 patent or constructive notice of the '001 patent before the filing of the Complaint.

4.4. At least as early as March 15, 2007, Nintendo was notified via

delivery letter of the existence of Richard Baker's patent '001 and that it covered sensing a person's movement, transmitting the movement to a computer database, having a computer analyse person's movement against a preferred movement and automatically producing personalised audio-visual teaching presentation. After Richard Baker saw that Nintendo had an interest in this type of system and providing a "Personalised Audio-Visual Trainer" from a computer. Richard Baker advised interest in licensing the 001 patent to Nintendo before infringement.

- 4.5 Nintendo is liable for direct infringement of '001 patent and pioneer inventors Doctrine of Equivalents, After-Arising Technology rights by association with Respondesign, Ubisoft, making, using, offering to sell, and/or selling, and/or importing into the United States, products which go with Wii Your Shape.
- 4.6. Nintendo is liable for inducing infringement as it has actively induced end user customers to use its products, including at least Wii Your Shape, intending that the end users will use its products in a manner that infringes one or more claims of the '001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights. Despite knowledge of the '001 patent, Nintendo has actively sold its products and shown end user customers how to use its products, including at least Wii Your Shape through online and hardcopy resources and literature in a manner that infringes one or more claims of the '001 patent, inventor Doctrine of Equivalents, After-Arising Technology rights.
- 4.7 Nintendo is also liable for contributory infringement as it had knowledge that its products, including at least Your Shape for Wii, a computer system, motion sensing camera is a component that if especially made or adapted for use in infringement of '001 patent. Nintendo products are material components of a combination, where the combination is the personalised audio-visual instructional trainer for practicing the '001 patent. Your Shape for Wii was specifically made for use Nintendo Wii computer console and Ubisoft motion sensing camera and are not a staple article of commerce suitable for substantial non-infringing use.
- 4.8 As a consequence of Nintendo's patent infringement of the '001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights, Nintendo has had "Unjust

Enrichment” and Richard Baker has suffered harm and injury, loss profits, loss royalties, interest, monetary damages in an amount exceeding US\$6,800,000 to the defendant.

5. Fifth Claim for Relief (EA)

- 5.1 Upon information and belief, EA has made, used, offered to sell, and/or sold within the United States, and/or has imported into the United States, products incorporating motion tracking technology, the Kinect camera for use with Xbox 360 including at least EA Sports Active 2.
- 5.2 Richard Baker alleges EA infringes one or more patent ‘process’, “method” claims of the ‘001 patent under 35 U.S.C. § 271 (a), (b), and/or (c).and his pioneer inventor Doctrine of Equivalents, After-Arising Technology rights.
- 5.3 EA has had actual notice of the ‘001 patent or constructive notice of the ‘001 patent before the filing of the Complaint.
- 5.4 At least as early as October 29, 2010, EA was notified via signature proof of delivery letter of the existence of Richard Baker’s patent ‘001 and that it covered sensing a person’s movement, transmitting the movement to a computer database and having a computer analyse person’s movement against a preferred movement and producing personalised audio-visual teaching presentation. After Richard Baker saw that EA had an interest in this type of system and providing a “Personalised Audio-Visual Trainer” from a computer. Richard Baker advised interest in licensing the 001 patent to EA before infringement.
- 5.5 EA is liable for direct infringement of ‘001 patent and pioneer inventors Doctrine of Equivalents, After-Arising Technology rights by making, using, offering to sell, and/or selling, and/or importing into the United States, products which go with Microsoft Xbox 360 and Kinect Camera, including at least EA Sports Active 2.0 ‘Personal Trainer’ for Kinect.
- 5.6 EA is liable for inducing infringement as it has actively induced end user customers to use its products, including at least EA Sports Active 2.0 ‘Personal Trainer’ for Kinect which runs on Xbox 360, intending that the end users will use its products in a manner that infringes one or more claims of the ‘001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights. Despite knowledge of the

'001 patent, EA has actively sold its products and shown end user customers how to use its products, including at least EA Sports Active 2.0 'Personal Trainer', with the Kinect for the Xbox 360 through online and hardcopy resources and literature in a manner that infringes one or more claims of the '001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights.

