

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

UNIVERSITY OF SOUTH FLORIDA
RESEARCH FOUNDATION, INC. and
UNIVERSITY OF SOUTH FLORIDA
BOARD OF TRUSTEES,

Plaintiffs,

Case No.

vs.

JURY TRIAL DEMANDED

FUJIFILM MEDICAL SYSTEMS USA, INC.,

Defendant.

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs, University of South Florida Research Foundation ("USFRF") and University of South Florida Board of Trustees ("USF") (collectively referred to as "Plaintiffs") through undersigned counsel hereby bring their Complaint against Defendant, Fujifilm Medical Systems USA, Inc. ("Fujifilm" or "Defendant") for patent infringement and allege as follows:

NATURE OF ACTION

1. This is an action by Plaintiffs for infringement of United States Patent No. 6,630,937, a copy of which is attached to this Complaint as **Exhibit A**. Plaintiffs seek both an injunction and damages for violation of the United States Patent Laws, Title 35 of the United States Code.

THE PARTIES

2. Plaintiff USFRF is a not for profit corporation formed under Chapter 617 Florida Statutes, and a direct support organization of the University of South Florida pursuant to Section

1004.28 Florida Statutes. USFRF has its principal place of business at 3802 Spectrum Boulevard, #100, Tampa, Florida 33612.

3. Plaintiff USF is a public body responsible for governing the University of South Florida and its several campuses. Plaintiff USF maintains its principal office at 4202 E. Fowler Ave., Tampa, Florida 33620

4. Defendant Fujifilm Medical Systems USA, Inc. is a Domestic Business Corporation incorporated under the laws of the State of New York in Westchester County.

JURISDICTION AND VENUE

5. This action arises under the Patent Laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. Defendant is subject to personal jurisdiction in this District by virtue of the fact that it has substantial and continuous contacts within the State of New York and it has committed acts of patent infringement in the State of New York.

7. Venue is proper within this district pursuant to 28 U.S.C. § 1400(b) because Defendant is incorporated within this District.

THE TECHNOLOGY

8. The subject patent infringement litigation is directed to unique interface systems between medical images, such as digital mammograms, and a doctor or medical technician. The image data is comprised of different values or forms and is electronically displayed on computerized workstation monitors in various forms and locations with the operator being able to control the grayscale values and the illumination state thereof for optimum viewing and diagnosis. Illustrative images of embodiments of the invention are shown by the following:

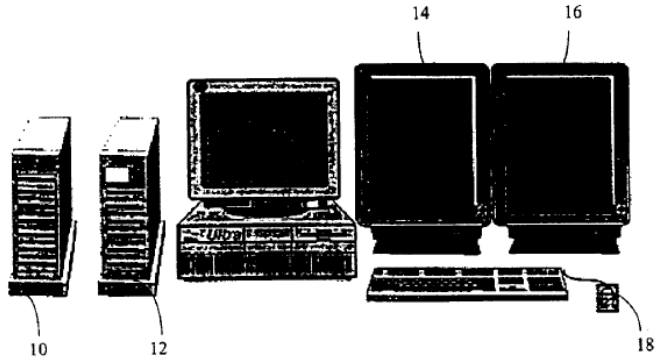


FIG. 2

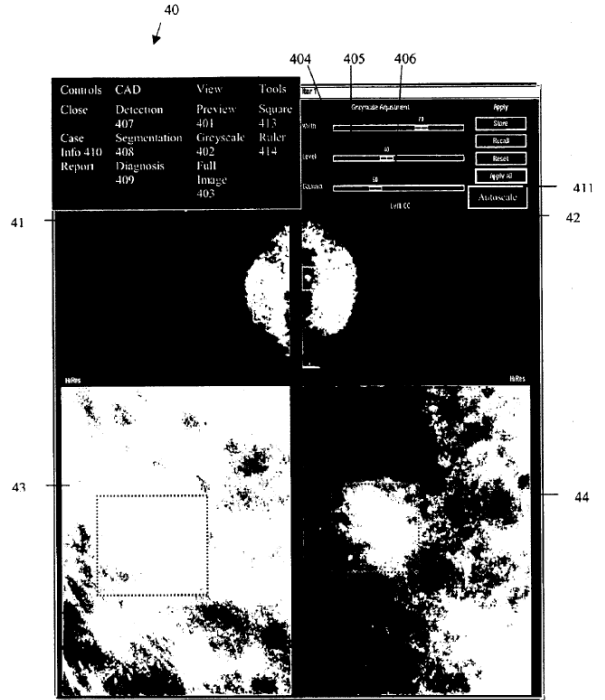


FIG. 4

THE ASSERTED PATENT

9. On February 22, 2002, the inventors who were conducting research at the University of South Florida campus filed a patent application on an invention entitled "Workstation Interface for Use in Digital Mammography and Associated Methods." That application was related to, and claimed priority from, one or more earlier applications. The application was duly examined on the merits by the United States Patent Office and the '937 Patent in suit was lawfully issued on October 7, 2003, with 17 claims. See **Exhibit A**.

