

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

DENNIS W. NUSSER, an individual,

Plaintiff,

v.

SONY ELECTRONICS, INC.,
a Delaware Corporation,

Defendant.

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, DENNIS W. NUSSER, an individual, by and through the undersigned, hereby files this Complaint for Patent Infringement against SONY ELECTRONICS, INC., a Delaware Corporation, and, in so doing, states as follows:

JURISDICTION, VENUE AND THE PARTIES

1. This is an action brought pursuant to the Patent Laws of the United States, 35 U.S.C. §§ 271, *et. seq.*

2. This Court has original jurisdiction pursuant to Title 28, United States Code, Section 1331, as this case involves a federal question arising under the Constitution, laws or treaties of the United States.

3. At all times material hereto, DENNIS W. NUSSER (hereinafter "Plaintiff"), had a principle address located in Broward County, Florida.

4. At all times material hereto, SONY ELECTRONICS, INC., a Delaware Corporation (hereinafter "SONY"), was engaged in the conduct of interstate commerce, and regularly conducted business in this judicial district by selling, or causing to be sold, its products throughout this state at local retail stores, and online through consumer sites such as

www.sonystyle.com. Further, at all times material hereto, SONY was registered with the Florida Department of State, Division of Corporations, as a Foreign Profit Corporation.

5. This action arises as a result of the infringing conduct of SONY, which implicates interstate commerce.

6. Venue is proper in the Southern District of Florida pursuant to Title 28, United States Code, Section 1391(b) and (c) as Defendants “reside” in this judicial district, as the term “reside” is interpreted under Chapter 87, United States Code, and because a substantial part of the events giving rise to the infringement claims at issue occurred within this judicial district. Venue is also appropriate pursuant to Title 28, United States Code, Section 1400(b), which provides, in part, that “[a]ny civil action for patent infringement may be brought in the judicial district where the defendant resides”.

7. All conditions precedent have been met, waived, or satisfied to bring this lawsuit.

GENERAL ALLEGATIONS

8. Over thirty-three years ago Plaintiff began a profession in the office furniture industry.

9. As part of Plaintiff’s experience in this industry, Plaintiff became aware of the use of ergonomics in office environments that were being implemented in an effort to aid employees to learn how to properly and safely utilize their workstations.

10. Indeed, in the early 1980’s, as a result of the knowledge gained by Plaintiff in the industry, Plaintiff was invited to lecture audiences on the use of ergonomics in office environments.

11. Following these experiences, and upon the emergence of the micro-computer in the mid-1980’s, the computer went from being a tool used by a few to a common device used by

many, including children. Today, it is believed that more than two hundred million people in the United States use computers.

12. As a consequence of the rapid explosion of computer usage, teaching curriculums increasingly started to include instruction to children on how to use a computer. However, because keyboards were manufactured primarily for adult usage, the sizes of the keyboards accompanying the computer would not accommodate smaller hands, such as the naturally smaller size of a child's hands.

13. Recognizing this void, Plaintiff realized that children would not be able to learn the proper touch typing methods on the keyboards then being supplied with computers.

14. Following thought and consideration, Plaintiff ultimately conceived of the innovative idea of creating an input apparatus, such as a keyboard, sized for use by non-adults (*i.e.*, children) and adults having smaller hands.

15. In the early 1990's, Plaintiff eventually filed his first patent application with the United States Patent and Trademark Office ("USPTO") to protect his innovative idea. On July 2, 1996, the United States of America granted Plaintiff his first patent, which was issued under United States Patent No. 5,531,529 ("the '529 Patent").

16. Thereafter, Plaintiff sought, and eventually obtained, patents on his innovation from patent offices of several foreign countries, including Australia, Brazil, Canada, China, Germany, Denmark, Europe, Spain, Greece, Japan, Portugal and Russia, and also registered his rights with the World Intellectual Property Organization.

17. Several years later, following subsequent research and consideration, Plaintiff domestically filed a continuation patent application to the '529 Patent with the USPTO. On

September 5, 2006, the United States of America granted Plaintiff his second patent, which was issued under United States Patent No. 7,101,101 (“the ‘101 Patent”).

18. Plaintiff filed another continuation patent application to the ‘529 and ‘101 Patents with the USPTO. On April 8, 2008, the United States of America granted Plaintiff his third patent, which was issued under United States Patent No. 7,354,209 (“the ‘209 Patent”).

19. A copy of the ‘529 Patent, ‘101 Patent and ‘209 Patent, as well as a compilation of Plaintiff’s foreign patents, is attached hereto as Composite **Exhibit “A”**.

20. On May 29, 1997, upon being issued the ‘529 Patent, Plaintiff sent a communication to SONY offering to license his patent rights to SONY to enable it to produce computers, laptops and/or netbooks with keyboards sized for use by non-adults and adults having smaller hands.

21. On June 6, 1997, SONY responded by advising Plaintiff that his communication was transferred “to the appropriate division of Sony for review.” Thereafter, on December 15, 1997, SONY again corresponded with Plaintiff advising that it did “not have any interest” in licensing Plaintiff’s patents. Copies of these correspondences are attached hereto as **Exhibit “B”**.

