

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

2002 JUN 21 P 4: 11

PATRICK H. WINSTON and
BORIS KATZ,

Plaintiffs,

v.

EMOTION, INC.,

Defendant.

U.S. DISTRICT COURT
DISTRICT OF MASSACHUSETTS

02 CV 11262 RGS

CIVIL ACTION No.

RECEIVED \$ 39999
AMOUNT \$ 50.00
FEDERAL RES. 4/2
LOCAL RULE 41
QUALITY OF SERV.

COMPLAINT FOR PATENT INFRINGEMENT AND JURY DEMAND

Plaintiffs, Patrick H. Winston and Boris Katz, for their complaint against defendant,

eMotion, Inc., allege and state as follows:

Nature of the Action

1. This is a civil action for infringement of United States Letters Patent No. 5,309,359 and No. 5,404,295 and arises under the patent laws of the United States, 35 U.S.C. §§ 271 *et seq.*

Parties

2. Patrick H. Winston ("Winston") is an individual residing at 88 Monument Street, Concord, Massachusetts. Winston is the Ford Professor of Artificial Intelligence and Computer Science at the Massachusetts Institute of Technology ("MIT"). From 1972 to 1997, Winston was Director of MIT's Artificial Intelligence Laboratory.

3. Boris Katz ("Katz") is an individual residing at 7 Centre Street, Cambridge, Massachusetts. Katz is the Principal Research Scientist at MIT's Artificial Intelligence Laboratory.

4. Winston and Katz are pioneers in artificial intelligence technology and natural language search systems.

5. On information and belief, eMotion, Inc. (“eMotion”) is a corporation organized under the laws of the State of Delaware, having its principal place of business at 2600 Park Tower Drive, Suite 600, Vienna, Virginia 22180. eMotion provides digital media management services and software, including its MediaPartner™ software, to individuals and to corporate customers.

Jurisdiction and Venue

6. This court has original and exclusive subject matter jurisdiction over this civil action pursuant to 28 U.S.C. §§ 1331 and 1338(a), because this action arises under the patent laws of the United States. Venue for this action is proper in this judicial district under 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b).

7. On information and belief, eMotion has systematic and continuous contacts with this judicial district and regularly does and solicits business in this judicial district by offering for sale, selling, using, causing to be used, and otherwise supplying software and services within the scope of the claims of United States Letters Patent No. 5,309,359 and No. 5,404,295 to corporate and individual customers within this judicial district.

Claim For Patent Infringement

8. Winston and Katz repeat and reallege the allegations set forth in the foregoing paragraphs 1 through 7 with the same force and effect as if fully set forth and restated herein.

9. On May 3, 1994, United States Letters Patent No. 5,309,359 (“the ‘359 patent”) was duly and legally issued by the United States Patent and Trademark Office to Boris Katz and Patrick H. Winston, for an invention entitled “METHOD AND APPARATUS FOR GENERATING AND UTILIZING ANNOTATIONS TO FACILITATE COMPUTER TEXT RETRIEVAL.” The ‘359 patent relates to methods and apparatus for computer text retrieval,

including the use of natural language searching. A copy of the '359 patent is attached hereto as Exhibit A.

10. On April 4, 1995, United States Letters Patent No. 5,404,295 ("the '295 patent") was duly and legally issued by the United States Patent and Trademark Office to Boris Katz and Patrick H. Winston, for an invention entitled "METHOD AND APPARATUS FOR UTILIZING ANNOTATIONS TO FACILITATE COMPUTER RETRIEVAL OF DATABASE MATERIAL." The '295 patent relates to methods and apparatus for computer retrieval of database material, including the use of natural language searching. A copy of the '295 patent is attached hereto as Exhibit B.

11. Winston and Katz are the sole owners of the '359 and '295 patents and have the right to exclude others and to sue and recover damages for infringement of the claims thereof.

12. eMotion has infringed and is infringing, has induced and is inducing others to infringe, and has contributed and is contributing to the infringement by others of the '359 and '295 patents, by making, using, offering for sale, or selling, throughout the United States, products and services that infringe the claims of the '359 and '295 patents, and will continue to do so unless enjoined by this Court. The infringing products and services are provided by eMotion to the general public and to corporate customers under the name MediaPartner™.

13. In addition, on information and belief, eMotion has induced others to infringe the '359 and '295 patents by, among other things, licensing its software and technology to other parties, which parties are also infringing the '359 and '295 patents.

14. On information and belief, eMotion's direct infringement, inducement of infringement, and contributory infringement of the '359 and '295 patents is willful and in deliberate disregard of plaintiffs' rights thereunder.

15. As a direct and proximate consequence of the acts and practices alleged herein, Winston and Katz have been, are being, and, unless such acts and practices are enjoined by the Court, will continue to be injured in their business and property rights, and have suffered, are suffering, and will continue to suffer injury and damages, for which plaintiffs are entitled to relief under 35 U.S.C. § 284.

16. By reason of the acts and practices alleged herein, eMotion has caused, is causing, and, unless such acts and practices are enjoined by the Court, will continue to cause immediate and irreparable harm to plaintiffs for which plaintiffs have no adequate remedy at law, and for which plaintiffs are entitled to injunctive relief under 35 U.S.C. § 283.

Prayer For Relief

WHEREFORE, Winston and Katz pray for relief against eMotion, Inc. as follows:

A. For judgment declaring that eMotion, Inc. has directly infringed, induced the infringement of, and contributorily infringed United States Letters Patents No. 5,309,359 and No. 5,404,295, and that such infringement has been willful.

B. For preliminary and permanent injunctions enjoining eMotion, Inc., its subsidiaries, affiliates, parents, officers, agents, servants, representatives, employees, attorneys, privies, successors, and assigns, and all those acting for them or on their behalf, or in active concert or participation with them, from directly or indirectly making or causing to be made, using or causing to be used, offering for sale or causing to be offered for sale, or selling or causing to be sold, the products and services provided under the name MediaPartner™ and any other product or service that infringes United States Letters Patents No. 5,309,359 or No. 5,404,295, from licensing eMotion, Inc.'s software and technology to any other party, and from any other further direct infringement, contributory infringement, or inducement of infringement of said patents.

C. For monetary relief as follows:

1. A judgment awarding plaintiffs damages adequate to compensate for eMotion, Inc.'s infringement, inducement of infringement, and contributory infringement of United States Letters Patents No. 5,309,359 and No. 5,404,295, but in no event less than a reasonable royalty for the use made of the inventions by defendant, together with interest and costs as fixed by the court.

2. An order awarding plaintiffs increased damages in view of eMotion, Inc.'s intentional, willful and wanton violation of plaintiffs' patent rights, as well as prejudgment interest and plaintiffs' costs, expenses, and attorneys' fees in this action, as authorized by 35 U.S.C. §§ 284 and 285.

D. For such other and further relief as the Court may deem just and proper.

DEMAND FOR TRIAL BY JURY

Plaintiffs demand a trial by jury of all issues triable of right by a jury.

Dated: June 21, 2002

By their attorneys,



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