

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

TAINOAPP, INC.,

Plaintiff,

v.

**PLR IP HOLDINGS, LLC, and
C+A GLOBAL**

Defendants.

C.A. No.

TRIAL BY JURY DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

COMES NOW, Plaintiff TainoApp, Inc., (“TainoApp”), through the undersigned attorneys, and respectfully alleges, states, and prays as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement under the Patent Laws of the United States, Title 35 United States Code (“U.S.C.”) to prevent and enjoin defendants PLR IP Holdings, LLC, and C+A Global (collectively “Defendant” or “Defendants”), from infringing and profiting from, in an illegal and unauthorized manner and without authorization and/or of the consent from TainoApp, United States Patent Nos. 6,094,676 (the “’676 Patent”) and 6,219,710 (the “’710 Patent”) (collectively, the “Patents-In-Suit”) pursuant to 35 U.S.C. § 271, and to recover damages, attorney’s fees, and costs.

THE PARTIES

2. Plaintiff TainoApp is a corporation organized under the laws of Puerto Rico with its principal place of business at 229 Del Parque St., Suite #1401, San Juan, Puerto Rico 00912.

3. On information and belief, PLR IP Holdings, LLC is a company organized under

the laws of the state of Delaware having a principal place of business at 4350 Baker Road, Minnetonka, Minnesota 55442. Upon information and belief, PLR IP Holdings, LLC may be served with process at National Registered Agents, Inc., 160 Greentree Dr. Ste. 101, Dover, DE 19904.

4. On information and belief, C+A Global is an authorized licensee for Polaroid, responsible for developing and marketing Polaroid products having a principal place of business at 114 Tived Lane East Edison, NJ 08837. Upon information and belief, C+A Global may be served with process at the same address.

5. Defendant is in the business of making, using, selling, offering for sale and/or importing consumer electronics that establish communications over a Bluetooth network via NFC.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because the action arises under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.*

7. Defendant is subject to this Court's personal jurisdiction pursuant to due process and/or the Texas Long-Arm Statute, due to at least its substantial business in this forum, including: (i) at least a portion of the infringement 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.

8. Defendant has conducted and does conduct business within the state of Texas, including the geographic region within the Eastern District of Texas, directly or through intermediaries, or offers and advertises (including through the use of interactive web pages

with promotional material) products or services, or uses services or products in Texas, including this judicial district, in a manner that infringes the Patents-In-Suit.

9. Venue lies in this District under 28 U.S.C. §§ 1391 and 1400(b) because, among other reasons, Defendant is subject to personal jurisdiction in this District, and has committed and continues to commit acts of patent infringement in this District. For example, Defendant has used, sold, offered for sale, and/or imported infringing products in this District.

JOINDER

10. Defendants are properly joined under 35 U.S.C. §299(a)(1) because a right to relief is asserted against the parties jointly, severally, and in the alternative with respect to the same transactions, occurrences, or series of transactions or occurrences relating to the making, using, importing into the United States, offering to sell, and/or selling the same accused products. Specifically, as alleged in detail below, Defendants are alleged to infringe the Patents-In-Suit with respect to the same products as described hereinafter.

11. Defendants are properly joined under 35 U.S.C. §299(a)(2). Questions of fact will arise that are common to all Defendants, including for example, whether Defendants' products have features that meet the features of one or more claims of the Patents-In-Suit, and what reasonable royalty will be adequate to compensate the owner of the Patents-In-Suit for their infringement.

12. Defendants use, make, sell, offer to sell and/or import products that, when used, infringe on the Patents-In-Suit.

13. At least one right to relief is asserted against these parties jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of

transactions or occurrences relating to the making, using, importing into the United States, offering to sell, or selling of the same accused product and/or process.

