

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS**

OMNITEK PARTNERS, LLC,

Plaintiff,

v.

GOOGLE, LLC,

Defendant.

Case No.: 6:23-cv-00568

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Omnitek Partners, LLC (“Plaintiff” or “Omnitek”) for its Complaint against Defendant Google, LLC (“Defendant” or “Google”) states as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §1 *et. seq.*, including 35 U.S.C. §§271, 281, 283, 284 and 285.

THE PARTIES

2. Plaintiff Omnitek Partners, LLC is a New York limited liability company with a principal place of business at 85 Air Park Drive, Unit 3, Ronkonkoma, New York 11779, United States.

3. Defendant Google, LLC is a California Limited Liability Company with its principal place of business at 1600 Amphitheatre Parkway, Mountain View, California 94043, United States. Google does business in the State of Texas and this District. Google can be served with process at its regular and established place of business at 500 W 2nd St, Austin, Texas 78701, United States.

JURISDICTION

4. This action arises under the Patent Laws of the United States, 35 U.S.C. § 1 et seq., including 35 U.S.C. §§ 271, 281, 283, 284, and 285.

5. This is a patent infringement lawsuit over which this Court has subject matter jurisdiction under 28 U.S.C. §§ 1331, 1332 and 1338(a).

6. Google is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, by virtue of at least its substantial business conducted in this forum, directly and/or through intermediaries, including (i) having solicited business in the State of Texas, transacted business within the State of Texas and attempted to derive financial benefit from residents of the State of Texas, including benefits directly related to the instant patent infringement causes of action set forth herein; (ii) having placed its products and services into the stream of commerce throughout the United States and having been actively engaged in transacting business in Texas and in this District; and (iii) either alone or in conjunction with others, having committed acts of infringement within Texas and in this District.

7. On information and belief, within the District, Google directly and/or through intermediaries/subsidiaries has advertised (including through websites), offered to sell, sold and/or distributed infringing products, and/or have induced the sale and use of infringing products in the United States, Texas, and this District.

8. On information and belief, Google has, directly or through its distribution network, purposefully and voluntarily placed such products in the stream of commerce knowing and expecting them to be purchased and used by consumers in Texas and this District.

9. On information and belief, Google has committed direct infringement in Texas and this District.

10. On information and belief, Google has committed indirect infringement based on acts of direct infringement in Texas and this District.

11. On information and belief, Google has derived substantial revenues from their infringing acts in this District, including from their marketing, licensing, and sale of infringing products in the United States.

VENUE

12. Venue is proper against Google in this District pursuant to 28 U.S.C. §§ 1391 and 1400(b) because Google has a regular and established place of business in this District at 500 W 2nd St, Austin, Texas 78701, United States, and has committed acts of infringement in this District. Google has an Office in Travis County and within this District.

13. Google employs full-time personnel, such as sales personnel, office workers, and engineers in this district, including in Austin, Texas.

THE ASSERTED PATENT

14. On September 18, 2007, U.S. Patent No. 7,272,293 (the “’293 Patent”), entitled “Device having a casing and/or interior acting as a communication bus between electronic components,” was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the ’293 Patent is attached as Exhibit A to this Complaint.

15. The ’293 Patent issued from U.S. patent application Serial Number 10/639,001 filed on August 12, 2003 and discloses a communication bus as a portion of a casing.

16. The ’293 Patent claims patent-eligible subject matter and is valid and enforceable.

17. Omnitek is the sole owner of all rights, title, and interests in the ’293 Patent, including the right to assert all causes of actions arising under the ’293 Patent and the right to any remedies for infringement of the ’293 Patent.

18. Defendant is not licensed to the '293 Patent in either an expressed or implied manner.

THE ACCUSED INSTRUMENTALITIES

19. Defendant made, used, sold, offered for sale, and/or imported into the United States, smart watches that infringed at least claims 1, 2, 17, and 18 of the '293 Patent (the “Accused Instrumentalities”).

20. The Accused Instrumentalities include, but are not limited to, the Google Pixel Watch, and Fitbit Ionic, Charge, Versa and Flex smartwatches (collectively the “Smartwatches”).¹

COUNT I – INFRINGEMENT OF THE '293 PATENT

21. Plaintiff realleges the allegations set forth in the foregoing paragraphs 1 through 20 as though fully set forth herein.

