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7 **UNITED STATES DISTRICT COURT**
8 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
9 **WESTERN DIVISION**

10 VIRTUAL IMMERSION
11 TECHNOLOGIES LLC,

12 Plaintiff,

13 v.

14 SHELL PLC and SHELL USA, INC.,

15 Defendants.

Case No.: 2:22-cv-4517

**COMPLAINT FOR PATENT
INFRINGEMENT**

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1 Plaintiff Virtual Immersion Technologies LLC (“VIT” or “Plaintiff”), for its
2 Complaint against Defendants Shell plc (“Shellplc”) and Shell USA, Inc.
3 (“ShellUSA”), or collectively, “Shell” or “Defendants”, alleges the following:

4 **NATURE OF THE ACTION**

5 1. This is an action for patent infringement arising under the patent laws
6 of the United States, 35 U.S.C. § 1 *et seq.*

7 **THE PARTIES**

8 2. Plaintiff VIT is a limited liability company organized under the laws
9 of the state of Texas.

10 3. Upon information and belief, Shellplc is a corporation organized and
11 existing under the laws of the country United Kingdom, with a principal place of
12 business located at Shell Centre, 2 York Road, London, United Kingdom, SE1
13 7NA. Upon information and belief, Shellplc sells and offers to sell products and
14 services throughout the United States, including in this District, and introduces
15 products and services into the stream of commerce that incorporate infringing
16 technology knowing that they would be sold in this judicial district and elsewhere
17 in the United States.

18 4. Upon information and belief, ShellUSA is a corporation organized
19 and existing under the laws of the state of Delaware, with a principal place of
20 business located at 150 North Dairy Ashford Street, Houston, Texas, 77079, and is
21 a subsidiary of Shellplc. Upon information and belief, ShellUSA sells and offers
22 to sell products and services throughout the United States, including in this
23 District, and introduces products and services into the stream of commerce and
24 incorporate infringing technology knowing that they would be sold in this District
25 and elsewhere in the United States.

26 **JURISDICTION AND VENUE**

27 5. This is an action for patent infringement arising under the Patent Laws
28 of the United States, Title 35 of the United States Code.

1 6. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331
2 and 1338(a).

3 7. Venue is proper in this judicial district under 28 U.S.C. §1391(c)(3).
4 On information and belief, Shellplc is not a resident in the United States and may
5 be sued in any judicial district.

6 8. Venue is proper in this judicial district pursuant to 28 U.S.C.
7 §1400(b). On information and belief, ShellUSA has committed acts of
8 infringement in this District and maintains an established place of business in the
9 state of California and in this District, specifically including the ShellUSA
10 product/pipeline distribution center at 20945 South Wilmington Avenue, Long
11 Beach, California 90810.

12 9. On information and belief, each Defendant is subject to this Court’s
13 general and specific personal jurisdiction due at least to their substantial business
14 in California and in this District, directly or through intermediaries, including: (i)
15 at least a portion of the infringements alleged herein; and (ii) regularly doing or
16 soliciting business, engaging in other persistent courses of conduct and/or deriving
17 substantial revenue from goods and services provided to individuals and entities in
18 the State of California.

19 **BACKGROUND AND PATENT ELIGIBILITY OF THE PATENT IN SUIT**

20 10. A true and correct copy of U.S. Patent No. 6,409,599 (“the ’599
21 patent” or the “patent in suit”) is attached as Exhibit A. The ’599 patent includes 9
22 claims (’599 patent, Ex. A at 16:6-20:12)¹, including claim 9 (*id.* at 18:61-20:12).

23 11. The ’599 patent relates to systems and methods in which participants
24 interact with a computerized environment in addition to live and/or pre-recorded
25 performers. (*See* Ex. A at 1:20-23.) The ’599 patent describes and enables
26 immersive interactive virtual reality computer systems and methods in which

27 _____
28 ¹ Citations to patents in this Complaint refer to columns and lines within columns of any cited patent. For example, the citation referenced by this footnote refers to column 16, at line 6 through column 20, line 12, in the ’599 patent.

1 participants interact with a virtual reality environment and live performers using a
2 variety of immersion and input devices.” (*Id.* at 1:23-26.)

3 12. The claims of the ’599 patent are directed to tangible embodiments.
4 Claim 9, for example, is a method claim, which requires providing several
5 input/output devices in electronic communication with an immersive virtual reality
6 environment. (*Id.* at 18:61-20:12.)

7 13. The claims of the ’599 patent are directed to providing a unique
8 computing solution that addresses a problem particular to computerized virtual
9 reality systems—providing an immersive interactive virtual reality system in which
10 there exists three-way communication among and between participants, live
11 performers and the virtual reality environment. (*Id.* at 3:24-27.)

