

ORIGINAL

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

SEP 24 2007

JAMES N. HATTEN, Clerk
Deputy Clerk

DYNAMIC DEPTH, INC.,

Plaintiff,

v.

EMFAST, INC.,

Defendant.

Civil Action
File No.

1:07-CV-2319
JURY TRIAL DEMANDED

CA

COMPLAINT

Plaintiff Dynamic Depth, Inc. ("Dynamic Depth") states its Complaint against Defendant emFAST, 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 Dynamic Depth is the owner, by assignment, of all right, title, and interest in and to United States Patent No. 5,461,488 (“the ‘488 patent”), including the right to bring suit for patent infringement. A true and correct copy of the ‘488 patent is appended hereto as Exhibit A.

5. Defendant is a Delaware corporation with a principal place of business at 991 US Highway 22, Suite 200, Bridgewater, NJ 08807. Upon information and belief, the Court has personal jurisdiction over Defendant.

THE CONTROVERSY

6. Dynamic Depth is the owner of the ‘488 patent.

7. 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 Dynamic Depth’s ‘488 patent in violation of 35 U.S.C. § 271, including, but not necessarily limited to, Defendant’s FACSys® products/services.

COUNT ONE:
INFRINGEMENT OF U.S. PATENT NO. 5,461,488

8. Dynamic Depth realleges and incorporates herein the allegations of paragraphs 1 through 7 of this Complaint as if fully set forth herein.

9. 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 Dynamic Depth's '488 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 FACSys® products/services.

10. Dynamic Depth has and continues to suffer damages as a direct and proximate result of Defendant's infringement of Dynamic Depth's '488 patent, and will suffer additional and irreparable damages unless Defendant is permanently enjoined by this Court from continuing its infringement. Dynamic Depth has no adequate remedy at law.

11. Dynamic Depth 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 Dynamic Depth, Inc. prays that the Court enter judgment in favor of Plaintiff and against Defendant emFAST, Inc., as follows:

A. That Defendant be ordered to pay damages adequate to compensate Dynamic Depth for Defendant's infringement of Dynamic Depth's United States Patent No. 5,461,488, pursuant to 35 U.S.C. § 284;

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

C. That Defendant be enjoined from further infringement of Dynamic Depth's United States Patent No. 5,461,488, 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 Dynamic Depth 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 Dynamic Depth, Inc. demands a trial by jury of all issues triable of right by a jury.

This 24th day of September, 2007.

A handwritten signature in black ink, appearing to read "D. R. Gresham", written over a horizontal line.

Dan R. Gresham

Georgia State Bar No. 310280

Cynthia J. Lee

Georgia Bar No. 442999

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