

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

BETTER MOUSE COMPANY, LLC,

Plaintiff,

v.

(1) AMAZON.COM, INC.;
(2) AMAZON.COM LLC;
(3) WAL-MART STORES, INC.;
(4) WALMART.COM, INC.;
(5) E-BLUE USA LLC;
(6) E-BLUE INTERNATIONAL
CORPORATION,

Defendants.

CIVIL ACTION NO. 2:17-cv-314

ORIGINAL COMPLAINT
FOR PATENT INFRINGEMENT

JURY TRIAL DEMANDED

Plaintiff Better Mouse Company, LLC (“BMC”) files this original 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. BMC 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 Amazon.com, Inc. is a corporation organized under the laws of Delaware. It can be served with process by serving its registered agent: Corporation Service Company, 2711 Centerville Rd., Suite 400, Wilmington, Delaware 19808.

3. Defendant Amazon.com LLC is a limited liability company organized under the laws of Delaware. It can be served with process by serving its registered agent: Corporation Service Company; 211 E. 7th Street, Suite 620; Austin, Texas 78701-3218. Amazon.com LLC is

a subsidiary of Amazon.com, Inc. Amazon.com, Inc. and Amazon.com LLC are collectively referred to as “Amazon.”

4. Defendant Wal-Mart Stores, Inc. is a corporation organized under the laws of Delaware. It can be served with process by serving its registered agent: CT Corporation System, 1999 Bryan St., Ste. 900, Dallas, Texas 75201.

5. Defendant Walmart.com, Inc. is a corporation organized under the laws of Delaware. It can be served with process by serving its registered agent: The Corporation Trust Company, Corporation Trust Center, 1209 Orange St., Wilmington, Delaware 19801. Walmart.com, Inc. is a subsidiary of Wal-Mart Stores, Inc. Wal-Mart Stores, Inc. and Walmart.com, Inc. are collectively referred to as “Walmart.”

6. Defendant E-blue USA LLC is a limited liability company organized under the laws of Arizona. It can be served with process through its registered agent: Jenny Cai, 1731 W. Baseline Rd. Ste. 102, Mesa, Arizona 85202.

7. Defendant E-blue International Corporation is a corporation organized under the laws of Hong Kong with its headquarters at Rm 1307, Blk. A2, Hang Wai Ind. Ctr. 6 Kin Tai St. Tuen Mun, NT, Hong Kong. It can be served with process through its U.S. affiliate, E-blue USA LLC. E-blue USA LLC and E-blue International Corporation are collectively referred to as “E-blue.”

JURISDICTION AND VENUE

8. 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).

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

10. 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.

THE TECHNOLOGY

11. The patent-in-suit, U.S. Patent No. 7,532,200 ("the '200 Patent"), titled "Apparatus for Setting Multi-Stage Displacement Resolution of a Mouse," teaches a device capable of setting the resolution for a computer mouse, often measured in "dots-per-inch" (DPI). The resolution determines how much the mouse cursor moves on a computer screen for each corresponding movement of the mouse itself by the user. For example, if the DPI ratio is 1:1, the cursor moves one "dot" on the screen per inch of motion by the mouse. Depending on an individual user's needs, that ratio (resolution) can be adjusted to provide the user with a customized experience. For example, a user playing computer games may wish for more precise control of the cursor and adjust the resolution so that each movement on the screen requires a larger movement of the mouse itself.

12. In the prior art, adjusting the resolution generally required installing a software driver on a connected computer, and changing the resolution within that software program. The user first needed to install the software, which required a separate item such as a CD-ROM.

Next, the user must locate the installed software on the computer and then determine how to adjust the desired parameter within the software. In contrast, the inventor of the technology described in the '200 Patent developed a mouse that includes a button and/or switch on the mouse for adjusting the resolution by hand to generate a resolution value, without using a software driver or tool that is external to the mouse. Among other advantages, this approach allows the user to directly adjust the mouse's resolution quickly and easily, without using a software driver or tool on the connected computer.

