

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

Patent Armory, Inc.,

Plaintiff,

v.

Radisson Hospitality, Inc.,

Defendant.

Case No. 6:23-cv-00604-ADA

Patent Case

Jury Trial Demanded

THIRD AMENDED COMPLAINT FOR PATENT INFRINGEMENT

1. Plaintiff Patent Armory Inc. (“Plaintiff”), through its attorneys, complains of Radisson Hospitality, Inc. (“Defendant”), and alleges the following:

PARTIES

2. Plaintiff Patent Armory Inc. is a corporation organized and existing under the laws of Canada that maintains its principal place of business at 400-1565 Carling Ave., Ottawa, Ontario, Canada K1Z 8R1.

3. Defendant Radisson Hospitality, Inc. is a corporation organized and existing under the laws of Minnesota that maintains an established place of business at 111 East Cesar Chavez Street Austin, TX 78701.

JURISDICTION

4. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

5. This Court has exclusive subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over Defendant because it has engaged in systematic and continuous business activities in this District. As described below, Defendant has committed acts of patent infringement giving rise to this action within this District.

VENUE

7. Venue is proper in this District under 28 U.S.C. § 1400(b) because Defendant has an established place of business in this District. In addition, Defendant has committed acts of patent infringement in this District, and Plaintiff has suffered harm in this district.

PATENTS-IN-SUIT

8. Plaintiff is the assignee of all right, title and interest in United States Patent Nos. 7,023,979 (“the ’979 Patent”); and 9,456,086 (“the ’086 Patent”) (collectively, the “Patents-in-Suit”); including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the Patents-in-Suit. Accordingly, Plaintiff possesses the exclusive right and standing to prosecute the present action for infringement of the Patents-in-Suit by Defendant.

9. Prior to the inventions of the ’979 Patent and the ’086 Patent, “[r]eal-time communications [were] typically handled by dedicated systems which assure that the management and control operations are handled in a manner to keep up with the communications process, and to avoid imposing inordinate delays.” ’979 Patent, 1:42-46. “In order to provide cost-effective performance, complex processes incidental to the management or control of the communication [were] typically externalized,” yet “externalizing essential

functions imposes potential latencies due to communications and external processing.” *Id.*, 1:46-48; 2:13-15.

10. To address the technical problem of potential latency associated with externalizing the process of managing and controlling communications, and to increase efficiency, the ’979 Patent and the ’086 Patent claimed unconventional methods for “intelligent communication routing within a low-level communication server system” in which the “target of a communication is defined by an algorithm, rather than a predetermined address or simple rule, and the algorithm evaluated in real time for resolution of the target, to deliver the communication or establish a real or virtual channel.” ’979 Patent, 59:9-22.

11. Among the inventive concepts claimed in the ’979 Patent and the ’086 Patent is “an architectural change in computer telephony integrated (CTI) systems, wherein the CTI host takes on greater responsibilities, for example intelligent tasks, than in known systems.” ’979 Patent, 59:62-67. Thus, rather than externalize management functions as was done according to conventional methods, the methods claimed in the ’979 Patent and the ’086 Patent gave “greater responsibilities” to the host performing the claimed methods and thereby “integrate[d] evaluation of intelligent aspects of the control algorithm with the communications management.” *Id.*, 59:55-58.

12. This integration represented a significant “architectural change” as compared to conventional methods. “This architecture reduces the required bandwidth for communications with an external high level management system, as well as the processing load thereon. Likewise, since significant decisions and resource allocations are made within the switching system, the need for high quality of service communications channels between the switching system and management system is also reduced.” ’979 Patent, 60:32-38.

13. “The advantage of a preferred architecture according to the present invention is that when a call is received, it can be routed in real time, rather than after a possibly significant delay.” ’979 Patent, 66:50-53.

14. By utilizing the claimed methods of the ’979 Patent and the ’086 Patent, “efficiency is generally enhanced according to the present invention by avoiding the need for remote communications of the call parameters and the resulting communications and processing latencies.” ’979 Patent, 69:3-6.

15. Both Claim 10 of the ’979 Patent and Claim 11 of the ’086 Patent are examples of this “architectural change in computer telephony integrated (CTI) systems” in that they claim methods” in which the “automated processor” and “common operating environment,” respectively, “take[] on greater responsibilities, for example intelligent tasks, than in known systems.” ’979 Patent, 59:62-67.

16. Claim 10 of the ’979 Patent claims an inventive and unconventional use of a “multivariate cost function,” which was not employed by prior art methods according to the “architectural change” of Claim 10 of the ’979 Patent.

17. Claim 11 of the ’086 Patent claims an inventive and unconventional use of “multivalued scalar data,” which was not employed by prior art methods according to the “architectural change” of Claim 11 of the ’086 Patent.

18. None of the methods of the ’979 Patent and the ’086 Patent were previously performed by human beings, or capable of being performed in the human mind.

THE ’979 PATENT

19. The ’979 Patent is entitled “Telephony control system with intelligent call routing,” and issued 2006-04-04. The application leading to the ’979 Patent was filed on 2003-

03-07. A true and correct copy of the '979 Patent is attached hereto as Exhibit 1 and incorporated herein by reference.

THE '086 PATENT

20. The '086 Patent is entitled “Method and system for matching entities in an auction,” and issued 2016-09-27. The application leading to the '086 Patent was filed on 2010-03-08. A true and correct copy of the '086 Patent is attached hereto as Exhibit 2 and incorporated herein by reference.

