UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

GLOBAL EQUITY MANAGEMENT (SA) PTY. LTD., Plaintiff,	))))	
v.	))	Civil Action No. 2:15-cv-00104
HIPMUNK, INC.,	))	JURY TRIAL DEMANDED
Defendant.	))	

PLAINTIFF'S FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Global Equity Management (SA) Pt. Ltd. ("GEMSA") files this First Amended Complaint

and demand for jury trial seeking relief from patent infringement by Hipmunk, Inc. (referred to as

"Hipmunk"), alleging as follows:

THE PARTIES

1.   Plaintiff GEMSA is a foreign corporation organized under the laws of Australia, with its

principal place of business located 458 Morphett Road, Warradale, South Australia 5046.

2.   Upon information and belief, Hipmunk is a corporation organized and existing under the

laws of Delaware, with a principal place of business at 434 Brannan St., San Francisco, CA 94107,

and with a registered agent at Adam Goldstein, 76 Sharon St., San Francisco, CA. Upon

information and belief, Hipmunk sells and offers to sell products and services throughout the

United States, including in this judicial district, and introduces products and services that perform

infringing processes into the stream of commerce knowing that they would be sold in this judicial

district and elsewhere in the United States.

JURISDICTION AND VENUE

3.   This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 1 et. seq. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4.   This Court has personal jurisdiction over the Defendant Hipmunk because: Hipmunk is present within or has minimum contacts within the State of Texas and this judicial district; Defendant has purposefully availed itself of the privileges of conducting business in the State of Texas and in this judicial district; Defendant regularly conducts business within the State of Texas and within this judicial district; and Plaintiff's cause of action arises directly from the Defendant's business contacts and other activities in the State of Texas and in this judicial district.

5.   Upon information and belief, Defendant conducts substantial business in this forum, directly or through intermediaries, 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.

Background of the Invention

6.   Flash Vos, Inc. (FVOS), a predecessor of GEMSA, was established in 1997 in Houston, Texas, to develop platform independent information processing in complex environments with multiple systems and multiple operating environments. FVOS product development created and produced the first Virtual System OS (VOS) and the first Super Operating System (SOS) that were well ahead of times. The SOS for the first time allowed multiple operating environment to co-exist on the same platform with their own independent filesystems.

7.   Flash Vos, Inc. moved the computer industry a quantum leap forwarded in the late 90's

when it invented Systems Virtualization and was awarded the patents US6690400 ('400),

US7356677 ('677) and US6401183 ('183).

8.   Technology Experts recognized the Virtualization innovations as key technology

inventions. Before the SOS, computers were only able to use a single operating system and

virtualization of computers based on storage was not possible. The technology has been cited

numerous times by the patent office as relevant prior art for other later patent applications.

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Patent	Filed	Issued	Assignee	Title
US7996687	31 Oct 2008	9 Aug 2011	International Business Machines Corporation	Product for providing a scalable trusted platform module in a hypervisor environment
US8010513	28 May 2010	30 Aug 2011	Brocade Communications Systems, Inc.	Use of server instances and processing elements to define a server
US8091042 *	15 Nov 2001	3 Jan 2012	Siebel Systems, Inc.	Apparatus and method for displaying selectable icons in a toolbar for a user interface
US8150972	10 Feb 2011	3 Apr 2012	Adaptive Computing Enterprises, Inc.	System and method of providing reservation masks within a compute environment
US8176094	1 Jun 2009	8 May 2012	Novell, Inc.	System and method for efficiently building virtual appliances in a hosted environment
US8209288	1 Jun 2009	26 Jun 2012	Novell, Inc.	System and method for inspecting a virtual appliance runtime environment
US8209495	28 Mar 2011	26 Jun 2012	Hitachi, Ltd.	Storage management method and storage management system
US8214842 *	27 Feb 2009	3 Jul 2012	International Business Machines Corporation	Visualization-centric performance-based volume allocation
US8321871	17 Jun 2005	27 Nov 2012	Adaptive Computing Enterprises, Inc.	System and method of using transaction IDS for managing reservations of compute resources within a compute environment
US8386721	21 Nov 2008	26 Feb 2013	Hitachi, Ltd.	Storage having logical partitioning capability and systems which include the storage
US8412909 *	7 Apr 2010	2 Apr 2013	Samsung Electronics Co., Ltd.	Defining and changing spare space and user space in a storage apparatus
US8413155	11 Mar 2005	2 Apr 2013	Adaptive Computing Enterprises, Inc.	System and method for a self-optimizing reservation in time of compute resources
US8418186	27 Jun 2011	9 Apr 2013	Adaptive Computing Enterprises, Inc.	System and method of co-allocating a reservation spanning different compute resources types
US8423884	8 Dec 2011	16 Apr 2013	Institute For Information Industry	System, method and computer readable storage medium for storing the method for operating graphic user interface
US8499276 *	28 Dec 2006	30 Jul 2013	Ca, Inc.	Multi-platform graphical user interface
US8516217 *	27 Mar 2009	20 Aug 2013	International Business Machines Corporation	Managing a logically partitioned computing system through a virtual file system
US8543998	11 Feb 2009	24 Sep 2013	Oracle International Corporation	System and method for building virtual appliances using a repository metadata server and a dependency resolution service
US8544016	1 Jun 2009	24 Sep 2013	Oracle International Corporation	Rebuilding a first and second image based on software components having earlier versions for one or more appliances and performing a first and second integration test for each respective image in a runtime environment
			Adaptive	