10. The inventors of the '937 Patent assigned their rights to USF in Tampa, Florida. USF then granted USFRF a royalty-free, exclusive license, including the right to sublicense, make, have, made, develop, use, lease, sublicense, import, export, offer to sell, sell and have sold, the '937 Patent. This included the right to stop others from using the invention.

11. After the invention of the '937 Patent received FDA clearance, virtually all companies started using the claimed technology of the '937 Patent. The '937 Patent represents substantial advancements in medical technology as it contributes to improved cancer diagnoses through early observing techniques.

12. The '937 Patent is valid and subsisting. The '937 Patent expired on October 30, 2017.

THE ACCUSED SYSTEMS

13. Defendant Fujifilm manufactures, or has manufactured, and sells or offers for sale, digital workstation systems providing digital interface between digital mammography images and users. These workstations incorporate electronic communications, access and receive stored digitized mammography images, and display images reflecting a plurality of grayscale values. These products enable display and control over the grayscale rendition and illumination state of the mammographic images of varying resolution in different spatial configurations. Accused systems manufactured by Defendant include the MammoAscent AWS-c, d, and h; the ASPIRE Bellus workstations; and the ASPIRE Amulet (collectively referred to as "Accused Systems").

14. Defendant has infringed literally and/or through the doctrine of equivalents, one or more claims of the '937 Patent, including but not limited to at least independent claims 2, 3, and 17 of the '937 Patent by using, making, offering to sell, and/or selling without authority in the United States its Accused Systems.

15. For purposes of example only, and without limitation, the Accused Systems perform every element of independent claims, 2, 3, and 17 of the '937 Patent. Defendant has also

infringed and continues to infringe other claims of the '937 Patent, including but not limited to the various dependent claims.

16. In particular, Claim 2 of the '937 Patent involves “[a] system for interfacing a digitized mammogram to a user.” The Accused Systems are specifically designed to allow radiologists to manipulate and evaluate mammography images.

17. Claim 2 of the '937 Patent further provides for a monitor capable of displaying image data in a predetermined format, and in varying grayscale colors, said monitor having a predetermined illumination capability. The Accused Systems provide for a monitor for displaying a mammography image at a default illumination. The image is displayed in shades of gray, in a format that is supported for display.



MammoAscent AWS-c



ASPIRE Amulet

18. Claim 2 of the '937 Patent further recites “an electronic storage medium with digitized mammogram image data, said digitized mammogram image data corresponding to a film mammogram image and the digitized mammogram image data having grayscale values corresponding to the optical densities of the film mammogram image.” The Accused Systems are used with an electronic storage medium storing the digitized mammogram image data.

19. Claim 2 of the '937 Patent further recites “a processor in circuit communication with said monitor and said electronic storage medium.” The Accused Systems use a processor in combination with various storage mediums.

20. Claim 2 of the '937 Patent next recites “an input device in circuit communication with said processor.” The Accused Systems contain various input devices such as a keyboard, keypad, a pointing device, or mouse which communicate with the workstation processor.

21. Claim 2 of the '937 Patent next recites “said processor being adapted to receive input signals from said input device, and being responsive to a signal from said input device to transfer digitized image data from said electronic storage medium to said monitor in a way that causes the monitor to produce a display having a plurality of windows and to display a mammogram image in a different form in each window with grayscale values that, along with

the illumination characteristics of said monitor, appears to a user as a mammogram in each window under a predetermined illumination state, thereby interfacing said mammogram image in each window and in a predetermined illumination state to an operator handling said input device.” The Accused Systems have a processor which receives input from the input devices and based on that manipulates the images from the storage for display on the monitor. The monitor displays images in multiple windows, where the grayscale values of each image appears as a mammogram in a specified illumination state, e.g. a default illumination state.

22. Claim 2 of the '937 Patent finally recites “said processor being adapted to receive further input from said input device related to the mammogram image in a selected window, said further input from said input device including input that selectively controls the grayscale values of the mammogram image in the selected window, thereby enabling an operator handling said input device to selectively control the illumination state with which the mammogram image in the selected window is displayed to the operator.” The Accused Systems’ processor receives input from an input device about an image in a selected window wherein the input selectively controls the grayscale values to allow a user to control the illumination state.

23. Claim 3 of the '937 Patent recites “means for establishing electronic communications with a processor for receiving a stored digitized medical image comprising data representative of a plurality of greyscale values.” The Accused Systems provide a workstation processor that has circuitry to communicate with a processor for receiving stored digitized medical images. The images comprise digital image luminance values corresponding to shades of grey from black to white.

