

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

PERMITROCKET SOFTWARE LLC)
D/B/A EPERMITHUB,)
)
Plaintiff,)
)
v.)
)
E-PLAN, INC.,)
)
Defendant.)
_____)

Case No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiff PermitRocket Software, LLC d/b/a ePermitHub (“ePermitHub”), brings this action for declaratory judgment against Defendant E-Plan, Inc. (“E-Plan”). ePermitHub seeks a declaratory judgment of non-infringement of U.S. Patent No. 7,975,222 (“the ’222 patent”); U.S. Patent No. 8,595,617 (“the ’617 patent”); U.S. Patent No. 9,720,886 (“the ’886 patent”); U.S. Patent No. 9,684,643 (“the ’643 patent”); and U.S. Patent No. 9,792,024 (“the ’024 patent”) (collectively, the “Patents-in-Suit”). In support thereof, ePermitHub alleges as follows:

NATURE OF THE ACTION

1. This is an action arising under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202, seeking a declaratory judgment that ePermitHub does not infringe the Patents-in-Suit.

THE PARTIES

2. ePermitHub is a limited liability company organized and existing under the laws of the State of Florida, with its principal place of business at 11767 S. Dixie Highway, Suite 295, Miami, Florida 33156.

3. On information and belief, E-Plan is a corporation organized and existing under the laws of the State of California, with its principal place of business at 220 Technology Drive, Suite 110, Irvine, California 92618.

JURISDICTION AND VENUE

4. This Court has exclusive subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a), 28 U.S.C. §§ 2201-2202, and the patent laws of the United States, 35 U.S.C. § 1 *et seq.*

5. As detailed herein, an actual, justiciable, and continuing controversy exists between ePermitHub and E-Plan regarding whether ePermitHub infringes or has infringed any claim of the Patents-in-Suit.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391.

7. This Court has personal jurisdiction over E-Plan for purposes of this declaratory judgment action because E-Plan has enforced and attempted to enforce the Patent-in-Suit in the State of Florida, including by sending an infringement letter to ePermitHub and representing to at least one Florida-based customer of ePermitHub that ePermitHub infringes the Patents-in-Suit and will be sued by E-Plan for patent infringement. On information and belief, E-Plan has also conducted business in and directed at Florida residents through sales presentations to Florida residents in which E-Plan has discussed ePermitHub's products and/or services.

FACTUAL BACKGROUND

8. ePermitHub operates an online, web-based platform that facilitates communication between design professionals and the authority having jurisdiction over land development and construction activities for the purpose of plan review and approval.

9. E-Plan is a direct competitor of ePermitHub in the United States, including in the State of Florida.

10. E-Plan claims to be the owner of the '222 patent, entitled "System and Method for Dynamic Linking Between Graphic Documents and Comment Data Bases." The '222 patent issued on July 5, 2011. A copy of the '222 patent is attached hereto as Exhibit A.

11. E-Plan claims to be the owner of the '617 patent, entitled "System and Method for Dynamic Linking Between Graphic Documents and Comment Data Bases." The '617 patent issued on November 26, 2013. A copy of the '617 patent is attached hereto as Exhibit B.

12. E-Plan claims to be the owner of the '886 patent, entitled "System and Method for Dynamic Linking Between Graphic Documents and Comment Data Bases." The '886 patent issued on August 1, 2017. A copy of the '886 patent is attached hereto as Exhibit C.

13. E-Plan claims to be the owner of the '643 patent, entitled "Management of Building Plan Documents Utilizing Comments and a Correction List." The '643 patent issued on June 20, 2017. A copy of the '643 patent is attached hereto as Exhibit D.

14. E-Plan claims to be the owner of the '024 patent, entitled "Systems and Methods for Management and Processing of Electronic Documents Using Video Annotations." The '024 patent issued on October 17, 2017. A copy of the '024 patent is attached hereto as Exhibit E.

15. ePermitHub, through its predecessor Aecosoft, received a letter dated February 22, 2018 from the law firm Knobbe, Martens, Olson & Bear, LLP ("the Knobbe Martens Letter") on behalf of E-Plan. The letter was sent to and received in Florida and, among other things, identified the Patents-in-Suit; informed ePermitHub that the Knobbe law firm represents E-Plan in enforcing its patents; informed ePermitHub that those patents help prevent "illegal patent infringement"; and identified various federal statutes relating to patent infringement, including those statutes providing for injunctive relief and damages as remedies for patent infringement. A copy of the Knobbe Martens Letter is attached as Exhibit F.

16. On or about October 12, 2018, ePermitHub was advised by a business partner that an E-Plan representative approached a Florida-based ePermitHub customer, in connection with promoting E-Plan's products, and told the customer that ePermitHub's products and/or services infringe E-Plan's patents. According to the customer, the E-Plan representative stated that E-Plan intends to sue ePermitHub for patent infringement.

COUNT I

Declaratory Judgment of Non-Infringement of U.S. Patent No. 7,975,222

17. ePermitHub incorporates by reference the preceding paragraphs of its Complaint.

