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SEP 03 2003

LUTHER D. THOMAS, Clerk
By: *[Signature]*
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

ACTIV8NOW, LLC)
)
Plaintiff,)
)
v.)
)
)
REDENVELOPE, INC.,)
)
Defendant.)

Civil Action No.

1:03-CV-2644

JURY TRIAL DEMANDED

JTC

COMPLAINT

COMES NOW Plaintiff activ8now, LLC ("activ8now"), and for its Complaint against the Defendant RedEnvelope, Inc. ("RedEnvelope") alleges and avers as follows:

PARTIES

1. Plaintiff activ8now is a limited liability company organized and existing under the laws of the State of Delaware with its principal place of business at 5775 Peachtree Dunwoody Road, Building G, Suite 550, Atlanta, Georgia, 30342.

2. Upon information and belief, Defendant RedEnvelope is a corporation organized and existing under the laws of the State of Delaware with its principal place of business located at 201 Spear Street, Suite 300, San Francisco, California, 94105 and may be served with process by service upon its registered agent, Hillary Billings, at 2021 Lake Street, San Francisco, California 94121. Upon further information and belief, RedEnvelope

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Consent To US Mag.
Pretrial Instructions
Title VII NTC
[Signature]

regularly does or solicits business in the State of Georgia and engages in a persistent course of conduct in this State and is therefore subject to the personal jurisdiction of this Court.

3. Upon information and belief, Defendant RedEnvelope has committed acts of patent infringement, as more fully set forth herein, within the Northern District of Georgia.

JURISDICTION

4. This is an action for patent infringement arising under the provisions of the Patent Laws of the United States of America, 35 U.S.C. § 271 *et seq.*

5. This Court has jurisdiction over the subject matter of the within and foregoing action pursuant to the provisions of 28 U.S.C. §§1331 and 1338(a).

VENUE

6. Venue is proper in this Court pursuant to 28 U.S.C. § 1391.

CAUSE OF ACTION

7. On March 18, 2003, United States Patent No. 6,535,889 ("the '889 Patent") for "System and Method for Obtaining and Displaying an Interactive Electronic Representation of a Conventional Static Media Object" was duly and legally issued. A copy of the '889 Patent is attached as Exhibit A.

8. On April 29, 2003, United States Patent No. 6,557,006 ("the '006 Patent") for "System and Method for Displaying an

Interactive Electronic Representation of a Corresponding Static Media Object" was duly and legally issued. A copy of the '006 Patent is attached as Exhibit B.

9. Activ8now is the owner by assignment of all right, title and interest in and to the '889 Patent and the '006 Patent, including all right to recover for any and all past infringement thereof.

10. Upon information and belief, Defendant RedEnvelope, without permission or license, is making, using, offering for sale and/or selling technology that unlawfully incorporates or utilizes the inventions described or claimed in the '889 Patent and the '006 Patent.

11. By making, using, offering for sale and/or selling such technology, Defendant RedEnvelope is directly infringing the '889 Patent and the '006 Patent in violation of 35 U.S.C. § 271(a).

12. By making, using, offering for sale and/or selling such technology, Defendant RedEnvelope is actively inducing others to infringe the '889 Patent and the '006 Patent in violation of 35 U.S.C. § 271(b).

13. Upon information and belief, Defendant RedEnvelope will not cease such tortious acts unless enjoined by this Court. RedEnvelope's acts of direct patent infringement and inducement

of patent infringement have and will continue to damage activ8now. Activ8now has no adequate remedy at law.

JURY DEMAND

14. Plaintiff activ8now respectfully demands a jury for the hearing of the causes of action as set forth in this Complaint.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief as follows:

1. That the Defendant be ordered to account to activ8now for the actual damages suffered by activ8now, and in no event less than a reasonable royalty, as a result of Defendant's acts of infringement as set forth in this Complaint, the exact extent of which cannot now be determined by activ8now.

2. That activ8now be granted permanent injunctive relief pursuant to 35 U.S.C. § 283 enjoining Defendant, its officers, agents, servants, representatives, employees, attorneys, successors, assigns, and all persons acting in concert or participation with them from any further acts of patent infringement.

3. That activ8now be granted its pre-judgment and post-judgment interest on the damages caused to it by reason of Defendant's acts of patent infringement.

4. That activ8now be awarded reasonable attorney fees for having to bring this action to preserve its rights in the '889

Patent and the '006 Patent and enjoin Defendant's willful infringement of the '889 Patent and the '006 Patent.

5. That activ8now be awarded its costs associated with bringing this action to preserve its rights in the '889 Patent and the '006 Patent.

6. That Defendant be ordered to pay to activ8now three times the damages suffered by reason of the willful, intentional, and flagrant infringement of the '889 Patent and the '006 Patent as set forth in this Complaint.

7. That activ8now be granted all such other and further relief as this Court may deem just and proper under the circumstances.

This 3rd day of September, 2003.

Respectfully submitted,

SMITH, GAMBRELL & RUSSELL, LLP



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United States District Court

NORTHERN

GEORGIA

DISTRICT OF
ATLANTA DIVISION

ACTIV8NOW,

SUMMONS IN A CIVIL ACTION

Plaintiff,

v.

CASE NUMBER:

1:03-CV-2644

REDENVELOPE, INC.,

Defendant.

TO: (Name and Address of Defendant)

RedEnvelope
c/o Hillary Billings
2021 Lake Street
San Francisco, CA 94121

YOU ARE HEREBY SUMMONED and required to file with the Clerk of this Court and serve upon

PLAINTIFF'S ATTORNEY (name and address)

Dale Lischer
Eric Hanson
Deborah A. Heineman
Smith, Gambrell & Russell, LLP
Promenade II, Suite 3100
1230 Peachtree St., NE
Atlanta, GA 30309

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exciisiv.) of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

LUTHER D. THOMAS

CLERK

SEP 03 2003

DATE



BY DEPUTY CLERK