

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

HAWK TECHNOLOGY SYSTEMS, LLC,

Plaintiff,

v.

Civil Action No. 3:18-cv-00094

LARSON'S GROCERY OF WATER VALLEY, INC.,

Defendant.

AMENDED COMPLAINT FOR PATENT INFRINGEMENT

COMES NOW, Plaintiff, Hawk Technology Systems, LLC, hereby files its Complaint for Patent Infringement against Defendant, Larson's Grocery of Water Valley, Inc., and alleges based on knowledge of itself and based on information and belief as to Defendant 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 Technology Systems, LLC (hereinafter "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. Larson's Grocery of Water Valley, Inc. (hereinafter "Larson's") is an independently owned and operated company organized and existing under the laws of the State of Mississippi with its principal business address located at 323 S. Main Street, Water Valley, Mississippi 38965.

6. Larson's may be served with process by and through its Registered Agent, Don Larson, 323 S. Main Street, Water Valley, Mississippi 38965.

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 Larson's because it (a) operates, conducts, engages in and/or carries on a business in the State of Mississippi; (b) committed

tortious acts of patent infringement within Mississippi; and (c) is engaging in substantial and not isolated activity within Mississippi.

9. Larson's operates its store in Water Valley, Mississippi, located in the Northern District of Mississippi, and thus, pursuant to 28 U.S.C. §§ 1400(b), venue is proper in this district.

GENERAL ALLEGATIONS

10. Hawk 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 Larson's 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 Larson's 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 Larson's 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. 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.

24. 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 Larson's has directly infringed the '462 Patent under 35 U.S.C. § 271(a) by using the Accused Product in its store;
- 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 Larson'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.

RESPECTFULLY SUBMITTED, this the 28th day of August, 2018.

s/Frank J. Dantone

FRANK J. DANTONE, MSB #5792

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Attorney for Plaintiff,

Hawk Technology Systems, LLC

CERTIFICATE OF SERVICE

I, Frank J. Dantone, counsel for Plaintiff, hereby certify that on August 28, 2018, I electronically filed this document through the Court's ECF system, which will send a notice of electronic filing to the following:

Charles C. Auerswald, Esq.
Auerswald Law Firm

M. Kevin Horan, Esq.
Horan & Horan, PLLC

s/Frank J. Dantone _____