THE PATENTS-IN-SUIT

14. On July 25, 2000, the United States Patent and Trademark Office (“USPTO”) duly and legally issued the ’676 Patent, entitled “Method and Apparatus for Peer-To-Peer Communication” after a full and fair examination. TainoApp is presently the owner of the patent and possesses all right, title and interest in and to the ’676 Patent. TainoApp owns all rights of recovery under the ’676 Patent, including the exclusive right to recover for past infringement. The ’676 Patent is valid and enforceable. A copy of the ’676 Patent is attached hereto as Exhibit A.

15. On April 17, 2001, the USPTO duly and legally issued the ’710 Patent, entitled “Method and Apparatus for Peer-To-Peer Communication” after a full and fair examination. TainoApp is presently the owner of the patent and possesses all right, title and interest in and to the ’710 Patent. TainoApp owns all rights of recovery under the ’710 Patent, including the exclusive right to recover for past infringement. The ’710 Patent is valid and enforceable. A copy of the ’710 Patent is attached hereto as Exhibit B.

16. The ’676 Patent contains three independent claims and sixteen dependent claims.

17. The ’710 Patent contains four independent claims and twenty-one dependent claims.

DESCRIPTION OF THE ACCUSED INSTRUMENTALITIES

’676 patent

18. Defendant’s accused products, including but not limited to the “ZIP Instant Photoprinter” and those other products by Defendant that include the limitations recited in claim

1 of the Patents-In-Suit (hereinafter “Accused Product”), perform a method of establishing a peer-to-peer communication between an originating unit and a receiving unit over a network channel that identifies communicating units by network address. For example, as explained in its ZIP App User Guide, the Accused Product includes Bluetooth, which allows the Accused Product to wirelessly connect to a compatible device, and also includes Near Field Communications (NFC) functionality, which allows the Accused Product to initiate a Bluetooth connection by tapping a compatible device.¹ Furthermore, Polaroid’s Print application (i.e., a Print Source Device (PSD)) allows a mobile device to print pictures with the Accused Product wirelessly. When an operator taps the NFC tags of the PSD and the Accused Product, the devices automatically pair via Bluetooth. In this automatic pairing process, a method is performed of establishing peer-to-peer communication between the devices over a Bluetooth network channel that identifies communicating units by network address as recited in claim 1 of the ‘676 patent.

19. The Accused Product, at least during internal testing, performs the step of sending a message from said originating unit to said receiving unit over a monitor channel. For example, NFC is a standards-based short-range wireless connectivity technology and can be considered a monitor channel. Furthermore, the Accused Product (i.e., the originating unit) and PSD (i.e., the receiving unit) both support the Bluetooth SIG defined mechanism called “Secure Simple Pairing” and use the “OOB Discovery only” association model. In initiating a Bluetooth connection using NFC, the Accused Product sends its Bluetooth Device Address as out-of-bound data (OOB data) to the PSD via NFC (i.e., the monitor channel).

20. The Accused Product, at least during internal testing, performs the step of monitoring a monitor channel by said receiving unit. For example, in order for the PSD to

¹ <https://www.polaroidzip.com/skin/frontend/rwd/mobilezip/images/zip-app-manual.pdf>, last visited April 4, 2017.

receive OOB data via NFC, the PSD's NFC functionality must be enabled and it must be monitoring the NFC frequency (i.e., the monitor channel).

21. The Accused Product, at least during internal testing, performs the step of determining information indicative of the identity of at least one of said originating unit and said receiving unit. For example, the PSD (i.e., receiving unit) at least determines information indicative of the identity (Bluetooth Device Address) of the Accused Product (i.e., originating unit) when it receives the Bluetooth OOB data via NFC (i.e., the monitor channel).

22. The Accused Product, at least during internal testing, performs the step of generating a trigger event in response to at least one of said sending and monitoring steps. For example, after the NFC tags of the PSD and Accused Product are tapped together, causing the PSD to send its Bluetooth Device Address to the Accused Product via NFC, the Bluetooth pairing process is initiated, which is a trigger event, in response to the exchange of OOB information (in response to at least one of said sending and monitoring steps).

