

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF ARKANSAS
HOT SPRINGS DIVISION**

HAWK TECHNOLOGY SYSTEMS, LLC,)	
)	
Plaintiff,)	Case No. 6:15-CV-06037-RTD
)	
v.)	
)	
OAKLAWN JOCKEY CLUB, INC.)	
)	
Defendant.)	
)	

SECOND AMENDED COMPLAINT

Plaintiff, Hawk Technology Systems, LLC (“Hawk”), hereby files its Second Amended Complaint against Defendant, Oaklawn Jockey Club, Inc. (“Oaklawn”), and alleges:

JURISDICTIONAL STATEMENT

1. Hawk is a Florida limited liability company with its principal place of business at 2 South Biscayne Boulevard, Suite 3800, Miami, Florida 33131.
2. Oaklawn Jockey Club, Inc. is an Arkansas corporation.
3. Complete diversity of citizenship exists between the parties and the amount in controversy exceeds \$75,000.00 and therefore this Court has subject matter jurisdiction over this action.
4. Pursuant to 28 U.S.C. §§ 1331 and 1338(a), this Court has original jurisdiction over the subject matter of this action. This is an action arising under the Patent Laws of the United States, U.S.C. § 1 et. seq.
5. This Court has personal jurisdiction over Oaklawn because Oaklawn is transacting business in the state of Arkansas, engaging in substantial and non-isolated

activity within the state of Arkansas, and committing tortious acts within the state of Arkansas.

6. Pursuant to 28 U.S.C. §§ 1391 and 1400(b), venue is proper in this district.

FACTUAL ALLEGATIONS

7. This is a civil action for patent infringement of United States Patent Nos. RE43,462 (the “‘462 Patent”) and RE37,342 (the “‘342 Patent”). The ‘462 Patent is a reissue of United States Patent No. 5,265,410 (the “‘410 Patent”). The independent claims in the reissued ‘462 are substantially identical to the corresponding claims in the original ‘410 Patent. The ‘342 Patent is a reissue of United States Patent No. 5,488,433 (the “‘433 Patent”). The independent claims in the reissued ‘342 Patent are substantially identical to the corresponding claims in the original ‘433 Patent.

8. Hawk was formed in 2012 to commercialize the inventions of its founder, Barry Schwab.

9. Mr. Ken Washino and Mr. Barry Schwab invented what is claimed by the ‘462 Patent and the ‘342 Patent.

10. Mr. Washino and Mr. Schwab have collaborated on a number of other pioneering inventions resulting in patents in the areas of video archiving, video downloading and digital cinema.

11. Mr. Schwab is also inventor on more than thirty patents, ranging from consumer products to secure network computing.

12. Hawk is the exclusive owner of all rights, title, and interest in the ‘462 and ‘342 Patents, including the right to sue and recover damages for infringement thereof.

13. Multi-Format, Inc., a New Jersey corporation (“MFI”) assigned all of its rights, title, and interest in and to the ‘462 Patent and the ‘342 Patent to Hawk.

14. MFI obtained its rights, title, and interest in and to the ‘462 Patent and the ‘342 Patent by virtue of assignments from Messrs. Washino and Schwab.

15. Oaklawn operates a casino, gaming, and thoroughbred racing facility or facilities, where it uses surveillance and video monitoring and recording equipment.

16. Hawk obtained information from individuals with personal knowledge of Oaklawn’s surveillance and video monitoring and recording equipment, including a former employee of Oaklawn, to confirm that Oaklawn is infringing the ‘462 Patent and the ‘342 Patent.

17. Hawk has not assigned or licensed, implicitly or explicitly, to Oaklawn any rights, title, and interest in or to the ‘462 Patent or the ‘342 Patent.

18. No claim of the ‘462 Patent or the ‘342 Patent has been adjudicated invalid.

Claim 12 Of The ‘462 Patent

19. Claim 12 of the ‘462 patent states:

The method of simultaneously displaying and storing multiple video images, comprising the steps of:

receiving video images at a personal computer based system from one or more sources;

digitizing any of the images not already in digital form using an analog-to-digital converter;

displaying at least certain of the digitized images in separate windows on a personal computer based display device, using a first set of temporal and spatial parameters associated with each image in each window;

converting one or more of the video source images into a data storage format using a second set of temporal and spatial parameters associated with each image; and simultaneously storing the converted images in a storage device.

(‘462 Patent, Col. 11, line 62-Col. 12, line 10).

20. Oaklawn uses a video storage and display system and methods that infringe one or more claims of the ‘462 Patent literally or under the doctrine of equivalents. Hawk has prepared a claim chart that explains how each limitation of method claim 12 of the ‘462 Patent is infringed. The claim chart is attached hereto as Exhibit “A.”

