

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
Case No: 5:13-cv-00716**

ROBERT MANKES,)	
)	
Plaintiff,)	
)	
v.)	
)	
FANDANGO, LLC, and REGAL ENTERTAINMENT GROUP)	SECOND AMENDED COMPLAINT
)	
)	
Defendants.)	

Plaintiff Robert Mankes (“Mankes”), by and through his counsel, complaining of Defendant Fandango, LLC (“Fandango”), and Defendant Regal Entertainment Group (“Regal”), hereby demands a jury trial and alleges:

NATURE OF THE ACTION

1. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 271, *et seq.*, to enjoin and obtain damages resulting from Fandango’s and Regal’s unauthorized use of systems and methods that infringe one or more claims of United States Patent No. 6,477,503 (“the ’503 Patent”), entitled “Active Reservation System” and a copy of which is attached hereto as Exhibit A.

2. Mankes seeks permanent injunctive relief to prevent Fandango and Regal from continuing to infringe his ’503 Patent and, in addition, seeks a recovery of monetary damages resulting from Fandango’s and Regal’s infringement of the ’503 Patent.

PARTIES

3. Plaintiff Mankes is a private individual residing at 801-107 Moratuck Dr., Raleigh, North Carolina 27604.

4. Plaintiff Mankes is the sole inventor and owner of all right, title, and interest in and to the '503 Patent.

5. Upon information and belief, Fandango is a Delaware company having a principal place of business in Los Angeles, California.

6. Upon information and belief, Regal is a Delaware company having a principal place of business in Knoxville, Tennessee.

JURISDICTION AND VENUE

7. This action arises under the patent laws of the United States, including 35 U.S.C. §§ 271 *et seq.* This Court has subject matter jurisdiction under the provisions of 28 U.S.C. §§ 1331 and 1338(a).

8. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b), 1391(c), & 1400(b).

9. This Court has personal jurisdiction over Fandango and Regal and venue is proper in this district because Fandango and Regal have regularly conducted business in North Carolina and this judicial district, and infringement has occurred and continues to occur in North Carolina and in this district.

10. This Court has personal jurisdiction over Fandango and Regal because it has established minimum contacts with the forum and the exercise of the Court's jurisdiction over Fandango and Regal would not offend traditional notions of fair play and substantial justice.

FACTS

11. The '503 Patent is generally directed to a reservation system that controls an inventory.

12. The '503 Patent was duly and legally issued on November 5, 2002.

13. Mankes invented the system disclosed in the '503 Patent to allow vendors that offer reservations to effectively control and allocate inventory between a physical site location and an internet-based sales portal.

14. Regal is a movie theater chain that operates movie theaters throughout the United States, including within this judicial district.

15. Each Regal movie theater includes a box office that sells tickets to their movie screenings to local customers who are at the movie theater.

16. Fandango operates an Internet system for selling tickets to movie screenings that are being shown at the Regal movie theaters.

17. Regal and Fandango have been infringing the '503 Patent by their actions of making, using, and selling their ticket reservation and sales methods that are included in one or more claims of the '503 Patent.

18. Each movie theater offers multiple movie screenings. For each screening, Regal establishes an inventory of available tickets based on the number of seats in the theater.

19. Upon information and belief, Regal operates an inventory system for the movie screenings at their movie theaters. The inventory system tracks the total number of tickets for each movie screening, the number of tickets that have been sold for each screening, and a remaining number of tickets that have not yet been sold.

20. Regal operates a box office at each movie theater. Each box office offers tickets to each movie screening for walk-up customers that are physically at the movie theater.

21. Upon information and belief, each box office accesses the inventory system when a walk-up customer offers to purchase tickets to a movie screening. When the inventory system indicates that tickets are available for the requested movie screening, the box office informs the

customer, receives payment from the customer, and finalizes the sale by printing the requested tickets.

22. Upon information and belief, the inventory system updates the number of tickets sold and remaining for each movie screening.

23. Fandango operates a website that is accessible over the Internet. The website offers tickets for sale to movie screenings and includes an interface for customers to select and purchase tickets to the movie screenings.

24. Regal uses Fandango to offer and sell tickets to their movie screenings through the Internet.

25. Upon information and belief, Regal allocates a first number of tickets that are to be sold through their box office and allocates a second number of tickets that are to be sold by Fandango through the Internet.

26. Upon information and belief, Regal communicates to Fandango the number of tickets available for sale over the Internet and the ticket information for the movie screenings and/or Fandango has access to the Regal inventory system and obtains the number of tickets and ticket information for each movie screening.

27. Fandango displays the information about the movie screenings on their website.

28. Upon information and belief, Fandango receives through their website offers from customers to purchase tickets to the movie screenings.

29. Upon information and belief, Fandango then communicates with the Regal inventory system to determine whether the requested Internet tickets are available. When the inventory system indicates that the requested tickets are available, Fandango informs the customer, receives payment, and provides the customer with a confirmation of the purchase.

30. Upon information and belief, the Regal inventory system is updated to include the number of tickets sold and remaining tickets for each movie screening.

31. Upon information and belief, Regal adjusts the allocation of available inventory based on the number of tickets sold through their box office.

32. Upon information and belief, Regal re-allocates the distribution of tickets. Tickets that are originally allocated for Internet sales are re-allocated for local sales when tickets are in demand through the local movie theater box office. Tickets are also re-allocated from the local box office to the Internet due to a lesser local demand.

33. Each of Fandango and Regal have knowledge of the '503 Patent and have been given notice of their infringement of the '503 Patent.

