

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

KAMATANI CLOUD LLC,

Plaintiff,

-against-

ANIMETRICS, INC.,

Defendant.

Civil Action No.: 16-cv-5492

**COMPLAINT AND DEMAND
FOR JURY TRIAL**

Plaintiff Kamatani Cloud LLC, as and for its complaint for patent infringement in this matter, hereby alleges through its attorneys as follows:

NATURE OF THE ACTION

1. This is an action under the patent laws of the United States, 35 U.S.C. §§ 1, *et seq.*, for infringement by Defendant Animetrics, Inc. of one or more claims of U.S. Patent No. 6,873,940 (the “’940 patent” or “Patent-in-Suit”), seeking damages and other relief under 35 U.S.C. § 281, *et seq.*

PARTIES

2. Plaintiff Kamatani Cloud LLC (“Kamatani Cloud”) is a limited liability company organized and existing under the laws of the State of Delaware, having its principal place of business at 75 Montebello Road, Suffern, NY 10901.

3. Upon information and belief, Defendant Animetrics, Inc. (“Animetrics”) is a corporation organized and existing under the laws of the State of New Hampshire, having a place of business at 53 Technology Lane, Suite 103, Conway, NH 03818.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over Animetrics in this action pursuant to N.Y.

C.P.L.R. §§ 301 and 302(a)(1)-(3). Upon information and belief, this Court has general jurisdiction over Animetrics based on its continuous and systematic conduct within New York, including, *inter alia*, Animetrics' continuous contacts with and sales to customers in New York and delivery of products and/or services into New York, including the Southern District of New York. Upon information and belief, Animetrics either directly or indirectly through one or more of their subsidiaries, affiliates, partners, or other related parties, have conducted and/or continue to conduct business within the State of New York, including in this Judicial District. Upon information and belief, Animetrics' sales to customers in New York include, *inter alia*, sales to New York law enforcement agencies, including the New York City Police Department. Upon information and belief, Animetrics is also subject to specific jurisdiction of this Court pursuant to due process and/or the New York Long Arm Statute because, *inter alia*, Animetrics (i) has committed acts of direct and/or indirect patent infringement alleged in the Complaint including using, distributing, importing, making, offering for sale, selling, and/or marketing, supporting and advertising of its infringing products and/or services within the state of New York and elsewhere, causing injury within the state, including within this District; and (ii) regularly does or solicits business in the State of New York and in this Judicial District, engages in other persistent courses of conduct in this Judicial District including maintaining minimum contacts with this forum by way of at least the sale of face-recognition and/or other products and services in this Judicial District either directly or through distributors or retailers, or by placing their products within the stream of commerce, which is directed at this forum, purposefully availing themselves of the privileges of doing business in New York and in this Judicial District, and/or

deriving substantial revenue from goods and services provided to individuals in New York and in this Judicial District. Given Animetrics' acts within the Southern District of New York, it has established minimum contacts with this forum such that the exercise of jurisdiction over Animetrics would not offend traditional notions of fair play and substantial justice.

6. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b) because, *inter alia*, Animetrics has transacted business and has committed and continues to commit acts of direct and indirect infringement of the Patent-in-Suit in the Southern District of New York. For example, upon information and belief, Animetrics has made, used, sold, offered for sale, and/or imported infringing products in this Judicial District.

PATENT-IN-SUIT

7. On March 29, 2005, the United States Patent and Trademark Office duly and lawfully issued the '940 patent, entitled "Measuring method and measuring service system using communication means," based upon an application filed by the inventor, Yasuo Kamatani. A true and correct copy of the '940 patent is attached as Exhibit A to this Complaint.

8. The '940 patent relates to inventive systems and methods for connecting a client apparatus and server apparatus through an interactive communication line, wherein measurement data are sent from the client apparatus to the server apparatus, and the server apparatus executes measurement processing to obtain measurement processing results, which are then sent to the client apparatus.

9. The claims of the Patent-in-Suit generally relate to a measurement service system and method, and particularly to a novel measurement service system for carrying out remote measurements involving network communication, and a measurement method using the same.

