

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**INVENTORY LIQUIDATORS
CORPORATION, D/B/A REGENT
PRODUCTS CORPORATION**

Plaintiff,

v.

LANDMARK TECHNOLOGY, LLC,

Defendant.

Civil Action No. 1:18-cv-01557

Judge: _____

JURY TRIAL DEMANDED

COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiff Inventory Liquidators Corporation d/b/a Regent Products Corporation (“Regent Products”), by and through its attorneys of record, files this Complaint for Declaratory Judgment of Non-Infringement and Declaratory Judgment of Invalidity of U.S. Patent No. 6,289,319 (the ’319 Patent) against Defendant Landmark Technology, LLC (“Landmark Technology”).

I. NATURE OF THE ACTION

1. This is an action for declaratory judgment that Regent Products does not infringe any valid claim of the ’319 Patent.
2. A true and correct copy of the ’319 Patent is attached as **Exhibit A**.

II. PARTIES

3. Inventory Liquidators Corporation d/b/a Regent Products is an Illinois corporation with its principal place of business at 8999 Palmer Street, River Grove, Illinois, 60171.

4. On information and belief, Defendant Landmark Technology is a Delaware limited liability company having its principal place of business at 329 Laurel Street, San Diego, California 92102.

III. JURISDICTION AND VENUE

5. The Court has jurisdiction over these claims pursuant to 28 U.S.C. Section 1338 because this Complaint states claims arising under an Act of Congress relating to patents, 35 U.S.C. § 271.

6. This Complaint also arises under the Federal Declaratory Judgment Act, 28 U.S.C. § 2201 et seq. based on Defendant's accusations towards Plaintiff for patent infringement and its pattern of actual litigation concerning United States Patent No. 6,289,319, thereby giving rise to an actual case or controversy under 28 U.S.C. §§ 2201 and 2202.

7. This Court has personal jurisdiction over Landmark Technology. Upon information and belief, Landmark Technology conducts substantial business in this judicial District, including regularly doing or soliciting business, engaging in other persistent courses of conduct, and deriving substantial revenue from individuals and entities in Illinois. Thus, Landmark Technology has sufficient minimum contacts with the State of Illinois to satisfy the Illinois long-arm statute, 735 Ill. Comp. Stat. 5/2-209.

8. By its own admission, Landmark Technology files patent infringement lawsuits against companies that refuse to pay the requested sum in Landmark Technology's licensing demand letters. *See, e.g., Landmark Technology, LLC v. G Stage Love.com Inc.*, S.D. Cal. Case No. 3:16-cv-00760, Dkt. No. 1, ¶ 11 ("Plaintiff

sent Defendant a letter informing Defendant of the '319 Patent that Defendant's actions, as more fully described below, constituted infringement of the '319 Patent."); *Landmark Technology, LLC v. Canada Drugs LP*, S.D. Cal. Case No. 3:16-cv-00558, Dkt. No. 1, ¶ 11 ("On or about November 16, 2015, Plaintiff sent Defendant a letter informing Defendant of the '319 Patent that Defendant's actions, as more fully described below, constituted infringement of the '319 Patent."); *Landmark Technology, LLC v. YOOX Corp.*, E.D. Tex. Case No. 6:15-cv-00069, Dkt. No. 1, ¶ 8 ("On or about September 19, 2014, Plaintiff provided notice to Defendant informing Defendant of the '319 Patent and that Defendant's actions, as more fully described below, constituted infringement of the '319 Patent.").

9. Venue of this action in this Court and district is proper pursuant to 28 U.S.C. Section 1391(b) because a substantial part of the events giving rise to Regent Products' claims occurred in this district and Regent Products' principal place of business is in this district.

IV. FACTUAL BACKGROUND

10. On or about October 20, 2017, Landmark Technology sent a first letter to Michael Depaul, of Inventory Liquidators Corporation asserting that Regent Products infringes the '319 Patent, claiming that "specific functionalities implemented by Regent Products' using their servers and devices interfaced to Regent Products' web servers constitutes use of the technology taught within the meaning of Claim 1 of the '319 patent." A true and correct copy of the first letter as received is attached as **Exhibit B**.

11. The first letter does not include an element by element analysis, or any other type of analysis or description of Regent Products' services believed to infringe, and instead simply includes a link to Regent Products' website, <http://www.regentproducts.com/index.php?cPath=50>.