- 5.7 EA is also liable for contributory infringement as it had knowledge that at least EA Sports Active 2.0 'Personal Trainer' for Kinect & Xbox 360, is a component that if especially made or adapted for use with Microsoft Xbox 360 & Kinect are material components of a combination, where the combination is the personalised audio-visual instructional trainer for practicing the '001 patent. EA Sports Active 2.0 'Personal Trainer' was specifically made for use with Kinect Camera and Xbox 360 and are not a staple article of commerce suitable for substantial non-infringing use.
- 5.8 As a consequence of EA's patent infringement of the '001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights, EA has had "Unjust Enrichment" and Richard Baker has suffered harm and injury, loss profits, loss royalties, interest, monetary damages in an amount exceeding US\$403,191 to the defendant.

6. Sixth Claim for Relief (Harmonix)

- 6.1 Upon information and belief, Harmonix has made, used, offered to sell, and/or sold within the United States, and/or has imported into the United States, products incorporating motion tracking technology for use with Kinect and Xbox 360 including at least Dance Central for Kinect, Dance Central 2 for Kinect, Dance Central 3 for Kinect.
- 6.2 Richard Baker alleges Harmonix infringes one or more patent 'process', "method" claims of the '001 patent under 35 U.S.C. § 271 (a), (b), and/or (c).his pioneer inventor Doctrine of Equivalents, After-Arising Technology rights.
- 6.3 Harmonix is liable for direct infringement of '001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights by making, using, offering to sell, and/or selling, and/or importing into the United States, products which go with Microsoft Xbox 360 and Kinect Camera, including at least Dance Central for Kinect, Dance Central 2

for Kinect, Dance Central 3 for Kinect.

- 6.4 Harmonix is liable for inducing infringement as it has actively induced end user customers to use its products, including at least Dance Central for Kinect, Dance Central 2 for Kinect, Dance Central 3 for Kinect, intending that the end users will use its products in a manner that infringes one or more claims of the '001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights. Harmonix has actively sold its products and shown end user customers how to use its products, including at least Dance Central for Kinect, Dance Central 2 for Kinect, Dance Central 3 for Kinect, through online and hardcopy resources and literature in a manner that infringes one or more claims of the '001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights.
- 6.5 Harmonix is also liable for contributory infringement 'Dance Central for Kinect, Dance Central 2 for Kinect for Kinect, Dance Central 3 for Kinect & Xbox 360', is a component that if especially made or adapted for use with Microsoft Xbox 360 & Kinect are material components of a combination, where the combination is the personalised audio-visual instructional trainer for practicing the '001 patent. Harmonix 'Dance Central for Kinect, Dance Central 2 for Kinect, Dance Central 3 for Kinect & Xbox 360' was specifically made for use with Kinect Camera and Xbox 360 and are not a staple article of commerce suitable for substantial non-infringing use.
- 6.6 As a consequence of Harmonix patent infringement of the '001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights, Harmonix has had "Unjust Enrichment" and Richard Baker has suffered harm and injury, loss profits, loss royalties, interest, monetary damages in an amount exceeding US\$2,156,369 to the defendant.

7. **Seventh Claim for Relief (THQ)**

- 7.1 Upon information and belief, THQ has made, used, offered to sell, and/or sold within the United States, and/or has imported into the United States, products incorporating motion tracking technology for use with the Kinect and Xbox 360 including at least The Biggest Loser Ultimate Workout for Kinect.
- 7.2 Richard Baker alleges THQ infringes one or more patent 'process', "method" claims of the '001 patent under 35 U.S.C.

§ 271 (a), (b), and/or (c).and his pioneer inventor Doctrine of Equivalents, After-Arising Technology rights.

