

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

L&H CONCEPTS, LLC,

Plaintiff,

vs.

**MICHAEL E. BRYANT d/b/a KARRIER
COMMUNICATIONS, CRAIG A. SCHMIDT
d/b/a KARRIER COMMUNICATIONS
COMMUNICATIONS, and JAMES S.
SIMPKINS d/b/a KARRIER
COMMUNICATIONS**

Defendants.

CIVIL ACTION NO. 6:07cv65-LED

JURY TRIAL DEMANDED

**FIRST AMENDED COMPLAINT FOR PATENT
INFRINGEMENT AND JURY DEMAND**

Plaintiff L&H Concepts LLC (“L&H”), by and through its counsel, for its Complaint against Michael E. Bryant d/b/a Karrier Communications (“Bryant”), Craig A. Schmidt d/b/a Karrier Communications (“Schmidt”), and James S. Simpkins d/b/a Karrier Communications (“Simpkins”) (hereinafter collectively referred to as “Karrier” or “defendants”) alleges as follows:

I. THE PARTIES

1. Plaintiff L&H Concepts LLC is a Michigan corporation, having an address at 46916 Jewel Drive, Macomb, Michigan 48044.

2. Defendant Michael E. Bryant is an individual residing in Washington having a home address in Bellvue, Washington 98006.

3 Defendant Craig A. Schmidt is an individual residing in California, having a home address in Cameron Park, California 95682.

4. Defendant James S. Simpkins is an individual residing in Washington having an address in Issaquah, Washington 98029.

5. Defendants Bryant, Schmidt, and Simpkins are doing business as Karrier Communications and have a business address at 3450 Palmer Drive, #4-162, Cameron Park, California 95682.

6. Upon information and belief, Defendants Bryant, Schmidt and Simpkins have transacted and are transacting business in the Eastern District of Texas.

7. Upon information and belief, Karrier maintains a website located at <http://www.intelligolf.com/>. This website is an interactive website in that visitors to the site are able to take a tour of Karrier products, compare various features offered in Karrier's products, view Karrier's press releases for the last several years, view customer testimonials (including a customer testimonial from an alleged resident of "Copper, Texas"), learn how to become a "reseller" or "distributor" of Intelligolf's products, read articles detailing awards and reviews for the Intelligolf software, and learn about trademarks and copyrights allegedly held by Karrier.

8. Visitors to the above-referenced website are able to click a link to the "Intelli e-store" where they may purchase and immediately download Intelligolf software to be used with a preferred handheld device. Visitors to the website are also able to purchase IntelliGolf gift cards directly on the website. Finally, visitors to the website are able to download, for a fee, information relating to specific golf courses in which they are interested. Based upon

information and belief, Karrier maintains information, available for download via its website, about more than fifty golf courses located in the Eastern District of Texas.

9. Based upon information and belief, Karrier has customers in the Eastern District of Texas who have downloaded versions of Intelligolf's software via its website. Additionally, Karrier has hundreds of customers located in the Eastern District of Texas who have downloaded information pertaining to golf courses located throughout the United States. Finally, Karrier has more than fifty "submissions" on its website from individuals that pertain to golf courses located in the Eastern District of Texas.

II. JURISDICTION

10. The claims pleaded herein arise under the Patent Act, 35 U.S.C. § 1 *et seq.*

11. Subject matter jurisdiction for the pleaded claims is conferred upon the Court by 28 U.S.C. §1338.

12. The court also has diversity jurisdiction under 28 U.S.C. § 1332 because the plaintiff and defendants are citizens of different states and the amount in controversy exceeds \$75,000.

III. PATENT INFRINGEMENT

13. On July 14, 1998, U.S. Patent No. 5,779,566 ("the '566 patent", attached), for a "Handheld Golf Reporting And Statistical Analysis Apparatus And Method," was duly and lawfully issued, naming Peter S. Wilens as sole inventor.

14. Plaintiff L&H Concepts LLC is the owner by assignment of the '566 patent.

15. Defendants have infringed, and are infringing, by way of direct infringement, contributory infringement, and/or inducing others to infringe, one or more claims of the '566 patent by making, using, offering for sale, and/or selling, in the United States, certain golf

reporting software. Said infringing products include, but are not limited to, various versions of a software program called “Intelligolf.”

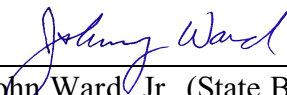
IV. DEMAND FOR RELIEF

WHEREFORE, plaintiff L&H requests entry of a judgment against defendants Bryant, Schmidt, and Simpkins granting relief as follows:

- A. Finding defendants liable to plaintiff L&H for infringement of the ‘566 patent;
- B. Preliminary and permanent injunctive relief restraining defendants, together with any officers, agents, servants, employees, and attorneys, and such other persons in active concert or participation with the defendants who receive actual notice of the order, from further infringement of the ‘566 patent;
- C. Awarding plaintiff L&H damages adequate to compensate for such infringement;
- D. An award of interest on all damages awarded;
- E. An award to L&H of all attorney fees and costs incurred;
- F. Granting such other, further and different relief as may be just and equitable on the proofs.

V. DEMAND FOR JURY TRIAL

Plaintiff L&H hereby demands a trial by jury for all issues so triable.

By: 
T. John Ward, Jr. (State Bar No. 00794818)
LAW OFFICE OF T. JOHN WARD, JR. P.C.
P.O. Box 1231
Longview, Texas 75606-1231
Email: jw@jwfirm.com

John M. Halan (P37616)
Brian S. Tobin (P67621)
BROOKS KUSHMAN, P.C.
1000 Town Center, Twenty-Second Floor
Southfield, Michigan 48075-1238
Tel: (248) 358-4400 / Fax: (248) 358-3351
Email: jhalan@brookskushman.com
btobin@brookskushman.com

Attorneys for Plaintiff L&H Concepts, LLC.