

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

NEOMEDIA TECHNOLOGIES, INC.,
a Delaware corporation,

Plaintiff,

v.

LSCAN TECHNOLOGIES INC., a
Delaware corporation.

Defendant.

Civil Action No.

Judge

COMPLAINT FOR PATENT INFRINGEMENT AND DAMAGES

Plaintiff NeoMedia Technologies, Inc., by and through its attorneys, complains and alleges against LScan Technologies Inc. (hereinafter “Defendant”) as follows:

PARTIES

1. Plaintiff NeoMedia Technologies, Inc. (“NeoMedia”) is an entity organized and existing under the laws of the State of Delaware and having a place of business at 2201 Second Street, Fort Myers, Florida 33901.

2. Upon information and belief, Defendant LScan Technologies Inc. (“LScan”) is a corporation organized and existing under the laws of the State of Delaware. LScan has a place of business at 375 East Elm Street, Suite 110, Conshohocken, Pennsylvania 19428. LScan is registered to transact and, in fact, does transact business, and has committed acts of patent infringement as hereinafter set forth within the Commonwealth of Pennsylvania and in this District.

NATURE OF THE ACTION, JURISDICTION AND VENUE

3. This is a civil action for patent infringement arising under the Patent Laws of the United States, and more specifically, under Title 35, United States Code § 1 *et seq.*

4. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and (c) and 28 U.S.C. § 1400(b).

THE PATENTS-IN-SUIT

5. On August 3, 1999, United States Patent No. 5,933,829 (“the ’829 patent”), entitled “Automatic Access of Electronic Information Through Secure Machine-Readable Codes on Printed Documents,” was duly and legally issued by the United States Patent and Trademark Office. Attached hereto as Exhibit A is a copy of the ’829 patent.

6. On November 2, 1999, United States Patent No. 5,978,773 (“the ’773 patent”), entitled “System and Method For Using an Ordinary Article of Commerce to Access a Remote Computer,” was duly and legally issued by the United States Patent and Trademark Office. Attached hereto as Exhibit B is a copy of the ’773 patent.

7. On August 22, 2000, United States Patent No. 6,108,656 (“the ’656 patent”), entitled “Automatic Access of Electronic Information Through Machine-Readable Codes on Printed Documents,” was duly and legally issued by the United States Patent and Trademark Office. Attached hereto as Exhibit C is a copy of the ’656 patent.

8. On March 6, 2001, United States Patent No. 6,199,048 B1 (“the ’048 patent”), entitled “System and Method For Automatic Access of A Remote Computer Over a Network,” was duly and legally issued by the United States Patent and Trademark Office. Attached hereto as Exhibit D is a copy of the ’048 patent.

9. The ’829 patent, the ’773 patent, the ’656 patent, and the ’048 patent (hereinafter collectively “the patents in suit”) are valid and subsisting and are owned by NeoMedia.

PATENT INFRINGEMENT

10. NeoMedia repeats and realleges each of the allegations of paragraphs 1 through 9 as if set forth fully herein.

11. LScan has manufactured, or has had manufactured for it, and has used, or actively induced others to use mobile bar code scanning software and technology that allows consumers to use a UPC bar code scanner to scan individual items to collect data and access information, such as market data and pharmaceutical and healthcare products.

12. LScan has infringed and is infringing, within this District and elsewhere within the United States, one or more claims of the patents-in-suit in violation of 35 U.S.C. § 271 through the manufacture, use, sale or offer for sale of products, systems and methods that infringe these patents. Infringement is direct, as well as contributory, and by actively inducing infringement by others.

13. Upon information and belief, LScan had actual and constructive notice of the existence of the patents-in-suit, and despite such notice, failed to cease and desist its acts of infringement, and continue to engage in acts of infringement of the patents in suit. LScan's continued acts of infringement has been, and will continue to be, wanton and willful.

14. LScan's infringing activities have damaged and continue to damage NeoMedia. Upon information and belief, LScan will continue to infringe upon the patents-in-suit causing harm to NeoMedia's business, market, reputation and goodwill unless LScan's infringing activities complained of herein are preliminarily and permanently enjoined by this Court.

PRAYER FOR RELIEF

WHEREFORE, plaintiff NeoMedia prays for relief against the Defendant as follows:

- A. That U.S. Patent Nos. 5,933,829, 5,978,773, 6,108,656 and 6,199,048 be adjudged infringed by LScan and that the infringement be held to be willful;
- B. That NeoMedia be awarded compensatory damages for past infringement by LScan in an amount no less than a reasonable royalty, in a sum to be determined at trial, and that said damages be trebled in view of the willful and deliberate nature of the infringement;
- C. That LScan, its officers, agents, servants, employees and attorneys, and other persons in active concert or participation with LScan be preliminarily and permanently enjoined from further infringement of the patents in suit;
- D. That LScan be ordered to deliver to NeoMedia for destruction all infringing products and systems in their possession;
- E. That this case be declared an exceptional case under 35 U.S.C. § 285, and that NeoMedia be awarded its attorney fees incurred in this action;
- F. For an award to NeoMedia of costs of this action, interest on the award and other charges to the maximum extent permitted; and
- G. For such other further relief as the Court deems just and proper under the circumstances.

JURY DEMAND

Plaintiff hereby demands a trial by jury on all issues so triable.

Respectfully submitted,

PEPPER HAMILTON LLP

Date: 5.26.04

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