12 14. Providing an immersive interactive virtual reality system with three-
13 way communication in the manner claimed in the ’599 patent solved new
14 challenges over the techniques and systems known in the art at the time. Thus, the
15 claims of the ’599 patent contain inventive concepts, being both novel and
16 unconventional, which are sufficient to render the ’599 patent claims to be patent-
17 eligible.

18 15. Prior to the priority date of the ’599 patent, in systems such as
19 traditional virtual reality systems, figures or objects not controlled by participants
20 moved autonomously or, if a participant had an opportunity to interact with such
21 objects in the virtual reality environment, the objects were limited to computer
22 generated images and not live performers. (*Id.* at 1:57-67.)

23 16. Groups of participants have been entertained by graphically enhanced
24 performers on stage or television. However, these instances occurred through non-
25 immersion mediums without the enhancements of immersion-type devices or
26 methods. (*Id.* at 2:5-9.)

27 17. Early entertainment systems, which allowed participants to interact
28 with a host and an environment using some input device, did not operate within an

1 immersive virtual reality environment and therefore lacked its immersive effects
2 and their impact on participants. (*Id.* at 2:40-47.)

3 18. The '599 patent overcame these disadvantages by, for example,
4 describing and enabling a system and method for delivering information “which
5 provides three-way immersive interactive communication amongst and between”
6 participants, an immersive environment, and live performers. (*Id.* at 2:55-57.)

7 19. The inventors of the claimed invention in the '599 patent changed the
8 focus from an interaction between individual participants and computer-generated
9 graphical objects within a virtual reality environment to a three-way
10 communication amongst and between participants, live or pre-recorded performers,
11 and an immersive virtual reality environment. (*Id.* at 3:11-17.) The inclusion of
12 three-way communication results in a synergistic effect, which creates an
13 unparalleled experience. (*Id.* at 3:18-22.)

14 20. Furthermore, the claimed invention of the '599 patent represents an
15 intrinsic improvement to the underlying computer technology involved. The
16 disclosed system includes a variety of audio and video components. (*See, e.g.,*
17 claim 9 of the '599 patent.) The variety of audio and video components enable
18 innovative mixing and switching techniques which allows the system to present to
19 each of the participants a virtual reality environment in which a live representation
20 of the performers is superimposed within the environment. (*Id.* at 4:5-9.) The
21 participants are able to view and interact with a novel display of both graphical
22 data and live representations for an exciting experience. (*Id.* at 4:9-12.)

23 21. The inventors of the '599 patent took considerable personal risks to
24 nurture and prove out the technology systems described in the '599 patent,
25 contributing substantially to today's virtual reality industry explosion.

26 22. The inventors of the '599 patent have utilized the technology
27 described by the '599 patent for more than ten years, shipping virtual reality
28 systems to five continents and entertaining or educating an estimated 30 million

1 people worldwide with their immersive virtual reality live theater attractions and
2 promotions.

3 23. The virtual reality theater technology created by the inventors has
4 been recognized and awarded on an international scale, the products winning “Best
5 New Product” and “Best of Show” at the International Association of Amusement
6 Parks and Attractions global convention in Atlanta in November 2000, and again
7 for ‘Best of Show’ in 2002 in Orlando, as well as national awards for graphics and
8 creativity in the Print Media industry. The products and concepts have garnered
9 dozens of feature articles in news media promoting clients and their products in a
10 variety of industries.

11 24. The inventors of the ’599 patent continue to have a direct interest in
12 activities related to the ’599 patent, working closely with VIT to identify and
13 evaluate entities making use of the technology claimed by the ’599 patent without
14 permission or license thereto.

15 25. The inventions of the ’599 patent resolve technical problems related to
16 virtualized interactive technology. For example, the inventions allow parties to
17 interact in a virtual environment in real time with one or more live performers and
18 participants, which, on information and belief, is exclusively implemented using
19 computer technology.

20 26. The claims of the ’599 patent do not merely recite the performance of
21 some method known from the pre-Internet world along with the requirement to
22 perform it on the Internet. Instead, the claims of the ’599 patent recite inventive
23 concepts that are rooted in computerized virtual reality technology and overcome
24 problems specifically arising in the realm of computerized virtual reality
25 technologies.

26 27. The claims of the ’599 patent recite an invention that is not merely the
27 routine or conventional use of computerized communication technology. Instead,
28 the invention makes it possible to interact with one or more live performers and/or

1 participants in a virtualized environment, which does not require the physical
2 presence of either the one or more performers, or participants in order for such
3 interactions to take place. The '599 patent claims thus specify how communication
4 input, output, and system devices are manipulated to yield a virtual, interactive
5 experience controlled in part by one or more participants.

