

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

ILLINOIS COMPUTER RESEARCH, LLC)	
)	
Plaintiff,)	
)	Civil Action No. 1:10 cv 00190
vs.)	
)	
SEARS ROEBUCK AND CO.,)	Hon. Judge Robert J. Dow, Jr.
CREATIVE TECHNOLOGY LTD. and)	Magistrate Judge Jeffrey Cole
CREATIVE LABS, INC.)	
)	
Defendants.)	JURY TRIAL DEMANDED

AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Illinois Computer Research, LLC ("ICR") complains of defendants, Sears Roebuck and Company, ("Sears"), and Creative Technology, Ltd. and Creative Labs, Inc. (collectively, "Creative") as follows:

NATURE OF ACTION

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code, including 35 U.S.C. §§ 271 and 281. This Court has exclusive jurisdiction over the subject matter of this case under 28 U.S.C. § 1338(a).

PARTIES, JURISDICTION, AND VENUE

2. Plaintiff ICR is an Illinois corporation with its sole place of business at 125 South Wacker Drive, Chicago, Illinois 60606.

3. The patent-in-suit is U.S. Patent No. 7,154,819 entitled "Adaptive High Fidelity Reproduction System," which issued on December 26, 2006.

4. Plaintiff ICR owns and has all right, title and interest in the '819 Patent including all claims for damages by reason of past, present or future infringement, with the right to sue for and collect damages for the same and therefore has standing to sue for infringement of the '819 Patent.

5. Defendant Sears Roebuck and Co. is a wholly owned subsidiary of Sears Holding Corp. having offices at 3333 Beverly Road, Hoffman Estates, Illinois 60179. At a minimum, Sears at least offers for sale and sells products in Illinois and nationwide, that are covered by the claims of the '819 Patent, including this judicial district.

6. Upon information and belief, Defendant Creative Technology Ltd. is a corporation organized and existing under the laws of the country of Singapore, having a place of business at 31 International Business Park, Creative Resources, Singapore 609921. Upon information and belief, Defendant Creative Technology has/or had employed employees in this district, such as an account manager. (See, Stonebridge v. Digicom; Creative, Case No. 01-cv-5611, U.S.D.C. N.D. of Illinois).

7. Upon information and belief, Defendant Creative Labs, Inc. is a wholly owned subsidiary of Creative Technology Ltd., organized and existing under the laws of the state of California, having a place of business at 1901 McCarthy Boulevard, Milpitas, California 95035.

8. Defendants Creative Technology Ltd. and Creative Labs, Inc. will hereafter be referred to collectively as "Creative."

9. Defendants Creative designs, develops, offers for sale and sells products, that are covered by the claims of the '819 Patent nationwide, including this judicial district.

10. On information and belief, Defendants Creative design, develop, test, and then use, offer for sale, and sell, advertise, market and distribute the accused “sound cards” (see by way of example, Exhibit A, a photograph of an example of an accused device) in the United States including here in the Northern District of Illinois.

11. Venue is proper in this district under 28 U.S.C. §1400(b) because Defendants Sears and Creative are subject to personal jurisdiction, do business in and have committed acts of infringement in this judicial district.

DEFENDANT SEARS’ ACTS OF PATENT INFRINGEMENT

12. Plaintiff ICR reasserts paragraphs 1-11 of the above allegations herein.

13. Defendant Sears has infringed, and is now infringing, at least claims 1, 2 and 3 of the '819 patent through, among other activities, the use, sale, offer for sale or import of at least Creative’s sound card (Exhibit A) and by knowingly and actively inducing others to infringe and by contributing to the infringement by others, located in this judicial district at least as of January 15, 2010.

14. Defendant Sears, Inc. had actual notice of the '819 Patent at least as of January 15, 2010, the date served with Plaintiff ICR’s January 12, 2010 Complaint.

15. After receiving notice of the '819 Patent at least as of January 15, 2010, Defendant Sears continues to sell and offer for sale products (such as in Exhibit A) accused of infringing the '819 Patent.

16. At least as of January 15, 2010, Defendant Sears is acting with the intent to induce, contribute and/or aid and abet others’ infringement. Defendant Sears is also infringing one or more claims of the '819 Patent by knowingly inducing others to

infringe, contribute to infringement or aiding and abetting others' direct infringement (such as customers).

17. Defendant Sears' infringement has injured and will continue to injure Plaintiff ICR.

18. Plaintiff ICR is entitled to recover damages against Defendant Sears adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

DEFENDANT CREATIVES' ACTS OF PATENT INFRINGEMENT

19. Plaintiff reasserts paragraphs 1-18 of the above allegations herein.

20. Defendants Creative have infringed, and are now infringing, at least claims 1, 2 and 3 of the '819 patent through, among other activities, the use, sale, offer for sale or import of its sound card product (such as, by way of example, Exhibit A) and by knowingly and actively inducing others to infringe and by contributing to the infringement by others, located in this judicial district at least as of January 14, 2010.

21. Defendant Creative Labs had actual notice of the '819 Patent, at least as of January 14, 2010, and served with Plaintiff ICR's January 12, 2010 Complaint.

22. After receiving notice of the '819 Patent, at least as of January 14, 2010, Defendant Creative Labs continues to make, use, sell or offer for sale products (such as in Exhibit A), accused of infringing the '819 Patent.

23. And, at least as of January 14, 2010, Defendant Creative Labs is acting with the intent to induce, contribute and/or aid and abet others infringement. Defendant Creative Labs is also infringing one or more claims of the '819 Patent by

knowingly inducing others to infringe, contribute to infringement of others and/or aiding and abetting others' direct infringement (such as customers or retailers).

24. Defendants Creative Labs' and Creative Technology's infringement has injured and will continue to injure Plaintiff ICR.

25. Plaintiff ICR is entitled to recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

WHEREFORE, plaintiff Illinois Computer Research, LLC ("ICR") respectfully requests this Court enter judgment against defendants Sears Roebuck and Co., Creative Technology Ltd. and Creative Labs, Inc. and against each Defendants' subsidiaries, successors, parents, affiliates, officers, directors, agents, servants, employees, and all persons in active concert or participation with it, granting the following relief:

- A. The entry of judgment in favor of ICR and against each Defendant;
- B. An award of damages adequate to compensate ICR for the infringement that has occurred (together with prejudgment interest from the date the infringement began), but in no event less than a reasonable royalty as permitted by 35 U.S.C. § 284;
- C. An award to ICR of all remedies available under 35 U.S.C. § 284;
- D. An award to ICR of all remedies available under 35 U.S.C. § 285;
- E. Such other relief that ICR is entitled to under law and any other relief that this Court or a jury may deem just and proper.

Jury Demand

ICR demands a trial by jury on all issues presented in this complaint.

Respectfully submitted,

/s/Sally Wiggins

Raymond P. Niro

Sally Wiggins

NIRO, SCAVONE, HALLER & NIRO

181 West Madison Street, Suite 4600

Chicago, Illinois 60602

Telephone: (312) 236-0733

Facsimile: (312) 236-3137

*Attorneys for Plaintiff Illinois Computer
Research, LLC*