

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

FILED IN CLERK'S OFFICE
U.S.D.C. Atlanta

MAR 13 2007

JAMES M. HATTEN, Clerk
By: *[Signature]*
Deputy Clerk

CATCH CURVE, INC.,

Plaintiff,

v.

VERA CRUZ MARKETING, INC.,

Defendant.

Civil Action
File No.

1:07-CV-0584

JURY TRIAL DEMANDED

[Handwritten initials]

COMPLAINT

Plaintiff Catch Curve, Inc. ("Catch Curve") states its Complaint against Vera Cruz Marketing, Inc. ("Defendant") as follows:

JURISDICTION AND VENUE

1. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code.
2. This Court has subject matter jurisdiction over all causes of action set forth herein pursuant to 28 U.S.C. §§ 1331 and 1338(a).
3. Venue is proper in this judicial district and division pursuant to 28 U.S.C. §§1391(b) and (c).

PARTIES

4. Plaintiff Catch Curve is a Delaware corporation with its principal place of business in Atlanta, Georgia.

5. Catch Curve is the owner, by assignment, of all right, title, and interest in and to the following United States Patents, including the right to bring suit for patent infringement: United States Patent No. 4,994,926 (“the ‘926 patent”); United States Patent No. 5,291,302 (“the ‘302 patent”); United States Patent No. 5,459,584 (“the ‘584 patent”); United States Patent No. 6,643,034 (“the ‘034 patent”); and United States Patent No. 6,785,021 (“the ‘021 patent”).

6. Defendant is a Pennsylvania corporation with its principal place of business at 2543 Liberty Street, Allentown, Pennsylvania 18104. Upon information and belief, the Court has personal jurisdiction over Defendant.

THE CONTROVERSY

7. Catch Curve is the owner of the ‘926 patent, the ‘302 patent, the ‘584 patent, the ‘034 patent, and the ‘021 patent.

8. Defendant has in the past and continues to make, have made, offer for sale, sell, use, and/or import into the United States one or more products, services, and/or processes that constitute direct infringement, contributory infringement, and/or inducement to infringe one or more claims of Catch Curve’s ‘926 patent in

violation of 35 U.S.C. § 271, including, but not necessarily limited to, Defendant's InternetFaxProvider (IFP) and EFaxProvider (EFP) products/services.

9. Defendant has in the past and continues to make, have made, offer for sale, sell, use, and/or import into the United States one or more products, services, and/or processes that constitute direct infringement, contributory infringement, and/or inducement to infringe one or more claims of Catch Curve's '302 patent in violation of 35 U.S.C. § 271, including, but not necessarily limited to, Defendant's InternetFaxProvider (IFP) and EFaxProvider (EFP) products/services.

10. Defendant has in the past and continues to make, have made, offer for sale, sell, use, and/or import into the United States one or more products, services, and/or processes that constitute direct infringement, contributory infringement, and/or inducement to infringe one or more claims of Catch Curve's '584 patent in violation of 35 U.S.C. § 271, including, but not necessarily limited to, Defendant's InternetFaxProvider (IFP), EFaxProvider (EFP), VXBroadcasting (VXB), and FAXBroadcastProvider (FBP) products/services.

11. Defendant has in the past and continues to make, have made, offer for sale, sell, use, and/or import into the United States one or more products, services, and/or processes that constitute direct infringement, contributory infringement, and/or inducement to infringe one or more claims of Catch Curve's '034 patent in

violation of 35 U.S.C. § 271, including, but not necessarily limited to, Defendant's InternetFaxProvider (IFP) and EFaxProvider (EFP) products/services.

12. Defendant has in the past and continues to make, have made, offer for sale, sell, use, and/or import into the United States one or more products, services, and/or processes that constitute direct infringement, contributory infringement, and/or inducement to infringe one or more claims of Catch Curve's '021 patent in violation of 35 U.S.C. § 271, including, but not necessarily limited to, Defendant's InternetFaxProvider (IFP), EFaxProvider (EFP), and eWingo products/services.

COUNT ONE:
INFRINGEMENT OF U.S. PATENT NO. 4,994,926

13. Catch Curve realleges and incorporates herein the allegations of paragraphs 1 through 12 of this Complaint as if fully set forth herein.