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

13. On May 12, 2009, the '200 Patent was duly and legally issued by the United States Patent and Trademark Office.

14. BMC 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.

15. Defendants made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale computer mice and other devices (“the accused products”), including, for example, at least the E-blue Mazer II Gaming Mouse, which infringe one or more claims of the '200 Patent.



(Source: <http://e-bluegaming.com/individual%20product/ems642.html>)



(source: <http://www.amazon.com/E-Blue-Mazer-Wireless-Gaming-EMS601BKAA-NF/dp/B00DPC015E>).

E-Blue Mazer II AVAGO chip 2500 DPI Blue LED 2.4GHz Wireless Optical Pro Gaming Mouse

★★★★★ 2 reviews Q&A By: AGPtek   



Highlights

- ▶ Adjustable DPI: 500/1000/1800/2500
- ▶ Polling rate: 250Hz
- ▶ Maximum Acceleration: 20G

[Read more....](#)

(source: <https://www.walmart.com/ip/E-Blue-Mazer-II-AVAGO-chip-2500-DPI-Blue-LED-2.4GHz-Wireless-Optical-Pro-Gaming-Mouse/50924604>)

16. By doing so, Defendants have directly infringed (literally and/or under the doctrine of equivalents) at least Claim 6 of the '200 Patent. Defendants' infringement in this regard is ongoing.

17. Defendants have infringed the '200 Patent by making, having made, using, importing, providing, supplying, distributing, selling or offering for sale systems that comprise an apparatus for setting multi-stage displacement resolution of a mouse.

18. The accused products include an X-Y axis plane displacement detector, for sensing a distance and a moving direction generated by the mouse in a two-dimensional space.

19. The accused products include a an N-stage switch for setting a resolution value, the N-stage switch circuit having a switching button capable of being manually switched to one of positions 1 to N, and accordingly activating a connected resolution setting pin to indicate a state, where N is a positive integer.

20. The accused products include a mouse micro controller with a register, coupled to the X-Y axis plane displacement detector and the switching circuit, the mouse micro controller determining the resolution value based on the state of the connected resolution setting pins.

21. The accused products include setting a mouse resolution based on the resolution value and storing the resolution value in the register.

22. The accused products include the mouse micro controller responding to the distance and moving direction sensed by the X-Y axis plane displacement detector to provide a control signal to a computer connected to the mouse, thereby moving the mouse cursor on a screen of the computer, the mouse cursor being moved directly based on the resolution value stored in the register.

23. In addition, Amazon made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale accused products that include, for example, the Mionix Naos 3200, the OCZ Equalizer, the UtechSmart Mars, and the UtechSmart Venus, which infringe one or more claims of the '200 Patent, as described above.



Mionix

MIONIX NAOS 3200 Multi-Color Ergonomic Optical Gaming Mouse

★★★★☆ 482 customer reviews | 66 answered questions

Price: **\$44.09** & FREE Shipping. [Details](#)

In Stock.

Want it tomorrow, April 13? Order within **2 hrs 49 mins** and choose **One-Day Shipping** at checkout. [Details](#)

Ships from and sold by Amazon.com. Gift-wrap available.

Style: **Model 3200**

Model 3200 \$44.09	Model 7000 \$46.99	Model 8200 \$79.74
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- Configurable DPI up to 3200DPI, Built-in memory, Gold Plated, full speed USB 2.0 connection with Plug and Play, 2 m long braided cable
- Sensor Specification: 3200DPI gaming LED-optical sensor, 3.5mm lift distance, 1 ms response time, 6469 frames/sec
- Tracking speed: 1 m/sec (40 ips)
- 5.8 megapixels/sec image processing

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New (26) from \$39.59 & FREE shipping.

JACKYLED LLC.

45 in 1 Precision Screwdriver Tool Kit

[Shop now](#)



JACKYLED 45 in 1 Precision Screwdriver Tool Kit Compact Repair Maintenance Opening ...