23. The Accused Product, at least during internal testing, performs a step in which said trigger event includes connecting at least one of said originating unit and said receiving unit to said network channel, thereby establishing a first network address for at least one of said originating unit and said receiving unit. As explained in the Bluetooth specification 4.0,² a master (source) repeatedly transmits a paging message consisting of the slave's (destination) device access code in different hop channels. Here, the PSD is the master and the Accused Product is the slave. When the PSD repeatedly transmits the paging message consisting of the slave's device access code in different hop channels, the PSD connects to the Bluetooth network channel using the device access code of the Accused Product as a first network address, i.e., establishes a first network address.

² <https://www.bluetooth.com/specifications/adopted-specifications/legacy-specifications>, last visited April 4, 2017.

24. The Accused Product, at least during internal testing, performs the step of determining said first network address by the other of said originating unit or said receiving unit using the information indicative of the identity of the at least one of said originating unit and said receiving unit. For example, in order to receive the page message from and send a page response message to the PSD (master), the Accused Product (slave) determines the device access code (said first network address) using the lower address part (LAP) of its own Bluetooth Device Address (the information indicative of the identity of the at least one said originating unit and said receiving unit).

25. The Accused Product, at least during internal testing, performs the step of establishing communication between said originating unit and said receiving unit over said network channel using said first network address, in response to said triggering event. For example, after being tapped the Accused Product sends its Bluetooth Device Address as OOB data to the PSD via NFC (in response to said triggering event) the Accused Product and PSD connect to and send paging messages to each other over Bluetooth (communication is established between said originating unit and said receiving unit over said network channel) consisting of the Accused Product's device access code (using said first network address).

26. The Accused Product performs the steps described in paragraphs 18-25 which are covered by at least claim 1 of the '676 patent.

'710 patent

27. The Accused Product performs a method of establishing a peer-to-peer communication between an originating unit and a receiving unit over a network channel that identifies communicating units by network address. For example, as explained in its ZIP App User Guide, the Accused Product includes Bluetooth, which allows the Accused Product to

wirelessly connect to a compatible device, and also includes NFC functionality, which allows the Accused Product to initiate a Bluetooth connection by tapping a compatible device.³ Furthermore, Polaroid's Print application (i.e., a Print Source Device (PSD)) allows a mobile device to print pictures with the Accused Product wirelessly. When an operator taps the NFC tags of the PSD and the Accused Product, the devices automatically pair via Bluetooth. In this automatic pairing process, a method is performed of establishing peer-to-peer communication between the devices over a Bluetooth network channel that identifies communicating units by network address as recited in claim 1 of the '710 patent.

28. The Accused Product, at least during internal testing, performs the step of sending a message from said originating unit to said receiving unit over a monitor channel. For example, NFC is a standards-based short-range wireless connectivity technology and can be considered a monitor channel. Furthermore, the Accused Product (i.e., the originating unit) and PSD (i.e., the receiving unit) both support the Bluetooth SIG defined mechanism called "Secure Simple Pairing" and use the "OOB Discovery only" association model. In initiating a Bluetooth connection using NFC, the Accused Product sends its Bluetooth Device Address as OOB data to the PSD via NFC (i.e., the monitor channel).

29. The Accused Product, at least during internal testing, performs the step of monitoring a monitor channel by said receiving unit. For example, after the NFC tags of the PSD and Accused Product are tapped together, causing the PSD to send its Bluetooth Device Address to the Accused Product via NFC, the Bluetooth pairing process is initiated, which is a trigger event, in response to the exchange of OOB information (in response to at least one of said sending and monitoring steps).

³ <http://www.polaroidzip.com/skin/frontend/rwd/mobilezip/images/zip-app-manual.pdf>, last visited April 4, 2017.

30. The Accused Product, at least during internal testing, performs the step of generating a trigger event in response to at least one of said sending and monitoring steps. For example, after the NFC tags of the PSD and Product are tapped together, causing the PSD to send its Bluetooth Device Address to the Accused Product via NFC, the Bluetooth pairing process is initiated, which is a trigger event, in response to the exchange of OOB information (in response to at least one of said sending and monitoring steps).

