

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

IMMERSION ENTERTAINMENT,
LLC

Plaintiff,

v.

NATIONAL ASSOCIATION FOR
STOCK CAR AUTO RACING, INC.,
SPRINT NEXTEL CORPORATION,
KANGAROO MEDIA, INC., NEXTEL
OPERATIONS, INC., and NASCAR
DIGITAL ENTERTAINMENT, LLC,

Defendants.

Civil Action No. 6:07cv76-LED

JURY TRIAL DEMANDED

AMENDED COMPLAINT

Plaintiff, Immersion Entertainment, LLC (“Immersion”), files this Amended Complaint and Jury Demand, as of right pursuant to Judge Davis’ Amended Docket Control Order, to add Defendants Nextel Operations, Inc. (“NOI”) and NASCAR Digital Entertainment LLC (“NDE”) as parties to its original Complaint against Defendants National Association for Stock Car Auto Racing, Inc. (“NASCAR”), Sprint Nextel Corporation (“Sprint”), and Kangaroo Media, Inc. (“Kangaroo”) (collectively, “Defendants”), and states as follows:

NATURE OF ACTION AND PARTIES

1. This is a complaint for damages and equitable relief arising from Defendants' acts of infringement of United States Patent Nos. 6,578,203 (the "'203 Patent"), attached as Exhibit A and 7,124,425 (the "'425 Patent"), attached as Exhibit B.

2. Immersion is a corporation organized and existing under the laws of Georgia with its principal place of business in Atlanta, Georgia 30339.

3. Immersion is the current assignee and owner of the '203 Patent and is entitled to enforce all rights arising therefrom, including the right to prevent infringement of the '203 Patent.

4. Immersion is the current assignee and owner of the '425 Patent and is entitled to enforce all rights arising therefrom, including the right to prevent infringement of the '425 Patent.

5. NASCAR is a corporation organized and existing under the laws of the state of Florida, with its principal place of business located in Daytona Beach, Florida, and may be served through its registered agent, W. Garrett Crotty, Esq., at 1801 W. International Speedway Blvd., Daytona Beach, Florida 32118. NASCAR is in the business of professional motorsports in interstate commerce and in this judicial district.

6. Sprint is a corporation organized and existing under the laws of the state of Kansas, with its principal place of business located at 2001 Edmund Halley Drive, Reston, Virginia 20191, and may be served through its registered agent, Corporation Service Company, 200 S.W. 30th Street, Topeka, Kansas 66611. Sprint is in the business of Communications Services in interstate commerce and in this judicial district.

7. Kangaroo is a foreign corporation organized and existing under the laws of the of Canada, with its principal place of business located at 17510 Charles Street, Suite 500, Mirabel, Quebec, A8 000000, and may be served through its registered agent, at 11600 Louis-Bisson, Mirabel, Quebec J7N 1G9. Kangaroo is in the business of wireless audio-visual solutions in interstate commerce and in this judicial district.

8. NOI is a corporation organized and existing under the laws of the state of Delaware, with its principal place of business located in 2001 Edmund Halley Dr., Reston, Virginia 20191 and may be served through its registered agent, Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808. Upon information and belief, NOI is in the business of communications services in interstate commerce in this judicial district.

9. NDE is a corporation organized and existing under the laws of the state of Florida, with its principal place of business located in Daytona Beach,

Florida, and may be served through its registered agent, Random R. Burnett, 1825 Business Park Boulevard, Suite A, Daytona Beach, Florida 32118. Upon information and belief, NDE is in the business of marketing professional motorsports in interstate commerce and in this judicial district.

JURISDICTION AND VENUE

10. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1338(a) as this is a case arising under the patent laws of the United States (35 U.S.C. § 1, *et seq.*, and particularly 35 U.S.C. § 271), as well as pursuant to U.S.C. § 1331, as this matter involves a federal question.

11. This Court has personal jurisdiction over Defendants because they reside or have engaged in conduct, in the state of Texas sufficient to confer personal jurisdiction, relating to making, using, selling, offering for sale, marketing, distributing, or importing into the United States methods that infringe the '203 Patent and devices or systems that infringe the '425 Patent.

12. Venue is proper in this judicial district as to NASCAR, Sprint, NOI, and NDE pursuant to 28 U.S.C. § 1391 and § 1400(b) because Defendants reside in this judicial district within the meaning of such provisions. Venue is proper in this judicial district as to Kangaroo pursuant to 28 U.S.C. § 1391(d) and § 1400(b) because Kangaroo is a foreign corporation subject to venue in any district.

FACTS

13. On June 10, 2003 the United States Patent and Trademark Office duly and legally issued the '203 Patent, entitled "Audio/Video Signal Distribution System For Head Mounted Displays" and naming Tazwell L. Anderson, Jr. and Mark A. Wood as inventors. Plaintiff is the owner of all right, title, and interest in and to the '203 Patent.

14. The '203 Patent issued from United States Patent Application No. 09/322,411 that was filed May 28, 1999. The subject matter described in the '203 patent has been publicly available since June 10, 2003.

15. The invention in the '203 Patent relates to methods for viewing events at a stadium using a portable receiver that displays images of the event.

16. Defendants have directly infringed, or induced, or contributed to the infringement of the '203 Patent by making, using, selling, or offering for sale in this judicial district and elsewhere or importing into the United States methods covered by one or more claims of the '203 Patent, including, but not limited to, methods that involve the FanView, a device that is sold by Defendants.

