

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

MONDEVICES, INC.,)	
)	
Plaintiff,)	
)	C. A. No.: 1:17-cv-01771-GMS
v.)	
)	JURY TRIAL DEMANDED
LEDO NETWORK, INC.,)	
)	
Defendant.)	

AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, MONDEVICES, INC. (hereinafter “Plaintiff” and/or “Mondevices”), by and through its attorneys, bring this Amended Complaint against defendant LEDO NETWORK, INC. (hereinafter “Defendant” and/or “Ledo”), and allege as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement brought pursuant to the Patent Laws of the United States, and is principally an action for Patent Infringement under 35 U.S.C. § 271, *et seq.*, resulting from Defendant’s unauthorized manufacture, use, sale, offer to sell, and/or importation into the United States for subsequent use or sale of products that infringe one or more claims of U.S. Patent No. 9,750,456 B2 (hereinafter “the ’456 Patent”) (attached as Exhibit A), entitled “Method and System of Attachment and Detection of Attachment of a Wearable Sensor to Clothing Material.”

2. As alleged in detail below, Defendant has engaged and continues to engage in a conscious, systematic, and willful pattern of patent infringement, to the damage of Plaintiff.

3. Plaintiff seeks injunctive relief to prevent Defendant from continuing to infringe Plaintiff's patent. In addition, Plaintiff seeks a recovery of monetary damages resulting from Defendant's past infringement of this patent.

THE PARTIES

4. Plaintiff Mondevices is a Delaware corporation with a place of business at 225 West 34 Street, Suite 9-38, New York, NY 10112.

5. Upon information and belief, Defendant Ledo is a corporation organized under the laws of Delaware, with a place of business at 560 Winchester Boulevard, Suite 500, San Jose, CA 95128, with a registered agent at The Company Corporation, 251 Little Falls Drive, Wilmington, DE 19808, where Defendant can be served process. Defendant was incorporated on June 13, 2012.

JURISDICTION AND VENUE

6. This Court has jurisdiction over the subject matter of the Amended Complaint pursuant to 28 U.S.C. §§ 1331 and 1338(a) and pursuant to the patent laws of the United States of America, 35 U.S.C. § 101, *et seq.*

7. Upon information and belief, this Court has personal jurisdiction over Defendant Ledo because the Defendant is a corporation incorporated in the State of Delaware.

8. Venue in this judicial district is proper under 28 U.S.C. §§ 1391(b), (c) and/or 1400(b).

PLAINTIFF'S PATENT

9. Plaintiff owns United States Patent No. 9,750,456 B2 (the '456 Patent). A copy of the '456 Patent is attached as Exhibit A. The '456 Patent is entitled "Method and System of Attachment and Detection of Attachment of a Wearable Sensor to Clothing Material," was filed

on December 22, 2014, and issued on September 5, 2017. Arturas Henrikas Vaitaitis, the inventor of the '456 Patent, assigned the '456 Patent to the Plaintiff. The assignment of the '456 Patent was recorded with the United States Patent and Trademark Office ("USPTO") on reel/frame 034567/0431 on December 22, 2014. A copy of the assignment of the '456 patent recorded with the USPTO is attached as Exhibit B.

GENERAL ALLEGATIONS

10. Defendant has been offering to sell and is selling products that infringe the '456 Patent, including sales offered and made on at least the following websites: www.products.sense-u.com/baby, www.ebay.com, and www.Amazon.com.

11. In a letter dated October 18, 2017, counsel for the Plaintiff provided written notice to the Defendant of its infringement of the '456 Patent. Said written notice was sent via FedEx to Defendant's offices at 560 South Winchester Boulevard, Suite 500, San Jose, CA 95128, and was received and signed for by J. Ody on October 20, 2017 at 12:21 pm. The Defendant has not sent any response to said written notice as of the date of filing of this Amended Complaint.

12. Upon information and belief, the Defendant became aware of the October 18, 2017 infringement allegations, and had actual knowledge of the '456 Patent since at least October 20, 2017.

13. In particular, the Defendant sells an item identified as "Sense-U Baby Breathing Movement Monitor" (hereinafter "Sense-U monitor"), listed for sale at: <https://www.amazon.com/Sense-U-Breathing-Movement-Baby-Monitor/dp/B072KSGQVZ>. A copy of the Amazon.com webpage where Defendant offers for sale its infringing Sense-U monitor is attached as Exhibit C.