31. The Accused Product, at least during internal testing, performs the step of determining information indicative of a first network address associated with at least one of said originating unit and said receiving unit. As explained in the Bluetooth specification 4.0,⁴ a master (source) repeatedly transmits a paging message consisting of the slave's (destination) device access code in different hop channels. Here, the PSD is the master and the Accused Product is the slave. In order to receive the page message from and send a page response message to the PSD (master), the Accused Product (slave) determines the device access code (said first network address) using the lower address part (LAP) of its own Bluetooth Device Address (i.e., the information indicative of the identity of the at least one said originating unit and said receiving unit).

32. The Accused Product, at least during internal testing, performs the step of establishing communication between said originating unit and said receiving unit over said network channel using said first network address, in response to said triggering event. For example, after being tapped the Accused Product sends its Bluetooth Device Address as OOB data to the PSD via NFC (in response to said triggering event) the Accused Product and PSD connect to and send paging messages to each other over Bluetooth (communication is established between said originating unit and said receiving unit over said network channel)

⁴ <https://www.bluetooth.com/specifications/adopted-specifications/legacy-specifications>, last visited April 4, 2017.

consisting of the Accused Product's device access code (using said first network address).

33. The Accused Product performs the steps described in paragraphs 27-32 which are covered by at least claim 1 of the '710 patent.

COUNT I
(INFRINGEMENT OF THE '676 PATENT)

34. Plaintiff re-alleges and incorporates by reference the allegations set forth in paragraphs 1-33.

35. Defendant, at least during internal testing of the Accused Product, has directly infringed and continues to directly infringe at least claim 1 of the '676 patent by using the Accused Product in the manner described above without authority in the United States, and will continue to do so unless enjoined by this Court. As a direct and proximate result of Defendant's direct infringement of the '676 patent, Plaintiff has been and continues to be damaged.

36. Defendant has indirectly infringed and continues to indirectly infringe the '676 patent by actively inducing its respective customers and/or end-users to directly infringe at least claim 1 of the '676 patent through their use of the Accused Product. Defendant engaged or will have engaged in such inducement having knowledge of the '676 patent. Furthermore, Defendant knew or should have known that its action would induce direct infringement by others and intended that its actions would induce direct infringement by others. For example, Defendant sells, offers to sell and advertises the Accused Product through websites or retailers that are available in Texas.⁵ Furthermore, at least through the User Guide⁶ for the Accused Product, Defendant instructs its customers to directly infringe the '676 patent specifically intending that its customers use the Accused Product in an infringing manner. Additionally, Defendant's

⁵ <http://polaroid.com/zip-instant>, last visited April 4, 2017.

⁶ <https://www.polaroidzip.com/skin/frontend/rwd/mobilezip/images/zip-app-manual.pdf>, last visited April 4, 2017.

customers' use of the Accused Product is facilitated by the use of the methods described in the '676 patent. As a direct and proximate result of Defendant's indirect infringement by inducement of the '676 patent, Plaintiff has been and continues to be damaged.

37. Defendant has had knowledge of its infringement of the '676 Patent at least as of the service of the present complaint.

38. By engaging in the conduct described herein, Defendant has injured TainoApp and is thus liable for infringement of the '676 Patent, pursuant to 35 U.S.C. § 271.

39. Defendant has committed these acts of infringement without license or authorization.

40. To the extent that facts learned in discovery show that Defendant's infringement of the '676 Patent is or has been willful, TainoApp reserves the right to request such a finding at the time of trial.

41. As a result of Defendant's infringement of the '676 Patent, TainoApp has suffered harm and monetary damages and is entitled to a monetary judgment in an amount adequate to compensate for Defendant's past infringement, together with interests and costs.