REFERENCED BY

Citing Patent	Filing date	Publication date	Applicant	Title
US6971002 *	9 Aug 2001	29 Nov 2005	International Business Machines Corporation	Method, system, and product for booting a partition using one of multiple, different firmware images without rebooting other partitions
US7062629 *	15 Feb 2005	13 Jun 2006	Hitachi, Ltd.	Apparatus and method for partitioning and managing subsystem logics
US7065627 *	25 Mar 2002	20 Jun 2006	International Business Machines Corporation	Method and system for providing an event driven image for a boot record
US7069408 *	9 Dec 2003	27 Jun 2006	Hitachi, Ltd.	Apparatus and method for partitioning and managing subsystem logics
US7103847 *	18 Jul 2002	5 Sep 2006	International Business Machines Corporation	Method and system for monitoring the use of a resource in a processing system
US7127585	23 Jun 2004	24 Oct 2006	Hitachi, Ltd.	Storage having logical partitioning capability and systems which include the storage
US7146569 *	10 Oct 2002	5 Dec 2006	International Business Machines Corporation	Method, apparatus, and program for visual representation of an address space
US7181577	19 Feb 2004	20 Feb 2007	Hitachi, Ltd.	Storage having logical partitioning capability and systems which include the storage
US7185142	20 May 2004	27 Feb 2007	Hitachi, Ltd.	Storage management method and storage management system
US7287129	17 May 2006	23 Oct 2007	Hitachi, Ltd.	Storage management method and storage management system
US7317175	24 Jun 2004	8 Jan 2008	Jere F. Irwin	User interface for configuring and controlling an array of heater elements
US7346585 *	28 Feb 2003	18 Mar 2008	Microsoft Corporation	Computer software and services license processing method and system
US7356770 *	8 Nov 2005	8 Apr 2008	Cluster Resources, Inc.	System and method of graphically managing and monitoring a compute environment
US7363455	15 Feb 2005	22 Apr 2008	Hitachi, Ltd.	Apparatus and method for partitioning and managing subsystem logics
US7415578	20 Mar 2007	19 Aug 2008	Hitachi, Ltd.	Storage management method and storage management system
US7478246 *	29 Jul 2004	13 Jan 2009	International Business Machines Corporation	Method for providing a scalable trusted platform module in a hypervisor environment
US7546426	21 Dec 2006	9 Jun 2009	Hitachi, Ltd.	Storage having a logical partitioning capability and systems which include the storage
US7590648 *	27 May 2005	15 Sep 2009	Brocade Communications Systems, Inc.	Template-based development of servers
US7624283	13 Feb 2006	24 Nov 2009	International Business Machines Corporation	Protocol for trusted platform module recovery through context checkpointing
US7917704	25 Jul 2008	29 Mar 2011	Hitachi, Ltd.	Storage management method and storage management system

9.   Additionally, GEMSA has continued supporting these technologies advances and has helped the achievement of additional patents awarded in China which include:

CN201010149051 **Firmware-based flash memory array management device and method independent of operating system**
CN200810204083 **Operating system switching method based on expandable firmware interface**
CN200810200121 **Virtual platform system based on firmware**
CN200710132636 **Perspective communication method between super operating system and its intermedium**
CN200910197256 **Cross-platform and cross-processor method based on extensible firmware interface and device**

10.   These GEMSA creative achievements not only revolutionized the development of virtualization technology for support of multiple operating systems but also helped the development of internet advertising and information accessing from multiple data sources.

11.   One of the key features of these innovations is the method of accessing additional relevant information from the GUI by simply clicking on the information links positioned on the right hand side of the GUI.

