

Honorable Ricardo S. Martinez

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

DAVIS MEDICAL COMMUNICATIONS,
LLC,

Plaintiff,

v.

EKAHAU, INC.; and AIRISTA FLOW,
INC.,

Defendants.

Civil Action No. 16-cv-1129RSM

AMENDED COMPLAINT FOR PATENT
INFRINGEMENT

JURY DEMANDED

Plaintiff Davis Medical Communications, LLC (“DMC”) hereby alleges the following causes of action against Defendants.

PARTIES

1. DMC is a Washington limited liability company having a registered address in Seattle, Washington.

2. Defendant Ekahau, Inc. (“Ekahau”) is believed to be a Delaware corporation with headquarters at 1851 Alexander Bell Dr., Reston, Virginia 20191. Ekahau’s corporate registered agent is Corporation Service Company, Bank of America Center, 16th Floor, 1111 East Main Street, Richmond, Virginia 23219.

1 3. Defendant Airista Flow, Inc. (“Airista”) is believed to be a Delaware corporation
 2 with headquarters at 913 Ridgebrook Road, Suite 110, Sparks, Maryland 21152. Airista’s
 3 corporate registered agent is Universal Registered Agents, Inc., 12 Timber Creek Lane, Newark,
 4 Delaware 19711. On information and belief, on or about March 3, 2016, Airista acquired Ekahau,
 5 including the Ekahau Vision tracking system and components assets at issue in this case. At
 6 present, DMC is unaware of the specifics of the acquisition, including ownership and potential
 7 liability related to the accused infringing products.

8 JURISDICTION AND VENUE

9 4. This action arises under the patent laws of the United States, particularly including
 10 35 U.S.C. § 271 and § 281. Jurisdiction is conferred upon this Court pursuant to 28 U.S.C. §§ 1331
 11 and 1338(a).

12 5. Upon information and belief, Defendants are subject to personal jurisdiction by the
 13 Court. Defendants have committed such purposeful acts and/or transactions in the State of
 14 Washington that they reasonably knew and/or expected that they could be haled into a Washington
 15 court as a future consequence of such activity. Defendants make, use and/or sell infringing systems
 16 within the Western District of Washington and has a continuing presence and the requisite
 17 minimum contacts within the Western District of Washington, such that this venue is a fair and
 18 reasonable one. Upon information and belief, Defendants have transacted and, at the time of the
 19 filing of the complaint, is continuing to transact business within the Western District of
 20 Washington. For all of these reasons, both jurisdiction and venue are proper in this court.
 21 28 U.S.C. §§ 1391 and 1400.

22 DMC’S PATENT RIGHTS

23 6. DMC is the assignee of U.S. Patent No. 7,812,709 (the “709 patent”), issued
 24 October 12, 2010, and U.S. Patent No. 8,035,519 (the “519 patent”), issued October 11, 2011, both
 25 in the name of Andrew P. Davis (collectively “the Davis patents”). A true and correct copy of the
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1 Davis patents is attached as Exhibits A and B, respectively. DMC owns the full right, title and
2 interest in the Davis patents, including the right to assert the claims and causes of action involved
3 in this complaint and seek damages related to both past and future activity.

4 7. The Davis patents are entitled "Office Communication System." In general, they
5 both describe variations of an office communication system that provides intra-office
6 communication with, for example, a medical or dental office. The system includes a door or wall
7 unit, a table or desk unit, and a wearable or portable unit. In preferred embodiments, the door and
8 desk units are configured to transmit and receive both infrared and radio frequency type wireless
9 signals. The portable unit may include an infrared light transmitter configured to transmit infrared
10 light encoded with a unique address or identifier. The system operates to non-obtrusively notify
11 office personnel whether a practitioner has entered or is presently within a particular exam room
12 of the office, or provide other alert or communication, even if a door of the exam room is closed.

13 **COUNT I: Patent Infringement of U.S. Patent No. 7,812,709**

14 8. DMC is the owner of the 709 patent with the exclusive right to enforce the patent
15 against infringers, and collect damages for all relevant times, including the right to prosecute this
16 action.

17 9. Upon information and belief, Defendants have infringed the 709 patent under
18 35 U.S.C. § 271(a), (b) and/or (c) through manufacturing, sale, offer for sale and /or use of the
19 Ekahau Vision tracking system and components including the B4 badge and the LB2 location
20 beacon. This is a non-exhaustive identification of accused systems and DMC reserves the right to
21 identify additional products and systems after obtaining discovery.