12. The first letter concludes by offering Regent Products a "non-exclusive license to its patent portfolio, including the '391 patent, for \$65,000." This offer, Landmark Technology is quick to point out, will not be available in the event of litigation, in order to discourage Regent Products from defending itself. The first letter requested a response within 15 days.

13. The first letter fails to indicate whether Landmark Technology is the owner or assignee of the '319 Patent. A review of the '319 Patent and related information on the USPTO web site does not indicate any assignments have been made.

14. On or about December 1, 2017, Landmark Technology sent a second letter to Mr. Depaul. The second letter reiterated the licensing offer to Regent Products for a "non-exclusive license to its patent portfolio for \$65,000." A true and correct copy of the second letter as received is attached as **Exhibit C**.

15. The second letter does not remedy any of the issues raised in paragraph 13 above.

16. On November 30, 1994, Lockwood filed a patent application, U.S. App. No. 08/347,270, ("the '270 Application") which used the same specification as a number of previously rejected and abandoned applications.

17. The '270 Application was titled "Automatic Loan Processing Terminal System."

18. The '270 Application was rejected numerous times by the Examiner during prosecution.

19. The Examiner initially rejected the '270 Application under 35 U.S.C. § 101 as being directed to a method of doing business and not containing any patentable subject matter; under 35 U.S.C. § 112 as being indefinite, non-enabling, and lacking specification support; and under 35 U.S.C. § 103 as being just an obvious combination of prior technology or "prior art."

20. On October 17, 1995, Lockwood filed an amendment to the '270 Application ("270 Amendment") changing the title of the application to "Automatic Business and Financial Transaction Processing System," deleting certain claims and adding other claims in response to the Examiner's rejection. As to the § 103 prior art rejection, Lockwood's '270 Amendment stated that the claimed system had:

[t]he novel capability of processing the answer given by the operator in combination with prior answers and other data to formulate or compose a new inquiry, or a response; and to make on-site decisions about the next operational step. The net effect and result being the operator's responses create a highly individualized, unique, "one-of-a-kind" question and answer presentation.

September 19, 1995. Amendment, pp. 8-9 (emphasis added).

21. In short, Lockwood's '270 Amendment argued that the claimed system included an on-site terminal or kiosk which had the "intelligence" or processing capability to present a highly individualized, unique, "one-of-a-kind" question and answer presentation to the user as one would need in a complex transaction, such

as an application for a loan. Lockwood argued that this concept could be found in the “means for fetching additional inquiring sequences” of claim 1, which was a required feature or limitation of the terminal according to Claim 1. *See* September 19, 1995 Amendment, p. 10 (emphasis added).

22. In response to these amendments, the Examiner again rejected the application under 35 U.S.C. § 112; and under 35 U.S.C. § 103 for being unpatentable due to being an obvious combination of prior art.

23. Lockwood appealed the Examiner’s final rejection to the USPTO’s Board of Patent Appeals and Interferences. During this appeal, Lockwood argued that the claims required “forward chaining” in order to overcome various combinations of prior art. Lockwood further argued that his invention had the ability to dynamically interact with a user at the terminal.

24. On September 27, 2000, the Board reversed the examiner’s rejection at least partially because “the examiner has failed to establish a prima facie case of obviousness with regard to claimed subject matter.” BPAI Decision on Appeal, Appeal No. 1997-2678, Sep. 27, 2000, pp. 7-8.

25. On September 11, 2001, the ’319 Patent, entitled “Automatic Business and Financial Transaction Processing System” issued.

26. The ’319 Patent is ostensibly directed to an automatic data processing system for processing business and financial transactions between entities from remote sites.

27. Post issuance, the '319 Patent has been through two Ex Parte Reexaminations. Certificates for the Ex Parte Reexaminations issued on July 17, 2007 and January 9, 2013, respectively.

28. During the first Ex Parte Reexamination, the Examiner rejected all of the '319 Patent's claims, forcing Lockwood to amend and add 22 new dependent claims. In view of the narrower claims, the Examiner eventually relented and a Reexamination certificate issued on July 17, 2007.