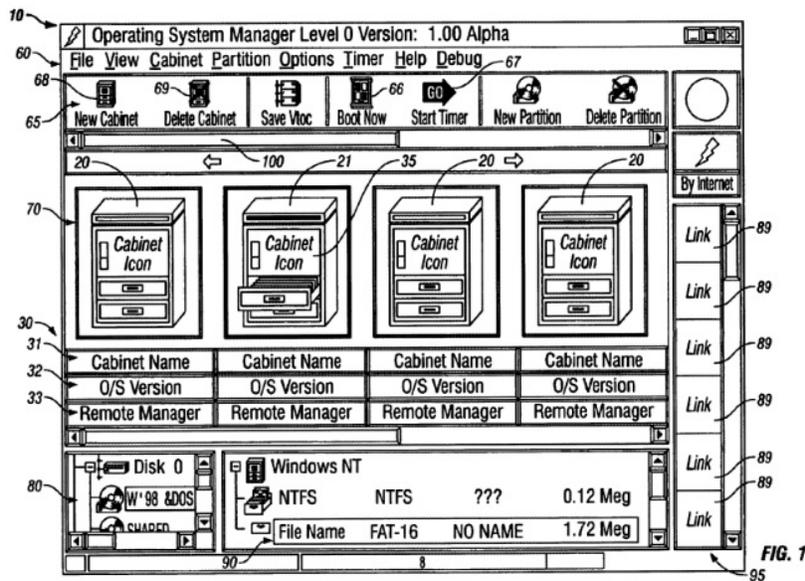**Fig.1 of GEMSA '400 GUI Patent**

12.   These GUI innovations include Menu Bars and Links are marked (65, 89, etc.) and shown in the Fig.1 of the '400 patent and one embodiment of this invention is further illustrated as figure 8 in '677 patent.
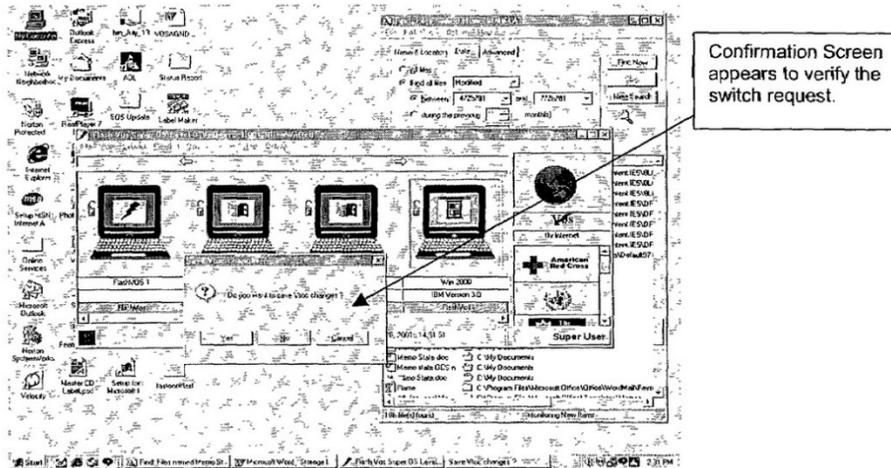
Figure 8 of GEMSA US 7356677 B1 Patent

13.   Figure below is another instance of GEMSA GUI from copyrighted SOS User's Guide.
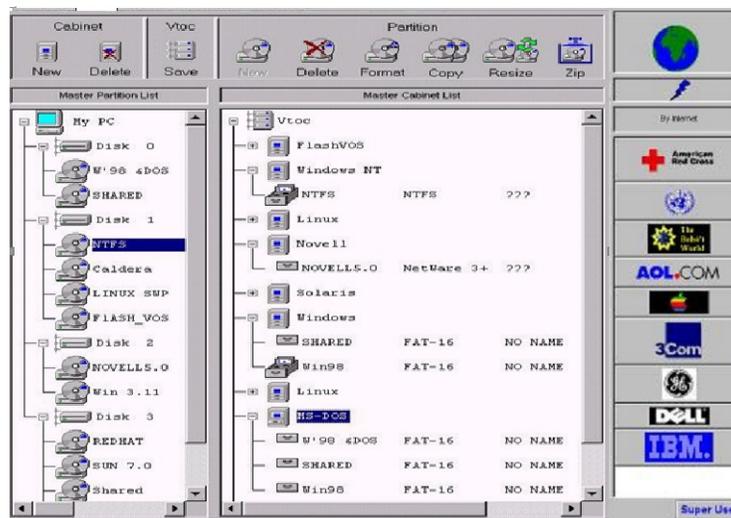
COUNT 1: INFRINGEMENT OF THE '400 PATENT

14.   Plaintiff re-alleges paragraphs 1-13 in its entirety.

15.   On February 10, 2004, United States Patent No. 6,690,400 ("the '400 patent") entitled "Graphic User Interface for Resources Management of Super Operating System Based Computers" was duly and legally issued by the United States Patent and Trademark Office. GEMSA owns the '400 patent by assignment. (the '400 patent is attached as Ex. A)

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16.   Hipmunk uses a website with a graphical user interface ("GUI") for the administration and management of www.hipmunk.com that infringes one or more claims of the '400 patent, including at least claims 1, 16 and 28.

