

(7)

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Remote Incorporated.

Plaintiff,

v.

Civil Action #

142
06cv 142 MJD/AB

MICROS Systems, Inc.,
P.O.S. Business Systems, Inc., and
JC Food Systems, LLC.

Defendants.

COMPLAINT

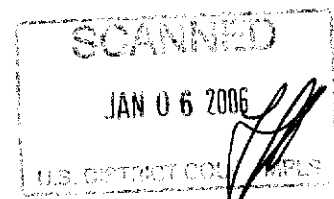
Plaintiff Remote Incorporated ("Remote"), for its Complaint against defendants MICROS Systems, Inc., P.O.S. Business Systems, Inc., and JC Food Systems, LLC states and alleges as follows:

PARTIES

1. Plaintiff Remote Incorporated. is a corporation a corporation organized and existing under the laws of the State of Minnesota, and having its principal office located at 717 Eaton Street, Saint Paul, MN 55107.

2. Defendant MICROS Systems, Inc. ("MICROS") is, on information and belief, a corporation organized under the laws of Maryland, with a principal place of business in Columbia, Maryland.

3. Defendant P.O.S. Business Systems, Inc. ("P.O.S.") is, on information and belief, a corporation organized under the laws of Minnesota, with a principal place of business in Plymouth, Minnesota.



4. Defendant JC Food Systems, LLC ("JC Food") is, on information and belief, a corporation organized under the laws of Minnesota, with a principal place of business in Inver Grove Heights, Minnesota. JC Food is the owner of the Baja Sol restaurant located in downtown Minneapolis at City Center, Skyway Level, 40 South 7th Street, Minneapolis, Minnesota 55402.

JURISDICTION AND VENUE

5. This is a claim of patent infringement under United States Patent Laws, 35 U.S.C. §§ 271, *et seq.*

6. This Court has jurisdiction over the subject matter of Remote's federal claims by virtue of 28 U.S.C. §§ 1331 and 1338.

7. This Court has personal jurisdiction over defendants MICROS, P.O.S., and JC Food, as the defendants have committed acts of patent infringement in this Judicial District including, *inter alia*, importing, making, using, offering for sale, and/or selling infringing products and/or services in this Judicial District.

8. On information and belief, defendants MICROS, P.O.S., and JC Food have knowingly and actively infringed, contributed to infringement and/or have induced others to commit such acts of infringement in this Judicial District.

9. Venue is proper under 28 U.S.C. §§ 1391(b) and 1400(b).

PATENT AT ISSUE

10. On or about August 16, 2002, Randolph Pentel filed an application for a utility patent entitled "Remote Ordering Device." This application being a continuation-in-part of United States Patent Nos. 6,435,406; 6,425,524; and 5,969,968. On or about April 19, 2005, the United States Patent and Trademark Office duly granted Patent No. 6,880,750 ("the '750 Patent") to Mr. Pentel. Mr. Pentel on or about December 16, 2005 assigned his entire right, title

and interest in and to the '750 patent to Remote. A copy of the '750 Patent is attached to this Complaint as Exhibit A.

11. MICROS provides information technology solutions for the hospitality industry. MICROS makes, offers for sale and sells "Point of Sale" systems that incorporate wireless telecommunication devices. Systems manufactured, offered for sale and sold by MICROS (e.g. the MICROS 9700 HMS device) are covered by the claims of the '750 patent.

12. P.O.S. is a local dealer of MICROS's products in Minnesota. P.O.S. offers for sale and sells infringing systems such as the MICROS 9700 HMS device to Minnesota customers.

13. JC Food has purchased infringing MICROS products from P.O.S. and is using such products in its Baja Sol restaurant in downtown Minneapolis.

14. On April 1, 2005, a letter was sent by Mr. Pentel's attorney to Mr. Tom Giannopoulos, Chairman and CEO of MICROS Systems, Inc. offering to license Mr. Pentel's patent portfolio. A copy of this letter is included in the Appendix as Exhibit B. This letter pointed out that Mr. Pentel's patent portfolio should be of interest to his company. This letter was also accompanied by detailed presentation materials. A copy of these presentation materials is included in the Appendix as Exhibit C. The presentation materials set forth a straight-forward description of Mr. Pentel's patented technology, possible applications of that technology, the patent protection Mr. Pentel had acquired, and the licensing opportunities available. Mr. Pentel received no response to this letter.

15. A second letter was mailed by Mr. Pentel's attorney to MICROS Systems on April 21, 2005. This letter informed MICROS that Mr. Pentel had recently obtained an

additional patent, the '750 patent, and included a copy of that patent for consideration. A copy of this letter is included in the Appendix as Exhibit D.