29. The '319 Patent contains a single independent claim, which reads as follows:

1. An automatic data processing system for processing business and financial transactions between entities from remote sites which comprises:

a central processor programmed and connected to process a variety of inquiries and orders transmitted from said remote sites;

said central processor including:

means for receiving information about said transactions from said remote sites;

means for retrievably storing said information;

at least one terminal at each of said remote sites including a data processor and operational sequencing lists of program instructions;

means for remotely linking said terminal to said central processor and for transmitting data back and forth between said central processor and said terminal;

said terminal further comprising **means for** dispensing information and services for at least one of said entities including:

a video screen;

means for holding operational data including programing, informing, and inquiring sequences of data;

means for manually entering information;

means for storing information, inquiries and orders for said transactions entered by one of said entities via said **means for**

manually entering information, and data received through and from said central processor;

on-line **means for** transmitting said information, inquiries, and orders to said central processor;

on-line **means for** receiving data comprising operator-selected information and orders from said central processor via said linking means;

means for outputting said informing and inquiring sequences on said video screen in accordance with preset routines and in response to data entered through said **means for** entering information;

means for controlling said **means for** storing, **means for** outputting, and **means for** transmitting, including **means for** fetching additional inquiring sequences in response to a plurality of said data entered through said **means for** entering and in response to information received from said central processor;

said informing sequences including directions for operating said terminal, and for presenting interrelated segments of said operational data describing a plurality of transaction operations;

said programming sequences including **means for** interactively controlling the operation of said video screen, data receiving and transmitting **means**; and for selectively retrieving said data from said **means for** storing;

said **means for** storing comprising **means for** retaining said operational sequencing list and **means** responsive to the status of the various **means for** controlling their operation;

said central processor further including:

means responsive to data received from one of said terminals for immediately transmitting selected stored information to said terminal; and

means responsive to an order received from a terminal for updating data in said **means for** storing;

whereby said system can be used by said entities, each using one of said terminals to exchange information, and to respond to inquiries and orders instantaneously and over a period of time.

30. In order to infringe the claims of the '319 Patent on must practice every limitation of Claim 1.

31. Further, the accused system must include every limitation as argued by Lockwood during prosecution.

32. The '319 Patent claims contain a large number of means plus function limitations. Under 35 U.S.C. § 112(f), the claims are limited to the function described in the specification. The brief specification does not provide the required structure of the various "means." This is made worse by the narrow and specific scope that Landmark Technology repeatedly described to have. The required level of detail is not found anywhere in the specification.

COUNT I – DECLARATION OF INVALIDITY OF U.S. PATENT 6,289,319

33. Regent Products incorporates by reference the allegations in paragraphs 1 through 32 of this Complaint as if fully set forth herein.

34. Landmark Technology claims to have exclusive rights to the '319 Patent.

35. Landmark Technology demanded that Regent Products take a license to the '319 Patent within 15 days or be sued.

36. Landmark Technology is in the business of threatening litigation and following through on that threat specifically with respect to the '319 Patent. A review of Landmark Technology's record demonstrates a consistent and frequent pattern of litigation, creating a reasonable fear that Regent Corporation was Landmark Technology's next target.

37. The claims of the '319 Patent are invalid under at least any one of 35 U.S.C. §§ 101, 102, 103, and 112.

38. The claims of the '319 Patent do not constitute patentable subject matter pursuant to 35 U.S.C. § 101, and therefore are an invalid or ineligible patent on an abstract idea. The '319 Patent claims the abstract idea of automated data processing of business transactions. Nothing in the claims, “transforms the nature of the claims” into patent eligible subject matter. *Mayo Collaborative Services v. Prometheus Labs, Inc.*, 566 U.S. 66 (2012). Furthermore, “[t]he mere visitation of a generic computer cannot transform a patent-eligible abstract idea into a patent-eligible invention.” *Alice Corp. v. CLS Bank Int'l*, 134 S.Ct. 2347 (2014).

39. Additionally, the '319 Patent is invalid as anticipated pursuant to 35 U.S.C. § 102 or as obvious pursuant to 35 U.S.C. § 103.

40. The claims of the '319 Patent are also invalid because the specification fails to provide any structure for the numerous means plus function elements recited in the claims.

41. Based on Landmark Technology's letters, the imminent threat of litigation for patent infringement, a consistent pattern of carrying out its threat, as well as Regent Products' denial of infringement, an actual case or controversy exists as to whether Regent Products infringes any valid claim of the '319 Patent.