14. The Defendant additionally has listed the Sense-U monitor for sale at: <https://www.ebay.com/itm/ALL-NEW-Sense-U-Baby-Breathing-Movement-Monitor-Breathing-rollover-Temp/112550891969>. A copy of the ebay.com webpage where Defendant offers for sale its infringing Sense-U monitor is attached as Exhibit D.

15. Upon information and belief, the Defendant began selling the infringing Sense-U monitor on or about July 21, 2017.

16. On information and belief, Defendant instructs its customers on how to use the Sense-U monitor. For example, with the Sense-U monitor, Defendant provides the instruction manual attached hereto as Exhibit E. The cover of the instruction manual depicts a Sense-U monitor clipped to a baby's clothing and transmitting information to a smart phone. Ex. E, at 1. The instruction manual describes the product as a "Breathing & Movement Monitor" and as a "Breathing Alarm | Rollover Alert | Temperature Alert." *Id.* The instructions' Quick Start Manual instructs users to "Clip the device onto your baby's clothing, next to the belly button" to install the monitor. *Id.* at 2.

17. Defendant sells the Sense-U monitor through the website <https://www.products.sense-u.com/>. This website also includes a "Quick Start Manual" that instructs the user to "Clip baby device onto your baby's pajama." A true and correct screenshot of the Quick Start Manual is attached hereto as Exhibit F.

18. The Sense-U monitor is advertised to transmit data to the user's smart phone via the Sense-U Baby app. A true and correct copy of the Apple App Store Preview for the Sense-U Baby app is attached hereto as Exhibit G. The App Store Preview states the "Sense-U Baby monitor is a wearable device that can easily clip onto your baby's clothes, monitor your baby's tummy breathing, sleeping position, and temperature/humidity from your smart device." *Id.* The

preview further touts that the monitor can “[e]asily clip onto your baby’s clothes with a universal design to fit all typical baby clothing.” *Id.*

19. The Defendant has made, used, sold, and/or offered for sale within the United States, and/or imported into the United States, the infringing Sense-U monitor without Plaintiff’s consent, and which infringe at least claims 1, 4, 6, 7, and 10 of the ’456 Patent, either literally or under the doctrine of equivalents.

20. The Plaintiff is being irreparably harmed by the Defendant’s infringement of its valuable patent rights. Moreover, Defendant’s unauthorized infringement of Plaintiff’s patent rights is threatening the value of this intellectual property because Defendant’s conduct results in Plaintiff’s loss of its lawful patent rights to exclude others from making, using, selling, offering to sell, and/or importing the patented invention.

COUNT 1
INFRINGEMENT OF U.S. PATENT NO. 9,750,456

21. Paragraphs 1-20 are incorporated by reference as if fully restated herein.

22. Plaintiff Mondevices is the owner of all right, title, and interest in the ’456 Patent, entitled “Method and System of Attachment and Detection of Attachment of a Wearable Sensor to Clothing Material.”

23. Defendant’s Sense-U monitor either literally infringes or under the doctrine of equivalents infringes at least claims 1, 4, 6, 7, and 10 of the ’456 Patent. Defendant has infringed and continues to infringe the ’456 Patent by, among other things, making, using, offering to sell, and selling in the United States, and/or importing into the United States products that are covered by and embody the ’456 Patent, including the Sense-U monitor identified in this Amended Complaint.

24. Representative independent claim 6 of the ’456 Patent is reproduced here:

6. A wearable sensor comprising:
an outer clip-on casing having an opening; and
a sensor assembly configured to be received and secured into the outer clip-on casing opening;

wherein an article of clothing is positioned between the outer clip-on casing and the sensor such that the same results in a secure fit between clip-on casing and sensor, said sensor being positioned adjacent a skin of a user, and being further configured to be in intermittent direct contact with the skin of the user when the article of clothing is worn.

25. The infringing Sense-U monitor is wearable sensor that includes an outer clip-on casing having an opening, and a sensor assembly configured to be received and secured into the outer clip-on casing opening, as shown by the following pictures of the Sense-U monitor:



26. The infringing Sense-U monitor is further configured to be attached to an article of clothing such that the article of clothing is positioned between the outer clip-on casing and the sensor, with the sensor being positioned adjacent to the skin of a user, with at least a portion of the wearable sensor being configured to be in intermittent direct contact with the skin of the user when the article of clothing is worn, as shown by the following picture of the Sense-U monitor while attached to an article of clothing:



27. As shown above, the Sense-U monitor infringes either literally or under the doctrine of equivalents at least claim 6 of the '456 Patent. A picture of a device representative of claim 6 of the '456 Patent is attached as Exhibit H.