17. On October 17, 2006, the United States Patent and Trademark Office duly and legally issued the '425 Patent, entitled "Audio/Video System and Method Utilizing a Head Mounted Apparatus with Noise Attenuation" and naming Tazwell

L. Anderson, Jr. and Mark A. Wood as inventors. Plaintiff is the owner of all right, title, and interest in and to the '425 Patent.

18. The '425 Patent issued from United States Patent Application No. 09/386,613 that was filed August 31, 1999. The subject matter described in the '425 patent has been publicly available since October 17, 2006.

19. The invention in the '425 Patent relates to a portable audio/visual device used at a sporting event by a user while watching the sporting event, and to an audio/visual system for providing select combinations of audio and image signals to a user who is at the sporting event.

20. Defendants have directly infringed, or induced, or contributed to the infringement of the '425 Patent by making, using, selling, or offering for sale in this judicial district and elsewhere or importing into the United States devices and systems, including, but not limited to, the FanView, that utilize, implement, practice, and/or contain each of the elements of at least one of the claims of the '425 Patent.

COUNT I

INFRINGEMENT OF U.S. PATENT NO. 6,578,203

21. Plaintiff realleges and incorporates by reference the preceding allegations of its Complaint as if they were fully set forth herein.

22. Defendants have made, used, offered to sell, sold, or imported; have induced others to make, use, sell, or offer to sell; or have contributed to the making, using, offering to sell, or selling, without authority from Plaintiff, methods covered by one or more claims of the '203 Patent, including, but not limited to, methods involving the FanView. 35 U.S.C. § 271.

23. Plaintiff has been damaged by Defendants' past and continuing infringement of the '203 Patent in an amount to be determined at trial.

24. Plaintiff has been and continues to be irreparably injured by Defendants' past and continuing infringement of the '203 Patent, and Defendants' infringing activities will continue unless enjoined by this Court pursuant to 35 U.S.C. § 283.

25. Defendants' direct and indirect infringement has been and continues to be deliberate, willful, intentional, and with knowledge of the existence of the '203 Patent, and Plaintiff accordingly is entitled to recover enhanced damages pursuant to 35 U.S.C. § 284, as well as its attorneys' fees and other expenses of litigation pursuant to 35 U.S.C. § 285.

COUNT II

INFRINGEMENT OF U.S. PATENT NO. 7,124,425

26. Plaintiff realleges and incorporates by reference the preceding allegations of its Complaint as if they were fully set forth herein.

27. Defendants have made, used, offered to sell, sold, or imported; have induced others to make, use, sell, or offer to sell; or have contributed to the making, using, offering to sell, or selling, without authority from Plaintiff, devices and systems covered by one or more claims of the '425 Patent, including, but not limited to, devices and systems involving the FanView. 35 U.S.C. § 271.

28. Plaintiff has been damaged by Defendants' past and continuing infringement of the '425 Patent in an amount to be determined at trial.

29. Plaintiff has been and continues to be irreparably injured by Defendants' past and continuing infringement of the '425 Patent, and Defendants' infringing activities will continue unless enjoined by this Court pursuant to 35 U.S.C. § 283.

30. Defendants' direct and indirect infringement has been and continues to be deliberate, willful, intentional, and with knowledge of the existence of the '425 Patent, and Plaintiff accordingly is entitled to recover enhanced damages pursuant to 35 U.S.C. § 284, as well as their attorneys' fees and other expenses of litigation pursuant to 35 U.S.C. § 285.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court enter judgment:

(a) That Defendants have directly infringed, induced others to infringe, and/or contributed to the infringement of the '203 Patent, and that Defendants' direct and indirect infringement has been willful;

(b) That Defendants have directly infringed, induced others to infringe, and/or contributed to the infringement of the '425 Patent, and that Defendants' direct and indirect infringement has been willful;

(c) That Defendants' illegal activities were willful, justifying enhanced damages;

(d) Preliminarily and permanently enjoining Defendants from directly infringing, inducing others to infringe, or contributing to the infringement of the '203 Patent, pursuant to 35 U.S.C. § 283;

(e) Preliminarily and permanently enjoining Defendants from directly infringing, inducing others to infringe, or contributing to the infringement of the '425 Patent, pursuant to 35 U.S.C. § 283;

(f) Awarding Immersion damages in an amount to be proved at trial because of the injury suffered by reason of Defendants' infringement of the '203 Patent;

(g) Awarding Immersion damages in an amount to be proved at trial because of the injury suffered by reason of Defendants' infringement of the '425 Patent;

(h) Trebling damages sustained by Immersion for infringement of the '203 Patent, as authorized by 35 U.S.C. § 284;

(i) Trebling damages sustained by Immersion for infringement of the '425 Patent, as authorized by 35 U.S.C. § 284;

(j) That this case is exceptional, justifying an award to the Plaintiff of attorneys' fees and costs incurred in this action, pursuant to 35 U.S.C. § 285;

(k) Awarding Immersion prejudgment interest and costs pursuant to 35 U.S.C. §284; and

(l) Granting Immersion such other and further relief as the Court deems proper.

Plaintiff demands trial by jury on all issues triable by a jury in this case.

Respectfully submitted, this 2nd day of November, 2007.

/s/ Ophelia F. Camiña

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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this amended complaint was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A), on this the 2nd day of November, 2007.



/s/ Ophelia F. Camiña
Ophelia F. Camiña