

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

**ANDREW KATRINECZ and
DAVID BYRD,
Plaintiffs,**

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v.

CASE NO. _____

**ZIPPY TECHNOLOGY CORP., and
ZIPPY USA, INC.
Defendant.**

PLAINTIFFS' ORIGINAL COMPLAINT AND JURY DEMAND

TO THE HONORABLE JUDGE OF SAID COURT:

Andrew Katrinecz and David Byrd hereby file this their Original Complaint and Jury Demand against the above-captioned Defendants and in support thereof would respectfully show the Court as follows:

I. INTRODUCTION

1. Plaintiffs bring this action to remedy Defendants' illegal actions, including willful and malicious infringement and misappropriation of Plaintiffs' intellectual property. Defendants have not only infringed Plaintiffs' patents, they have copied verbatim descriptive language pertaining to Plaintiffs' inventions and competing products and used such language in the sale of Plaintiffs' products. Accordingly, Plaintiffs seek permanent injunctive relief and damages to redress the injuries they have suffered.

II. PARTIES

2. Plaintiffs David Byrd and Andrew Katrinecz are individuals residing in Round Rock, Texas, and Shalimar, Florida, respectively. Together they own all right, title and interest in United States

Patent Nos. 6,199,996 and 7,284,872.

3. Upon information and belief, Defendant Zippy Technology Corp. (“Zippy Technology”), is a corporation organized under the laws of Taiwan, with its principal place of business located in Taipei, Taiwan and who may be served by serving via international courier its president, Chin-Wen Chou, at 10F, No. 50 , Min Chyuan Rd., Shintien City, Taipei County, TAIWAN, R.O.C.

4. Defendant Zippy USA, Inc. (“Zippy USA”), is a California corporation who maintains its principal place of business at 961 Calle Negocio, San Clemente, CA 92673-6202 and who may be served with process by serving its agent for services of process, Fu Ching Lee, 260 Avenida Vista Montana, Apt. # 19p, San Clemente, CA 92672-9402, or by serving its President, Chin-Wen Chou, at 961 Calle Negocio, San Clemente, CA 92673-6202.

5. This is an action for patent infringement and copyright infringement arising out under the laws of the United States. *See, e.g.*, 35 U.S.C. §1, et seq.

6. This Court has subject-matter jurisdiction under the claims set forth in this complaint pursuant to 28 U.S.C. §§1331, 1338 (a).

7. This Court has personal jurisdiction over Defendants because, among other things, Defendants regularly do business in this judicial district and because Defendants have established minimum contacts with the forum and the exercise of jurisdiction over Defendants will not offend traditional notions of fair play and substantial justice. On information and belief, Defendants design, manufacture and place infringing products (infringing both Plaintiffs’ patents and copyrights) into the stream of commerce with reasonable expectation and/or knowledge that the actual or potential ultimate purchasers and users are located throughout the United States, including within this judicial district. On information and belief, Defendants have voluntarily conducted and solicited customers

in the State of Texas, including in this judicial district. On information and belief, Defendants sell, advertise, market and distribute infringing products throughout this judicial district. Defendants have committed and continue to commit acts of patent and copyright infringement in this judicial district.

8. Venue is proper in this judicial district under 28 U.S.C. §1391(b), (c) and 1400(b) because Defendants are subject to personal jurisdiction in the Eastern District as discussed in the preceding paragraph.

III. THE PATENTS-IN-SUIT

9. Defendants have infringed and continue to infringe the following United States Patents issued to Plaintiffs: 6,199,996 and 7,284,872.

10. United States Patent No. 6,199,996 (“the ‘996 Patent”), entitled “Low power, low cost illuminated keyboards and keypads,” was duly and legally issued by the United States Patent and Trademark Office to Plaintiffs on March 13, 2001. A copy of the ‘996 Patent is attached hereto as Exhibit A.

11. United States Patent No. 7,284,872 (“the ‘872 Patent”), entitled “Low power, low cost illuminated keyboards and keypads,” was duly and legally issued by the United States Patent and Trademark Office to Plaintiffs on October 23, 2007. A copy of the ‘872 Patent is attached hereto as Exhibit B.

