

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

CHARLES C. FREENY III, BRYAN E.
FREENY, and JAMES P. FREENY,

Plaintiffs,

v.

WALT DISNEY PARKS AND
RESORTS WORLDWIDE, INC., and
DISNEY ONLINE,

Defendants.

Case No. 2:17-cv-0155

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs Charles C. Freeny III, Bryan E. Freeny, and James P. Freeny (collectively “Plaintiffs”), for their Complaint against Defendants Walt Disney Parks and Resorts Worldwide, Inc., and Disney Online, hereby allege as follows:

THE PARTIES

1. Plaintiff Charles C. Freeny III is an individual residing in Flower Mound, Texas.
2. Plaintiff Bryan E. Freeny is an individual residing in Ft. Worth, Texas.
3. Plaintiff James P. Freeny is an individual residing in Spring, Texas.
4. On information and belief, Defendant Walt Disney Parks and Resorts Worldwide, Inc. is a corporation duly organized and existing under the laws of the State of California, having its principal place of business at 500 South Buena Vista Street, Burbank, California 91521.
5. On information and belief, Defendant Disney Online is a corporation duly organized and existing under the laws of the State of California, having its principal place of business at 500 South Buena Vista Street, Burbank, California 91521.

JURISDICTION AND VENUE

6. This is an action for patent infringement arising under the Patent Act, 35 U.S.C. §§101 et seq. This Court has jurisdiction over Plaintiffs' federal law claims under 28 U.S.C. §§1331 and 1338(a).

7. This Court has specific and/or general personal jurisdiction over Defendants Walt Disney Parks and Resorts Worldwide, Inc. and Disney Online (collectively "Disney") because they have committed acts giving rise to this action within this judicial district and/or have established minimum contacts within Texas and within this judicial district such that the exercise of jurisdiction over them would not offend traditional notions of fair play and substantial justice.

8. Venue is proper in this District pursuant to 28 U.S.C. §§1391(b)-(c) and 1400(b) because Disney has committed acts within this judicial district giving rise to this action, and continues to conduct business in this district, and/or has committed acts of patent infringement within this District giving rise to this action.

COUNT I (INFRINGEMENT OF U.S. PATENT NO. 6,490,443)

9. Plaintiffs re-allege and incorporate by reference the allegations set forth in the Paragraphs above as if fully set forth herein.

10. On December 3, 2002, the United States Patent and Trademark Office duly and lawfully issued United States Patent Number 6,490,443 ("the '443 patent"), entitled "Communication and Proximity Authorization Systems." A true and correct copy of the '443 patent is attached hereto as **Exhibit A**.

11. The '443 patent describes, among other things, novel systems in which electronic devices can communicate wirelessly to provide and/or receive services from other electronic devices when they are within proximity of each other. These communications can occur over

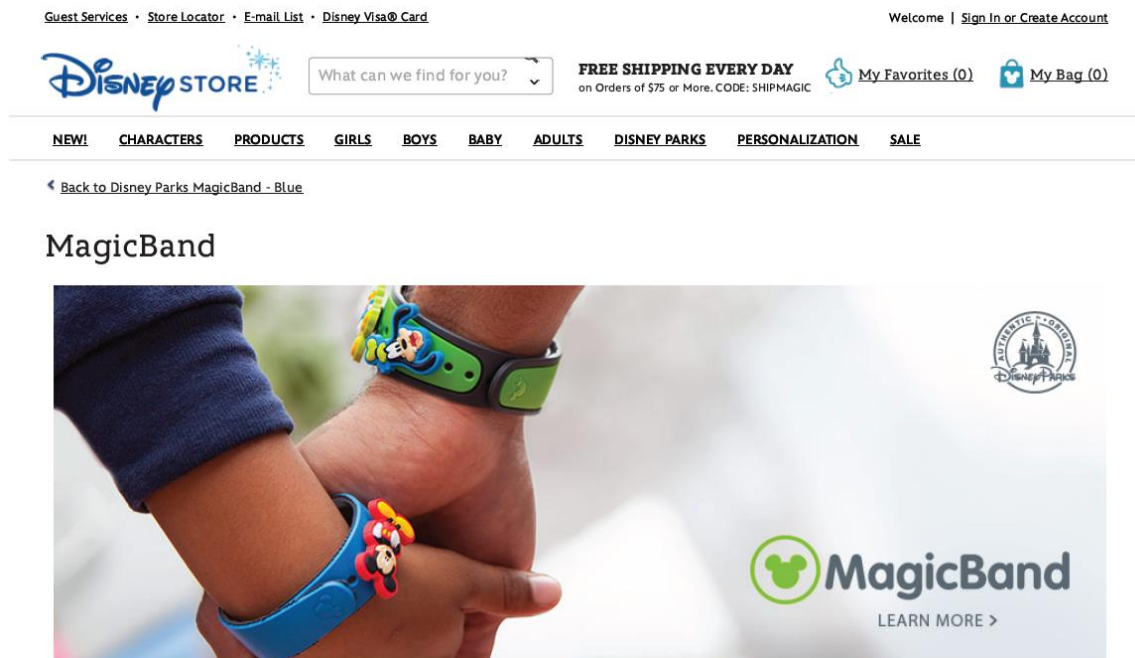
multiple communication signals and with the use of authorization codes.