22. Recently, however, it was learned that SONY has indeed incorporated a keyboard sized for use by non-adults and adults having smaller hands into, *at least*, devices that it markets and sells as the “*Sony Vaio P Series Lifestyle PC*” and “*Sony Vaio Signature P Series Lifestyle PC*” (hereinafter collectively the “Lifestyle PC”). Upon review, it became clear that the Lifestyle PC infringe the claims of the ‘529, ‘101 and ‘209 Patents, as well as all related internationally issued patents obtained by Plaintiff.

23. Accordingly, on September 20, 2010, Plaintiff sent a cease and desist correspondence to SONY advising it of the infringing nature of its activities, and demanded that

such conduct cease immediately. In connection with this communication, Plaintiff provided copies of his domestically and internationally issued patents to SONY. Plaintiff also advised SONY that, should it “be inclined to continue the manufacture, marketing and/or sale of the Lifestyle PC, or any other similar infringing product, [Plaintiff was] willing to discuss the possibility of licensing the use of his patents to” SONY. A copy of the September 20, 2010 correspondence is attached hereto as **Exhibit “C”**.

24. Thereafter, on September 23, 2010, SONY responded, through its Legal Department, and advised Plaintiff that “because of the number of inquiries of this nature we receive, some time will be required” to evaluate the infringement noted in Plaintiff’s September 20, 2010 correspondence. A copy of the September 23, 2010 correspondence is attached hereto as **Exhibit “D”**.

25. Nearly two months have passed since Plaintiff’s initial cease and desist demand was made upon SONY, yet Plaintiff has not received any substantive response. Nevertheless, Plaintiff has confirmed that SONY continues to cause the manufacture, market and sell of computers with infringing keyboards attached thereto.

26. Thus, being unable to convince SONY to cease its infringing conduct, Plaintiff was thereafter required to retain the undersigned counsel to pursue his interests in this matter, and is obligated to pay the undersigned a reasonable attorneys’ fee for their services, and to reimburse the undersigned for any costs incurred in connection with said representation.

27. This lawsuit followed.

COUNT I:
TEMPORARY AND PERMANENT INJUNCTIVE RELIEF

28. Plaintiff realleges and revers paragraphs one (1) through twenty-seven (27) as if fully set forth herein.

29. This is an action for temporary and permanent injunctive relief pursuant to Title 35, United States Code, Section 283, of the United States Patent Act.

30. Said section provides that this Court may “grant injunctions in accordance with the principles of equity to prevent the violations of any right secured by patent, on such terms as the court deems reasonable.”

31. As alluded to in more detail above, SONY has infringed, and continues to infringe, on the ‘529, ‘101 and ‘209 Patents, as well as all related internationally issued patents obtained by Plaintiff.

32. Despite demands, SONY continues to infringe against Plaintiff’s patent rights.

33. Such refusal to honor Plaintiff’s clear patent rights has caused, and will continue to cause, irreparable harm. Each day that Plaintiff is deprived of his earned intellectual property rights causes irreparable injury.

34. Plaintiff has no adequate remedy at law, especially because the property at issue is intellectual property and patented work that is being deprived.

35. There is no remedy at law that can fully compensate Plaintiff for the deprivation of said patent rights, and, in light of the facts of this case, there is a substantial likelihood that Plaintiff will succeed on the merits of the instant case.

WHEREFORE, Plaintiff DENNIS W. NUSSER, by and through the undersigned counsel, respectfully request that the Court enter a temporary and permanent injunction enjoining Defendants SONY ELECTRONICS, INC., a Delaware Corporation, and all those in active

concert and participation with SONY ELECTRONICS, INC., from using, making, selling, marketing, distributing, transferring, or otherwise infringing on Plaintiff's rights as more fully set forth above, together with costs, attorneys' fees, and such other and further relief as this Court deems just and proper.

COUNT II:
WILLFUL PATENT INFRINGEMENT

36. Plaintiff realleges and revers paragraphs one (1) through twenty-seven (27) as if fully set forth herein.

37. This is an action for patent infringement pursuant to Title 35, United States Code, Section 271, of the United States Patent Act.

38. As more fully set forth above, SONY has infringed, and continues to infringe, the '529, '101 and '209 Patents, as well as all related internationally issued patents obtained by Plaintiff, by making, using, offering to sell, inducing others to sell, and selling the infringing devices, including, without limitation, the "*Sony Vaio P Series Lifestyle PC*" and "*Sony Vaio Signature P Series Lifestyle PC*".

39. All such infringing conduct of SONY has occurred and was committed by SONY in a willful manner, irrespective of and despite Plaintiff's demands, demanding that SONY immediately cease its infringing conduct and recognize Plaintiff's patent rights. SONY's actions have been committed and performed in a willful, knowing and bad faith manner.

40. SONY's actions have caused, and continue to cause, irreparable harm to Plaintiff to which there is no adequate remedy at law.

WHEREFORE, Plaintiff DENNIS W. NUSSER, by and through the undersigned counsel, respectfully demands judgment against Defendants SONY ELECTRONICS, INC., a Delaware Corporation, for the full amount of damages sustained, including, but not limited to,

any and all remedies available pursuant to the Patent Laws of the United States, 35 U.S.C. §§ 271, *et. seq.*, which included, but are not limited to, a reasonable royalty award, disgorgement of the profits received by Defendants, treble damages, costs, pre and post judgment interest at the maximum allowable rate, attorneys' fees, and such other and further relief this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff DENNIS W. NUSSER hereby demands trial by jury of all issues so triable as a matter of law.

Dated this 16th day of November, 2010.

Respectfully Submitted,

/s/ Alexander D. Brown
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