22. In violation of 35 U.S.C. §271(a), Defendant has directly infringed at least claims 1, 2, 17, and 18 of the '293 Patent, either literally and/or under the Doctrine of Equivalents, by making, using, selling, offering to sell, and/or importing in the United States the Accused Instrumentalities.

23. On information and belief, the Smartwatches have a plurality of electronic/electrical components; and a casing, the casing having at least a portion thereof acting as a communication bus for transmitting a signal in a point-to-many links manner between the plurality of electronic/electrical components, wherein the transmitted signal is available to each of the plurality of electronic/electrical components on the communication bus.

¹ All Accused Instrumentalities, including Fitbit products, are sold by Google. *See* <https://store.google.com/us/category/watches?hl=en-US> (last accessed April 5, 2023). On information and belief, Fitbit, Inc. was purchased by Google in January, 2021, and is now wholly owned by Google, making Google the party of interest for all relevant Fitbit products.

24. On information and belief, the Smartwatches includes a portion of the casing that is an optical waveguide where one of a plurality of electronic/electrical components comprises a transmitter operatively connected to the optical waveguide for transmitting optical signals into the optical waveguide, and another of the at least two electronic/electrical components comprises a detector for detecting the optical signals from the waveguide.

25. On information and belief, the Smartwatches include a casing for holding a plurality of electronic/electrical components; and a communication bus formed at least in part by the casing; wherein the plurality of electrical/electronic components are operatively connected to the communication bus in a point-to-many links manner and capable of transmitting and detecting a signal on the communication bus and the signal is available to each of the plurality of electronic/electrical components on the communication bus.

26. On information and belief, the Smartwatches include a plurality of electronic/electrical components in a device having a casing, the device being other than a projectile, the method comprising: providing the casing with at least a portion acting as a communication bus; and operatively connecting the two or more electronic/electrical components to the communication bus such that a signal transmitted on the communication bus in a point-to-many links manner is available to each of the plurality of electronic/electrical components on the communication bus.

27. Omnitek has given Defendant further notice of its infringement at least by virtue of service or acknowledged delivery of this Complaint.

28. All infringement of the '293 Patent following Defendant's knowledge of the '293 Patent is willful and Omnitek is entitled to treble damages and attorneys' fees and costs incurred in this action under 35 U.S.C §§ 284 and 285.

29. Omnitek has incurred substantial damages, including monetary damages.

30. Omnitek has been irreparably harmed by Defendant's infringement of the '293 Patent.

31. Therefore, Omnitek is entitled to actual and/or compensatory damages, reasonable royalties, pre-judgment and post-judgment interest, enhanced damages, and costs.

JURY DEMAND

32. Plaintiff hereby requests a trial by jury of any and all issues triable of right before a jury, pursuant to Rule 38 of the Federal Rules of the Civil Procedure.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests this Court find in its favor and against Defendant, and that the Court grant Plaintiff the following relief:

- (i) A declaration that the '293 Patent is valid and enforceable;
- (ii) A declaration that Defendant has directly infringed one or more claims of the '293 Patent, either literally and/or under the doctrine of equivalents;
- (iii) An award of damages sufficient to compensate Omnitek for Defendant's infringement of the '293 Patent pursuant to 35 U.S.C. §284;
- (iv) An award of pre-judgment and post-judgment interest pursuant to 35 U.S.C. §284;
- (v) An award of treble damages for willful infringement as permitted under 35 U.S.C. §284;
- (vi) An award of attorneys' fees incurred in prosecuting this action, on the basis that this is an exceptional case provided by 35 U.S.C. §285;
- (vii) Enjoin Defendant, its officers, subsidiaries, agents, servants and employees and all persons in active concert with any of the foregoing from further infringement of the '293 Patent; and
- (viii) Such other and further relief as this Court shall deem appropriate.

Dated: August 4, 2023

Respectfully Submitted
/s/ Raymond W. Mort, III
Raymond W. Mort, III
Texas State Bar No. 00791308
raymort@austinlaw.com

THE MORT LAW FIRM, PLLC
501 Congress Ave, Suite 150
Austin, Texas 78701
Tel/Fax: (512) 865-7950

William Cory Spence
Anthony Wenn
515 N. State Street, 14th Floor
Chicago, Illinois 60654
312-404-8882
william.spence@spencepc.com
anthony.wenn@spencepc.com

ATTORNEYS FOR PLAINTIFF