10. The Patent-in-Suit includes claims directed to, *inter alia*, a data measurement method for connecting a server computer and a client computer via a website or the Internet, whereby the client computer sends measurement data, input thereto from a measured medium, to the server computer. The server computer executes measurement processing on at least one measurement instrument connected to the server computer, on the basis of the measurement data, and sends processing results to the client computer over the Internet. Applications for measurement services are accepted, *inter alia*, via the website and the server computer detects whether the measurement data are capable of being measured by any measuring instrument in the server computer, notifying whether the measurement service is available. The Patent-in-Suit also includes claims directed to a client apparatus and to server apparatus that perform data measurement services.

11. Kamatani Cloud is the owner by assignment of the Patent-in-Suit, and has the right to sue and recover damages for infringement thereof. Kamatani Cloud is a wholly-owned subsidiary of Kamatani Technologies LLC. The named inventor, Yasuo Kamatani, is a principal of Kamatani Technologies LLC and the Chief Technologist of Kamatani Cloud.

12. Upon information and belief, Animetrics makes, uses, sells, and/or offers for sale network-based, remote face recognition solutions to customers in the United States, including customers in New York. Upon information and belief, Animetrics' network-based, remote face recognition solutions, including, but not limited to, FaceR™ Identity Management Solution (FIMS), FaceR MobileID, and FaceR CredentialME infringe at least claims 1, 17, 32, and 38-41 of the '940 patent.

NOTICE

13. By letter and facsimile dated June 10, 2015, non-party General Patent Corporation, as a licensing agent and representative of Kamatani Cloud, notified Animetrics of the existence of the Patent-in-Suit and offered to discuss licensing opportunities.

14. By letter and facsimile dated July 23, 2015, non-party General Patent Corporation, as a licensing agent and representative of Kamatani Cloud, once again notified Animetrics of the Patent-in-Suit, and offered to discuss licensing of the Patent-in-Suit.

15. By letter dated August 17, 2015, Animetrics notified Kamatani Cloud that Animetrics “has reviewed the ‘940 patent” but that it “decline[s] the offer to license the ‘940 patent.”

16. By letter and facsimile dated September 17, 2015, non-party General Patent Corporation, as a licensing agent and representative of Kamatani Cloud, again placed Animetrics on notice by directing Animetrics to consider its “web-service based FaceR Identity Management System and its relationship to Claim 38 of U.S. Patent No. 6,873,940.” Kamatani Cloud also offered to provide Animetrics with a claim chart demonstrating infringement of the Patent-in-Suit.

17. By letter dated October 26, 2015, Animetrics notified Kamatani Cloud that Animetrics had “reviewed the Claim 38 of U.S. Patent No. 6,873,940” but that it “do[es] not believe it applies to the FaceR Identity Management System product, nor to any of our other current products.” In the October 26, 2015 letter, Animetrics invited Kamatani Cloud to provide a claim chart.

18. By letter and facsimile dated October 28, 2015, Kamatani Cloud provided Animetrics with “a claim chart illustrating infringement of Claim 32 of the Kamatani Cloud patent by [Animetrics’] FaceR Identity Management System.”

19. By letter dated December 9, 2015, Animetrics denied infringement of the Patent-in-Suit.

20. By letter and facsimile dated March 4, 2016, Kamatani Cloud provided an additional claim chart illustrating infringement of the Patent-in-Suit by Animetrics.

21. Upon information and belief, including based on numerous communications from Kamatani Cloud to Animetrics, and of Animetrics' admissions relating to its review of the Patent-in-Suit, Animetrics has received notice of the Patent-in-Suit, and of Animetrics' infringement thereof.

COUNT I: INFRINGEMENT OF THE PATENT-IN-SUIT BY ANIMETRICS

22. Plaintiff re-alleges and incorporates the preceding paragraphs as if fully set forth herein.

23. Animetrics is not licensed under the Patent-in-Suit, yet Animetrics knowingly, actively, and lucratively practices the claimed inventions of the patent.

