

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

EPICREALM LICENSING, LP,

Plaintiff,

v.

VARIOUS, INC.,

Defendant.

§
§
§
§
§
§
§
§
§
§

Civil Action No. 2:07cv30

PLAINTIFF'S ORIGINAL COMPLAINT

Plaintiff, epicRealm Licensing, LP, brings this action for patent infringement and alleges the following:

I. PARTIES

1. Plaintiff epicRealm Licensing, LP ("epicRealm") is a Delaware limited partnership with its principal place of business in Dallas, Dallas County, Texas.

2. On information and belief, defendant Various, Inc. ("Various") is a California corporation, with its principal place of business at 445 Sherman Avenue, Suite T, Palo Alto, California 94306. Although Various has done – and continues to do – business in the Eastern District of Texas and elsewhere in the State of Texas, it has not designated or maintained an agent for service of process in Texas. Accordingly, pursuant to Section 17.044 of the Texas Civil Practice and Remedies Code, Various may be served with process by service upon the Texas Secretary of State, 1019 Brazos Street, Austin, Texas 78701.

II. JURISDICTION AND VENUE

3. This infringement action arises under the patent laws of the United States, title 35, United States Code. This Court has jurisdiction of this action under 28 U.S.C. §§ 1331, 1338(a).

4. Defendant Various has done — and continues to do — business in the Eastern District of Texas. Defendant Various has minimum contacts with the Eastern District of Texas such that this venue is a fair and reasonable one. Defendant Various has committed purposeful acts or transactions in the State of Texas such that it reasonably knew and expected that it could be haled into a Texas court as a consequence of such activity. Accordingly, venue in the Eastern District of Texas is proper under 28 U.S.C. §§ 1391(b), 1400(b).

III. PATENT INFRINGEMENT

5. On April 13, 1999, and July 2, 2002, United States Patent Nos. 5,894,554 and 6,415,335 B1, which are collectively referred to as the "epicRealm Patents," duly and legally issued. These two patents concern, among other things, systems and methods for managing dynamic Web page generation requests. Copies of the epicRealm Patents are attached hereto as Exhibits "A" and "B" and made a part hereof.

6. EpicRealm is the owner of the epicRealm Patents and has the right to enforce those patents with respect to Various.

7. On information and belief, Various uses systems and methods for managing dynamic Web page generation requests within the scope of one or more of the claims of the epicRealm Patents. As a result, Various has been and still is infringing one or more of the claims of the epicRealm Patents as defined by 35 U.S.C. § 271 (a), (b), and/or (c). EpicRealm has suffered damage by reason of Various' infringement and will continue to suffer additional damage until this Court enjoins the infringing conduct.

8. To the extent that Various has continued or does continue its infringing activities after receiving notice of the epicRealm Patents, such infringement is willful, entitling epicRealm to the recovery of increased damages under 35 U.S.C. § 284.

9. This is an "exceptional case" justifying an award of attorneys' fees and costs to epicRealm pursuant to 35 U.S.C. § 285.

10. EpicRealm believes that Various will continue to infringe the epicRealm Patents unless enjoined by this Court. Such infringing activity causes epicRealm irreparable harm and will continue to cause such harm without the issuance of an injunction.

IV. JURY DEMAND

11. Plaintiff requests trial by jury pursuant to Federal Rule of Civil Procedure 38.

V. PRAYER FOR RELIEF

12. EpicRealm requests that the Court find in its favor and against Various and that the Court grant the following relief:

- a. Judgment that one or more of the claims of the epicRealm Patents have been infringed, either literally and/or under the doctrine of equivalents, by Various;
- b. Judgment in favor of epicRealm for the full amount of its actual damages caused by Various' infringing activities, including an assessment of interest and costs;
- c. Judgment for increased damages for willful infringement pursuant to 35 U.S.C. § 284;
- d. Judgment that this is an "exceptional case" and awarding epicRealm its reasonable attorneys' fees and costs pursuant to 35 U.S.C. § 285;
- e. That Various be permanently enjoined from further activity or conduct that infringes the claims of the epicRealm Patents; and
- f. That the Court award epicRealm such other and further relief as is just and proper under the circumstances.

Respectfully submitted,

/s/ Jeff Moles

Larry D. Carlson, Lead Attorney
Texas State Bar No. 03814500
E-Mail: larry.carlson@bakerbotts.com

Kevin Meek
Texas State Bar No. 13899600
E-Mail: kevin.meek@bakerbotts.com

Thomas Frame
Texas State Bar No. 24027318
E-Mail: thomas.frame@bakerbotts.com

Jeff Moles
Texas State Bar No. 24041504
E-Mail: jeff.moles@bakerbotts.com

BAKER BOTTS L.L.P.
2001 Ross Avenue
Dallas, Texas 75201
Telephone: (214) 953-6500
Facsimile: (214) 953-6503

Otis W. Carroll
Texas State Bar No. 03895700
E-mail: otiscarroll@icklaw.com
IRELAND, CARROLL & KELLEY, P.C.
6101 S. Broadway, Suite 500
P.O. Box 7879
Tyler, Texas 75711
Telephone: (903) 561-1600
Facsimile: (903) 581-1071

S. Calvin Capshaw
Texas State Bar No. 03783900
E-Mail: ccapshaw@mailbmc.com
BROWN McCARROLL LLP
1127 Judson Road, Suite 220
P.O. Box 3999
Longview, Texas 75601-5157
Telephone: (903) 236-9800
Facsimile: (903) 236-8787

Franklin Jones, Jr.

Texas State Bar No. 00000055

E-Mail: maizieh@millerfirm.com

JONES & JONES, Inc., P.C.

201 West Houston Street

P.O. Drawer 1249

Marshall, Texas 75671-1249

Telephone: (903) 938-4395

Facsimile: (903) 938-3360

T. John Ward, Jr.

State Bar No. 00794818

E-mail: jw@jwfirm.com

Law Office of T. John Ward, Jr., P.C.

P.O. Box 1231

Longview, Texas 75606-1231

Telephone (903) 757-6400

Facsimile (903) 757-2323

ATTORNEYS FOR PLAINTIFF
EPICREALM LICENSING, LP