42. Regent Products is entitled to a declaration that the claims of the '319 Patent are invalid.

COUNT II – NON-INFRINGEMENT OF U.S. PATENT 6,289,319

43. Regent Products restates and incorporates by reference the allegations in paragraphs 1 through 42 of this Complaint as if fully set forth herein.

44. Landmark Technology claims to have exclusive rights to the '319 Patent.

45. Landmark Technology has demanded that Regent Products take a license to the '319 Patent within 15 days or be sued.

46. Landmark Technology is in the business of threatening litigation and following through on that threat specifically with respect to the '319 Patent. A review of Landmark Technology's record demonstrates a consistent and readily apparent pattern of litigation.

47. Landmark Technology failed to conduct any pre-demand due diligence prior to demanding \$65,000 from Regent Products.

48. Landmark Technology has made numerous limiting admissions regarding the scope of the claims of the '319 Patent during its prosecution and in subsequent litigation proceedings.

49. De minimis pre-demand research establishes that under the plain language of the claim, and especially under the much narrower reading argued by the inventor and Landmark Technology, Regent Products' system, product, and technology do not infringe any valid and enforceable claim of the '319 Patent.

50. Regent Products has not infringed and does not infringe any valid and enforceable claim of the '319 Patent, whether literally or under the doctrine of equivalents.

51. Additionally, Regent Products is not liable for any induced, contributory, divided, or other indirect infringement of any valid and enforceable

claim of the '319 Patent. Neither Regent Products, nor its customers who access its website, nor anyone associated with Regent Products utilize every element of any claim in the '319 Patent as is required for infringement.

52. Based on Landmark Technology's letter and accusation of patent infringement, especially in light of its pattern of litigation, and Regent Products' denial of infringement, a substantial, immediate, and real controversy exists between Regent Products and Landmark Technology regarding whether Regent Products directly or indirectly infringes or has infringed the '319 Patent. A judicial declaration is necessary to determine the parties' respective rights regarding the '319 Patent.

**COUNT III – DECLARATION THAT LANDMARK TECHNOLOGY
LACKS THE RIGHT TO ASSERT THE '319 PATENT**

53. Regent Products is entitled to a declaration that Landmark Technology may not recover damages prior to October 20, 2017.

54. Regent Products restates and incorporates by reference the allegation in paragraphs 1 through 62 of this Complaint as if fully stated herein.

55. The first letter alleges that Landmark Technology “has exclusive rights” to various patents and infers a right to sublicense the '319 Patent. (“Landmark is currently offering Regent Products a non-exclusive license to its patent portfolio, including the '319 Patent”).

56. Landmark Technology has not asserted that it owns the '319 Patent or has the exclusive right to enforce the '319 Patent.

57. USPTO records do not establish that Landmark Technology has been assigned the '319 Patent, and no assignment has been recorded.

58. The '319 Patent is currently listed as owned by Lawrence B. Lockwood.

Exhibit A.

59. Landmark Technology does not own and cannot assert the '319 Patent and therefore cannot enforce any rights in the '319 Patent.

60. Based on Landmark Technology's letters and accusation of patent infringement, especially in light of its consistent pattern of litigation, and Regent Products' denial of infringement, a substantial, immediate, and real controversy exists between Regent Products and Landmark Technology.

61. A judicial declaration that Landmark Technology lacks the right to assert the '319 Patent is necessary and appropriate so that Regent Products may ascertain its rights regarding the '319 Patent and to prevent further injury to Regent Products.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff Regent Products Corporation prays for the following relief:

- a. A declaration that Regent Products' services, systems, and practices do not infringe any valid and enforceable claim of the '319 Patent;
- b. A declaration that the '319 Patent is invalid for failure to comply with the requirements of 35 U.S.C., including at least §§ 101, 102, 103 and/or 112;
- c. Declaring Landmark Technology's conduct as unlawful, unfair, and deceptive trade practices;
- d. Ordering Landmark Technology to pay all fees, expenses and costs associated with this action; and

- e. That Regent Products be granted such other and further legal and equitable relief against Defendants as the Court deems appropriate.

JURY DEMAND

Under Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury on all issues so triable.

Dated: March 1, 2018

Respectfully submitted,

INVENTORY LIQUIDATORS CORPORATION D/B/A
REGENT PRODUCTS CORPORATION

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