12. The named inventor of the '443 patent is Charles C. Freeny, Jr., who is now deceased.

13. Plaintiffs are the sons of Charles C. Freeny, Jr., and Plaintiffs are the owners and assignees of all right, title and interest in and to the '443 patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

14. Plaintiffs have complied with the requirements of 35 U.S.C. § 287 with respect to the '443 patent.

15. Disney manufactures and sells wristbands with wireless communications functionality called the MagicBand. These MagicBands are sold by Disney through multiple channels, including through its online Disney Store at www.disneystore.com:



Source:<https://www.disneystore.com/magicband/mn/1024701/?searchTerms=magicband&isSearchRedirect=1>

16. Disney's MagicBands can be used to access various services at the Walt Disney

World Resort in Orlando, Florida, which is owned and operated by Defendant Walt Disney Parks and Resorts Worldwide, Inc. For example, on its website at the URL <https://disneyworld.disney.go.com/faq/my-disney-experience/frequency-technology/>, Disney states that MagicBands can access services at the Walt Disney World Resort such as gaining entry into hotel rooms and various Walt Disney World parks at the resort, performing purchase transactions, and accessing other features within the resort:

Q. What is Radio Frequency (RF) technology and how is it used at Walt Disney World Resort?

A. Radio Frequency technology—also known as RF—is commonly used technology found throughout the world in everyday items like credit cards, video game controllers, keyless car entry, fitness wristbands and much more. We use RF technology to enhance your experience at Walt Disney World Resort.

RF Technology at Walt Disney World Resort

RF technology has been in use at Walt Disney World Resort for many years, such as in ride and parade control float systems and laundry and costuming services. MagicBands and RF cards also use this technology to allow you to touch to enter your Disney Resort hotel room and the Walt Disney World parks (valid park admission required), make purchases at select locations, and access the FastPass+ attractions and shows you've selected. We continue to expand ways to use this common technology to create new and amazing Guest experiences and enhanced Guest service.

17. Disney advertises the MagicBand as a wireless device that contains unique data used to authenticate the user and which can communicate via both short-range radio frequency (RF) signals as well as longer-range RF signals. For example, on its website at the URL <https://disneyworld.disney.go.com/faq/my-disney-experience/frequency-technology/>, Disney states:

Your Privacy and RF Technology Used at Walt Disney World Resort

Your MagicBand or card is unique to you and allows us to authenticate you and the benefits associated with you. The MagicBand and card contain only a randomly assigned code that securely links to an encrypted database and are configured to not store any other information about you.

Each MagicBand contains an HF Radio Frequency device and a transmitter which sends and receives RF signals through a small antenna inside the MagicBand and enables it to be detected at short-range touch points throughout Walt Disney World Resort. MagicBands can also be read by long-range readers located at Walt Disney World Resort used to deliver personalized experiences, as well as provide information that helps us improve the overall experience in our parks.