24. Claim 3 of the '937 Patent also recites a “means for communicating with a display.” The Accused Systems comprise several input devices such as a workflow keypad, a pointing device and a keyboard to communicate with the monitor.

25. Claim 3 of the '937 Patent also requires “software means loadable into the processor comprising:...” Defendant provides software that is installed and runs on the Accused Systems processor.

26. Claim 3 of the '937 Patent requires “means for receiving a signal from a user-operable device.” The Accused Systems comprise monitors with a Graphics User Interface (GUI) that receives signals via user operable input devices that include a workflow keypad, a pointing device, and a keyboard.

27. Claim 3 of the '937 Patent requires “means controllable by a signal from the user-operable device for transforming the image into a plurality of varying-resolution forms, each form having a different set of greyscale values”. The Accused Systems software allows a user to transform images to different resolutions. For example, a user controlling an input device can transform an image of a first size into an image of a second size, or into a magnified portion of the image.

28. Claim 3 of the '937 Patent finally recites a “means for displaying the forms on the display means, each form displayed within a different sector of the display means.” The Accused Systems' software provides different resolution forms of an image that are displayed in different windows of the same display.

29. Claim 17 of the '937 Patent recites “a first and a second display monitor.” The Accused Systems communicate with a first and a second display monitor.

30. Claim 17 of the '937 Patent recites “a processor having means for communicating with an image storage device and software means resident thereon, the software means comprising.” The Accused Systems provide a processor to communicate with an image storage device and associated software.

31. Claim 17 of the '937 Patent recites “means for receiving a signal from a user-operable device.” The Accused Systems software runs on a workstation processor and receives user input from input devices such as a workflow keypad, a pointing device, a keyboard, and/or a modified iPad device.

32. Claim 17 of the '937 Patent recites “means controllable by a signal from the user-operable device for transforming the image into a plurality of varying-resolution forms, each form having a different set of greyscale values.” The Accused Systems run software, which transforms the image into a plurality of varying-resolution forms, each form with different shades of gray.

33. Claim 17 finally recites “means for displaying a first form on the first monitor and a second form on the second monitor.” The Accused Systems’ software provides different versions of an image that are displayed on two different screens. For example, a first workstation monitor displays a low resolution thumbnail image, and a second workstation monitor displays the corresponding high resolution image.

COUNT I

PATENT INFRINGEMENT UNDER 35 U.S.C. § 271

34. Plaintiffs repeat and re-allege the foregoing paragraphs of the Complaint as though fully set forth fully herein.

35. The '937 Patent was duly and legally issued by the United States Patent and Trademark Office.

36. The '937 Patent is valid and enforceable.

37. Plaintiff USF is the owner of the '937 Patent by way of valid assignment. USFRF is the exclusive licensee of the '937 Patent with the right to enforce, including the right to bring suit for infringement.

38. Defendant has been and is currently infringing, has actively induced others to infringe, and/or has contributed to the infringement of, at least Claims 2, 3, and 17 of the '937 Patent in violation of 35 U.S.C. § 271, by making, using, selling, and/or offering for sale, or causing or inducing others to infringe the same in connection with at least the infringing systems identified herein.

39. Upon information and belief, Defendant's infringement has been willful. At the latest, Defendant was notified of its infringement through the filing of a Federal Lawsuit on May 12, 2016. The complaint identified the '937 Patent and provided notice that Defendant was infringing on the '937 Patent. Therefore, Defendant's infringement has been willful since no later than May 12, 2016.

40. Defendant has caused and will continue to cause Plaintiffs irreparable injury and damages as a result of its direct and/or indirect infringement of the '937 Patent.

41. Plaintiffs are entitled to damages under 35 U.S.C. § 284 by virtue of Defendant's infringement of the '937 Patent, and enhanced damages by virtue of Defendant's willful infringement.

42. This is an exception case warranting an award of attorney's fees to Defendant under 35 U.S.C. § 285

PRAYER FOR RELIEF

43. Wherefore, based on the foregoing, Plaintiffs pray for judgment against Defendant as follows:

44. An entry of judgment that Defendant, its officers, agents, servants, employees and attorneys, and all persons in active concert or participation with it be found to have infringed the '937 Patent directly and /or indirectly;

45. An award of damages adequate to compensate Plaintiffs for Defendant's infringement of the '937 Patent;

46. A post-judgment equitable accounting of damages for the period of infringement of the '937 Patent;

47. A finding that this case is exceptional pursuant to 35 U.S.C. § 285 and an award of enhanced damages;

48. An award of prejudgment interest, costs and disbursements, and attorney fees; and

49. Such other and further relief as the Court deems Plaintiffs may be entitled to in law and equity.

Dated: May 27, 2020

Respectfully Submitted,

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