

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

INNOVATIVE AUTOMATION LLC,

Plaintiff,

v.

AUDIO AND VIDEO LABS, INC. d/b/a
DISC MAKERS;
CUSTOMCD, INC.;
CYCLE, INC.;
DUPLIUM LIMITED PARTNERSHIP;
FORMATS UNLIMITED, INC.;
GOLDENROM OPTICAL DISC
CORPORATION;
SINGULUS MASTERING B.V.;
SINGULUS TECHNOLOGIES, INC.;
U.S. DIGITAL MEDIA, INC.;
WORLD MEDIA GROUP, INC.;
KUNAKI, LLC;
VERVANTE CORPORATION,

Defendants.

Civil Action No. 6:11-cv-234-LED

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Innovative Automation LLC states its First Amended Complaint against Defendants Audio And Video Labs, Inc. d/b/a Disc Makers; CustomCD, Inc.; Cycle, Inc.; Duplium Limited Partnership; Formats Unlimited, Inc.; GoldenRom Optical Disc Corporation; Singulus Mastering B.V.; Singulus Technologies, Inc.; U.S. Digital Media, Inc.; World Media Group, Inc.; Kunaki, LLC; and Vervante Corporation (collectively “Defendants”) and alleges as follows:

THE PARTIES

1. Plaintiff Innovative Automation LLC (“Plaintiff” or “Innovative Automation”) is a limited liability company organized and existing under the laws of the State of California, with its principal place of business at 606 North First Street, San Jose, California 95112.

2. Upon information and belief, Defendant Audio and Visual Labs, Inc. d/b/a Disc Makers is a corporation organized and existing under the laws of the State of New Jersey, with its principal place of business at 7905 North Crescent Boulevard, Pennsauken, New Jersey 08110.

3. Upon information and belief, Defendant CustomCD, Inc. is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 6635 North Baltimore Street, Suite 271, Portland, Oregon 97203.

4. Upon information and belief, Defendant Cycle, Inc. is a corporation organized and existing under the laws of the State of Minnesota, with its principal place of business at 8711 Lyndale Avenue South, Bloomington, Minnesota 55420.

5. Upon information and belief, Defendant Duplium Limited Partnership is a limited partnership organized and existing under the laws of the State of Texas, with its principal place of business at 2029 Westgate Drive, Suite 120, Carrollton, Texas 75006

6. Upon information and belief, Defendant Formats Unlimited, Inc. is a corporation organized and existing under the laws of the State of New York, with its principal place of business at 121 Carolyn Boulevard, Farmingdale, New York 11735.

7. Upon information and belief, Defendant GoldenRom Optical Disc Corporation is a corporation organized and existing under the laws of the State of Pennsylvania, with its principal place of business at 3 Vertical Drive, Canonsburg, Pennsylvania 15317.

8. Upon information and belief, Defendant Singulus Mastering B.V. is a corporation organized and existing under the laws of The Netherlands, with its principal place of business at Marinus v. Meelweg 2, 5657 EN Eindhoven, The Netherlands.

9. Upon information and belief, Defendant Singulus Technologies, Inc. is a corporation organized and existing under the laws of Connecticut, with its principal place of business at 429 Hayden Station Road, Suite D, Windsor, Connecticut 06095.

10. Upon information and belief, Defendant U.S. Digital Media, Inc. is a corporation organized and existing under the laws of Nevada, with its principal place of business at 1929 West Lone Cactus Drive, Phoenix, Arizona 85027.

11. Upon information and belief, Defendant World Media Group, Inc. is a corporation organized and existing under the laws of Indiana, with its principal place of business at 6737 East 30th Street, Indianapolis, Indiana 46219.

12. Upon information and belief, Defendant Kunaki, LLC is a limited liability company organized and existing under the laws of the State of New York, with its principal place of business in Brooklyn, New York.

13. Upon information and belief, Defendant Vervante Corporation is a corporation organized and existing under the laws of Utah, with its principal place of business at 224 South Main Street, Suite 202, Springville, Utah 84663.

JURISDICTION AND VENUE

14. Plaintiff realleges and incorporates by reference paragraphs the above paragraphs of this Complaint, inclusive, as though fully set forth herein.

15. This action is for patent infringement pursuant to the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.* This Court has subject matter jurisdiction over the action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

16. Personal jurisdiction exists generally over each of the Defendants because each Defendant has sufficient minimum contacts with the forum as a result of business conducted within the State of Texas and within the Eastern District of Texas. Personal jurisdiction also exists specifically over each of the Defendants because each, directly or through subsidiaries or intermediaries, makes, uses, offers for sale, sells, imports, advertises, makes available and/or markets products and/or services within the State of Texas, and more particularly, within the Eastern District of Texas, that infringe the patent-in-suit, as described more particularly below.

