

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

<p>BETTER MOUSE COMPANY, LLC,</p> <p style="padding-left: 40px;">Plaintiff,</p> <p style="padding-left: 80px;">v.</p> <p>ETEKCITY CORPORATION,</p> <p style="padding-left: 40px;">Defendant.</p>	<p>CIVIL ACTION NO. 2:16-cv-270 <b>(Consolidated Lead Case)</b></p> <p style="text-align: center;"><b><u>JURY TRIAL DEMANDED</u></b></p>
<p>BETTER MOUSE COMPANY, LLC,</p> <p style="padding-left: 40px;">Plaintiff,</p> <p style="padding-left: 80px;">v.</p> <p>(1) DOV ENTERPRISES, INC., d/b/a SHARKK; AND (2) SHARKK LLC,</p> <p style="padding-left: 40px;">Defendants.</p>	<p>CIVIL ACTION NO. 2:16-cv-326 <b>(Member Case)</b></p> <p>FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT</p> <p style="text-align: center;"><b><u>JURY TRIAL DEMANDED</u></b></p>

Plaintiff Better Mouse Company, LLC (“Better Mouse”) files this first amended complaint against the above-named Defendants, alleging, based on its own knowledge as to itself and its own actions, and based on information and belief as to all other matters, as follows:

**PARTIES**

1. Better Mouse is a limited liability company formed under the laws of the State of Texas, with a principal place of business in Tyler, Texas.
2. Defendant DOV Enterprises, Inc., d/b/a Sharkk (“DOV Enters.”) is a corporation organized under the laws of New Jersey with a place of business in Parsippany, NJ. It can be

served through its resident agent for service of process in New Jersey: Dov Brafman, 485 21st Street, Irvington, NJ 07111-4361.

3. Defendant Sharkk LLC is a limited liability company organized under the laws of New Jersey with, according to its registration with the New Jersey Secretary of State as of July 6, 2016, a place of business in Parsippany, NJ. It also has a place of business in Livingston, NJ. It can be served through its resident agent for service of process in New Jersey: Dov Brafman, 2001 RT 46 East, Suite 310, Parsippany, NJ 07054.

4. Dov Brafman is involved in both DOV Enters. and Sharkk LLC. Mr. Brafman serves as registered agent and CEO for both companies.

#### **JURISDICTION AND VENUE**

5. This is an action for infringement of a United States patent arising under 35 U.S.C. §§ 271, 281, and 284–85, among others. This Court has subject matter jurisdiction of the action under 28 U.S.C. § 1331 and § 1338(a).

6. Venue is proper in this district under 28 U.S.C. §§ 1391 and 1400(b). Defendants have transacted business in this district and have committed acts of patent infringement in this district.

7. Defendants are subject to this Court's specific and general personal jurisdiction under due process and/or the Texas Long Arm Statute due at least to Defendants' 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.

**COUNT I: DIRECT INFRINGEMENT OF U.S. PATENT NO. 7,532,200**

8. On May 12, 2009, United States Patent No. 7,532,200 (“the 200 patent”) was duly and legally issued by the United States Patent and Trademark Office for an invention titled “Apparatus for Setting Multi-Stage Displacement Resolution of a Mouse.”

9. Better Mouse is the owner of the 200 patent with all substantive rights in and to that patent, including the sole and exclusive right to prosecute this action and enforce the 200 patent against infringers, and to collect damages for all relevant times.

10. The 200 patent generally covers certain computer mice and other similar devices that have the ability to change resolutions through one or more toggles or switches on the exterior of the mouse, without using a software driver or tool that is external to the mouse.

11. Defendants, without authority from Better Mouse, made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale computer mice and other similar devices with the ability to change resolutions through one or more toggles or switches on the exterior of the mouse without using a software driver or tool that is external to the mouse. These acts constitute infringement under 35 U.S.C. § 271(a).

12. The accused devices include at least the following mouse models: Sharkk SK2562, and Sharkk SK2242. The accused devices infringe one or more of the following claims of the 200 patent: claims 1–4, and/or 6–9.

13. Better Mouse has been damaged as a result of the infringing conduct by Defendants alleged above. Thus, Defendants are liable to Better Mouse in an amount that adequately compensates Better Mouse for such infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

14. Better Mouse and/or its predecessors-in-interest have satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law.

**JURY DEMAND**

Better Mouse hereby requests a trial by jury on all issues so triable by right.

**PRAYER FOR RELIEF**

Better Mouse requests that the Court find in its favor and against Defendants and that the Court grant Better Mouse the following relief:

- a. Judgment that one or more claims of the 200 patent have been infringed, either literally and/or under the doctrine of equivalents, by Defendants;
- b. Judgment that Defendants account for and pay to Better Mouse all damages to and costs incurred by Better Mouse because of Defendants' infringing activities and other conduct complained of herein, including an award of all increased damages to which Better Mouse is entitled under 35 U.S.C. § 284;
- c. A permanent injunction enjoining Defendants and their respective officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert therewith from infringement of the 200 patent; or, in the alternative, an award of a reasonable ongoing royalty for future infringement of the 200 patent by such entities;
- d. Pre-judgment and post-judgment interest on the damages caused by Defendants' infringing activities and other conduct complained of herein;
- e. A declaration by the Court that this is an exceptional case and an award to Better Mouse of its reasonable attorneys' fees and costs in accordance with 35 U.S.C. § 285; and

f. Other and further relief as the Court may deem just and proper under the circumstances.

Dated: July 7, 2016

Respectfully submitted,

*/s/ Larry D. Thompson, Jr.*

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 7th day of July 2016, I caused the electronically filing of the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

*/s/ Larry D. Thompson, Jr.*

Larry D. Thompson, Jr.