- 7.3 THQ is liable for direct infringement of '001 patent and pioneer inventors Doctrine of Equivalents, After-Arising Technology rights by making, using, offering to sell, and/or selling, and/or importing into the United States, products which go with Microsoft Xbox 360 and Kinect Camera, including at least 'The Biggest Loser Ultimate Workout for Kinect'.
- 7.4 THQ is liable for inducing infringement as it has actively induced end user customers to use its products, including at least 'The Biggest Loser Ultimate Workout' for Kinect & Xbox 360, intending that the end users will use its products in a manner that infringes one or more claims of the '001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights. THQ has actively sold its products and shown end user customers how to use its products, including at least 'The Biggest Loser Ultimate Workout for Kinect', with the Kinect for the Xbox 360 through online and hardcopy resources and literature in a manner that infringes one or more claims of the '001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights.
- 7.5 THQ is also liable for contributory infringement The Biggest Loser Ultimate Workout for Kinect is a component that if especially made or adapted for use with Microsoft Xbox 360 & Kinect are material components of a combination, where the combination is the personalised audio-visual instructional trainer for practicing the '001 patent. 'The Biggest Loser Ultimate Workout for Kinect' was specifically made for use with Kinect Camera and Xbox 360 and are not a staple article of commerce suitable for substantial non-infringing use.
- 7.6 As a consequence of THQ patent infringement of the '001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights, THQ has had "Unjust Enrichment" and Richard Baker has suffered harm and injury, loss profits, loss royalties, interest, monetary damages in an amount exceeding US\$450,000 to the defendant.
8. **Eighth Claim for Relief (Majesco Entertainment)**
 - 8.1 Upon information and belief, Majesco has made, used, offered to sell, and/or sold within the United States, and/or

has imported into the United States, products incorporating motion tracking technology for use with the Kinect and Xbox 360 including at least Zumba Fitness for Kinect.

- 8.2 Richard Baker alleges Majesco infringes one or more patent 'process', "method" claims of the '001 patent under 35 U.S.C. § 271 (a), (b), and/or (c).and his pioneer inventor Doctrine of Equivalents, After-Arising Technology rights.
- 8.3 Majesco is liable for direct infringement of '001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights by making, using, offering to sell, and/or selling, and/or importing into the United States, products which go with Microsoft Xbox 360 and Kinect Camera, including at least 'Zumba Fitness for Kinect'.
- 8.4 Majesco is liable for inducing infringement as it has actively induced end user customers to use its products, including at least 'Zumba Fitness for Kinect' & Xbox 360, intending that the end users will use its products in a manner that infringes one or more claims of the '001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights. Majesco has actively sold its products and shown end user customers how to use its products, including at least 'Zumba Fitness', with the Kinect for the Xbox 360 through online and hardcopy resources and literature in a manner that infringes one or more claims of the '001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights.
- 8.5 Majesco is also liable for contributory infringement 'Zumba Fitness for Kinect' is a component that if especially made or adapted for use with Microsoft Xbox 360 & Kinect are material components of a combination, where the combination is the personalised audio-visual instructional trainer for practicing the '001 patent. 'Zumba Fitness for Kinect' was specifically made for use with Kinect Camera and Xbox 360 and are not a staple article of commerce suitable for substantial non-infringing use.
- 8.6 As a consequence of Majesco patent infringement of the '001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights, Majesco has had "Unjust Enrichment" and Richard Baker has suffered harm and injury, loss profits, loss royalties, interest, monetary damages in an amount exceeding US\$1,296,000 to the defendant.

PRAYER FOR JUDGMENT AND RELIEF

WHEREFORE, Richard Baker prays for the following relief:

- A. enter judgment that Defendants, its officers, agents, servants, employees and attorneys, and those persons in active concert or participation with them, infringe and have infringed the patent asserted against each Defendant above;
- B. award Richard Baker damages from Defendants adequate to compensate for Defendants' infringement, including interest;

JURY DEMAND

Richard Baker requests a jury trial for those issues so triable herein.

Signed this THIRTEENTH day of MAY 2015

I declare (certify, verify or state) under penalty of perjury that the foregoing is true and correct.

Executed on: 05/13/15

Date

/s/ Richard J Baker

Signature of plaintiff

Richard J Baker
9 Deloraine Court, Mermaid Waters
Queensland Australia 4218
Telephone & Message phone:
(61 7) 5526 5523
Email: rb@personalised-video.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document is being served on all counsel of record for all parties via the CM/ECF system on May 13, 2015.

/s/ Richard J Baker

Richard J Baker