42. TainoApp will continue to suffer harm and damages in the future unless Defendant's infringing activities are enjoined by this Court. As such, TainoApp is entitled to compensation for any continuing or future infringement up until the date that Defendant is finally and permanently enjoined from further infringement.

COUNT II
(INFRINGEMENT OF THE '710 PATENT)

43. Plaintiff re-alleges and incorporates by reference the allegations set forth in paragraphs 1-42.

44. Defendant, at least during internal testing of the Accused Product, has directly infringed and continues to directly infringe at least claim 1 of the '710 patent by using the Accused Product in the manner described above without authority in the United States, and will continue to do so unless enjoined by this Court. As a direct and proximate result of Defendant's direct infringement of the '710 patent, Plaintiff has been and continues to be damaged.

45. Defendant has indirectly infringed and continues to indirectly infringe the '710 patent by actively inducing its respective customers and/or end-users to directly infringe at least claim 1 of the '710 patent through their use of the Accused Product. Defendant engaged or will have engaged in such inducement having knowledge of the '710 patent. Furthermore, Defendant knew or should have known that its action would induce direct infringement by others and intended that its actions would induce direct infringement by others. For example, Defendant sells, offers to sell and advertises the Accused Product through websites or retailers that are available in Texas.⁷ Furthermore, at least through the User Guide⁸ for the Accused Product, Defendant instructs its customers to directly infringe the '710 patent specifically intending that its customers use the Accused Product in an infringing manner. Additionally, Defendant's customers' use of the Accused Product is facilitated by the use of the methods described in the '710 patent. As a direct and proximate result of Defendant's indirect infringement by inducement of the '710 patent, Plaintiff has been and continues to be damaged.

46. Defendant has had knowledge of their infringement of the '710 Patent at least as of the service of the present complaint.

47. By engaging in the conduct described herein, Defendant has injured TainoApp and is thus liable for infringement of the '710 Patent, pursuant to 35 U.S.C. §271.

⁷ <http://polaroid.com/zip-instant>, last visited April 4, 2017.

⁸ <https://www.polaroidzip.com/skin/frontend/rwd/mobilezip/images/zip-app-manual.pdf>, last visited April 4, 2017.

48. Defendant has committed these acts of infringement without license or authorization.

49. To the extent that facts learned in discovery show that Defendant's infringement of the '710 Patent is or has been willful, TainoApp reserves the right to request such a finding at the time of trial.

50. As a result of Defendant's infringement of the '710 Patent, TainoApp has suffered harm and monetary damages and is entitled to a monetary judgment in an amount adequate to compensate for Defendant's past infringement, together with interests and costs.

51. TainoApp will continue to suffer harm and damages in the future unless Defendant's infringing activities are enjoined by this Court. As such, TainoApp is entitled to compensation for any continuing or future infringement up until the date that Defendant is finally and permanently enjoined from further infringement.

DEMAND FOR JURY TRIAL

52. TainoApp demands a trial by jury of any and all causes of action.

PRAYER FOR RELIEF

TainoApp respectfully prays for the following relief:

53. That Defendant be adjudged to have infringed the Patents-In-Suit;

54. That Defendant, its officers, directors, agents, servants, employees, attorneys, affiliates, divisions, branches, parents, and those persons in active concert or participation with any of them, be permanently restrained and enjoined from directly infringing and/or inducing direct infringement of the Patents-In-Suit;

55. An award of damages pursuant to 35 U.S.C. § 284 sufficient to compensate TainoApp for Defendant's past infringement and any continuing and/or future infringement up

until the date that Defendant is finally and permanently enjoined from further infringement, including compensatory damages;

56. An assessment of pre-judgment and post-judgment interests and costs against Defendant, together with an award of such interests and costs, in accordance with 35 U.S.C. § 284; and

57. That TainoApp be given such other and further relief as this Court may deem just and proper.

Dated: April 18, 2017

Respectfully submitted,

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**ATTORNEYS FOR PLAINTIFF
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