12. The ‘996 and ‘872 patents are all valid and enforceable.

COUNT 1 - INFRINGEMENT OF THE ‘996 PATENT

13. Defendants have infringed, and are still infringing, literally and/or under the doctrine of equivalents, one or more claims of the ‘996 Patent in at least this State and District by making,

using, offering to sell, selling, and/or importing products that infringe one or more of the claims of the '996 Patent.

14. Defendants have also contributed to and/or induced, and continue to contribute to and/or induce, the infringement of one or more claims of the '996 Patent, in at least this State and District.

15. On information and belief, Defendants' infringement of one or more claims of the '996 Patent has taken place, with full knowledge of the '996 Patent and has been, and continues to be, willful, deliberate, and intentional.

16. Defendants' infringement of one or more claims of the '996 Patent has injured Plaintiffs, and Plaintiffs are entitled to recover damages adequate to compensate it for Defendants' infringement, which in no event can be less than a reasonable royalty.

17. Defendants have caused Plaintiffs substantial damage and irreparable injury by their infringement of one or more claims of the '996 Patent, and Plaintiffs will continue to suffer damage and irreparable injury unless and until the infringement of Defendants is enjoined by this Court.

COUNT 2 - INFRINGEMENT OF THE '872 PATENT

18. Defendants have infringed, and are still infringing, literally and/or under the doctrine of equivalents, one or more claims of the '872 Patent in at least this State and District by making, using, offering to sell, selling, and/or importing products that infringe one or more of the claims of the '872 Patent.

19. Defendants have also contributed to and/or induced, and continue to contribute to and/or induce, the infringement of one or more claims of the '872 Patent, in at least this State and District.

20. On information and belief, Defendants' infringement of one or more claims of the '872 Patent has taken place, with full knowledge of the '872 Patent and has been, and continues to be,

willful, deliberate, and intentional.

21. Defendants' infringement of one or more claims of the '872 Patent has injured Plaintiffs, and Plaintiffs are entitled to recover damages adequate to compensate it for Defendants' infringement, which in no event can be less than a reasonable royalty.

22. Defendants have caused Plaintiffs substantial damage and irreparable injury by their infringement of one or more claims of the '872 Patent, and Plaintiffs will continue to suffer damage and irreparable injury unless and until the infringement of Defendants is enjoined by this Court.

COUNT 3 - COPYRIGHT INFRINGEMENT

23. Plaintiffs have applied for copyright registration for the following copyrightable works that Plaintiffs have authored, including the following authored by Plaintiffs about their invention:

Have you ever used your computer at night or in low-lit environments? There are many applications where computing in a low lit environment become necessary. For instance, have you ever had to work on late night projects for work or school? Do you enjoy gaming or surfing the Web late at night. If so, you know how troublesome overhead lighting can be when you are tired. Most people will turn down their overhead lighting just to ease the strain on their eyes. Consequently they can no longer see their keys. For years people have been faced with this problem, until now. We have the solution...

24. Defendant Zippy Technology has copied verbatim this descriptive work of Plaintiffs Andrew Katrinecz and David Byrd and published it on its website, using verbatim language:

Have you ever used your computer at night or in low-lit environments? There are many applications where computing in a low lit environment becomes necessary. For instance, have you ever had to work on late night projects for work or school? Do you enjoy gaming or surfing the Web late at night. If so, you know how troublesome overhead lighting can be when you are tired. Most people will turn down their overhead lighting just to east the strain on their eyes. Consequently they can no longer see their keys. For years people have been faced with this problem, until now. We have the solution...

25. Plaintiffs have applied for copyright registration of the authored work set forth in the

preceding paragraph. A copy of application for such copyright registration is attached hereto as Exhibit C.

26. Plaintiffs have further applied for copyright registration of other creative works authored by them; such application for registration is attached hereto as Exhibit D. (Exhibits C and D, collectively as “Copyrighted Information”). In selling their products, Defendants have copied the following from Plaintiffs’ Copyrighted Information: “There are many applications where computing in a low lit environment becomes necessary.”

