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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

Eagle View Technologies, Inc., a Washington corporation,)	Civil Action No. 2:12-cv-00544-RSL
)	
Plaintiff,)	SECOND AMENDED COMPLAINT
)	FOR PATENT INFRINGEMENT
v.)	
)	
RoofWalk, Inc., a Minnesota corporation, Peter Wegier, an individual, and Josh Hedlund, an individual,)	DEMAND FOR JURY TRIAL
)	
Defendants.)	
)	

Plaintiff Eagle View Technologies, Inc. for its Complaint herein, alleges as follows:

NATURE OF ACTION

1. This action arises under the Patent Laws of the United States, 35 U.S.C. § 100 *et seq.*

THE PARTIES

2. Plaintiff Eagle View Technologies, Inc., also known as EagleView Technologies, Inc., (“Plaintiff” or “EagleView”) is a Washington corporation having a principal place of business at 2525 220th Street SE, Suite 203, Bothell, Washington 98021.

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3. Upon information and belief, Defendant RoofWalk, Inc. (“RoofWalk”) is a Minnesota corporation having a registered office address at 7825 Washington Avenue South, #500, Bloomington, Minnesota 55439.

4. Upon information and belief, Defendant Peter Wegier is an owner, a founder and the CEO of RoofWalk and resides at 2172 70th Street, Balsam Lake, Wisconsin 54810.

5. Upon information and belief, Defendant Josh Hedlund is an owner and a partner of RoofWalk and resides at 101 Hidden Meadow Court, Apple Valley, Minnesota 55124.

6. Upon information and belief, Defendants Peter Wegier and Josh Hedlund are personally responsible for the acts of RoofWalk. They personally have controlled and continue to control the decisions of the company and carrying out the specific acts by RoofWalk with respect to the infringement as set forth herein.

JURISDICTION AND VENUE

7. The Court has original jurisdiction of the federal claims raised herein pursuant to 28 U.S.C. §§ 1331, 1332 and 1338(a).

8. Venue in this judicial district is proper under 28 U.S.C. §§ 1391(b), (c), (d), and/or 1400(b). Defendants are currently doing business in this Judicial District. On information and belief, Defendants have sold, continue to sell and offer to sell infringing products and services in this Judicial District. In addition, Defendants sell products into this Judicial District that were made by an infringing method. Events giving rise to the claims herein occurred in this district. Further, substantial damage to Plaintiff EagleView has occurred and continues to occur in this judicial district, which is their home district and the location of their company headquarters.

PLAINTIFF AND ITS RIGHTS

9. On December 13, 2011, the United States Patent and Trademark Office issued United States Patent No. 8,078,436 (hereinafter “the ’436 Patent”), entitled “Aerial Roof

1 Estimation Systems and Methods.” The ’436 patent has been assigned to and is fully owned by
2 Plaintiff. A true and correct copy of the ’436 Patent is attached hereto as Exhibit A. The ’436
3 Patent is valid, enforceable, and subsisting.

4 10. On March 27, 2012, the United States Patent and Trademark Office issued
5 United States Patent No. 8,145,578 (hereinafter “the ’578 Patent”), entitled “Aerial Roof
6 Estimation Systems and Methods.” The ’578 patent has been assigned to and is fully owned by
7 Plaintiff. A true and correct copy of the ’578 Patent is attached hereto as Exhibit B. The ’578
8 Patent is valid, enforceable, and subsisting.

9 11. On May 1, 2012, the United States Patent and Trademark Office issued United
10 States Patent No. 8,170,840 (hereinafter “the ’840 Patent”), entitled “Pitch Determination
11 Systems and Methods for Aerial Roof Estimation”. The ’840 patent has been assigned to and is
12 fully owned by Plaintiff. A true and correct copy of the ’840 Patent is attached hereto as
13 Exhibit C. The ’840 Patent is valid, enforceable, and subsisting.

14 12. In 2006, Chris Pershing and David P. Carlson, the inventors of the asserted
15 patents, created an entirely new product that did not previously exist: roof estimation software.
16 They founded a company, Eagle View Technologies, based in Bothell, Washington, that has
17 now grown to over 100 employees employed in the state of Washington. They applied for and
18 received the ’436, ’578 and the ’840 Patents on their invention, which they assigned to
19 EagleView, making EagleView the sole owner of the two issued U.S. patents of this action.
20 EagleView, the owner of the patents, is an active technology company that makes use of both
21 patents as part of its daily operations in Bothell, Washington and in the products it supplies to
22 its customers. The use of the ’436, ’578 and ’840 Patents is at the core of EagleView’s
23 business.