6 28. The technology claimed in the '599 patent does not preempt all ways
7 of using interactive communications technology, nor preempt the use of any well-
8 known communications technology, nor preempt any other well-known or prior art
9 technology.

10 29. The '599 patent claims are not directed to any “method of organizing
11 human activity,” “fundamental economic practice long prevalent in our system of
12 commerce,” nor are any of the claims “a building block of the modern economy.”

13 30. The '599 patent does not take a well-known or established business
14 method or process and apply it to a general-purpose computer. Instead, the
15 specific systems and processes described in the '599 patent have no direct
16 corollary to a process that predates the advent of the Internet.

17 31. The '599 patent claims are directed toward a solution rooted in
18 computer technology and uses technology, unique to computers and networks, to
19 overcome a problem specifically arising in the realm of computerized virtual
20 reality technologies.

21 32. The '599 patent claims are not directed at a mere mathematical
22 relationship or formula.

23 33. The '599 patent claims cannot be performed by a human, in the
24 human mind, or by pen and paper.

25 34. Accordingly, claim 9 of the '599 patent recites a combination of
26 elements sufficient to ensure that the claim in practice amounts to significantly
27 more than a patent on an ineligible concept.

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VIT’S PATENT LITIGATION HISTORY

35. The ’599 patent has been subject to prior litigation through VIT in approximately 50 different matters in various other districts, all of which have been terminated.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 6,409,599

36. The allegations set forth in the foregoing paragraphs 1 through 35 are incorporated into this First Claim for Relief.

37. On June 25, 2002, the ’599 patent, was duly and legally issued by the United States Patent and Trademark Office under the title “Interactive Virtual Reality Performance Theater Entertainment System.”

38. VIT is the assignee and owner of the right, title and interest in and to the ’599 patent, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

39. The ’599 patent expired on or about July 19, 2019.

40. Upon information and belief, Defendants have directly infringed under 35 U.S.C. § 271(a), literally and/or under the doctrine of equivalents, claim 9 of the ’599 patent by making, using, selling, offering to sell, importing and/or providing and/or causing to be used systems in a method according to claim 9. (*See, e.g.*, Shell’s augmented reality remote expert at <https://www.automationworld.com/products/software/blog/13319722/shell-gives-its-remote-workers-a-heads-up> last accessed and downloaded, June 30, 2022, the “Accused Instrumentalities”.)

41. Upon information and belief, the Accused Instrumentalities performs a method for providing interactive communications between participants and performers including providing an immersive virtual reality environment and providing in electronic communication with the immersive virtual reality environment, a performer input device, a participant input device, a performer output device, a participant output device. The method includes having a live

1 performer interact with a participant and said immersive virtual reality
2 environment, by including with the virtual reality environment a live or
3 prerecorded video image of the live performer and audio communication between
4 the live performer and the participant, or between the participant and the live
5 performer, or both and having the participant interact with the live performer and
6 the immersive virtual reality environment, resulting in an experience which is in
7 part controlled by the participant and the participant input device.

8 42. Exemplary infringement analysis showing infringement of claim 9 of
9 the '599 patent is set forth in Exhibit B. This infringement analysis is necessarily
10 preliminary, as it is provided in advance of any discovery provided by Shell with
11 respect to the '599 patent. VIT reserves all rights to amend, supplement and
12 modify this preliminary infringement analysis. Nothing in the attached chart
13 should be construed as any express or implied contention or admission regarding
14 the construction of any term or phrase of the claims of the '599 patent.

15 43. Claim 9, which is a method claim, is the only claim of the '599 patent
16 that is asserted in this Complaint.

17 44. Upon information and belief, the Accused Instrumentality has
18 infringed claim 9 of the '599 patent during the pendency of the '599 patent.

19 45. VIT has been harmed by Shell's infringing activities.

20 **JURY DEMAND**

21 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff
22 demands a trial by jury on all issues triable as such.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, VIT demands judgment for itself and against Shell as
25 follows:

- 26 A. An adjudication that Shell has infringed the '599 patent;
27 B. An award of damages to be paid by Shell adequate to compensate VIT
28 for Shell's past infringement of the '599 patent, including interest, costs, expenses

1 and an accounting of all infringing acts including, but not limited to, those acts not
2 presented at trial;

3 C. A declaration that this case is exceptional under 35 U.S.C. § 285, and
4 an award of VIT's reasonable attorneys' fees; and

5 D. An award to VIT of such further relief at law or in equity as the Court
6 deems just and proper.

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9 Dated: July 1, 2022

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