

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

KHALIL ZAIDAN

Plaintiff,

VS.

ACER AMERICA, INC., GATEWAY
INC., TOSHIBA AMERICA, INC.,
HEWLETT-PACKARD CO.,
INTERNATIONAL BUSINESS
MACHINES, CO., FUJITSU COMPUTER
PRODUCTS OF AMERICA, INC.

Defendants.

Civil Action No. 6:06cv470-LED

Jury Trial Demanded

PLAINTIFF'S AMENDED COMPLAINT

Plaintiff Khalil Zaidan (“Plaintiff”) brings this action against Defendants, Acer America, Inc. (“Acer”), Gateway, Inc. (“Gateway”), Toshiba America, Inc. (“Toshiba”), Hewlett-Packard Company (“HP”), Lenovo (United States) Inc. (“Lenovo”), and Fujitsu Computer Products of America, Inc. (“Fujitsu”) (herein, collectively, “Defendants”), and for its cause of action alleges:

THE PARTIES

1. Plaintiff is an individual with a residence in Multnomah County, Oregon.
2. Defendant, Acer America Corporation, upon information and belief, is a corporation organized under the laws of the State of California. Acer is doing business in Texas, and, on information and belief, has an office and place of business at 2641 Orchard Parkway, San Jose, California 95134. Acer may be served with process by serving its registered agent CT Corporation System 350 North St. Paul Street Dallas, Texas 75201.

3. Defendant, Gateway, Inc., upon information and belief, is a corporation organized under the laws of the State of Delaware. Gateway is doing business in Texas, and, on information and belief, has an office and place of business at 7565 Irvine Center Drive, Irvine, California 92618. Gateway may be served with process by serving its registered agent The Corporation Trust Company 1209 Orange Street, Wilmington, Delaware 19801.
4. Defendant, Toshiba America, Inc., upon information and belief, is a corporation organized under the laws of the State of Delaware. Toshiba is doing business in Texas, and, on information and belief, has an office and place of business at 1251 Avenue of the Americas, 41st floor New York, New York 10020. Toshiba may be served with process by serving its registered agent The Corporation Trust Company 1209 Orange Street, Wilmington, Delaware 19801.
5. Defendant, Hewlett-Packard Company, upon information and belief, is a corporation organized under the laws of the State of Delaware. HP is doing business in Texas, and, on information and belief, has an office and place of business at 3000 Hanover Street, Palo Alto, California 94304. HP may be served with process by serving its registered agent CT Corporation System 350 North St. Paul Street Dallas, Texas 75201.
6. Defendant, Lenovo (United States) Inc., upon information and belief, is a corporation organized under the laws of the State of Delaware. Lenovo is doing business in Texas, and, on information and belief, has an office and place of business at 3039 Cornwallis Road, Research Triangle Park, Raleigh, North Carolina 27709. Lenovo may be served with process by serving its registered agent CT Corporation System 350 N. St. Paul Street Dallas, Texas 75201.

7. Defendant, Fujitsu Computer Products of America, Inc., upon information and belief, is a corporation organized under the laws of the State of California. Fujitsu is doing business in Texas, and, on information and belief, has an office and place of business at 1255 E. Arques Avenue, Sunnyvale, California 94085-4701. Fujitsu may be served with process by serving its registered agent CT Corporation System 350 North St. Paul Street Dallas, Texas 75201.

JURISDICTION AND VENUE

8. This is an action for infringement of a United States patent. Accordingly, this action arises under the patent laws of the United States of America, 35 U.S.C. § 271 and 281. Jurisdiction is proper under 28 United States Code § 1338(a).
9. Acer, upon information and belief, transacts business in this judicial district by manufacturing, using, selling, or offering to sell products as described and claimed in United States Patent No. 5,494,447, the patent at issue in this lawsuit, and/or by conducting other business in this judicial district.
10. Gateway, upon information and belief, transacts business in this judicial district by manufacturing, using, selling, or offering to sell products as described and claimed in United States Patent No. 5,494,447, the patent at issue in this lawsuit, and/or by conducting other business in this judicial district.
11. Toshiba, upon information and belief, transacts business in this judicial district by manufacturing, using, selling, or offering to sell products as described and claimed in United States Patent No. 5,494,447, the patent at issue in this lawsuit, and/or by conducting other business in this judicial district.

12. HP, upon information and belief, transacts business in this judicial district by manufacturing, using, selling, or offering to sell products as described and claimed in United States Patent No. 5,494,447, the patent at issue in this lawsuit, and/or by conducting other business in this judicial district.
13. Lenovo, upon information and belief, transacts business in this judicial district by manufacturing, using, selling, or offering to sell products as described and claimed in United States Patent No. 5,494,447, the patent at issue in this lawsuit, and/or by conducting other business in this judicial district.
14. Fujitsu, upon information and belief, transacts business in this judicial district by manufacturing, using, selling, or offering to sell products as described and claimed in United States Patent No. 5,494,447, the patent at issue in this lawsuit, and/or by conducting other business in this judicial district.
15. Venue is proper in this court under Title 28 United States Code § 1391(b) and 1400(b).