24 13. Eagle View Technologies’ products, such as roof estimation reports, were
25 marked patent pending before the present patents issued and the patent numbers were applied
26 to the products after the patents issued.
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FIRST COUNT - PATENT INFRINGEMENT - U.S. Patent 8,078,436

14. Plaintiff repeats and realleges each of the allegations contained in paragraphs 1 through 12 of this Complaint.

15. Upon information and belief, Defendants have been, and are, directly and indirectly infringing, one or more claims of the '436 Patent by using, offering to sell, selling, and/or causing to be used, offered for sale or sold, infringing aerial roof estimation products, including reports and software, and services in this judicial district.

16. Upon information and belief, Defendants offer on its website at www.roofwalk.com, in this judicial district and elsewhere in the United States, aerial roof estimation reports that have been made by infringing one or more claims of the '436 Patent.

17. On January 4, 2012, Plaintiff sent Defendants a letter informing them that EagleView's patent had been granted and requesting them to stop all infringing activities, copy attached as Exhibit D. In this letter, EagleView offered to settle the matter and not file an infringement law suit if Roofwalk agreed to stop all infringing activities and make an accounting of past infringement. Roofwalk did not cease infringement and continues to infringe the '436 Patent, taking away customers of EagleView by their actions.

18. The letter of January 4, 2012 was a reminder of prior letters which had been sent informing RoofWalk of EagleView's pending patent applications and that patents covering RoofWalk's products were expected to issue shortly. For example, on February 2, 2010, Plaintiff sent RoofWalk a letter informing it of Plaintiff's published patent, 2008/0262789 A1, entitled "Aerial Roof Estimation Systems and Method," and officially notifying Roofwalk of Plaintiff's provisional patent rights, attached as Exhibit E. On February 4, 2010, Plaintiff sent another letter to RoofWalk again informing it of Plaintiff's published patent and of a second published patent, 2009/0132436 A1, entitled "Aerial Roof Estimation Systems and Methods" which issued as the '436 Patent, attached as Exhibit F. On September 21, 2010, Plaintiff sent another letter to RoofWalk informing them that EagleView's patents were beginning to issue

1 around the world, and to let them know that EagleView would “aggressively defend its
2 intellectual property as its patents issue,” attached as Exhibit G. On November 2, 2010,
3 Plaintiff sent a copy of the September 21, 2010 letter to another address found for RoofWalk,
4 Exhibit H.

5 19. On information and belief, Defendants’ infringement has been willful.
6 Particularly, Defendants became aware of the EagleView product and services before they
7 started their business. Only after viewing the EagleView product and website did RoofWalk
8 start their business. Their products were made as an attempt to imitate EagleView’s product
9 line. Even after knowledge of the existence of the patent and knowing that they had imitated
10 and copied significant portions of the EagleView material, Defendants continued to infringe the
11 ’436 patent.

12 20. Defendants offered their products and services at a lower price than EagleView
13 in direct competition with EagleView to take away customers, reducing the price at which
14 EagleView could sell their reports. Defendants’ sale of reports also reduced EagleView’s
15 market share, number of products sold and the price at which EagleView could sell their own
16 products. Each of these caused loss of revenue to EagleView. Defendants’ infringing actions
17 have caused economic harm to EagleView in this judicial district in which EagleView’s
18 headquarters are located and in which they carry out their business.

19 21. Attached as Exhibit I are samples of roof estimation reports of the type provided
20 by EagleView.

21 22. Attached as Exhibit J are samples of roof estimation reports of the type provided
22 by RoofWalk. Plaintiff EagleView has been, and will continue to be, damaged by such
23 infringement in an amount to be proven at trial in excess of the amount for diversity
24 jurisdiction, and in a manner and amount that cannot be fully measured or compensated in
25 economic terms and for which there is no adequate remedy at law. The patent infringement
26 actions of Defendants have damaged, and will continue to damage, Plaintiff’s business, market,
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1 reputation, and goodwill unless Defendants' acts of patent infringement complained of herein
2 are enjoined.

3 SECOND COUNT - PATENT INFRINGEMENT - U.S. Patent 8,145,578

4 23. Plaintiff repeats and realleges each of the allegations contained in paragraphs 1
5 through 22 of this Complaint.