28. Upon information and belief, Defendant has practiced the method in claim 1 and used the Sense-U monitor as claimed in claim 6 including, but not limited to, in researching, developing, and/or testing the product.

29. Upon information and belief, the Defendant has been offering for sale and selling the infringing Sense-U monitor from on or about July 21, 2017 to the present day.

30. Defendant had knowledge of the '456 Patent at least as early as October 20, 2017.

31. Upon information and belief, Defendant has manufactured, used, sold, provided, and/or offered to sell the Sense-U monitor, and provided instructions regarding the use of the Sense-U monitor. Further, and without limitation, upon information and belief, through its affirmative acts of making, selling, providing, and/or offering for sale the Sense-U monitor and instructing its customers regarding how to use the Sense-U monitor, Defendant has knowingly induced and continues to knowingly induce others to infringe at least claims 1 and 6 of the '456 Patent under 35 U.S.C. § 271(b) by, among other things, actively aiding others to infringe,

including but not limited to Defendant's customers and end users, whose use of the Sense-U monitor to perform each step of the claimed method constitutes direct infringement of at least claims 1, 4, 6, 7, and 10 of the '456 patent.

32. In particular, by way of example only, Defendant's actions that induce others as its customers, distributors, and end users to infringe include advertising and distributing the Sense-U monitor and providing instructional materials and/or support services regarding the Sense-U monitor.

33. Defendant instructs its customers with the specific intent to induce its customers to infringe the '456 patent. For instance, Defendant provides advertising, distribution, and instructional materials instructing its customers and end users to practice the steps of claim 1 and use the wearable sensor claimed in claim 6.

34. Upon information and belief, the Sense-U monitor sold by Defendant comprises and/or is at least a component of the apparatus claimed in at least claims 1 and 4 of the '456 Patent, and comprises and/or is at least a component for use in practicing the patented process claimed in claims 6, 7, and 10 of the '456 Patent. The Sense-U monitor comprises and/or constitutes at least a material part of the infringing apparatus and/or infringing process.

35. Upon information and belief, Defendant knows or should know or has reason to know that the Sense-U monitor is made or especially adapted for use in the infringing apparatus, because, among other reasons, the Defendant had specific notice and knowledge of the '456 Patent and the alleged infringement either by it or by one or more of its customers or its end users, or acted with deliberate indifference to the possibility of such infringement despite knowing about the '456 Patent and the alleged infringement.

36. Upon information and belief, the Sense-U monitor is not a staple article or commodity of commerce suitable for substantial non-infringing use. Upon information and belief, and as evidenced by LEDO's advertising, the only substantial function of the Sense-U monitor is as a sensor that monitors at least breathing and movement and comprises and/or practices the claimed invention.

37. Defendant's infringement has been and continues to be, willful and deliberate. Defendant has been on actual notice of the Sense-U monitor since at least as early as October 20, 2017.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief as follows:

1. For a judgment declaring that Defendant has infringed and continues to infringe, directly and/or indirectly, literally and/or by the doctrine of equivalents, U.S. Patent No. 9,750,456;
2. For a preliminary and permanent injunction prohibiting Defendant and its officers, directors, agents, employees, affiliates and all other acting in privity or in concert with them, and their parents, subsidiaries, divisions, successors and assigns from further acts of infringement of the '456 Patent;
3. For a judgment awarding Plaintiff damages adequate to compensate for Defendant's infringement of the '456 Patent, together with interest and costs, and in no event less than a reasonable royalty, under 35 U.S.C. § 284, including all pre-judgment and post-judgment interest at the maximum rate permitted by law;
4. For a judgment awarding Plaintiff all of Defendant's profits deriving from the sale of products that infringe the '456 Patent under 35 U.S.C. § 289;
5. For a judgment declaring that Defendant's infringement of Plaintiff's patent rights has been willful and deliberate;
6. For a judgment awarding Plaintiff treble damages and pre-judgment interest under 35 U.S.C. § 284 as a result of Defendant's willful and deliberate infringement of Plaintiff's patent rights;
7. For a judgment declaring that this case is exceptional and awarding Plaintiff its expenses, costs, and attorney fees in accordance with 35 U.S.C. § 284 and § 285, and Rule 54(d) of the Federal Rules of Civil Procedure; and

8. That Plaintiff have such other and further relief as this Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff Mondevices demands a trial by jury of all matters to which it is entitled to a trial by jury pursuant to Federal Rule of Civil Procedure 38.

Dated: March 14, 2018

Respectfully submitted,

DLA PIPER LLP (US)

/s/ Denise S. Kraft

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