17. Venue is proper in the Eastern District of Texas pursuant to 28 U.S.C. §§ 1391 and 1400(b), because the Defendants have committed acts of direct and indirect infringement in the

Eastern District of Texas and have transacted business in the Eastern District of Texas. In addition, a number of the Defendants have their headquarters and/or facilities in Texas. On information and belief, (i) Cycle, Inc. has a manufacturing facility in Plano, Texas—within the Eastern District of Texas; (ii) Duplium Limited Partnership’s headquarters are in Carrollton, Texas, and are approximately three miles outside the Eastern District of Texas; and (iii) Audio and Video Labs, Inc., maintains an office in Houston which is approximately thirty miles outside the Eastern District of Texas.

COUNT ONE
INFRINGEMENT OF U.S. PATENT NO. 7,174,362

18. Plaintiff realleges and incorporates by reference paragraphs the above paragraphs of this Complaint, inclusive, as though fully set forth herein.

19. Plaintiff is the owner of all right, title, and interest in United States Patent No. 7,174,362, entitled “Method and System for Supplying Products from Pre-Stored Digital Data in Response to Demands Transmitted via Computer Network,” duly and legally issued by the United States Patent and Trademark Office on February 6, 2007 (the “‘362 patent”). A true and correct copy of the ‘362 patent is attached hereto as Exhibit A.

20. The ‘362 patent generally describes and claims a computer-implemented method of digital data duplication. In the method of claim 1 of the ‘362 patent, a request is taken at one or more user interfaces and is transmitted through a network to a computer. The computer contains a module to create a task log based on incoming requests; a module for storing the necessary data; and a module to create a subset of the data, download that subset to an output device, and command the device to transfer the subset onto blank media. The request is assigned to an output device, and the duplication process is executed. Claims 2-8 of the ‘362 patent describe various other methods and a system of digital data duplication.

21. Audio and Video Labs, Inc. has infringed, and continues to infringe, literally and/or under the doctrine of equivalents, one or more claims of the ‘362 patent under 35 U.S.C. § 271 by using the claimed method of duplicating digital data while performing Audio and Video Labs’

digital media duplication services such as its Disc Makers CD, DVD, and Blu-ray Disc duplication services. In addition, on information and belief, Audio and Video Labs, Inc. has contributorily infringed and continues to contributorily infringe one or more claims of the '362 patent, both literally and under the doctrine of equivalents, by selling and/or offering to sell media duplication devices that (1) constitute a material part of the invention of the '362 patent; (2) Audio and Video Labs, Inc. knows to be especially adapted for use in infringing the '362 patent; and (3) are not staple articles of commerce suitable for substantial noninfringing use with respect to the '362 patent. These devices include at least the Formats Unlimited MF Digital Scribe 9000 Series, and are used by companies, such as those that offer digital media duplication services, in a way that directly infringes one or more claims of the '362 patent.

22. CustomCD, Inc. has infringed, and continue to infringe, literally and/or under the doctrine of equivalents, one or more claims of the '362 patent under 35 U.S.C. § 271 by using the claimed method of duplicating digital data while performing CustomCD's digital media duplication services such as its on-demand CD and DVD duplication services.

23. Cycle, Inc. has infringed, and continues to infringe, literally and/or under the doctrine of equivalents, one or more claims of the '362 patent under 35 U.S.C. § 271 by using the claimed method of duplicating digital data while performing Cycle, Inc.'s digital media duplication services such as its CD and DVD duplication services.

24. Duplium Limited Partnership has infringed, and continues to infringe, literally and/or under the doctrine of equivalents, one or more claims of the '362 patent under 35 U.S.C. § 271 by using the claimed method of duplicating digital data while performing Duplium Limited Partnership's digital media duplication services such as its CD and DVD duplication services.

25. Formats Unlimited, Inc. has infringed, and continues to infringe, literally and/or under the doctrine of equivalents, one or more claims of the '362 patent under 35 U.S.C. § 271 by using the claimed method of duplicating digital data while performing Formats Unlimited's digital media duplication services such as its CD and DVD duplication services. In addition, on information and belief, Formats Unlimited has contributorily infringed and continues to

contributorily infringe one or more claims of the '362 patent, both literally and under the doctrine of equivalents, by making, offering to sell, and selling media duplication devices that (1) constitute a material part of the invention of the '362 patent; (2) Formats Unlimited knows to be especially adapted for use in infringing the '362 patent; and (3) are not staple articles of commerce suitable for substantial noninfringing use with respect to the '362 patent. These devices include at least the MF Digital Scribe 9000 Series, and are used by companies, such as those that offer digital media duplication services, in a way that directly infringes one or more claims of the '362 patent. Further, Formats Unlimited has directly infringed, and continues to directly infringe, literally and/or under the doctrine of equivalents, one or more claims of the '362 patent under 35 U.S.C. § 271 by using the claimed method and system of duplicating digital data while using these devices.

26. GoldenRom Optical Disc Corporation has infringed, and continues to infringe, literally and/or under the doctrine of equivalents, one or more claims of the '362 patent under 35 U.S.C. § 271 by using the claimed method of duplicating digital data while performing GoldenRom Optical Disc Corporation's digital media duplication services such as its CD and DVD duplication services.

