

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

INNOVATIVE AUTOMATION LLC,

Plaintiff,

v.

MEMORIAL HERMANN HEALTHCARE
SYSTEM;
MEMORIAL HERMANN HOSPITAL
SYSTEM;
RIMAGE CORPORATION;
Electric Picture Company, Inc.;
Summation Technology, Llc;
Codonics Inc.,

Defendants.

Civil Action No. 6:11-cv-445

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Innovative Automation LLC states its Complaint against Defendants Memorial Hermann Healthcare System; Memorial Hermann Hospital System; Rimage Corporation; Electric Picture Company, Inc.; Summation Technology, LLC; and Codonics Inc (collectively “Defendants”) and alleges as follows:

THE PARTIES

1. Plaintiff Innovative Automation LLC (“Plaintiff” or “Innovative Automation”) is a limited liability company organized and existing under the laws of the State of California, with its principal place of business at 606 North First Street, San Jose, California 95112.

2. Upon information and belief, Defendant Memorial Hermann Healthcare System is a nonprofit corporation organized and existing under the laws of the State of Texas, with its principal place of business at 929 Gessner Road, Suite 2650, Houston, Texas 77074.

3. Upon information and belief, Defendant Memorial Hermann Hospital System is a nonprofit corporation organized and existing under the laws of the State of Texas, with its principal place of business at 9401 Southwest Freeway, Suite 320, Houston, Texas 77074.

4. Upon information and belief, Defendant Rimage Corporation is a corporation organized and existing under the laws of the State of Minnesota, with its principal place of business at 7725 Washington Avenue South, Minneapolis, Minnesota 55439.

5. Upon information and belief, Defendant Electric Picture Company, Inc. is a corporation organized and existing under the laws of the State of Tennessee, with its principal place of business at 2844 Logan Street, Nashville, Tennessee, 37211.

6. Upon information and belief, Defendant Summation Technology, LLC is a limited liability company organized and existing under the laws of the State of Colorado, with its principal place of business at 1155 Kelly Johnson Boulevard, Suite 130, Colorado Springs, Colorado 80920.

7. Upon information and belief, Defendant Codonics Inc. is a corporation organized and existing under the laws of the State of Ohio, with its principal place of business at 17991 Englewood Drive, Middleburg Heights, Ohio 44130.

JURISDICTION AND VENUE

8. Plaintiff realleges and incorporates by reference paragraphs the above paragraphs of this Complaint, inclusive, as though fully set forth herein.

9. This action is for patent infringement pursuant to the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.* This Court has subject matter jurisdiction over the action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

10. Personal jurisdiction exists generally over each of the Defendants because each Defendant has sufficient minimum contacts with the forum as a result of business conducted within the State of Texas and within the Eastern District of Texas. Personal jurisdiction also exists specifically over each of the Defendants because each, directly or through subsidiaries or intermediaries, makes, uses, offers for sale, sells, imports, advertises, makes available and/or markets products and/or services within the State of Texas, and more particularly, within the Eastern District of Texas, that infringe the patent-in-suit, as described more particularly below.

11. Venue is proper in the Eastern District of Texas pursuant to 28 U.S.C. §§ 1391 and 1400(b), because the Defendants have committed acts of direct and indirect infringement in the Eastern District of Texas and have transacted business in the Eastern District of Texas. In addition, (i) Memorial Hermann Healthcare System and Memorial Hermann Hospital System maintain their offices and facilities in Houston; (ii) Electric Picture Company, Inc. is registered to do business in Texas, and maintains a warehouse and sales office at 4393 Westgrove Avenue, Addison, Texas 75001—less than one mile from the Eastern District of Texas; and (iii) Rimage Corporation sells its infringing products through resellers with sales offices in Texas, including at least Defendant Electric Picture Company, Inc.

COUNT ONE
INFRINGEMENT OF U.S. PATENT NO. 7,174,362

12. Plaintiff realleges and incorporates by reference paragraphs the above paragraphs of this Complaint, inclusive, as though fully set forth herein.

13. Plaintiff is the owner of all right, title, and interest in United States Patent No. 7,174,362, entitled “Method and System for Supplying Products from Pre-Stored Digital Data in Response to Demands Transmitted via Computer Network,” duly and legally issued by the United States Patent and Trademark Office on February 6, 2007 (the “‘362 patent”). A true and correct copy of the ‘362 patent is attached hereto as Exhibit A.

14. The ‘362 patent generally describes and claims a computer-implemented method of digital data duplication. In the method of claim 1 of the ‘362 patent, a request is taken at one or more user interfaces and is transmitted through a network to a computer. The computer contains a module to create a task log based on incoming requests; a module for storing the necessary data; and a module to create a subset of the data, download that subset to an output device, and command the device to transfer the subset onto blank media. The request is assigned to an output device, and the duplication process is executed. Claims 2-8 of the ‘362 patent describe various other methods and a system of digital data duplication.

15. Memorial Hermann Healthcare System and Memorial Hermann Hospital System have infringed, and—on information and belief—continue to infringe, literally and/or under the doctrine of equivalents, one or more claims of the ‘362 patent under 35 U.S.C. § 271 by using the claimed method of duplicating digital data, by using at least Rimage 5400N devices to duplicate digital data relating to Memorial Hermann Healthcare System’s and Memorial Hermann Hospital System’s patients.