★★★★☆ 159

\$10.99 **Prime**

Source: https://www.amazon.com/MIONIX-Multi-Color-Ergonomic-Optical-Gaming/dp/B0046Y0Y20/ref=sr_1_1?s=electronics&ie=UTF8&qid=1492014334&sr=1-1&keywords=mionix+naos+3200



OCZ

OCZ OCZMSEQRM Laptop Size Equalizer Laser Gaming Mouse

★★★★☆ 6 customer reviews

Currently unavailable.

We don't know when or if this item will be back in stock.

- 2500 DPI Gamer-Grade Laser Engine /On mouse 6-DPI-Shift (600-800-1200-1600-2000-2500)
- Implements Agilent 6010 Chip and high-speed 7080 FPS technology /Triple Threat Button - 1 click, 3 shots for a gaming advantage
- Dual laser engine for enhanced tracking on a wider range of surfaces/Right-handed ergonomic design
- Included Equalware software for complete customization /Comfortable, no-slip grip for intense gaming battles
- Convenient "back" & "forward" buttons /Thin, flexible wire design feels like using a wireless mouse but without sacrificing latency



Free with Prime this month: RuneScape In-Game Loot

Twitch Prime members will get: 1) 1 month's membership for both RuneScape and its Old School version 2) An exclusive, legendary pet 3) 15 Treasure Hunter Keys 4) and 200 RuneCoins to spend in Solomon's Store, RuneScape's cosmetics shop! [Learn more.](#)

(source: https://www.amazon.com/OCZ-OCZMSEQRM-Laptop-Equalizer-Gaming/dp/B000NW7A00/ref=sr_1_1?s=electronics&ie=UTF8&qid=1492014418&sr=8-1&keywords=ocz+equalizer)



UtechSmart
Gaming Mouse, UtechSmart Mars 4000 DPI High Precision Programmable Gaming Mouse
★★★★☆ - 204 customer reviews | 55 answered questions

Price: **\$19.15 & FREE Shipping**

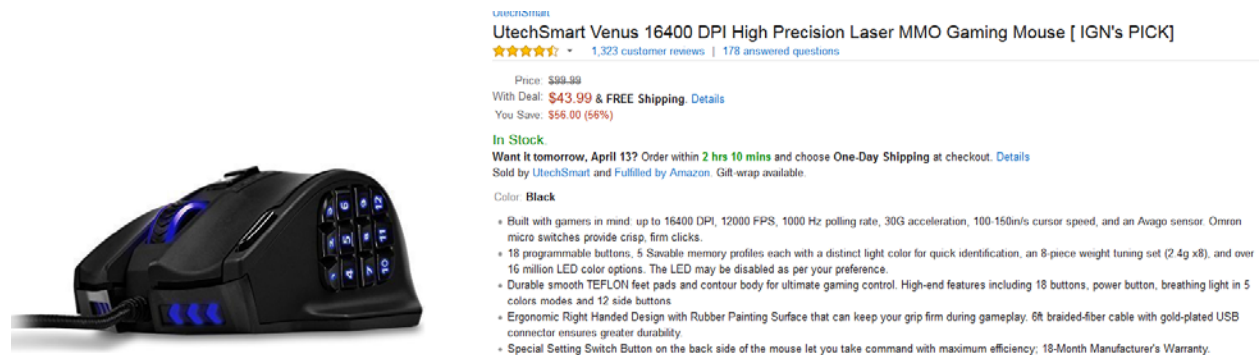
Only 3 left in stock.
Get it as soon as **April 14 - 19** when you choose **Expedited** at checkout.
Ships from and sold by **JAPANESE brands**.

- 4000 DPI high-precision sensor, 1000 polling rate, 6600/frame rate, 20g acceleration.
- Onboard Memory with 6 programmable buttons, On-the-fly 8 adjustable DPI profiles (500-4000 DPI), 5 onboard stored profiles.
- Over-body completely illuminates with 4 resping LED color options or turns off, so that you can get down to battle!
- 16-bit ultra-wide data path. Non-slip buttons, silent protective underside. Six-foot braided fiber cable, gold-plated USB connector.
- Aesthetic and easy-to-use control panel, assign actions to each programmable buttons more conveniently than ever. Natural curves that fit your hand and smooth-gliding underside tips provide you with epic comfort and control.

