

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

HAWK TECHNOLOGY SYSTEMS, LLC,)
)
 Plaintiff,)
) Case No. 4:17-cv-15-DMB-JMV
 v.)
) JURY TRIAL DEMANDED
 PIGGLY WIGGLY, LLC,)
)
 Defendant.)
)

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Hawk Technology Systems, LLC (“Hawk”), hereby files its First Amended Complaint for Patent Infringement against Defendant Piggly Wiggly, LLC (“Piggly Wiggly”) and alleges based on knowledge of itself and based on information and belief as to Piggly Wiggly as follows:

NATURE OF THE ACTION

1. On June 12, 2012, the U.S. Patent and Trademark Office issued U.S. Patent No. RE43,462 (“the ‘462 patent”), titled “Video Monitoring and Conferencing System.” A true and accurate copy of the ‘462 patent is attached at Exhibit “A.”

2. The ‘462 Patent is a reissue patent of United States Patent No. 5,625,410 (the ‘410 Patent). The independent claims of the ‘462 Patent are substantially identical to the corresponding claims in the ‘410 Patent.

3. The abstract of the '462 Patent provides as follows:

A PC-based system for monitoring and storing representative images from video cameras which may be utilized for security or other monitoring applications. Camera inputs from digital or analog sources are individually and independently digitized and displayed at a first set of image sizes, sampling rates, and frame rates, and may be stored in digital form on various recording media at a second set of image sizes, sampling rates, and frame rates, and these two sets of sizes and rates may or may not be identical. Provisions are included for adding detection or alarm systems which will automatically alter image size, sampling rate and/or frame rate of an individual input source, or activate other physical responses. In addition to security system monitoring, further applications of the invention are disclosed for process monitoring in manufacturing environments and also for applications in videoconferencing.

PARTIES

4. Hawk is a limited liability company organized and existing under the laws of the State of Florida and maintains its principal place of business at 2 South Biscayne Blvd., Suite 3800, Miami, Florida 33131.

5. Piggly Wiggly is a foreign limited liability company organized and existing under the laws of the State of New Hampshire with its principal business address located at 7 Corporate Drive, Keene, New Hampshire, 03431, and at all relevant times herein was the licensor and franchisor of over six hundred (600) Piggly Wiggly stores across the United States.

6. Piggly Wiggly may be served with process through its Mississippi registered agent, CT Corporation System, located at 645 Lakeland East Drive, Suite 101, Flowood, Mississippi 39232.

JURISDICTION AND VENUE

7. Pursuant to 28 U.S.C. §§ 1331 and 1338(a), this Court has original jurisdiction over the subject matter of this action because this is an action arising under the Patent Laws of the United States, 35 U.S.C. § 1 *et. seq.*

8. This Court has personal jurisdiction over Piggly Wiggly because it (a) operates, conducts, engages in and/or carries on a business in the State of Mississippi as the licensor and franchisor of approximately forty (40) Piggly Wiggly stores within Mississippi; (b) committed tortious acts of patent infringement within Mississippi; and (c) is engaging in substantial and not isolated activity within Mississippi.

9. Piggly Wiggly is the licensor and franchisor of several Piggly Wiggly stores in northern Mississippi; pursuant to 28 U.S.C. §§ 1391 and 1400(b), venue is proper in this district.

GENERAL ALLEGATIONS

10. Hawk Technology Systems was formed in 2012 to commercialize the inventions of its founder, Barry Schwab.

11. Mr. Ken Washino and Mr. Schwab invented what is claimed by the '462 Patent.

12. Mr. Washino and Mr. Schwab have collaborated on several other pioneering inventions resulting in patents in the areas of video archiving, video downloading, and digital cinema.

13. Mr. Schwab also is a named inventor on more than thirty patents, ranging from consumer products to secure network computing.

14. Hawk is the exclusive owner of all substantial rights, title, and interest in the '462 Patent, including the right to exclude others and to enforce, sue, and recover damages for past and future infringement thereof.

15. Hawk became the owner of all substantial rights, title, and interest in the '462 Patent by assignment from Multi-Format, Inc., a New Jersey corporation ("MFI").

16. MFI obtained its rights, title, and interest in the '462 Patent by assignment from Messrs. Washino and Schwab.

COUNT I: DIRECT INFRINGEMENT OF THE '462 PATENT

17. Hawk incorporates by reference all preceding paragraphs herein.

18. By reviewing publicly available information, Hawk learned that Piggly Wiggly is directly infringing at least Claims 1, 12, and 15 of the '462 Patent under 35 U.S.C. § 271(a) by using the infringing Ganz ZNS NVR digital video recording and remote surveillance system ("Accused Product") in its stores.

19. Attached at Exhibit "B" is a true and correct copy of a claim chart showing how the Accused Product directly infringes at least Claims 1, 12, and 15 of the '462 Patent and thus how Piggly Wiggly directly infringes the '462 Patent by using the Accused Product in its stores.

20. The '462 patent is presumed valid under 35 U.S.C. § 282(a).

21. Claims 1, 12, and 15 are understandable to a person of ordinary skill in the art who has the requisite education, training, and experience with the technology at issue in this case.

22. A person of ordinary skill in the art understands Hawk's theory of how Piggly Wiggly directly infringes at least Claims 1, 12, and 15 of the '462 Patent by using the Accused Product in its stores upon a plain reading of this Complaint, the '462 Patent, and at least Claims 1, 12, and 15.

23. Since at least the date that Piggly Wiggly was served with a copy of Plaintiff's Original Complaint, it has known that it is directly infringing one or more claims of the '462 Patent by using the Accused Product.

24. Hawk reserves the right to modify its direct infringement theory as discovery progresses in this case, and it shall not be estopped for claim construction purposes by its preliminary infringement analysis as provided in this Complaint.

25. Hawk's preliminary infringement analysis is not representative of its final claim construction positions.

PRAYER FOR RELIEF

Hawk requests the following relief:

A. Judgment that Piggly Wiggly has directly infringed the '462 Patent under 35 U.S.C. § 271(a) by using the Accused Product in its stores;

B. An accounting of all infringing acts including, but not limited to, those acts not presented at trial.

C. An award of damages under 35 U.S.C. § 284 adequate to compensate Hawk for Piggly Wiggly's past and future infringement, including any infringement from the date of filing of this Complaint through the date of judgment, together with interest and costs;

D. Judgment that this case is exceptional under 35 U.S.C. § 285 and an award of Hawk's reasonable attorneys' fees and costs; and

E. Such further relief at law or in equity that this Court deems just and proper.

JURY TRIAL DEMAND

26. Hawk demands a trial by jury on all claims and issues so triable.

RESPECTFULLY SUBMITTED, this the 1st day of March, 2017.

s/Frank J. Dantone
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