16. Rimage Corporation has contributorily infringed and continues to contributorily infringe one or more claims of the ‘362 patent, literally and/or under the doctrine of equivalents, by making, offering to sell, and selling devices that (1) constitute a material part of the invention of the ‘362 patent, (2) Rimage Corporation knows to be especially adapted for use in infringing the ‘362 patent, and (3) are not staple articles of commerce suitable for substantial noninfringing use with respect to the ‘362 patent. These devices include at least the Rimage 5400N and 7100N, and are used by companies, such as companies that provide optical media duplication services, in a way that directly infringes one or more claims of the ‘362 patent. Rimage sells these devices through various resellers in the United States. Rimage’s resellers include Defendants Electric Picture Company, Inc. and Summation Technology LLC. Rimage’s resellers also include U.S. Digital Media, Inc., whom Innovative Automation has accused of infringing the ‘362 patent in *Innovative Automation LLC v. Audio and Video Labs, Inc.*, Case No. 6:11-cv-234-LED (E.D. Tex.), filed May 10, 2011. In addition, Rimage has directly infringed, and continues to directly infringe, literally and/or under the doctrine of equivalents, one or more claims of the ‘362 patent under 35 U.S.C. § 271 by using the claimed method of duplicating digital data while using these devices.

17. Electric Picture Company, Inc. has contributorily infringed and continues to contributorily infringe one or more claims of the ‘362 patent, literally and/or under the doctrine of equivalents, by offering to sell and selling devices that (1) constitute a material part of the invention of the ‘362 patent, (2) Electric Picture Company, Inc. knows to be especially adapted for use in infringing the ‘362 patent, and (3) are not staple articles of commerce suitable for

substantial noninfringing use with respect to the '362 patent. These devices include at least the Rimage 5400N and 7100N, and are used by companies, such as companies that provide media duplication services, in a way that directly infringes one or more claims of the '362 patent.

18. Summation Technology, LLC has contributorily infringed and continues to contributorily infringe one or more claims of the '362 patent, literally and/or under the doctrine of equivalents, by offering to sell and selling devices that (1) constitute a material part of the invention of the '362 patent, (2) Summation Technology, LLC knows to be especially adapted for use in infringing the '362 patent, and (3) are not staple articles of commerce suitable for substantial noninfringing use with respect to the '362 patent. These devices include at least (i) the Rimage 5400N and 7100N, manufactured by Defendant Rimage; and (ii) the MF Digital Scribe 9000 Series, manufactured by Formats Unlimited, whom Innovative Automation has accused of infringing the '362 patent in *Innovative Automation LLC v. Audio and Video Labs, Inc.*, Case No. 6:11-cv-234-LED (E.D. Tex.), filed May 10, 2011. These devices are used by companies, such as companies that provide media duplication services, in a way that directly infringes one or more claims of the '362 patent.

19. Codonics Inc. has contributorily infringed and continues to contributorily infringe one or more claims of the '362 patent, literally and/or under the doctrine of equivalents, by making, offering to sell, and selling devices that (1) constitute a material part of the invention of the '362 patent, (2) Codonics Inc. knows to be especially adapted for use in infringing the '362 patent, and (3) are not staple articles of commerce suitable for substantial noninfringing use with respect to the '362 patent. These devices include at least the Codonics Virtua XR-A, and are used by companies, such as companies in the medical industry, in a way that directly infringes one or more claims of the '362 patent. In addition, Codonics Inc. has directly infringed, and continues to directly infringe, literally and/or under the doctrine of equivalents, one or more claims of the '362 patent under 35 U.S.C. § 271 by using the claimed method of duplicating digital data while using these devices.

20. As a result of each Defendant's infringing activities, Plaintiff has suffered damages in an amount not yet ascertained. Plaintiff is entitled to recover damages adequate to compensate it for each Defendant's infringing activities in an amount to be determined at trial, but in no event less than reasonable royalties, together with interest and costs.

21. Plaintiff reserves the right to allege, after discovery, that any of the Defendants' infringement is willful and deliberate, entitling Plaintiff to increased damages under 35 U.S.C. § 284, and to attorneys' fees incurred in prosecuting this action under 35 U.S.C. § 285.

PRAYER FOR RELIEF

Plaintiff requests entry of judgment in its favor against Defendants as follows:

- a) For a declaration that each Defendant has infringed, directly and/or indirectly, one or more claims of the '362 patent;
- b) For an award of damages adequate to compensate Plaintiff for each Defendant's infringement of the '362 patent, but in no event less than a reasonable royalty, together with prejudgment and post-judgment interest and costs, in an amount according to proof;
- c) For an entry of a permanent injunction enjoining each Defendant, and its respective officers, agents, employees, and those acting in privity with them, from further infringement, including contributory infringement and/or inducing infringement, of the '362 patent, or in the alternative, awarding a royalty for post-judgment infringement;
- d) For an award of attorneys' fees pursuant to 35 U.S.C. § 285 or as otherwise permitted by law; and
- e) For an award to Plaintiff of such other costs and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff respectfully requests a trial by jury.

Dated: August 30, 2011

Respectfully submitted,

/s/ Todd Kennedy

(with permission by Jennifer P. Ainsworth)

Adam J. Gutride, Esq.
Seth A. Safier, Esq.
Todd Kennedy, Esq.
835 Douglass Street
San Francisco, California 94114
Telephone: (415) 789-6390
Facsimile: (415) 449-6469
adam@gutridesafier.com
seth@gutridesafier.com
todd@gutridesafier.com

Victoria L.H. Booke
Peter Ajlouny
BOOKE & AJLOUNY LLP
606 North First Street
San Jose, California 95112
Telephone: (408) 286-7000
Facsimile: (408) 286-7111
vbooke@gmail.com
peter@bookelaw.com

Jennifer Parker Ainsworth
Texas State Bar No. 00784720
WILSON, ROBERTSON &
CORNELIUS, P.C.
P.O. Box 7339
Tyler, Texas 75711
Telephone: (903) 509-5000
Facsimile: (903) 509-5092
jainsworth@wilsonlawfirm.com

ATTORNEYS FOR PLAINTIFF
INNOVATIVE AUTOMATION LLC