FACTUAL BACKGROUND

16. On February 27, 1996, United States Patent No. 5,494,447 (“the ‘447 patent”) entitled “Hinge Assembly for Electronic Devices” was duly and legally issued. A true and correct copy of the ‘447 patent is attached as Exhibit A.
17. Pursuant to 35 U.S.C. 282, the above-listed United States Patent is presumed valid.
18. Plaintiff, Khalil Zaidan, is the owner and sole inventor of the ‘447 patent.
19. The ‘447 patent covers a hinge assembly for electronic devices that interconnects and stably supports device parts to one another. This enhances the three-dimensional adjustability of the position of each device part relative to one or more other device parts.

PATENT INFRINGEMENT COUNT

20. Plaintiff realleges and incorporates by reference paragraphs 1 through 19.
21. Acer, on information and belief, manufactures, uses, and sells products that infringe at least Claim 25 of the '447 patent, either literally or under the doctrine of equivalents, including for example and without limitation Acer's TravelMate C310 Convertible Tablet PC, as well as any other electronic device or devices acting or capable of acting in the manner described and claimed in the '447 patent.
22. Gateway, on information and belief, manufactures, uses, and sells products that infringe at least Claim 25 of the '447 patent, either literally or under the doctrine of equivalents, including for example and without limitation Gateway's Tablet PC model CX210X and CX210S, as well as any other electronic device or devices acting or capable of acting in the manner described and claimed in the '447 patent.
23. Toshiba, on information and belief, manufactures, uses, and sells products that infringe at least Claim 25 of the '447 patent, either literally or under the doctrine of equivalents, including for example and without limitation Toshiba's Satellite® R20-ST4113 and R25 Series notebooks, Tecra® M7-ST4013, M7-S7311, M7-S7331 notebooks, Portege® M400-ST9113, M400-S4031, M400-S4032 tablet PCs, as well as any other electronic device or devices acting or capable of acting in the manner described and claimed in the '447 patent.
24. HP, on information and belief, manufactures, uses, and sells products that infringe at least Claim 25 of the '447 patent, either literally or under the doctrine of equivalents, including for example and without limitation HP's Compaq tc4200 Tablet and tc4400 Tablet PC-

models, as well as any other electronic device or devices acting or capable of acting in the manner described and claimed in the '447 patent.

25. Lenovo, on information and belief, manufactures, uses, and sells products that infringe at least Claim 25 of the '447 patent, either literally or under the doctrine of equivalents, including for example and without limitation Lenovo's ThinkPad X Series Tablet PC, ThinkPad X41 Tablet, as well as any other electronic device or devices acting or capable of acting in the manner described and claimed in the '447 patent.
26. Fujitsu, on information and belief, manufactures, uses, and sells products that infringe at least Claim 25 of the '447 patent, either literally or under the doctrine of equivalents, including for example and without limitation Fujitsu's LifeBook® T4210 Tablet PC and LifeBook® P1500 and P1500D Notebooks, as well as any other electronic device or devices acting or capable of acting in the manner described and claimed in the '447 patent.
27. The infringement of the '447 patent alleged above has injured the Plaintiff and thus, it is entitled to recover damages adequate to compensate for Acer, Gateway, Toshiba, HP, Lenovo, and Fujitsu's infringement, which in no event can be less than a reasonable royalty.
28. Venue is proper in this court under Title 28 United States Code § 1391(b) and 1400(b).

IV. DEMAND FOR JURY TRIAL

29. Plaintiff hereby demands a jury trial on all claims and issues.

V. PRAYER FOR RELIEF

Wherefore, Plaintiff prays for entry of judgment:

- A. that Defendants, Acer, Gateway, Toshiba, HP, Lenovo, and Fujitsu, have infringed one or more claims of the '447 patent;
- B. that Defendants, Acer, Gateway, Toshiba, HP, Lenovo, and Fujitsu, account for and pay to Plaintiff all damages caused by the infringement of the '447 patent, which by statute can be no less than a reasonable royalty;
- C. that Plaintiff be granted pre-judgment and post-judgment interest on the damages caused to them by reason of Defendants, Acer, Gateway, Toshiba, HP, Lenovo, and Fujitsu's infringement of the '447 patent;
- D. that Plaintiff be granted its attorneys' fees in this action;
- E. that costs be awarded to Plaintiff;
- F. that Plaintiff be granted such other and further relief as the Court may deem just and proper under the current circumstances.

Respectfully submitted,

Date: December 11, 2006

/s/ Edward W. Goldstein
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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on December 11, 2006. Any other counsel of record will be served by first class U.S. mail.

/s/ Edward W. Goldstein
Edward W. Goldstein