

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
Civil Action No. 1:09-cv-00338

ROBERT E. HOUCHIN,

Plaintiff

v.

GERALD HOYLE JR. AND
PATRICIA C. HOYLE,

Defendants.

**COMPLAINT AND DEMAND
FOR JURY TRIAL**

Plaintiff Robert E. Houchin, by and through counsel, for his Complaint against Defendants Gerald Hoyle, Jr. and Patricia C. Hoyle (hereinafter “Defendants”), alleges as follows:

THE PARTIES

1. Plaintiff is a citizen and resident of Azel, Texas.
2. On information and belief Defendant Gerald Hoyle, Jr. is a citizen and resident of Davidson County, North Carolina.
3. On information and belief Defendant Patricia C. Hoyle is a citizen and resident of Davidson County, North Carolina.

JURISDICTION AND VENUE

4. This action arises under the Patent Act, Title 35 of the United States Code, and is an action for patent infringement under § 271.
5. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over Defendants under the provisions of N.C. Gen. Stat. § 1-75.4 and consistent with the underlying due process principles of the U.S. Constitution. Upon information and belief, Defendants do business in this State and District, have significant contacts in this State and District, lease, use and make available for use by others and /or sell and offer for sale in this State and District, methods, apparatuses, and other devices which directly and indirectly infringe or contribute to the infringement of United States Patent No. 7,316,614 B2 entitled “Method and Apparatus for Conducting A Sweepstakes,” (hereinafter referred to as the “‘614 patent”) as hereinafter alleged, and have committed and continue to commit acts in this State and District that are the subject of the counts set forth herein.

7. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1400(b). Defendants do business in this State and District, have significant contacts in this State and District, lease, use and make available for use by others and /or sell and offer for sale in this State and District, methods, apparatuses, and other devices which directly and indirectly infringe or contribute to the infringement of the ‘614 Patent, as hereinafter alleged, and have committed and continue to commit acts in this State and District that are the subject of the counts set forth herein.

CLAIM I – INFRINGEMENT OF U.S. PAT. NO. 7,316,614 B2

8. The allegations contained in Paragraphs 1 through 7 above are incorporated herein by reference.

9. On January 8, 2008, the United States Patent Office duly and lawfully issued the ‘614 Patent. Plaintiff is the lawful owner of all right, title, and interest in and to the ‘614 Patent, including the right to sue for and recover for past infringement thereof.

10. During the term of ‘614 Patent, Defendants have used, made, sold or offered to sell, or licensed methods and apparatuses embodying one or more of the inventions described and claimed in the ‘614 Patent, without authority from the patent holder.

11. Defendants directly infringed, contributorily infringed, and induced the infringement of one or more claims of the ‘614 Patent.

12. The infringing activities of Defendants were willful and deliberate.

RELIEF SOUGHT

Plaintiff Robert E. Houchin respectfully seeks that the Court grant the following relief:

1. Enter judgment for Plaintiff and against Defendants for infringement of the ‘614 Patent;

2. Enter judgment that the infringement of Defendants was and is willful;

3. Permanently enjoin Defendants, their officers, directors, principals, agents, sales representatives, servants, employees, successors, assigns, affiliates, subsidiaries and all those acting in concert or participation with the, from directly or indirectly infringing, inducing infringement or contributing to the infringement of any claim of the '614 Patent;

4. Enter judgment in favor of Plaintiff against Defendants for an amount that will adequately compensate it for Defendants' infringement, but under no circumstances an amount less than a reasonable royalty for Defendants' use of Plaintiff's patented inventions;

5. Enter judgment in favor of Plaintiff and against Defendants for pre-judgment interest on all damages awarded;

6. Enter judgment in favor of Plaintiff and against Defendants for three times the amount of damages pursuant to 36 U.S.C. § 284 because of their willful infringement;

7. Enter judgment in favor of Plaintiff and against Defendants for Plaintiff's attorneys' fees and costs pursuant to 35 U.S.C. § 285;

8. Enter judgment in favor of Plaintiff and against Defendants for Plaintiff's costs of suit; and

9. Enter such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff Robert E. Houchin requests a trial by jury.

This the 8th day of May, 2009.

/s/ James A. Medford

James A. Medford

N.C. Bar No. 2960

/s/Richard A. Coughlin

Richard A. Coughlin

N.C. Bar No. 19894

/s/T. Matthew Creech

T. Matthew Creech

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