27. Defendants are distributing, marketing and using documentation that is substantially similar to the Copyrighted Information. Defendants have knowingly and intentionally copied the Copyrighted Information and have knowingly and intentionally used, marketed and distributed the Copyrighted Information in furtherance of their business.

28. Plaintiffs did not give permission to or otherwise authorize Defendants to copy the Copyrighted Information.

29. Defendants engaged in such copying knowing that they did not have the legal right to do so and in disregard of Plaintiffs’ rights.

30. Defendants’ acts constitute copyright infringement in violation of 17 U.S.C. §§106 and 507.

31. Pursuant to 17 U.S.C. §502, Plaintiffs are entitled to permanent injunctive relief to prevent further damage to them and to prohibit Defendants from further violations of the Copyright Act.

32. Pursuant to 17 U.S.C. §504, Plaintiffs are entitled to an award of damages resulting from Defendants’ infringement of the Copyrighted Information.

33. Pursuant to 17 U.S.C. §504, Plaintiffs are also entitled to discouragement of all profits received by Defendants from use of the Copyrighted Information.

34. Plaintiffs also request and are entitled to an order pursuant to 17 U.S.C. §503 require in the impounding and destruction of all copies and products by Defendants made or used in violation of Plaintiffs' copyrights and all matters by means of which such copies may be reproduced.

PRAYER

35. WHEREFORE, Plaintiffs pray for the following relief:

- (a) Defendants Zippy Technology and Zippy USA, be summoned to appear and answer;
- (b) Plaintiffs be granted judgment against Defendants Zippy Technology and Zippy USA;
- (c) The Court enter a judgment that Defendants Zippy Technology and Zippy USA have infringed, contributorily infringed, and/or induced the infringement of U.S. Patent Nos. 6,199,996 and 7,284,872, and continue to infringe, contribute to the infringement of and/or induce the infringement of U.S. Patent Nos. 6,199,996 and 7,284,872.
- (d) The Court enter a judgment that Defendants Zippy Technology and Zippy USA's infringement of U.S. Patent Nos. 6,199,996 and 7,284,872 was willful and continues to be willful.
- (e) The Court enter permanent injunction enjoining Defendants Zippy Technology and Zippy USA, their officers, directors, servants, consultants, managers, employees, agents, attorneys, successors, assigns, affiliates, subsidiaries, and all persons in active concert or participation with any of them, from infringement, contributory infringement, and inducement of infringement of the '996 Patent and the '872 Patent, including but not limited to making, using, offering to sell, selling, or importing any products that infringe, literally or under the doctrine of equivalents, the '996 Patent and the '872 Patent;
- (f) The Court enter an award to Plaintiffs of all damages adequate to compensate Plaintiffs for Defendants Zippy Technology and Zippy USA's infringement, contributory infringement, and/or inducement of infringement, such damages to be determined by a jury and, if necessary, an accounting of all damages;
- (g) The Court award pre-judgment and post-judgment interest as allowed by law;
- (h) The Court enter an award of increased damages in an amount not less than three times the amount of damages awarded to Plaintiffs for Defendants Zippy Technology and Zippy USA's willful infringement of the '996 Patent and the '872 Patent;

- (i) The Court enter a declaration that this is an exceptional case under 35 U.S.C. §285 and enter an award of the reasonable attorney's fees, costs, and expenses incurred by Plaintiffs in this action;
- (j) The Court issue a permanent injunction against Defendants Zippy Technology and Zippy USA, enjoining their infringement of Plaintiffs' Copyrighted Information;
- (k) The Court award to Plaintiffs and against Defendants, jointly and separately, actual damages in an amount to be determined at trial, and that such damages be trebled under 15 U.S.C. §1117;
- (l) The Court award to Plaintiffs and against Defendants, jointly and separately, Defendants' profits;
- (m) The Court award to Plaintiffs and against Defendants, jointly and separately, Plaintiffs' reasonable attorneys' fees and expenses of litigation on all costs of this action; and
- (n) The Court grant Plaintiffs such further relief to which Plaintiffs may show themselves justly entitled.

V. JURY DEMAND

Plaintiffs hereby demand a trial by jury on all issues and claims so triable.

Respectfully submitted,

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