

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

PHOENIX IP, LLC
A Texas Limited Liability Corporation,

Plaintiff,

v.

HONEYWELL INTERNATIONAL, INC.

Defendants.

Civil Action No. 2:07-cv-363

JURY TRIAL DEMANDED

ORIGINAL COMPLAINT AND DEMAND FOR JURY TRIAL

This is an action for patent infringement in which Phoenix IP, LLC makes the following allegations against Honeywell International, Inc.

PARTIES

1. Plaintiff Phoenix IP, LLC (“Phoenix”) is a Texas limited liability company with its principal place of business at 207 C North Washington Avenue, Marshall, Texas 75670.

2. On information and belief, Defendant Honeywell International, Inc. (“Honeywell”) is a Delaware corporation with its corporate headquarters and principal place of business at 101 Columbia Road, Morristown, New Jersey 07962. Honeywell has appointed its agent for service as follows: Corporation Service Company 701 Brazos Street, Suite 1050, Austin, Texas 78701.

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b). On information and belief, the Defendant has a regular and established place of business in this district, has transacted business in this district, and has committed and/or induced acts of patent infringement in this district.

5. On information and belief, Defendant is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to its substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this Judicial District.

COUNT I

INFRINGEMENT OF U.S. PATENT NO. 6,577,962

6. Phoenix is the owner by assignment of United States Patent No. 6,577,962 ("the '962 Patent") entitled "System and Method for Forecasting Energy Usage Load." The '962 Patent issued on June 10, 2003. A true and correct copy of the '962 Patent is attached as Exhibit A.

7. Afshin Afshari is listed as the inventor on the '962 Patent.

8. Upon information and belief, Defendant Honeywell has been and now is directly, jointly, and/or indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '962 Patent in the State of Texas, in this judicial district, and elsewhere in the United States by, among other things, energy load prediction services or products that practice one or more claims of the '962 Patent to the injury of Phoenix. Defendant Honeywell is thus liable for infringement of the '962 Patent pursuant to 35 U.S.C. § 271.

9. Honeywell has actively induced and is actively inducing infringement of the '962 Patent and are liable for contributory infringement of the '962 Patent.

10. To the extent that facts learned in discovery show that Honeywell's infringement is or has been willful, Plaintiff reserves the right to request such a finding at time of trial.

11. On information and belief, to the extent any marking was required by 35 U.S.C. § 287, all predecessors in interest to the '962 Patent complied with such requirements.

12. As a result of Honeywell's infringement of the '962 Patent, Phoenix has suffered monetary damages in an amount not yet determined, and will continue to suffer damages in the future unless its infringing activities are enjoined by this Court.

13. Unless a permanent injunction is issued enjoining Honeywell and its agents, servants, employees, attorneys, representatives, affiliates, and all others acting on their behalf from infringing the '962 Patent, Phoenix will be greatly and irreparably harmed.

PRAYER FOR RELIEF

WHEREFORE, Phoenix respectfully requests that this Court enter:

1. A judgment in favor of Phoenix that Honeywell has infringed, directly, jointly, and/or indirectly, by way of inducing and/or contributing to the infringement of the '962 Patent;

2. A permanent injunction enjoining Honeywell and its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in concert or privity with any of them from infringement, inducing the infringement of, or contributing to the infringement of the '962 Patent;

3. A judgment and order requiring Honeywell to pay Phoenix its damages, costs, expenses, and prejudgment and post-judgment interest for Honeywell's infringement of the '962 Patent as provided under 35 U.S.C. § 284;

4. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Phoenix its reasonable attorneys' fees; and

5. Any and all other relief to which Phoenix may show itself to be entitled.

DEMAND FOR JURY TRIAL

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

Respectfully submitted,

PHOENIX IP, LLC

Dated: August 23, 2007



Danny L. Williams
LEAD ATTORNEY
Texas State Bar No. 21518050
Terry D. Morgan
Texas State Bar No. 14452430
J. Mike Amerson
Texas State Bar No. 01150025
Williams, Morgan & Amerson, P.C.
10333 Richmond, Suite 1100
Houston, Texas 77042
Telephone: (713) 934-4060
Facsimile: (713) 934-7011
E-mail: danny@wmalaw.com
E-mail: tmorgan@wmalaw.com
E-mail: mike@wmalaw.com

David M. Pridham
**Intellectual Property Navigation Group,
LLC**
Rhode Island State Bar No. 6625
207 C North Washington Avenue Marshall,
Texas 75670
Telephone: (903) 938-7400
Facsimile: (903) 938-7404
E-mail: david@ipnav.com

Eric M. Albritton
Texas State Bar No. 00790215
ALBRITTON LAW FIRM
P.O. Box 2649
Longview, Texas 75606
Telephone: (903) 757-8449
Facsimile: (903) 758-7397
Email: ema@emafirm.com
Email: jsh@emafirm.com

John J. Edmonds
Texas State Bar No. 00789758
THE EDMONDS LAW FIRM, PC
709 Sabine Street
Houston, Texas 77007
Telephone: (713) 858-3320
Facsimile: (832) 415-2535
Email: johnedmonds@edmondslegal.com

Jason W. Cook
Texas State Bar No. 24028537
The Law Office of Jason W. Cook
5320 Victor St.
Dallas, Texas 75214
Telephone: (214) 504-6813
Facsimile: (469) 327-2777
Email: jcook@cookip.com

ATTORNEYS FOR PLAINTIFF
PHOENIX IP, LLC