Claim 40 Of The '342 Patent

21. Claim 40 of the '342 patent states:

Video recording apparatus comprising:

an input for receiving video program source material, such material being characterized in having a plurality of sequential frames representative of motion imagery;

a video recorder in communication with the input for simultaneously recording information representative of the video program source material, including correlated edit-time-code information, onto first and second storage media, wherein the first storage medium is used to store the sequential frames in a randomly addressable manner, and the second storage medium is used to store the sequential frames in a serially addressable manner, such that each frame stored on one medium is associated with a time code correlated to a corresponding frame stored on the other medium.

(‘342 Patent, Col. 12, lines 12-27).

22. Oaklawn uses video recording and production apparatuses that infringe one or more claims of the ‘342 Patent literally or under the doctrine of equivalents.

Hawk has prepared a claim chart that explains how each limitation of apparatus claims 40 and 46 of the '342 Patent are infringed. The claim chart is attached hereto as Exhibit "B."

23. All conditions precedent to bringing this action have occurred or been waived.

24. Hawk has retained counsel to represent it in this matter and is obligated to pay its counsel a reasonable fee for its services.

25. Pursuant to 35 U.S.C. § 285, Hawk is entitled to recover its attorneys' fees.

COUNT I: DIRECT INFRINGEMENT OF THE '462 PATENT

26. The allegations contained in paragraphs 1-24 above are hereby re-alleged as if fully set forth herein.

27. This cause of action arises under the patent laws of the United States, and, in particular, 35 USC§1 *et seq.*

28. Hawk is the owner by assignment of the '462 Patent, with sole rights to enforce the '462 Patent and to sue infringers.

29. A copy of the '462 Patent titled "Video Monitoring and Conferencing System" is attached as Exhibit "C."

30. Without Hawk's authorization, Oaklawn uses video storage and display systems and methods that infringe one or more of the claims in the '462 Patent.

31. Hawk has been damaged by Oaklawn's infringement.

WHEREFORE, Hawk respectfully requests the Court:

A. Enter a judgment finding that Oaklawn has directly infringed the '462 Patent;

B. Pursuant to 35 U.S.C. § 284, order Oaklawn to pay damages adequate to compensate for the infringement, but in no event less than a reasonable royalty for the use made of the invention, together with interest and costs;

C. Find this to be an exceptional case of patent infringement under 35 U.S.C. § 285 and award reasonable attorneys' fees, costs, and expenses incurred by Hawk Technology Systems, LLC in prosecuting this action; and

D. Award such other and further relief as the Court deems just and proper.

COUNT II: DIRECT INFRINGEMENT OF THE '342 PATENT

32. The allegations contained in paragraphs 1-30 above are hereby re-alleged as if fully set forth herein.

33. This cause of action arises under the patent laws of the United States, and, in particular, 35 USC§1 *et seq.*

34. Hawk is the owner by assignment of the '342 Patent, with sole rights to enforce the '342 Patent and to sue infringers.

35. A copy of the '342 Patent titled "Dual Format Digital Video Production System" is attached as Exhibit "D."

36. Without Hawk's authorization, Oaklawn uses video production and recording systems, methods, and apparatuses that infringe one or more of the claims in the '342 Patent.

37. Hawk has been damaged by Oaklawn's infringement.

WHEREFORE, Hawk respectfully requests the Court:

A. Enter a judgment finding that Oaklawn has directly infringed the '342 Patent;

B. Pursuant to 35 U.S.C. § 284, order Oaklawn to pay damages adequate to compensate for the infringement, but in no event less than a reasonable royalty for the use made of the invention, together with interest and costs;

C. Find this to be an exceptional case of patent infringement under 35 U.S.C. § 285 and award reasonable attorneys' fees, costs, and expenses incurred by Hawk Technology Systems, LLC in prosecuting this action; and

D. Award such other and further relief as the Court deems just and proper.

PRAYER FOR RELIEF

WHEREFORE, Hawk respectfully requests the Court to:

A. Enter judgment for the Hawk on the Complaint on all causes of action affected herein;

B. Award Hawk damages resulting from Oaklawn's infringement, in accordance with 35 USC § 284;

C. Award Hawk reasonable attorneys' fees, costs, and expenses incurred by Hawk in prosecuting this action; and

D. Award Hawk such further relief to which the Court finds Hawk entitled under the Law or equity.

DEMAND FOR JURY TRIAL

Hawk demands a trial by jury on all issues so triable.

Respectfully submitted,

LIPSCOMB EISENBERG & BAKER, PL

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CERTIFICATE OF SERVICE

I hereby certify that on March 11, 2016, a true and correct copy of the foregoing document was served via U.S. Mail and/or email to the following:

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