6 24. Upon information and belief, Defendants have been, and are, directly and
7 indirectly infringing one or more claims of the '578 Patent by using, offering to sell, selling,
8 and/or causing to be used, offered for sale or sold, infringing aerial roof estimation products,
9 including reports and software, and services in this judicial district.

10 25. Upon information and belief, Defendants offer on its website at
11 www.roofwalk.com, in this judicial district and elsewhere in the United States, aerial roof
12 estimation reports that have been made by infringing one or more claims of the '578 Patent.

13 THIRD COUNT - PATENT INFRINGEMENT - U.S. Patent 8,170,840

14 26. Plaintiff repeats and realleges each of the allegations contained in paragraphs 1
15 through 25 of this Complaint.

16 27. Upon information and belief, Defendants have been, and are, directly and
17 indirectly infringing one or more claims of the '840 Patent by using, offering to sell, selling,
18 and/or causing to be used, offered for sale or sold, infringing aerial roof estimation products,
19 including reports and software, and services in this judicial district.

20 28. Upon information and belief, Defendants offer on its website at
21 www.roofwalk.com, in this judicial district and elsewhere in the United States, aerial roof
22 estimation reports that have been made by infringing one or more claims of the '840 Patent.

23 PRAYER FOR RELIEF

24 WHEREFORE, Plaintiff EagleView respectfully demands judgment:
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1 1. That Defendants, and their respective officers, agents, servants, employees,
2 attorneys, and all other persons in active concert or participation with any of them, be enjoined
3 and restrained and permanently thereafter from all acts that infringe either the '436,'578 or the
4 '840 Patents directly, indirectly, contributorily, or by inducement, including being enjoined
5 from manufacturing, importing, using, offering for sale and/or selling aerial roof estimation
6 reports, products, or software that infringe either the '436,'578 or the '840 patents or that have
7 been made by an infringing process covered by the '436, '578 or the '840 patents.

8 2. That Defendants be required to prepare and deliver to the Court a complete list
9 of entities to whom such Defendants have sold aerial roof estimation reports.

10 3. That Defendants be required to prepare and deliver to the Court a full
11 accounting of all aerial roof estimation reports sold, including the price at which they were
12 sold, the date sold and a profit and loss statement for each year in which any infringing
13 activities took place.

14 4. That Defendants be required to prepare and deliver to the Court a complete list
15 of entities to whom such Defendants have sold aerial roof estimation software.

16 5. That Defendants be required to prepare and deliver to the Court a full
17 accounting of all aerial roof estimation software sold, including the price at which such
18 software was sold, the date sold and a profit and loss statement for each year in which any
19 infringing activities took place.

20 6. That Defendants, within thirty days after receiving notice of entry of judgment,
21 be required to file with the Court and serve upon Plaintiff's counsel a written report under oath
22 setting forth in detail the manner in which each Defendant has complied with Paragraphs 1
23 through 5, immediately above.

24 7. That Defendants account for and pay over to Plaintiff damages sustained by
25 Plaintiff, directly and indirectly, by reason of Defendants' patent infringement.
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1 8. That Defendants be found to be jointly and severally liable for the infringing
2 activities.

3 9. That Defendants' infringement of the '436 patent be found willful and that
4 treble damages, together with interest and costs, be awarded under 35 U.S.C. § 284, or as
5 otherwise permitted by law.

6 10. That Defendants' infringement of the '578 patent be found willful and that
7 treble damages, together with interest and costs, be awarded under 35 U.S.C. § 284, or as
8 otherwise permitted by law.

9 11. That Defendants' infringement of the '840 patent be found willful and that
10 treble damages, together with interest and costs, be awarded under 35 U.S.C. § 284, or as
11 otherwise permitted by law.

12 12. That Plaintiff be awarded all costs and expenses in this action under 28 U.S.C. §
13 1920 and under Fed. Rules of Civil Procedure 54(d).

14 13. That the present case be found exceptional and that attorney fees be awarded to
15 Plaintiff under 35 U.S.C. § 285, or as otherwise permitted by law.

16 14. That Plaintiff have such other and further relief as the Court may deem
17 equitable.
18

19 DEMAND FOR JURY TRIAL

20 Plaintiff hereby demands a trial by jury of all issues in this case.

21 DATED this 4th day of June 2012,

22 Respectfully submitted,

23 SEED IP Law Group PLLC

24
25 /s/ David V. Carlson
26 David V. Carlson, WSBA No. 17643
27 DavidC@Seedip.com
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BillF@Seedip.com

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