34. Defendants' combined and concerted actions perform all of the steps of the claimed invention.

35. Regal acts together with Fandango to sell tickets to the movie screenings including local sales through the Regal box offices and Fandango Internet sales through Fandango's website.

36. The actions of Regal with Fandango were done for the common goal of selling tickets to the movie screenings for the purpose of their own financial gain.

37. Upon information and belief, Regal receives their established ticket price for each ticket sold by Fandango through the Internet.

38. Upon information and belief, Fandango charges customers a convenience charge of \$0.75 to \$2 per ticket. Upon information and belief, Fandango receives this charge for each ticket it sells over the Internet.

39. Mankes has been harmed as a result of the concerted actions of Regal and

Fandango.

40. The tortious conduct of Regal and Fandango is a cause of a single and indivisible harm to Mankes.

41. The actions of Fandango are attributable to Regal because Regal directs or controls the actions of Fandango in selling tickets through the Internet to its movie screenings.

42. Fandango acts as an agent to Regal when selling tickets over the Internet for the movie screenings.

43. Upon information and belief, Regal has consented to Fandango being authorized to act on their behalf to sell tickets through the Internet.

44. Regal has authorized Fandango to interact with customers to purchase tickets to the movie screenings. These sales are binding upon Regal.

45. Fandango has held itself out to customers as being authorized to sell the Regal movie tickets through the Internet.

46. Upon information and belief, Regal has granted to Fandango the authority to sell tickets to the movie screenings over the Internet and to bind Regal through its actions.

47. Upon information and belief, Regal has entered into a contract with Fandango to sell tickets to the movie screenings over the Internet.

48. Upon information and belief, the contract includes that Regal will allocate available tickets to movie screenings for Fandango to sell over the Internet.

49. Upon information and belief, the contract includes that Fandango can charge customers and is paid a convenience charge for each ticket sold over the Internet.

50. Upon information and belief, Fandango is instructed by Regal on the cost of each ticket. Fandango collects this amount at the time of the sales transaction with the customers and

forwards the amount to Regal.

51. Regal directs and controls the actions of Fandango in selling the tickets through the Internet, including establishing the timing and manner by which Fandango sells the tickets, and compensates Fandango for these actions.

52. Fandango directs and controls Regal in the selling of tickets to the movie screenings. Fandango instructs Regal to provide them with information for tickets that are to be sold by Fandango over the Internet. Fandango sells these tickets over the Internet and compensates Regal for the sold tickets.

53. Fandango has known about the '503 Patent since at least 2006, when Mankes informed them of their infringement and offered Fandango a license to practice his invention.

54. Despite Mankes' repeated inquiries, Fandango continued and continues to practice Mankes' invention without his consent. Fandango was aware of the '503 Patent at the time they worked with Regal in selling movies tickets over the Internet.

COUNT I
PATENT INFRINGEMENT
35 U.S.C. § 271(a)

55. Mankes realleges and incorporates by reference the preceding paragraphs of this Second Amended Complaint.

56. Mankes is the lawful owner of all right, title, and interest in and to the '503 Patent.

57. The actions of Regal and Fandango directly infringe claims 1, 2, and 3 of the '503 Patent as reflected in the claim charts at hereto as Exhibit B.

58. Regal and Fandango's acts of infringement have caused damage to Mankes, and Mankes is entitled to recover damages adequate to compensate for the infringement.

59. Defendants' ongoing infringement is willful.

60. Regal and Fandango's continuing infringement of the '503 Patent continues to damage Mankes, causing irreparable harm unless enjoined by the Court.

PRAYER FOR RELIEF

WHEREFORE Mankes respectfully prays for judgment against Regal and Fandango, granting Mankes the following relief:

A. That the Court enter judgment that each of Regal and Fandango have infringed U.S. Patent No. 6,477,503;

B. That the Court order an accounting to determine the damages to be awarded to Mankes as a result of Regal and Fandango's infringement;

C. That the Court, pursuant to 35 U.S.C. § 284, enter an award to Mankes of such damages as it shall prove at trial that are adequate to compensate Mankes for Regal and Fandango's infringement of the '503 Patent, said damages to be no less than a reasonable royalty;

D. That the Court find the infringement has been willful and deliberate;

E. That the Court award Mankes treble damages and pre-judgment interest under 35 U.S.C. § 284;

F. That the Court assess pre-judgment and post-judgment interest and costs against Regal and Fandango, together with an award of such interest and costs to Mankes, in accordance with 35 U.S.C. § 284;

G. That the Court permanently enjoin Regal and Fandango, and their partners, subsidiaries, affiliates, successors and assigns, and each of their respective officers, directors, agents, servants, employees, attorneys, and all persons within their control from using and offering to sell, advertising products and/or employing systems or products and/or otherwise

making use of systems or products that infringe any of the claims of the '503 Patent, or otherwise engaging in acts of infringement of the '503 Patent;

H. That the Court grant Mankes such other, further, and different relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Mankes demands a trial by jury be held on all issues so triable.

Respectfully submitted, this the 30th day of June, 2016.

Coats & Bennett, PLLC
Attorneys for Robert Mankes

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CERTIFICATE OF SERVICE

I hereby certify that on this the 30th day of June, 2016 a copy of the foregoing **SECOND AMENDED COMPLAINT** was filed with the Clerk of Court using the CM/ECF system which will send notification to opposing counsel at the following address, and was mailed via USPS First Class Mail, postage prepaid, to:

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