24. Upon information and belief, Animetrics has been and is now directly infringing literally and/or under the doctrine of equivalents at least claims 1, 17, 32, and 38-41 of the '940 patent by at least making, using, importing, selling, and offering to sell, without license or authority, infringing products including, but not limited to, at least FaceR Identity Management Solution (FIMS), FaceR MobileID, FaceR CredentialME, FaceR API, and ID Ready (collectively, "Animetrics' infringing products").

25. By way of example, Animetrics' FaceR™ MobileID is a measurement service that may be installed and operated on a user client's smartphone with an Apple iPhone or Android operating system to connect the client to Animetrics' facial-recognition platform, allowing measurement data, such as facial images, to be sent from the client's device to Animetrics' platform via the Internet. Measurement instruments in Animetrics' platform execute measurement processing, including, *inter alia*, advanced recognition services on the basis of the

measurement data sent by the client, and, if the platform is able to detect faces from the data sent by the client, it returns the measurement processing results to the client via the Internet.

Animetrics is therefore liable for direct infringement of the Patent-in-Suit pursuant to 35 U.S.C § 271(a).

26. Animetrics also indirectly infringes the '940 patent by knowingly and specifically inducing others, such as end-users of Animetrics' infringing products, to infringe one or more claims of the '940 patent in violation of 35 U.S.C. § 271(b). Animetrics' affirmative acts of selling Animetrics' infringing products and providing datasheets, Service Architecture documentation, website descriptions, workflow documentation, function reference manuals, and/or instruction manuals, including documents available at www.animetrics.com, api.animetrics.com, and id.ready.animetrics.com, for Animetrics' infringing products have induced and continue to induce Animetrics' end-users to use Animetrics' infringing products in their normal and customary way to infringe the '940 patent. Animetrics has performed the acts intending to induce infringement that constitute induced infringement with knowledge of the '940 patent, and with the knowledge, or willful blindness to the probability, that the induced acts would constitute infringement.

27. Upon information and belief, Animetrics has committed the foregoing infringing activities without license from Kamatani Cloud and with notice of the Patents-in-Suit.

28. Upon information and belief, Animetrics knew the Patent-in-Suit existed while committing the foregoing infringing acts, thereby willfully, wantonly and deliberately infringing the Patents-in-Suit.

29. The acts of direct and indirect infringement by Animetrics have caused and will continue to cause irreparable harm and damage to Kamatani Cloud. Kamatani Cloud is entitled to recover

damages from Animetrics, adequate to compensate for such infringement, in an amount not less than a reasonable royalty trebled pursuant to 35 U.S.C. § 284. The full measure of damages sustained as a result of Animetrics' wrongful acts will be proven at trial.

30. Upon information and belief, the Patent-in-Suit was licensed to several third parties. Upon information and belief, the U.S. Patent Laws, including 35 U.S.C. § 287, do not limit the damages recoverable by Kamatani Cloud from Animetrics by time period or otherwise, and Kamatani Cloud is entitled to the full measure of damages beginning six years prior to commencement of this action.

PRAYER FOR RELIEF

WHEREFORE, Kamatani Cloud prays for judgment in its favor against Animetrics, granting Kamatani Cloud the following relief:

- A. Entry of judgment in favor of Kamatani Cloud against Animetrics on all counts;
- B. Entry of judgment that Animetrics has infringed the Patent-in-Suit, literally and/or under the doctrine of equivalents;
- C. Entry of judgment that such infringement has been willful;
- D. Entry of judgment that the Patent-in-Suit is not invalid and not unenforceable;
- E. Award of compensatory damages adequate to compensate Kamatani Cloud for Animetrics' infringement of the Patent-in-Suit, in no event less than a reasonable royalty trebled as provided by 35 U.S.C. § 284;
- F. Kamatani Cloud's costs of this action and its reasonable attorneys' fees pursuant to 35 U.S.C. §285;
- G. Pre-judgment and post-judgment interest on Kamatani Cloud's award; and
- H. All such other and further relief as the Court deems just or equitable.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Kamatani Cloud hereby demands trial by jury in this action of all claims so triable.

Dated: New York, New York
July 11, 2016

Respectfully submitted,

KHEYFITS P.C.

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