

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

BETTER EDUCATION, INC.	§	
	§	
Plaintiff,	§	
vs.	§	
	§	
EINSTRUCTION CORPORATION,	§	Civil Action No. 2:08-cv-446
SMART TECHNOLOGIES	§	
CORPORATION, PROMETHEAN INC.,	§	
and QWIZDOM, INC.	§	
	§	
	§	JURY DEMAND
Defendants.	§	

COMPLAINT

Plaintiff Better Education, Inc. (“Better Education”) brings this action against Defendants eInstruction Corporation (“eInstruction”), SMART Technologies Corporation (“SMART”), Promethean Inc. (“Promethean”), and Qwizdom, Inc. (“Qwizdom”), and for its cause of action alleges:

The Parties

1. Better Education is a corporation organized and existing under the laws of the State of Virginia, with its principal place of business at 4824 George Washington Highway, Yorktown, VA 23692.

2. Upon information and belief, eInstruction is a corporation organized and existing under the laws of the State of Texas and is doing business in this judicial district and elsewhere. eInstruction has its principal offices at 308 N Carroll Boulevard, Denton, Texas 76201. eInstruction may be served with process by serving its registered agent, CT Corporation System at its registered office at 350 N Saint Paul St., Dallas, TX 75201-4240.

3. Upon information and belief, SMART is a corporation organized and existing under the laws of the State of Delaware and is doing business in this judicial district and elsewhere. SMART has its principal offices at 20 South Clark Street, Suite 1950, Chicago, IL 60603. SMART may be served with process by serving its registered agent, The Corporation Trust Company at its registered office at Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801.

4. Upon information and belief, Promethean is a corporation organized and existing under the laws of the State of Delaware and is doing business in this judicial district and elsewhere. Promethean has its principal offices at 1165 Sanctuary Parkway, Suite 400, Alpharetta, GA 30004. Promethean may be served with process by serving its registered agent, Michael Harris at its registered office at 1165 Sanctuary Parkway, Suite 400, Alpharetta, GA 30004.

5. Upon information and belief, Qwizdom is a corporation organized and existing under the laws of the State of Washington and is doing business in this judicial district and elsewhere. Qwizdom has its principal offices at 12617 Meridian E. Puyallup, WA 98373. Qwizdom may be served with process by service upon its registered agent, Raymond F Beamish at its registered office at 12617 Meridian E, Puyallup, WA 98373.

Jurisdiction and Venue

6. This action arises under the patent laws of the United States, Title 35 United States Code, particularly §§ 271 and 281 and Title 28 United States Code, particularly §1338(a). Venue is proper in this Court under Title 28 United States Code §§ 1391(b) and (c) and 1400(b).

Claim For Patent Infringement

7. On March 26, 1991, U.S. Patent No. 5,002,491 (“the ‘491 patent”) was duly and legally issued for an “Electronic Classroom System Enabling Interactive Self-Paced Learning”. A copy of the ‘491 patent is attached as Exhibit A and is made a part hereof. By assignment, Better Education is the owner of the ‘491 patent and has the right to enforce the ‘491 patent and collect damages for all relevant times.

8. The ‘491 patent, in general, relates to interactive electronic classroom systems that enable teachers to teach students concepts and receive feedback regarding how well the students have learned the concepts.

9. Upon information and belief, eInstruction provides interactive electronic classroom systems, including but not limited to its Classroom Performance System-RF (CPS-RF) and the Interwrite PRS-RF. By providing such systems eInstruction has in the past and continues to infringe at least claim 1 of the ‘791 patent.

10. Upon information and belief, SMART provides interactive electronic classroom systems, including but not limited to its Senteo Interactive Response System. By providing such systems SMART has in the past and continues to infringe at least claim 1 of the ‘791 patent.

11. Upon information and belief, Promethean provides interactive electronic classroom systems, including but not limited to its Activote and Activexpression systems. By providing such systems Promethean has in the past and continues to infringe at least claim 1 of the ‘791 patent.

12. Upon information and belief, Qwizdom provides interactive electronic classroom systems, including but not limited to its Qwizdom Interactive System. By providing such systems Qwizdom has in the past and continues to infringe at least claim 1 of the ‘791 patent.

Demand for Jury Trial

13. Better Education demands a jury trial on all issues triable of right by a jury.

Prayer for Relief

WHEREFORE, Better Education prays for entry of judgment:

A. That claim 1 of U.S. Patent No. 5,002,491 has been infringed by the Defendants eInstruction Corporation, SMART Technologies Corporation, Promethean Inc., and Qwizdom, Inc. and by others whose infringement has been contributed to and/or induced by Defendants;

B. That Defendants account for and pay to Better Education all damages and costs caused by Defendants' activities complained of herein;

C. That Better Education be granted pre-judgment and post-judgment interest on the damages caused by reason of Defendants' activity complained of herein;

D. That Better Education be granted its attorneys' fees in this action;

E. That costs be awarded to Better Education; and

F. That Better Education be granted such other and further relief that is just and proper under the circumstances.

Dated: November 19, 2008

/s/ Edward W. Goldstein

Edward W. Goldstein

Texas Bar No. 08099500

Corby R. Vowell

Texas Bar No. 24031621

GOLDSTEIN, FAUCETT & PREBEG, L.L.P.

1177 West Loop South, Suite 400

Houston, Texas 77027

(713) 877-1515 – Telephone

(713) 877-1145 – Facsimile

egoldstein@gfpiplaw.com

cvowell@gfpiplaw.com

Counsel for Plaintiff