22 10. Upon information and belief, Defendants infringe at least claim 14 of the
23 519 patent.

24 11. More specifically, through use of the Ekahau Vision tracking system and related
25 components, Defendants infringe the 709 patent because they make, use, sell, and offer for sale a
26

1 system that provides intra-office communication utilizing stationary and portable communication
2 units configured to provide proximity information and notification within an office based on
3 wireless communication among the system components.

4 12. Upon information and belief, Defendants encourage, induce and intend customers
5 to use, sell or offer for sale the infringing system and induce infringement of the 709 patent by end
6 users. Upon information and belief, Defendants contribute to the infringement of others such as
7 end users to directly infringe the 709 patent. The accused system is not a staple article of commerce
8 and is not suitable for substantial noninfringing use. Upon information and belief, Defendants'
9 actions are intentional and with knowledge of the 709 patent, at least as of the filing and service
10 of the complaint.

11 13. As a direct result of Defendants' infringement of DMC's 709 patent, DMC has
12 suffered, and will continue to suffer, damages in an amount to be established at trial which, by
13 law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court
14 under 35 U.S.C. § 284. In addition, DMC has suffered, and continues to suffer, irreparable harm
15 for which there is no adequate remedy at law.

16 **COUNT II: Patent Infringement of U.S. Patent No. 8,035,519**

17 14. DMC is the owner of the 519 patent with the exclusive right to enforce the patent
18 against infringers, and collect damages for all relevant times, including the right to prosecute this
19 action.

20 15. Upon information and belief, Defendants have infringed the 519 patent under
21 35 U.S.C. § 271(a), (b) and/or (c) through manufacturing, sale, offer for sale and /or use of the
22 Ekahau Vision tracking system and components including the B4 badge and the LB2 location
23 beacon. This is a non-exhaustive identification of accused systems and DMC reserves the right to
24 identify additional products and systems after obtaining discovery.

25 16. Upon information and belief, Defendants infringe at least claim 1 of the 519 patent.
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1 17. More specifically, through use of the Ekahau Vision tracking system and related
2 components, Defendants infringe the 519 patent because they make, use, sell, and offer for sale a
3 system that provides intra-office communication utilizing stationary and portable communication
4 units configured to provide proximity information and notification within an office based on
5 wireless communication among the system components.

6 18. Upon information and belief, Defendants encourage, induce and intend customers
7 to use, sell or offer for sale the infringing system and induce infringement of the 519 patent by end
8 users. Upon information and belief, Defendants contribute to the infringement of others such as
9 end users to directly infringe the 519 patent. The accused system is not a staple article of commerce
10 and is not suitable for substantial noninfringing use. Upon information and belief, Defendants'
11 actions are intentional and with knowledge of the 519 patent, at least as of the filing and service
12 of the complaint.

13 19. As a direct result of Defendants' infringement of DMC's 709 patent, DMC has
14 suffered, and will continue to suffer, damages in an amount to be established at trial which, by
15 law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court
16 under 35 U.S.C. § 284. In addition, DMC has suffered, and continues to suffer, irreparable harm
17 for which there is no adequate remedy at law.

18 PRAYER FOR RELIEF

19 DMC requests the following alternative and cumulative relief:

- 20 1. Judgment that one or more claims of the Davis patents have been infringed, either
21 literally and/or under the doctrine of equivalents, by Defendants;
- 22 2. Preliminary and permanent injunctions enjoining Defendants, its officers, agents,
23 affiliates, servants, employees, distributors, resellers, service partners, suppliers
24 and all other persons acting in concert or participation with it from further
infringement of the Davis patents;
- 25 3. An award of damages adequate to compensate for the infringement, but not less
26 than a reasonable royalty for use of the invention;

4. An award of treble damages pursuant to 35 U.S.C. § 284;
5. An award of reasonable attorneys' fees pursuant to 35 U.S.C. § 285;
6. An assessment of prejudgment interest and costs; and
7. Such other and further relief as the Court may deem just and proper.

DATED this 25th day of October, 2016.

s/ David A. Lowe, WSBA No. 24,453

Lowe@LoweGrahamJones.com

LOWE GRAHAM JONES^{PLLC}

701 Fifth Avenue, Suite 4800

Seattle, Washington 98104

T: 206.381.3300

Attorneys for Davis Medical Communications, LLC

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