17.   In doing so, Hipmunk infringes at least claims 1, 16 and 28 of the '400 patent, literally or under the doctrine of equivalents. Hipmunk directly infringes by using the GUI for the administration and management of hipmunk.com. Hipmunk induces infringement by consumers and advertisers by encouraging them to use the GUI. Hipmunk contributorily infringes by providing the GUI to consumers and advertisers.

18.   On information and belief, Hipmunk will continue to infringe at least claims 1, 16, and 28 of the '400 patent unless and until it is enjoined by this Court.

19.   Hipmunk has caused and will continue to cause GEMSA irreparable injury and damage by infringing at least claims 1, 16 and 28 of the '400 patent. GEMSA will suffer further irreparable injury, for which it has no adequate remedy at law, unless and until Hipmunk is enjoined from infringing at least claims 1, 16 and 28 of the '400 patent.

COUNT 2: INFRINGEMENT OF THE '677 PATENT

20.   Plaintiff re-alleges paragraphs 1-13 in its entirety.

21.   On April 8, 2008, United States Patent No. 7,356,677 ("the '677 patent") entitled "Computer System Capable of Fast Switching Between Multiple Operating Systems and Applications" was duly and legally issued by the United States Patent and Trademark Office. GEMSA owns the '677 patent by assignment. (the '677 patent is attached as Ex. B)

22.   Hipmunk uses a website with a graphical user interface ("GUI") for the administration and management of www.hipmunk.com that infringes at least claims 1, 3 and 6 of the '677 patent.

23.   In doing so, Hipmunk infringes at least claims 1, 3 and 6 of the '677 patent, literally or under the doctrine of equivalents. Hipmunk directly infringes by using the GUI for the administration and management of hipmunk.com. Hipmunk induces infringement by consumers and advertisers by encouraging them to use the GUI. Hipmunk contributorily infringes by providing the GUI to consumers and advertisers.

24.   On information and belief, Hipmunk will continue to infringe at least claims 1, 3 and 6 of the '677 patent unless and until it is enjoined by this Court.

25.   Hipmunk has caused and will continue to cause GEMSA irreparable injury and damage by infringing at least claims 1, 3 and 6 of the '677 patent. GEMSA will suffer further irreparable injury, for which it has no adequate remedy at law, unless and until Hipmunk is enjoined from infringing at least claims 1, 3 and 6 of the '677 patent.

PRAYER FOR RELIEF

WHEREFORE, GEMSA respectfully requests that this Court:

1. Enter judgment that Hipmunk has infringed the '400 patent;

2. Enter an order permanently enjoining Hipmunk and its officers, agents, employees, Attorneys, and all persons in active conceit or participation with any of them, from infringing the '400 patent;

3. Award GEMSA damages in an amount sufficient to compensate it for Hipmunk's infringement of the '400 patent, together with prejudgment and post-judgment interest and costs under 35 U.S.C. § 284;

4. Enter judgment that Hipmunk has infringed the '677 patent;

5. Enter an order permanently enjoining Hipmunk and its officers, agents, employees, Attorneys, and all persons in active conceit or participation with any of them, from infringing the '677 patent;

6. Award GEMSA damages in an amount sufficient to compensate it for Hipmunk's infringement

of the '677 patent, together with prejudgment and post-judgment interest and costs under 35 U.S.C.

§ 284;

7. Award GEMSA an accounting for acts of infringement not presented at trial and an award by

the Court of additional damage for any such acts of infringement;

8. Declare this case to be "exceptional" under 35 U.S.C. § 285 and award GEMSA its attorneys'

fees, expenses, and costs incurred in this action; and,

9. Award GEMSA such other and further relief as this Court deems just and proper.

JURY DEMAND

GEMSA hereby requests a trial by jury on issues so triable by right.

Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to the Federal Rules of Civil Procedure and Local Rule CV-5, I hereby certify that all counsel of record who have appeared in this case are being served today with a copy of the foregoing via the Court's CM/ECF system.

/s/ William P. Ramey, III

William P. Ramey, III