14. Defendant has engaged in the manufacture, use, sale, offer for sale, and/or importation of products, services, and/or processes that infringe, directly and/or indirectly, one or more of the claims of Catch Curve's '926 patent, in violation of 35 U.S.C. § 271. The infringing products, services, and/or processes manufactured, used, sold, offered for sale, and/or imported by Defendant include, but are not necessarily limited to, Defendant's InternetFaxProvider (IFP) and EFaxProvider (EFP) products/services.

15. Catch Curve informed Defendant of the '926 patent and the activity that is believed to be an infringement of the '926 patent, accompanied by a proposal to abate the infringement by license, at least as early as June 29, 2006.

16. Defendant's infringement of Catch Curve's '926 patent has been, and continues to be, willful.

17. Catch Curve has and continues to suffer damages as a direct and proximate result of Defendant's infringement of Catch Curve's '926 patent, and will suffer additional and irreparable damages unless Defendant is permanently enjoined by this Court from continuing its infringement. Catch Curve has no adequate remedy at law.

18. Catch Curve is entitled to: (1) damages adequate to compensate it for Defendant's infringement, which amounts to, at a minimum, a reasonable royalty; (2) treble damages; (3) its attorney fees and costs; and (4) a preliminary and permanent injunction.

COUNT TWO:
INFRINGEMENT OF U.S. PATENT NO. 5,291,302

19. Catch Curve realleges and incorporates herein the allegations of paragraphs 1 through 18 of this Complaint as if fully set forth herein.

20. Defendant has engaged in the manufacture, use, sale, offer for sale, and/or importation of products, services, and/or processes that infringe, directly and/or indirectly, one or more of the claims of Catch Curve's '302 patent, in violation of 35 U.S.C. § 271. The infringing products, services, and/or processes manufactured, used, sold, offered for sale, and/or imported by Defendant include, but are not necessarily limited to, Defendant's InternetFaxProvider (IFP) and EFaxProvider (EFP) products/services.

21. Catch Curve informed Defendant of the '302 patent and the activity that is believed to be an infringement of the '302 patent, accompanied by a proposal to abate the infringement by license, at least as early as June 29, 2006.

22. Defendant's infringement of Catch Curve's '302 patent has been, and continues to be, willful.

23. Catch Curve has and continues to suffer damages as a direct and proximate result of Defendant's infringement of Catch Curve's '302 patent, and will suffer additional and irreparable damages unless Defendant is permanently enjoined by this Court from continuing its infringement. Catch Curve has no adequate remedy at law.

24. Catch Curve is entitled to: (1) damages adequate to compensate it for Defendant's infringement, which amounts to, at a minimum, a reasonable royalty; (2) treble damages; (3) its attorney fees and costs; and (4) a preliminary and permanent injunction.

COUNT THREE:
INFRINGEMENT OF U.S. PATENT NO. 5,459,584

25. Catch Curve realleges and incorporates herein the allegations of paragraphs 1 through 24 of this Complaint as if fully set forth herein.

26. Defendant has engaged in the manufacture, use, sale, offer for sale, and/or importation of products, services, and/or processes that infringe, directly and/or indirectly, one or more of the claims of Catch Curve's '584 patent, in violation of 35 U.S.C. § 271. The infringing products, services, and/or processes manufactured, used, sold, offered for sale, and/or imported by Defendant include, but are not necessarily limited to, Defendant's InternetFaxProvider (IFP), EFaxProvider (EFP), VXbroadcasting (VXB), and FAXBroadcastProvider (FBP) products/services.

27. Catch Curve informed Defendant of the '584 patent and the activity that is believed to be an infringement of the '584 patent, accompanied by a proposal to abate the infringement by license, at least as early as June 29, 2006.

28. Defendant's infringement of Catch Curve's '584 patent has been, and continues to be, willful.

29. Catch Curve has and continues to suffer damages as a direct and proximate result of Defendant's infringement of Catch Curve's '584 patent, and will suffer additional and irreparable damages unless Defendant is permanently enjoined by this Court from continuing its infringement. Catch Curve has no adequate remedy at law.

30. Catch Curve is entitled to: (1) damages adequate to compensate it for Defendant's infringement, which amounts to, at a minimum, a reasonable royalty; (2) treble damages; (3) its attorney fees and costs; and (4) a preliminary and permanent injunction.