COUNT 1: INFRINGEMENT OF THE '979 PATENT

21. Plaintiff incorporates the above paragraphs herein by reference.

22. **Direct Infringement.** Defendant directly infringed one or more claims of the '979 Patent in at least this District by making, using, offering to sell, selling and/or importing, without limitation, at least the Defendant products identified in the charts incorporated into this Count below (among the “Exemplary Defendant Products”) that infringed at least the exemplary claims of the '979 Patent also identified in the charts incorporated into this Count below (the “Exemplary '979 Patent Claims”) literally or by the doctrine of equivalents. On information and belief, numerous other devices that infringed the claims of the '979 Patent have been made, used, sold, imported, and offered for sale by Defendant and/or its customers.

23. Defendant also directly infringed, literally or under the doctrine of equivalents, the Exemplary '979 Patent Claims, by having its employees internally test and use these Exemplary Products.

24. Exhibit 3 includes charts comparing the Exemplary '979 Patent Claims to the Exemplary Defendant Products. As set forth in these charts, the Exemplary Defendant Products practice the technology claimed by the '979 Patent. Accordingly, the Exemplary

Defendant Products incorporated in these charts satisfy all elements of the Exemplary '979 Patent Claims.

25. Plaintiff therefore incorporates by reference in its allegations herein the claim charts of Exhibit 3.

26. Plaintiff is entitled to recover damages adequate to compensate for Defendant's infringement.

COUNT 2: INFRINGEMENT OF THE '086 PATENT

27. Plaintiff incorporates the above paragraphs herein by reference.

28. **Direct Infringement.** Defendant has been and continues to directly infringe one or more claims of the '086 Patent in at least this District by making, using, offering to sell, selling and/or importing, without limitation, at least the Defendant products identified in the charts incorporated into this Count below (among the "Exemplary Defendant Products") that infringe at least the exemplary claims of the '086 Patent also identified in the charts incorporated into this Count below (the "Exemplary '086 Patent Claims") literally or by the doctrine of equivalents. On information and belief, numerous other devices that infringe the claims of the '086 Patent have been made, used, sold, imported, and offered for sale by Defendant and/or its customers.

29. Defendant also has and continues to directly infringe, literally or under the doctrine of equivalents, the Exemplary '086 Patent Claims, by having its employees internally test and use these Exemplary Products.

30. **Actual Knowledge of Infringement.** The service of the Original, First and Second Amended Complaints, in conjunction with the attached claim charts and references cited, constitutes actual knowledge of infringement as alleged here.

31. Despite such actual knowledge, Defendant continues to make, use, test, sell, offer for sale, market, and/or import into the United States, products that infringe the '086 Patent. On information and belief, Defendant has also continued to sell the Exemplary Defendant Products and distribute product literature and website materials inducing end users and others to use its products in the customary and intended manner that infringes the '086 Patent. *See* Exhibit 4 (extensively referencing these materials to demonstrate how they direct end users to commit patent infringement).

32. **Induced Infringement.** At least since being served by this Complaint and corresponding claim charts, Defendant has actively, knowingly, and intentionally continued to induce infringement of the '086 Patent, literally or by the doctrine of equivalents, by selling Exemplary Defendant Products to their customers for use in end-user products in a manner that infringes one or more claims of the '086 Patent.

33. Exhibit 4 includes charts comparing the Exemplary '086 Patent Claims to the Exemplary Defendant Products. As set forth in these charts, the Exemplary Defendant Products practice the technology claimed by the '086 Patent. Accordingly, the Exemplary Defendant Products incorporated in these charts satisfy all elements of the Exemplary '086 Patent Claims.

34. Plaintiff therefore incorporates by reference in its allegations herein the claim charts of Exhibit 4.

35. Plaintiff is entitled to recover damages adequate to compensate for Defendant's infringement.

JURY DEMAND

36. Under Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff respectfully requests a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the following relief:

- A. A judgment that the '979 Patent is valid and enforceable
- B. A judgment that Defendant has infringed directly one or more claims of the '979 Patent;
- C. A judgment that the '086 Patent is valid and enforceable
- D. A judgment that Defendant has infringed directly and indirectly one or more claims of the '086 Patent;
- E. An accounting of all damages not presented at trial;
- F. A judgment that awards Plaintiff all appropriate damages under 35 U.S.C. § 284 for Defendant's continuing or future infringement, up until the date such judgment is entered with respect to the '086 Patent, including pre- or post-judgment interest, costs, and disbursements as justified under 35 U.S.C. § 284;
- G. A judgment that awards Plaintiff all appropriate damages under 35 U.S.C. § 284 for Defendant's past infringement at least with respect to the '979 Patent.
- H. And, if necessary, to adequately compensate Plaintiff for Defendant's infringement, an accounting:
 - i. that this case be declared exceptional within the meaning of 35 U.S.C. § 285 and that Plaintiff be awarded its reasonable attorneys fees against Defendant that it incurs in prosecuting this action;

- ii. that Plaintiff be awarded costs, and expenses that it incurs in prosecuting this action; and
- iii. that Plaintiff be awarded such further relief at law or in equity as the Court deems just and proper.

Dated: February 23, 2024

Respectfully submitted,

/s/ Isaac Rabicoff
Isaac Rabicoff
Rabicoff Law LLC
4311 N Ravenswood Ave Suite 315
Chicago, IL 60613
7736694590
isaac@rabilaw.com

**Counsel for Plaintiff
Patent Armory Inc.**

CERTIFICATE OF SERVICE

I hereby certify that on February 23, 2024, I electronically filed the above documents with the Clerk of Court using CM/ECF which will send electronic notification of such filings to all registered counsel.

/s/ Isaac Rabicoff
Isaac Rabicoff