18. As a result of E-Plan's threatened assertion of the '222 patent against ePermitHub and ePermitHub's products and/or services, there is an actual, substantial, and continuing justiciable controversy between ePermitHub and E-Plan as to whether ePermitHub infringes or has infringed the '222 patent.

19. ePermitHub has not infringed, and does not infringe, directly or indirectly, any claim of the '222 patent, either literally or under the doctrine of equivalents, at least because ePermitHub's Digital Plan Room product does not display comment data based on a coordinate position found by detecting movement of a cursor.

20. ePermitHub is entitled to a judgment from this Court that ePermitHub has not infringed, and does not infringe, any claim of the '222 patent.

COUNT II

Declaratory Judgment of Non-Infringement of U.S. Patent No. 8,595,617

21. ePermitHub incorporates by reference the preceding paragraphs of its Complaint.

22. As a result of E-Plan's threatened assertion of the '617 patent against ePermitHub and ePermitHub's products and/or services, there is an actual, substantial, and continuing justiciable controversy between ePermitHub and E-Plan as to whether ePermitHub infringes or has infringed the '617 patent.

23. ePermitHub has not infringed, and does not infringe, directly or indirectly, any claim of the '617 patent, either literally or under the doctrine of equivalents, at least because ePermitHub's Digital Plan Room product does not display comment data based on a coordinate position found by detecting movement of a cursor.

24. ePermitHub is entitled to a judgment from this Court that ePermitHub has not infringed, and does not infringe, any claim of the '617 patent.

COUNT III

Declaratory Judgment of Non-Infringement of U.S. Patent No. 9,720,886

25. ePermitHub incorporates by reference the preceding paragraphs of its Complaint.

26. As a result of E-Plan's threatened assertion of the '886 patent against ePermitHub and ePermitHub's products and/or services, there is an actual, substantial, and continuing justiciable controversy between ePermitHub and E-Plan as to whether ePermitHub infringes or has infringed the '886 patent.

27. ePermitHub has not infringed, and does not infringe, directly or indirectly, any claim of the '886 patent, either literally or under the doctrine of equivalents, at least because ePermitHub's Digital Plan Room product does not display comment data based on a coordinate position found by detecting movement of a cursor.

28. ePermitHub is entitled to a judgment from this Court that ePermitHub has not infringed, and does not infringe, any claim of the '886 patent.

COUNT IV

Declaratory Judgment of Non-Infringement of U.S. Patent No. 9,684,643

29. ePermitHub incorporates by reference the preceding paragraphs of its Complaint

30. As a result of E-Plan's threatened assertion of the '643 patent against ePermitHub and ePermitHub's products and/or services, there is an actual, substantial, and continuing

justiciable controversy between ePermitHub and E-Plan as to whether ePermitHub infringes or has infringed the '643 patent.

31. ePermitHub has not infringed, and does not infringe, directly or indirectly, any claim of the '643 patent, either literally or under the doctrine of equivalents, at least because ePermitHub's Digital Plan Room product does not center a document in response to selection of a comment, provide a search user interface, generate and provide comments search results in response to a search query, or provide a user interface through which a user can select comments to be included in a plan correction list.

32. ePermitHub is entitled to a judgment from this Court that ePermitHub has not infringed, and does not infringe, any claim of the '643 patent.

COUNT V

Declaratory Judgment of Non-Infringement of U.S. Patent No. 9,792,024

33. ePermitHub incorporates by reference the preceding paragraphs of its Complaint.

34. As a result of E-Plan's threatened assertion of the '024 patent against ePermitHub and ePermitHub's products and/or services, there is an actual, substantial, and continuing justiciable controversy between ePermitHub and E-Plan as to whether ePermitHub infringes or has infringed the '024 patent.

35. ePermitHub has not infringed, and does not infringe, directly or indirectly, any claim of the '024 patent, either literally or under the doctrine of equivalents, at least because ePermitHub's Digital Plan Room product does not involve or support the use of video files and thus does not practice numerous steps of the claims of the '024 patent.

36. ePermitHub is entitled to a judgment from this Court that ePermitHub has not infringed, and does not infringe, any claim of the '024 patent.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff PermitRocket Software, LLC d/b/a ePermitHub prays for the following judgment and relief:

A. A declaration that ePermitHub has not infringed, and does not infringe, either directly or indirectly, any claim of the Patents-in-Suit, either literally or under the doctrine of equivalents;

B. An order enjoining E-Plan, its officers, directors, agents, counsel, servants and employees, and successors in interest and assigns, all persons in active concert or participation with any of them, from alleging infringement or instituting an action based on infringement of any of the Patents-in-Suit against ePermitHub or any of ePermitHub's customers or downstream users of ePermitHub's products or services;

C. An order declaring this case exceptional and awarding ePermitHub reasonable attorneys' fees and costs under 35 U.S.C. § 285; and

D. Any other equitable and/or legal relief that this Court may deem just and proper.

JURY TRIAL DEMANDED

Plaintiff PermitRocket Software LLC d/b/a ePermitHub demands a trial by jury on all issues so triable.

Dated: October 23, 2018

By: /s/ Michael A. Ponzoli

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