

FILED-CLERK
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

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TX EASTERN-MARSHALL

BY _____

(1) TECHNOLOGY PROPERTIES
LIMITED, INC. and (2) PATRIOT
SCIENTIFIC CORPORATION,

Plaintiffs,

vs.

(1) ACER, INC.
(2) ACER AMERICA CORPORATION
(3) GATEWAY, INC.

Defendants.

CASE NO. 2:08cv228 TJW

Jury Trial Demanded

COMPLAINT FOR PATENT INFRINGEMENT AND DEMAND FOR JURY TRIAL

Plaintiffs, Technology Properties Limited, Inc. ("TPL") and Patriot Scientific Corporation ("Patriot"), (collectively "Plaintiffs"), allege the following in support of their Complaint for Patent Infringement and Demand for Jury Trial ("Complaint") against Defendants, Acer, Inc. ("Acer"), Acer America Corporation ("Acer America") and Gateway, Inc. ("Gateway")

PARTIES

1. Plaintiff, Technology Properties Limited, Inc. ("TPL") is a corporation duly organized and existing under the laws of the State of California and maintains its principal place of business in San Jose, California.

2. Plaintiff, Patriot Scientific Corporation ("Patriot") is a corporation duly organized and existing under the laws of the State of Delaware and maintains its principal place

of business in Carlsbad, California

3. Upon information and belief, Defendant Acer, Inc. is a Taiwan corporation with its principal place of business in Taipei, Taiwan, R.O.C.

4. Upon information and belief, Defendant Acer America Corporation is a California corporation with its principal place of business in San Jose, California.

5. Upon information and belief, Defendant Gateway, Inc. is a Delaware corporation with its principal place of business in Irvine, California. Gateway is a wholly-owned subsidiary of Acer.

JURISDICTION

6. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1338(a) because this action arises under the patent laws of the United States, including 35 U.S.C. §§ 101, *et seq.* and 271, *et seq.* This Court has personal jurisdiction over Defendants because they each infringe Plaintiffs' patent by offering on their websites infringing products to their users and/or customers who reside in, or may be found in, the Eastern District of Texas. Further, each Defendant has actually transacted business with users of their websites in the Eastern District of Texas.

VENUE

7. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and (c) and 1400(b) because Defendants have each committed acts of infringement in this district.

GENERAL ALLEGATIONS

8. On June 25, 1996, United States Patent No. 5,530,890 ("890 patent") entitled "High Performance, Low Cost Microprocessor" was duly and legally issued. All rights and interest in the '890 patent were assigned to Patriot Scientific Corporation. A true and correct copy of the '890 patent is attached hereto as Exhibit A.

9. TPL and Patriot are co-owners of the '890 patent. TPL has the exclusive right to enforce and license the '890 patent, and has standing to sue

COUNT 1

(Patent infringement Against Acer, Inc.)

10. Paragraphs 1-9 of the Complaint set forth above are incorporated herein by reference.

11. Upon information and belief Defendant Acer has infringed and continues to infringe under 35 U.S.C. § 271 the '890 patent.

12. Acer's acts of infringement have caused damage to Plaintiffs. Under 35 U.S.C. § 284, Plaintiffs are entitled to recover from Acer the damages sustained by Plaintiffs as a result of its infringement of the '890 patent. Acer's infringement of Plaintiffs' exclusive rights under the '890 patent will continue to damage Plaintiffs' business, causing irreparable harm, for which there is no adequate remedy of law, unless enjoined by this Court under 35 U.S.C. § 283.

13. Plaintiffs allege, on information and belief, that Acer's acts of infringement were willful and deliberate.

COUNT 2

(Patent infringement Against Acer America Corporation)

14. Paragraphs 1-9 of the Complaint set forth above are incorporated herein by reference.

15. Upon information and belief Defendant Acer America has infringed and continues to infringe under 35 U.S.C. § 271 the '890 patent.

16. Acer America's acts of infringement have caused damage to Plaintiffs. Under 35 U.S.C. § 284, Plaintiffs are entitled to recover from Acer America the damages sustained by Plaintiffs as a result of its infringement of the '890 patent. Acer America's infringement of Plaintiffs' exclusive rights under the '890 patent will continue to damage Plaintiffs' business, causing irreparable harm, for which there is no adequate remedy of law, unless enjoined by this Court under 35 U.S.C. § 283.

17. Plaintiffs allege, on information and belief, that Acer America's acts of infringement were willful and deliberate.

COUNT 3

(Patent infringement Against Gateway, Inc.)

18. Paragraphs 1-9 of the Complaint set forth above are incorporated herein by reference.

19. Upon information and belief Defendant Gateway has infringed and continues to infringe under 35 U.S.C. § 271 the '890 patent.

20. Gateway's acts of infringement have caused damage to Plaintiffs. Under 35 U.S.C. § 284, Plaintiffs are entitled to recover from Gateway the damages sustained by Plaintiffs as a result of its infringement of the '890 patent. Gateway's infringement of

Plaintiffs' exclusive rights under the '890 patent will continue to damage Plaintiffs' business, causing irreparable harm, for which there is no adequate remedy of law, unless enjoined by this Court under 35 U.S.C. § 283.

21. Plaintiffs allege, on information and belief, that Gateway's acts of infringement were willful and deliberate.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment against Defendants as follows:

A. For judgment that Defendants Acer, Inc., Acer America Corporation, and Gateway, Inc. have infringed and continue to infringe the '890 patent;

B. For permanent injunctions under 35 U.S.C. § 283 against Defendants and their directors, officers, employees, agents, subsidiaries, parents, attorneys, and all persons acting in concert, on behalf of, in joint venture, or in partnership with Defendants from further acts of infringement;

C. For damages to be paid by Defendants adequate to compensate Plaintiffs for their infringement, including interests, costs and disbursements as the Court may deem appropriate under 35 U.S.C. § 284;

D. For judgment finding that Defendants infringement was willful and deliberate, entitling Plaintiffs to increased damages under 35 U.S.C. § 284;

E. For judgment finding this to be an exceptional case against Defendants and awarding Plaintiffs attorney fees under 35 U.S.C. § 285; and,

F. For such other and further relief at law and in equity as the court may deem just and proper.

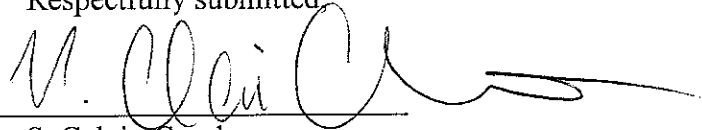
DEMAND FOR JURY TRIAL

Pursuant to the Federal Rules of Civil Procedure Rule 38, Plaintiffs hereby demand a jury trial on all issues triable by jury.

Dated: June 4, 2008

Respectfully submitted,

By:



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