18. The MagicBand contains an RFID chip for communicating via short-range RFID signals. For example, Disney uses at the Walt Disney World Resort a Synapse xTP Short Range Reader for communicating with MagicBands via short-range RFID signals. Disney's "xTP Installation and User Guide" for this reader device states that the device communicates with the MagicBand using 13.56 MHz signals:

4.2 RFID Capabilities

- **TX/RX:** 13.56 MHz
- ISO 14443A, with support for proprietary security protocols

Source: xTP Installation and User Guide, at 8 (available at <https://atdisneyagain.files.wordpress.com/2014/01/magicband-reader-dome-user-manual.pdf>)

19. The MagicBand also contains an RF transceiver chip for communicating via longer-range 2.4 GHz RF signals. For example, Disney uses at the Walt Disney World Resort an

xConnect xBR Long Range Reader for communicating with MagicBands via 2.4 GHz wireless RF signals. Disney's "xBR V4 Installation and User Guide" for this reader device states that the device communicates wirelessly with the MagicBand and other devices using 2.4 GHz signals:

4.3 RF Frequencies

- **RX:** 2401, 2424, 2450, 2474 MHz
- **TX:** 2482 MHz
- **Wi-Fi:** 802.11a/n. 5GHz only

Source: xBR V4 Installation and User Guide, at 11 (available at <https://atdisneyagain.files.wordpress.com/2014/01/xbr-v4-user-manual.pdf>)

20. On information and belief, Disney's MagicBand is a portable electronic device that can communicate wirelessly over multiple communication signals with other devices when they are within proximity to such devices, and with the use of authorization codes. For example, the MagicBand includes functionality for exchanging data with short-range readers and long-range readers that are set up throughout the Walt Disney World Resort over RFID and 2.4 GHz communication signals, both of which require the use of an authorization code stored within the MagicBand to permit the exchange of data between the devices.

21. On information and belief, Disney has directly infringed and continues to directly infringe one or more claims of the '443 patent, including at least claim 90 of the '443 patent, in the State of Texas, in this judicial district, and elsewhere in the United States, by making, using, importing, offering for sale, and/or selling products that embody one or more of the inventions claimed in the '443 patent, including but not limited to the MagicBand product, wireless reader devices that communicate with the MagicBand product, and all reasonably similar products, in

violation of 35 U.S.C. § 271(a).

22. For example, claim 90 of the '443 patent is directed to “[a] proximity authorization unit for use with proximity service units, some of the proximity service units being capable of receiving information via a first signal and some of the proximity service units being capable of receiving information via a second signal, the second signal being different from the first signal, and each of the proximity service units providing a predetermined service when activated in response to receiving a request authorization code”

23. The accused MagicBand product constitutes a proximity authorization unit that can communicate with proximity service units (such as the short-range and long-range reader devices within the Walt Disney World Resort) over different signals to receive predetermined services from the service units when activated in response to receiving a request authorization code. For example, upon receiving a request authorization code (such as the identification code stored on the MagicBand) from a MagicBand transmitted via an RFID signal, a short-range reader device located at an entry station at Walt Disney World Resort can confirm that the user of the MagicBand is authorized to enter that location in the resort and allow the user entry into that location. Similarly, upon receiving the request authorization code from a MagicBand transmitted via a 2.4 GHz signal, a long-range reader device can determine the user's location within the resort and activate a personalized experience for the MagicBand user such as informing Disney employees of the user's location and directing the employees to provide services to the user.

24. On information and belief, Disney will continue to infringe the '443 patent unless enjoined by this Court.

25. Disney's acts of infringement have damaged Plaintiffs in an amount to be proven

at trial, but in no event less than a reasonable royalty. Disney's infringement of Plaintiffs' rights under the '443 patent will continue to damage Plaintiffs, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

PRAYER FOR RELIEF

Wherefore, Plaintiffs respectfully request that this Court enter judgment against Disney as follows:

- a. For judgment that Disney has infringed and continues to infringe the claims of the '443 patent;
- b. For a permanent injunction against Disney and its respective officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert therewith from infringement of the '443 patent;
- c. For an accounting of all damages caused by Disney's acts of infringement;
- d. For a judgment and order requiring Disney to pay Plaintiffs' damages, costs, expenses, and pre- and post-judgment interest for its infringement of the '443 patent as provided under 35 U.S.C. § 284;
- e. For a judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Plaintiffs their reasonable attorneys' fees; and
- f. For such other relief at law and in equity as the Court may deem just and proper.

DEMAND FOR A JURY TRIAL

Plaintiffs demand a trial by jury of all issues triable by a jury.

Dated: February 24, 2017

Respectfully submitted,

/s/ Christopher D. Banys

Christopher D. Banys - *Lead Attorney*

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