

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

MAXUS STRATEGIC SYSTEMS, INC.	§	
	§	
<i>PLAINTIFF,</i>	§	CIVIL ACTION NO. 1:11-cv-73
	§	
AQUMIN LLC and NIRVANA	§	JURY TRIAL REQUESTED
SYSTEMS, INC.	§	
	§	
<i>DEFENDANTS.</i>	§	

PLAINTIFF’S ORIGINAL COMPLAINT

Plaintiff, MAXUS STRATEGIC SYSTEMS, INC. (“Maxus”), files this Original Complaint for patent infringement against Aqumin, LLC (“Aqumin) and Nirvana Systems, Inc. (“Nirvana”), and would show the court the following:

PARTIES

1. Plaintiff Maxus is a corporation organized under the laws of Delaware, having its principal place of business at 25 Town Line Road, Mendon, Vermont 05701. All pleadings may be served on Maxus through its attorney-in-charge, David K. Anderson, Anderson & Cunningham, P.C., 1221 Lamar, Suite 1115, Houston, Texas 77010.

2. Defendant Aqumin LLC is a Delaware corporation with its principal place of business at 7676 Woodway Drive, Suite 325, Houston, Texas 77063. Aqumin may be served by and through its registered agent for service of process, Lawrence E. Wilson, 919 Milam, Suite 2200, Houston, Texas 77002.

3. Defendant Nirvana Systems, Inc. is a Texas corporation with its principal place of business at 7000 N. MoPac, Suite 425, Austin, Texas 78731. Nirvana may be served by and through its registered agent for service of process, H. Edward Downs II,

7000 North MoPac Expressway, Suite 425, Austin, Texas 78731.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338 because this is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. §§ 271, *et seq.*

5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b), (c) and 1400(b).

FACTUAL BACKGROUND

6. On October, 7, 1997, United States Letters Patent No 5,675,746, entitled “Virtual Reality Generator for Use with Financial Information” (“the ‘746 Patent”), was duly and legally issued to Paul Marshall. Paul Marshall is the sole inventor of the invention embodied in the ‘746 Patent. A copy of the ‘746 Patent is attached hereto as EXHIBIT “A.” The ‘746 Patent relates generally to a virtual reality generator apparatus and method for use with financial and other complex information.

7. On June 30, 1998, United States Letters Patent No. 5,774,878, entitled “Virtual Reality Generator for Use with Financial Information ” (“the ‘878 Patent”), was duly and legally issued to Paul Marshall. Paul Marshall is the sole inventor of the invention embodied in the ‘878 Patent. A copy of the ‘878 Patent is attached hereto as EXHIBIT “B.” The ‘878 Patent also relates generally to a virtual reality generator apparatus and method for use with financial and other complex information.

8. On June 6, 2000, United States Letters Patent No. 6,073,115, entitled “Virtual Reality Generator for Displaying Abstract Information” (“the ‘115 Patent), was duly and legally issued to Paul Marshall. A copy of the ‘115 Patent is attached hereto as

EXHIBIT "C." The '115 Patent relates generally to a virtual reality generator for displaying abstract information.

9. Paul Marshall is the sole inventor and original owner of the '746, '878 and '115 patents. He assigned his rights in those patents to Charles Marshall on or about December 1, 2008. Charles Marshall assigned those patents to Maxus on or about December 9, 2010. The assignment from Charles Marshall to Maxus has been duly filed and recorded with the United States Patent and Trademark Office. As a result, Maxus is the current owner of the '746, '878 and '115 patents, and it has all rights in and to the patents, including the right to sue for infringement, both past and present.

10. Defendant Aquimin uses, markets, and sells products and/or services that infringe one or more of the Maxus patents. For example, Aquimin's AlphaVision product/service is a virtual realty generator used for displaying various types of financial information, and it infringes the Maxus patents.

11. Defendant Nirvana uses, markets, and sells products and/or services that infringe one or more of the Maxus patents. For example, Nirvana's VisualTrader product/service is a virtual realty generator used for displaying various types of financial information, and it infringes the Maxus patents.

CAUSE OF ACTION FOR PATENT INFRINGEMENT

12. Maxus incorporates by reference each and every allegation contained within paragraphs 1 through 11 above as if fully set forth herein.

13. Aquimin and Nirvana directly infringed, and are directly infringing one or more claims of the '746, '878 and '115 patents by making, using, offering for sale, and/or selling certain products and services. They have also infringed, and are also infringing,

one or more claims of the '746, '878 and '115 patents under the doctrine of equivalents by making, using, offering for sale, and/or selling certain products and services. They have also induced others to infringe Maxus's '746, '878 and '115 patents. Their infringement and contributory infringement, either in whole or at least in part, is intentional and willful.

14. They have engaged in these infringing activities within this judicial district and elsewhere in the United States, without the consent of or without leave or license from Maxus. Furthermore, Defendant Nirvana has its principal place of business in this district.

15. Their unlawful direct or contributory infringement of the '746, '878 and '115 patents, and/or the active inducement of others to infringe the '746, '878 and '115 patents have caused immediate and irreparable injury, and unless they are enjoined, their continued infringement will cause Maxus injury for which there is no adequate remedy at law.

16. Maxus also seeks reasonable compensation for past infringement and any infringement in the future.

JURY TRIAL

17. Pursuant to Fed. R. Civ. P. 38 and 39, Maxus hereby demands a trial by jury.

PRAYER

WHEREFORE, Plaintiff Maxus prays that the Court grant the following relief against these defendants:

A. Judgment in favor of Plaintiff Maxus, Inc, finding that Defendants Aquimin and Nirvana have infringed and are infringing the patents as pled and that such

infringement is intentional and wilful;

B. Permanent injunction enjoining Defendants Aquimin and Nirvana and those in privity with or acting in concert with them from further infringement of the '746, '878 and '115 patents during the remainder of the terms for which the patents have been granted;

C. Damages against Aquimin and Nirvana in amounts adequate to compensate Maxus for such acts of infringement and an award of additional damages for their willful infringement;

D. Reasonable attorneys' fees in accordance with 35 U.S.C. § 285;

E. Award of Interest and costs; and

F. Such other and further relief as is just and proper.

Respectfully submitted

ANDERSON & CUNNINGHAM, P.C.

/s/ David K. Anderson

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