

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

ROBERT YOERG

Plaintiff,

v.

AMERICHIP, INC.  
a California corporation

and

CLEGG INDUSTRIES  
a California corporation

Defendants.

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CIVIL ACT. NO.

**COMPLAINT FOR  
PATENT INFRINGEMENT**

**JURY TRIAL DEMANDED**

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Plaintiff Robert Yoerg (Yoerg) complains and alleges as follows against Americhip, Inc. (AI) and Clegg Industries (CI) collectively, Americhip:

**THE PARTIES**

1. Plaintiff is an individual whose residence is 1199 Marquette Street, Spring Hill, FL 34609.

2. Upon information and belief, Defendant Americhip, Inc. is a corporation organized under the laws of California and has its principal place of business 19220 South Normandie, Torrance, CA, 90502.

3. Upon information and belief, Clegg Industries is a corporation organized under the laws of California and has its principal place of business 19220 South Normandie, Torrance, CA, 90502.

#### **NATURE OF THE ACTION**

4. This is an action for patent infringement.

5. Americhip has infringed and continues to infringe, contributes to the infringement of, and/or actively induce others to infringe Yoerg's U.S. Patent No. 6,338,405 (the '405 patent).

#### **JURISDICTION AND VENUE**

5. This lawsuit is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.*

6. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338.

7. On information and belief, Defendants are subject to personal jurisdiction in the Northern District of Georgia (the "District"), consistent with the principles of due process and the Georgia Long Arm Statute, because Defendants (i) maintains offices and/or facilities in this District; (ii) has committed acts of patent infringement and/or contributed to or induced acts of patent infringement by others in this District; (iii) regularly transacts or solicits business in this District; (iv) offer their products for sale in this District and/or have placed infringing products into the stream of commerce through established distribution

channels with the expectation that such products will be purchased by residents of this District; and (v) engages in other persistent courses of conduct, and/or derives substantial revenue from products and/or services provided to individuals in this District and in this State.

8. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1400(b) because Defendant does business in the State of Georgia, has committed acts of infringement in this State and in this District, has a regular and established place of business in this District, and is subject to personal jurisdiction in this District.

### **FACTUAL BACKGROUND**

9. Plaintiff is the owner of all right, title, and interest in U.S. Patent No. 6,338,405 (the “405 patent” or “Patent”), which Defendants are infringing and/or inducing others to infringe by making, using, offering to sell, and/or selling in the United States, and/or importing into the United States, products or processes that practice the invention claimed in the Patent. See, attached Exhibit A.

10. On March 10, 2005, Defendants entered into an Exclusive Licensing Agreement (“Agreement”) with Plaintiff for the exclusive use of the ‘405 patent. See, attached Exhibit B.

11. The Agreement granted Defendants the exclusive right to develop, market, and sell products covered by the claims of the ‘405 patent.

12. Pursuant to the terms of the Agreement, Defendants received an initial five year term to utilize the '405 patent commencing on March 10, 2005, and expiring on March 10, 2010.

13. The term of the license would automatically renew for one-year periods if Defendants paid royalties to Plaintiff totaling a minimum of \$100,000.00 per year for the preceding period and a minimum total payment of \$500,000.00 for the initial 5-year term.

14. On September 2, 2009, Plaintiff notified Defendants of its desire to terminate the Agreement due to Defendants failure to market and sell the licensed technology. See, attached Exhibit C.

15. On September 8, 2009, Defendants response to Plaintiff's notice and stated that Defendants intended to continue to exercise its rights through the end of initial five year term of the Agreement. See, attached Exhibit D.

16. During the initial term, Defendants paid Plaintiff a total amount of royalties of \$38,237.50.

17. On or about March 10, 2010, Defendants failed to pay to Plaintiff the minimum royalty of \$500,000.00 necessary to extend the term of the Agreement.

18. Since the expiration of the Agreement, on information and belief, Defendants have engaged in the design, manufacture, sale within the United States, offering for sale in the United States, use within the United States, importation into

the United States, and/or sale after importation into the United States of, products and/or services that are covered by the claims of the '405 patent.

19. On information and belief, Defendants market and sell devices, covered by the claims of the '405 patent, worldwide through their channel business partners and various retailers, including through retail stores and company websites.

20. Defendants have profited through infringement of the Patent.

21. As a result of Defendants' unlawful infringement of the Patent, Plaintiff has suffered and will continue to suffer damage.

22. Plaintiff is entitled to recover from Defendants the damages suffered by Plaintiff as a result of Defendants' unlawful acts.

23. On information and belief, Defendants' infringement of Plaintiff's Patent is willful and deliberate, entitling Plaintiff to enhanced damages and reasonable attorney fees and costs.

24. On information and belief, Defendants intend to continue their unlawful infringing activity, and Plaintiff continues to and will continue to suffer irreparable harm—for which there is no adequate remedy at law—from such unlawful infringing activity unless Defendants are enjoined by this Court.

**COUNT I - INFRINGEMENT OF U.S. PATENT NO. 6,338,405**

25. Plaintiff incorporates by reference the allegations set forth in paragraphs 1-24.

26. Plaintiff is the owner of all right, title, and interest in the '405 patent, entitled "Device For Encasing Storage Media Containing Separately Addressable Data," duly and properly issued by the U.S. Patent and Trademark Office on January 15, 2002. A copy of the '405 patent is attached as Exhibit A.

27. Defendants have been and/or are directly infringing and/or inducing infringement of and/or contributorily infringing the '405 patent by, among other things, making, using, offering to sell or selling in the United States, or importing into the United States, products and/or services that are covered by at least claims 1, 3, 4, 6, 16, and 18 of the '405 patent, including, by way of example and not limitation, various titles of DVDs containing the technology described in the Patent. Because the full extent of the infringement is not currently known, Defendant may be infringing additional claims of the '405 patent.

**DEMAND FOR JURY TRIAL**

28. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff respectfully requests a trial by jury of all issues properly triable by jury.

**PRAYER FOR RELIEF**

WHEREFORE, Robert Yoerg, Plaintiff, respectfully prays and demands:

A. For judgment declaring that Defendants have infringed Plaintiff's Patent;

B. For judgment declaring that Defendants' infringement of the Patent has been willful and deliberate;

C. For judgment awarding Plaintiff compensatory damages as a result of Defendants' infringement of the Patent, with interest and costs, and in no event less than a reasonable royalty;

D. For judgment awarding Plaintiff treble damages and pre-judgment interest under 35 U.S.C. § 284 as a result of Defendants' willful and deliberate infringement of the Patent;

E. For judgment declaring that this case is exceptional and awarding Plaintiff its expenses, costs, and attorneys fees in accordance with 35 U.S.C. §§ 284 and 285 and Rule 54(d) of the Federal Rules of Civil Procedure;

F. For a grant of a permanent injunction pursuant to 35 U.S.C. § 283, enjoining the Defendants from further acts of infringement; and

G. For such other and further relief as the Court deems just and proper.

DATED: September 1, 2015.

By: /s/Michael Dailey  
Michael Dailey  
Georgia Bar No. 203250

Travis Tunnell  
Georgia Bar No. 238206

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ATTORNEYS FOR PLAINTIFF