Compare with similar items
New (10) from \$18.58 & FREE shipping.

Free with Prime this month: Runescape In Game Loot
Twitch Prime members will get: 1) 1 month's membership for both RuneScape and its Old School version 2) An exclusive, legendary pet 3) Treasure Hunter Keys 4) and 200 RuneCoins to spend in Solomon's Store, Runescape's cosmetics shop! [Learn more.](#)

(source: https://www.amazon.com/Gaming-UtechSmart-Mars-Precision-Programmable/dp/B00E0H5J8M/ref=sr_1_1?ie=UTF8&qid=1492014829&sr=8-1&keywords=utechsmart+mars)



UtechSmart
UtechSmart Venus 16400 DPI High Precision Laser MMO Gaming Mouse [IGN's PICK]
★★★★☆ - 1,323 customer reviews | 178 answered questions

Price: ~~\$99.99~~
With Deal: **\$43.99 & FREE Shipping** Details
You Save: **\$56.00 (56%)**

In Stock
Want it tomorrow, April 13? Order within **2 hrs 10 mins** and choose **One-Day Shipping** at checkout. Details
Sold by **UtechSmart** and Fulfilled by **Amazon**. Gift wrap available.

Color: **Black**

- Built with gamers in mind: up to 16400 DPI, 12000 FPS, 1000 Hz polling rate, 30G acceleration, 100-150in/s cursor speed, and an Avago sensor. Omron micro switches provide crisp, firm clicks.
- 18 programmable buttons, 5 Savable memory profiles each with a distinct light color for quick identification, an 8-piece weight tuning set (2.4g x8), and over 16 million LED color options. The LED may be disabled as per your preference.
- Durable smooth TEFLON feet pads and contour body for ultimate gaming control. High-end features including 18 buttons, power button, breathing light in 5 colors modes and 12 side buttons.
- Ergonomic Right Handed Design with Rubber Painting Surface that can keep your grip firm during gameplay. 6ft braided-fiber cable with gold-plated USB connector ensures greater durability.
- Special Setting Switch Button on the back side of the mouse let you take command with maximum efficiency; 18-Month Manufacturer's Warranty.

(source: https://www.amazon.com/UtechSmart-Venus-16400-Precision-Gaming/dp/B00FNKMVUO/ref=sr_1_1?ie=UTF8&qid=1492014867&sr=8-1&keywords=utechsmart+venus)

24. In addition, Walmart made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale accused products that include, for example, the Mionix Naos 3200, which infringes one or more claims of the '200 Patent, as described above.

Mionix Naos 3200 Mouse - Optical - Cable - Black - USB 2.0 - 3200 dpi - Scroll Wheel - 7 Button(s)

★★★★★ [Write a review](#) [Q&A](#) By: Mionix [f](#) [t](#) [p](#)



Highlights

MULTI-COLOR ERGO 3200 DPI OPTICAL

[Read more...](#)



(source: <https://www.walmart.com/ip/Mionix-Naos-3200-Mouse/107091506#about-item>)

25. BMC has been damaged as a result of the infringing conduct by Defendants alleged above. Thus, Defendants are liable to BMC in an amount that adequately compensates BMC 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.

26. BMC and/or its predecessors-in-interest have satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law for infringement of the '200 Patent.

JURY DEMAND

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

PRAYER FOR RELIEF

BMC requests that the Court find in its favor and against Defendants and that the Court grant BMC 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 and/or all others acting in concert therewith;
- b. A permanent injunction enjoining Defendants and their officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in 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;
- c. Judgment that Defendants account for and pay to BMC all damages to and costs incurred by BMC because of Defendants' infringing activities and other conduct complained of herein , including an award of all increased damages to which BMC is entitled under 35 U.S.C. § 284;
- 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 an exceptional case and an award to BMC its reasonable attorneys' fees and costs in accordance with 35 U.S.C. § 285; and

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

Dated: April 14, 2017

Respectfully submitted,

/s/ Larry D. Thompson, Jr.

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