27. On information and belief, Singulus Mastering B.V. has contributorily infringed and continues to contributorily infringe one or more claims of the '362 patent, both literally and under the doctrine of equivalents, by making, offering to sell, and selling devices that (1) constitute a material part of the invention of the '362 patent, (2) Singulus Mastering B.V. knows to be especially adapted for use in infringing the '362 patent, and (3) are not staple articles of commerce suitable for substantial noninfringing use with respect to the '861 patent. These devices include at least the Singulus DMS Evolution, and are used by companies, such as those that offer digital media duplication and/or replication services, in a way that directly infringes one or more claims of the '362 patent.

28. On information and belief, Singulus Technologies, Inc. has contributorily infringed and continues to contributorily infringe one or more claims of the '362 patent, both literally and

under the doctrine of equivalents, by making, offering to sell, and selling devices that (1) constitute a material part of the invention of the '362 patent, (2) Singulus Technologies, Inc. knows to be especially adapted for use in infringing the '362 patent, and (3) are not staple articles of commerce suitable for substantial noninfringing use with respect to the '861 patent. These devices include at least one configuration of the Singulus DMS Evolution, and are used by companies, such as those that offer digital media duplication and/or replication services, in a way that directly infringes one or more claims of the '362 patent. In addition, Singulus Technologies, Inc. has directly infringed, and continues to directly infringe, literally and/or under the doctrine of equivalents, one or more claims of the '362 patent under 35 U.S.C. § 271 by using the claimed method of duplicating digital data while using these devices.

29. U.S. Digital Media, Inc. has infringed, and continues to infringe, literally and/or under the doctrine of equivalents, one or more claims of the '362 patent under 35 U.S.C. § 271 by using the claimed method of duplicating digital data while performing U.S. Digital Media's digital media duplication services such as its CD, DVD, and Blu-ray Disc duplication services. In addition, on information and belief, U.S. Digital Media has contributorily infringed and continues to contributorily infringe one or more claims of the '362 patent, both literally and under the doctrine of equivalents, by selling and/or offering to sell media duplication devices that (1) constitute a material part of the invention of the '362 patent; (2) U.S. Digital Media knows to be especially adapted for use in infringing the '362 patent; and (3) are not staple articles of commerce suitable for substantial noninfringing use with respect to the '362 patent. These devices include networkable Rimage Professional and Rimage Producer devices, and are used by companies, such as those that offer digital media duplication services, in a way that directly infringes one or more claims of the '362 patent.

30. World Media Group, Inc. has infringed, and continues to infringe, literally and/or under the doctrine of equivalents, one or more claims of the '362 patent under 35 U.S.C. § 271 by using the claimed method of duplicating digital data while performing World Media Group's digital media duplication services such as its CD and DVD duplication services.

31. Kunaki, LLC has infringed, and continue to infringe, literally and/or under the doctrine of equivalents, one or more claims of the '362 patent under 35 U.S.C. § 271 by using the claimed method of duplicating digital data while performing Kunaki's digital media duplication services such as its on-demand CD and DVD duplication services.

32. Vervante Corporation has infringed, and continue to infringe, literally and/or under the doctrine of equivalents, one or more claims of the '362 patent under 35 U.S.C. § 271 by using the claimed method of duplicating digital data while performing Vervante's digital media duplication services such as its on-demand CD and DVD duplication services.

33. As a result of each Defendant's infringing activities, Plaintiff has suffered damages in an amount not yet ascertained. Plaintiff is entitled to recover damages adequate to compensate it for each Defendant's infringing activities in an amount to be determined at trial, but in no event less than reasonable royalties, together with interest and costs.

34. Plaintiff reserves the right to allege, after discovery, that any of the Defendants' infringement is willful and deliberate, entitling Plaintiff to increased damages under 35 U.S.C. § 284, and to attorneys' fees incurred in prosecuting this action under 35 U.S.C. § 285.

PRAYER FOR RELIEF

Plaintiff requests entry of judgment in its favor against Defendants as follows:

- a) For a declaration that each Defendant has infringed, directly and/or indirectly, one or more claims of the '362 patent;
- b) For an award of damages adequate to compensate Plaintiff for each Defendant's infringement of the '362 patent, but in no event less than a reasonable royalty, together with prejudgment and post-judgment interest and costs, in an amount according to proof;
- c) For an entry of a permanent injunction enjoining each Defendant, and its respective officers, agents, employees, and those acting in privity with them, from further infringement, including contributory infringement and/or inducing infringement, of the '362 patent, or in the alternative, awarding a royalty for post-judgment infringement;

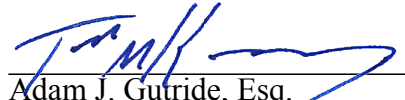
- d) For an award of attorneys' fees pursuant to 35 U.S.C. § 285 or as otherwise permitted by law; and
- e) For an award to Plaintiff of such other costs and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff respectfully requests a trial by jury.

Dated: October 7, 2011

Respectfully submitted,



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