COUNT FOUR:
INFRINGEMENT OF U.S. PATENT NO. 6,643,034

31. Catch Curve realleges and incorporates herein the allegations of paragraphs 1 through 30 of this Complaint as if fully set forth herein.

32. Defendant has engaged in the manufacture, use, sale, offer for sale, and/or importation of products, services, and/or processes that infringe, directly and/or indirectly, one or more of the claims of Catch Curve's '034 patent, in violation of 35 U.S.C. § 271. The infringing products, services, and/or processes manufactured, used, sold, offered for sale, and/or imported by Defendant include,

but are not necessarily limited to, Defendant's InternetFaxProvider (IFP) and EFaxProvider (EFP) products/services.

33. Catch Curve provided actual notice to Defendant of its infringement of the '034 patent, as corrected on September 12, 2006, upon the filing of this Complaint.

34. Defendant's infringement of Catch Curve's '034 patent has been, and continues to be, willful.

35. Catch Curve has and continues to suffer damages as a direct and proximate result of Defendant's infringement of Catch Curve's '034 patent, and will suffer additional and irreparable damages unless Defendant is permanently enjoined by this Court from continuing its infringement. Catch Curve has no adequate remedy at law.

36. Catch Curve is entitled to: (1) damages adequate to compensate it for Defendant's infringement, which amounts to, at a minimum, a reasonable royalty; (2) treble damages; (3) its attorney fees and costs; and (4) a preliminary and permanent injunction.

COUNT FIVE:
INFRINGEMENT OF U.S. PATENT NO. 6,785,021

37. Catch Curve realleges and incorporates herein the allegations of paragraphs 1 through 36 of this Complaint as if fully set forth herein.

38. Defendant has engaged in the manufacture, use, sale, offer for sale, and/or importation of products, services, and/or processes that infringe, directly and/or indirectly, one or more of the claims of Catch Curve's '021 patent, in violation of 35 U.S.C. § 271. The infringing products, services, and/or processes manufactured, used, sold, offered for sale, and/or imported by Defendant include, but are not necessarily limited to, Defendant's InternetFaxProvider (IFP), EFaxProvider (EFP), and eWingo products/services.

39. Catch Curve provided actual notice to Defendant of its infringement of the '021 patent, as corrected on September 12, 2006, upon the filing of this Complaint.

40. Defendant's infringement of Catch Curve's '021 patent has been, and continues to be, willful.

41. Catch Curve has and continues to suffer damages as a direct and proximate result of Defendant's infringement of Catch Curve's '021 patent, and will suffer additional and irreparable damages unless Defendant is permanently enjoined by this Court from continuing its infringement. Catch Curve has no adequate remedy at law.

42. Catch Curve is entitled to: (1) damages adequate to compensate it for Defendant's infringement, which amounts to, at a minimum, a reasonable royalty;

(2) treble damages; (3) its attorney fees and costs; and (4) a preliminary and permanent injunction.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Catch Curve, Inc. prays that the Court enter judgment in favor of Plaintiff and against Defendant Vera Cruz Marketing, Inc. as follows:

A. That Defendant be ordered to pay damages adequate to compensate Catch Curve for Defendant's infringement of Catch Curve's United States Patent No. 4,994,926; United States Patent No. 5,291,302; United States Patent No. 5,459,584; United States Patent No. 6,643,034; and United States Patent No. 6,785,021, pursuant to 35 U.S.C. § 284;

B. That Defendant be ordered to pay treble damages and attorney's fees pursuant to 35 U.S.C. §§ 284 and 285;

C. That Defendant be enjoined from further infringement of Catch Curve's United States Patent No. 4,994,926; United States Patent No. 5,291,302; United States Patent No. 5,459,584; United States Patent No. 6,643,034; and United States Patent No. 6,785,021, pursuant to 35 U.S.C. § 283;

D. That Defendant be ordered to pay prejudgment interest;

E. That Defendant be ordered to pay all costs associated with this action;
and

F. That Catch Curve be granted such other and additional relief as the
Court deems just, equitable, and proper.

DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38(b), Plaintiff Catch Curve, Inc. demands a trial
by jury of all issues triable of right by a jury.

This 13th day of March, 2007.



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