UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

OPERATING SYSTEMS SOLUTIONS, LLC)
95437 Barnwell Road)
Fernandina Beach, Florida 32034)
)
)
Plaintiff,)
) CIV. CASE NO: _____
v.)
) INJUNCTIVE RELIEF
APPLE, INC.) REQUESTED
1 Infinite Loop)
Cupertino, CA 95014)
)
Defendant.)

COMPLAINT AND
JURY TRIAL REQUEST

COMES NOW the Plaintiff, Operating Systems Solutions, LLC (hereinafter "OSS"), and for its cause of action against Defendant, Apple, Incorporated (hereinafter "Apple"), for patent infringement for which OSS alleges:

Parties and Jurisdiction

1. OSS is a limited liability company formed under the laws of Florida having its principal place of business at 95437 Barnwell Road, Fernandina Beach, Florida 32034.

2. On information and belief Apple is a California corporation having its principal place of business at 1 Infinite Loop, Cupertino, California 95014.

3. This is a complaint for infringement of U.S. Patent No. RE40,092 (hereinafter "the OSS Patent") under 35 U.S.C. §271.

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4. The Court has original and exclusive jurisdiction over the subject matter of the complaint under 28 U.S.C. §§ 1331, 1338(a). Venue is proper under 28 U.S.C. §§ 1391 and 1400(b).

General Allegations

5. The OSS Patent was originally filed on May 11, 1999 and issued as United States Patent No. 6,434,696 (hereinafter the "'696 Patent") on August 13, 2002.

6. A Reissue Application based on the '696 Patent was filed on August 12, 2004 and issued on February 19, 2008 as the OSS Patent. A copy of the OSS Patent is attached hereto as Exhibit 1, which is incorporated herein by reference.

7. OSS owns all right, title and interest in the OSS Patent by reason of an assignment recorded by the U.S. Patent and Trademark Office at reel 026640, frame 0965.8. The OSS Patent is in force and is presumed valid by virtue of 35 U.S.C. § 282.

9. Upon information and belief, without license or permission from OSS, Apple has infringed, actively induced others to infringe, and/or contributorily infringed, literally or under the doctrine of equivalents, one or more claims of the OSS Patent. Apple did so by importing, making, using, offering to sell, and/or selling products and devices that embody and/or practice the patented invention.

COUNT I

Patent Infringement

10. Paragraphs 1 through 9 are adopted and incorporated herein by reference as if fully set out in this paragraph 10.

11. OSS is the owner of the OSS Patent.

12. Apple uses and has used within this judicial district methods covered by the OSS Patent.

13. Apple has infringed, actively induced others to infringe, and/or contributorily infringed, literally or under the doctrine of equivalents, one or more claims of the OSS Patent in violation of Title 35 U.S.C. §271(a)-(c). Apple has infringed by importing, making, using, offering to sell, and/or selling products and devices that practice the patented invention, all to the damage and injury of OSS.

14. Apple has infringed the OSS Patent after constructive notice of the OSS Patent, and upon information and belief continues to use the accused methods after having actual notice of the infringement.

15. Apple uses the infringing methods within the United States without license from OSS.

16. Apple sells or offers to sell within this district computer systems, including but not limited to the MacBook Pro, that utilize the Mac OSX operating system that infringes at least claim 1 of the OSS Patent.

17. Upon information and belief Apple's actions were and have been willful and in direct disregard of Plaintiff's patent rights.

18. Plaintiff OSS has suffered and continues to suffer irreparable damage and injury for which there is no adequate remedy at law against Apple for its infringement of the OSS Patent.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff OSS prays that judgment be entered by this Court in its favor and against the Defendant Apple providing the following relief:

A. That Apple, its agents, affiliates, subsidiaries, servants, employees and attorneys and those persons in active concert with or controlled by them be permanently enjoined from:

1. Using methods which infringe any claim of the OSS Patent;

2. Inducing others to infringe the OSS Patent; and

3. Contributing to the infringement of the OSS Patent.

B. That Apple be required to account to Plaintiff for Plaintiff's lost profits and for all damages sustained by Plaintiff and to which Plaintiff is entitled by reason of the infringement of the OSS Patent (35 U.S.C. § 284);

C. That judgment be entered against Apple for Plaintiff's damages in an amount to be determined at trial, and for prejudgment interest based on infringement damages accruing from the date of Apple's respective acts of infringement;

D. That a determination be made that Apple's actions were in willful disregard of Plaintiff's rights and that Apple is required to pay to Plaintiff the costs of this action and Plaintiff's reasonable attorney fees (35 U.S.C. § 285), and that damages be trebled;

E. An order directing Apple to deliver to OSS for immediate destruction all remaining advertisements, circulars, brochures or other promotional or advertising items, web site or other materials for the infringing method; and

F. Such other and further relief as may be proper and just.

Plaintiff requests a trial by jury.

Operating System Solutions, LLC
Plaintiff,

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