16. Mr. Pentel's counsel sent MICROS yet another letter on September 7, 2005. A copy of this letter is included in the Appendix as Exhibit E. This letter called out the non-responsive nature of MICROS's conduct to date. The letter additionally pointed out that one of MICROS's table service products had been observed in use at a local Baja Sol restaurant, owned by defendant JC Food. The letter again urged MICROS to discuss licensing of Mr. Pentel's patent. Additionally, included in the letter was an updated set of presentation materials regarding Mr. Pentel's patented technology. A copy of this updated set of presentation materials is included in the Appendix as Exhibit F. No response was ever received in response to any of the above mentioned letters.

17. Upon information and belief, defendants MICROS, P.O.S., and JC Food manufacture, use, offer for sale, and/or sell hospitality industry products and services including software and equipment, as well as other products and/or services covered by the inventions claimed in the '750 patent and without the authorization or license of Mr. Pentel.

18. Upon information and belief, defendants MICROS, P.O.S., and JC Food have made, used, offered to sell, and/or sold, and continue to make, use, offer to sell, and/or sell products and/or services within this Judicial District, including, without limitation, hospitality industry products and services, that infringe Mr. Pentel's '750 patent.

**COUNT I
(PATENT INFRINGEMENT)**

19. The allegations of Paragraphs 1 to 18 of the Complaint are re-alleged and incorporated herein by reference.

20. Defendants MICROS, P.O.S., and JC Food have been, and currently are, directly and/or indirectly infringing the '750 patent by making, using, and selling infringing products, by contributing to the infringement of others, and/or by inducing others to infringe Remote's '750 patent.

21. Upon information and belief, defendant MICROS's infringement of the '750 patent has and continues to be willful and deliberate.

22. Upon information and belief, defendants MICROS, P.O.S., and JC Food's infringement of the '750 Patent will continue unless enjoined by this Court.

23. As a direct and proximate consequence of defendant's MICROS, P.O.S., and JC Food's infringement of the '750 patent, plaintiff Remote Incorporated. has suffered and will continue to suffer irreparable injury and damages in an amount not yet determined for which Mr. Pentel is entitled to relief.

WHEREFORE, Plaintiff Remote Incorporated prays for judgment in his favor and against Defendants MICROS, P.O.S., and JC Food as follows:

(a) Entry of a judgment that defendants MICROS, P.O.S., and JC Food have infringed Remote Incorporated's '750 patent;

(b) Entry of a judgment that defendants MICROS, P.O.S., and JC Food have induced infringement of Remote Incorporated's '750 patent;

(c) Entry of a judgment that defendants MICROS, P.O.S., and JC Food have contributed to infringement of Remote Incorporated's '750 patent;

(d) Entry of a preliminary and permanent injunction restraining and enjoining defendants MICROS, P.O.S., and JC Food and their respective officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them who receive

actual notice of the order by personal service or otherwise, from any further sales or use in their infringing products and/or services and any other infringement of Remote Incorporated's '750 patent, whether direct or indirect;

(e) Awarding plaintiff Remote Incorporated damages under 35 U.S.C. § 284, including defendants MICROS, P.O.S., and JC Food's profits and treble damages for willful infringement;

(f) Awarding plaintiff Remote Incorporated reasonable attorneys' fees, costs, expenses, and interest pursuant to 35 U.S.C. § 285 and other applicable law; and

(g) Awarding plaintiff Remote Incorporated such other relief as the Court may deem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury of all issues so triable.

Dated: _____

January 6, 2006

Respectfully submitted, ,

James T. Nikolai
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Peter G. Nikolai (#322,052)
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**Attorneys for Plaintiff
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January 6, 2006

U.S. District Court for the District of Minnesota
U.S. Courthouse, Suite 202
300 South 4th St.
Minneapolis, MN 55415

Re: Remote Incorporated v. MICROS Systems, Inc., P.O.S. Systems, Inc. and J.C. Food
Systems, LLC
Our File No. 20051232.LAW

RECEIVED
06 JAN -6 PM 2:30
CLERK U.S. DIST COURT
MINNEAPOLIS, MN

Dear Sir or Madam:

Enclosed for filing please find the following documents:


1. Summons and Complaint and Exhibits; and
2. A check in the amount of \$250.00 in the above captioned lawsuit.

Please date-stamp one (1) copy of the Summons and Complaint for our records.

If you have any questions related to the foregoing, please feel free to give me a call at (612) 339-7461.

Sincerely,

NIKOLAI & MERSEREAU, P.A.


Peter G. Nikolai

PGN/acn
Enclosures