

THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF
TEXAS MARSHALL__ DIVISION

Loramax LLC, Plaintiff,

v.

Brookshire Grocery Company, Defendant.

Civil Action No. 2:15-cv-747-RWS-RSP

JURY TRIAL DEMANDED

PATENT CASE

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

This is an action for patent infringement in which Loramax LLC (“Loramax” or “Plaintiff”) makes the following allegations against Brookshire Grocery Company (“Brookshire” or “Defendant”):

PARTIES

1. Plaintiff Loramax is a limited liability company organized under the laws of the State of Texas and has its principal place of business at 2305 North St., Ste. 205, Beaumont, Texas, 77702.

2. Upon information and belief, Defendant Brookshire is a corporation organized and existing under the laws of the State of Texas, with its principal place of business located at 1600 W. Southwest Loop 323, Tyler, Texas, 75701. Defendant may be served via its registered agent for service of process: Russell W. Cooper, 1600 W. Southwest Loop 323, Tyler, Texas, 75701.

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. On information and belief, Defendant is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to its 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.

5. Venue is proper in this district under 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b). On information and belief, Defendant has transacted business in this district, and has performed at least a portion of the infringements alleged herein in this district.

COUNT I
INFRINGEMENT OF U.S. PATENT NO. 5,689,642

6. Plaintiff Loramax is the owner by assignment of United States Patent No. 5,689,642 ("the '642 Patent") titled "Recipient Prioritized Communication Channel Profiles." The '642 Patent was duly issued by the United States Patent and Trademark Office on November 18, 1997. A true and correct copy of the '642 Patent is attached as Exhibit A.

7. Upon information and belief, Defendant makes, uses, operates, and makes available to the public, directly or through intermediaries, a website and related systems that are accessible to the public via the URLs at <http://www.brookshires.com/> and <http://www.super1foods.com/> ("the Accused Instrumentalities").

8. Upon information and belief, Defendant has directly infringed the '642 Patent during its term in the State of Texas, in this district, and elsewhere in the United States, by, among other things, directly or through intermediaries, using or operating the Accused Instrumentalities such that the Accused Instrumentalities perform methods covered by at least claims 1 and/or 6 of the '642 Patent to the injury of Plaintiff. Defendant has directly infringed,

literally and/or under the doctrine of equivalents, the '642 Patent during the term of the '642 Patent. Defendant and is thus liable for infringement of the '642 Patent pursuant to 35 U.S.C. § 271.

9. As a result of Defendant's infringement of the '642 Patent, Plaintiff has suffered monetary damages and is entitled to a money judgment in an amount adequate to compensate for Defendant's infringement, but in no event less than a reasonable royalty for the use made of the invention by Defendant, together with interest and costs as fixed by the Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Loramax respectfully requests that this Court enter:

10. A judgment in favor of Plaintiff that Defendant has infringed, either literally and/or under the doctrine of equivalents, the '642 Patent;

11. A judgment and order requiring Defendant to pay to Plaintiff its damages, costs, expenses, and prejudgment and post-judgment interest for Defendant's infringement of the '642 Patents as provided under 35 U.S.C. § 284; and

12. Any and all other relief as the Court may deem appropriate and just under the circumstances.

DEMAND FOR JURY TRIAL

Plaintiff Loramax, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

DATED August 24, 2015.

Respectfully submitted,

/s/ Jaspal S. Hare

By: _____

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**ATTORNEYS FOR PLAINTIFF
LORAMAX LLC**

CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that lead counsel for Plaintiff, Mr. Jaspal S. Hare, conferred via telephone with lead counsel for Defendant, Mr. David Willie, on Monday, August 24, 2015, regarding this First Amended Complaint, and Mr. Willie consented in writing via email to the filing of this First Amended complaint.

/s/ Jaspal S. Hare

Jaspal S. Hare

CERTIFICATE OF SERVICE

I hereby certify that counsel of record who are deemed to have consented to electronic service are being served on Monday, August 24, 2015 with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/ Jaspal S. Hare
Jaspal S. Hare