

JURISDICTION AND VENUE

3. This Complaint for patent infringement arises under the patent laws of the United States, Title 35, United States Code, and this court has jurisdiction over those claims pursuant to 28 U.S.C. § 1338, which directs that district courts shall have original jurisdiction of any civil action arising under any Act of Congress relating to patents, and pursuant to 28 U.S.C. §§ 1331 and 1332.

4. This Court has personal jurisdiction over Ubisoft as Ubisoft has purposefully directed its activities at residence of this state and the claim arises out of or relates to those activities. Among other activities, Ubisoft offers the infringing product at Walmart® stores throughout this district.

5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400 because a substantial part of the events giving rise to this patent infringement action occurred in this judicial district and Ubisoft has committed acts of infringement in this judicial district.

FACTUAL BACKGROUND

Guitar Apprentice's Patented Technology

6. On February 21, 2012, United States Letters Patent Number 8,119,896 (“the ‘896 Patent”) was duly and legally issued to the applicant/inventor L. Gabriel Smith by the United States Patent and Trademark Office. A true and correct copy of the ‘896 Patent is attached as Exhibit 1 to the Complaint.

7. By an assignment from L. Gabriel Smith to Guitar Apprentice, Guitar Apprentice currently owns and holds all right, title, and interest in and to the ‘896 Patent.

8. The '896 Patent is entitled "Media System and Method of Progressive Musical Instruction and discloses and claims systems and methods related to musical instruction.

9. The technology disclosed by the various embodiments of the '896 Patent provide for a progressive musical instruction method whereby a user learns to play a musical instrument by playing a gradually increasing number of segments (e.g., notes or chords) within a musical performance.

10. The different embodiments of the '896 Patent can also include the generation of display signals that correspond to a musical performance which can provide musical instruction to a user relating to playing a musical instrument.

11. Additionally, as a user successfully performs segments of a musical performance, the method and/or system as disclosed in the '896 Patent can respond and provide for an increase in the number of segments to be played by the user.

Ubisoft's Infringing Product

12. Ubisoft has distributed, sold, and/or offered to sell products that infringe Guitar Apprentice's '896 Patent.

13. Upon information and belief, the infringing products include the Rocksmith video game.

14. The Rocksmith video game is available for both the PlayStation® 3 and the Xbox 360® video game consoles.

15. The Rocksmith video game allows a user to plug a guitar into the PlayStation® 3 or the Xbox 360® video game console.

16. The Rocksmith video game provides game play that allows a user to progress from single notes to complex chords.

17. The Rocksmith video game provides display signals that correspond to a musical performance which provide musical instruction. This is illustrated in Exhibit 2, a screenshot of the Rocksmith video game available at one of Ubisoft's websites.

18. The Rocksmith video game will adjust game play and provide a user with notes to play, increasing the frequency of notes to play upon the successful completion of previous notes.

COUNT I - PATENT INFRINGEMENT OF THE '896 PATENT

19. Guitar Apprentice hereby re-alleges and incorporates by reference the allegations of paragraphs 1 through 19 of this Complaint.

20. Upon information and belief, Ubisoft is or has directly infringed one or more claims of the '896 Patent by making, using, importing, offering for sale, and/or selling products that practice the claims of the '896 Patent, including but not limited to Rocksmith video game.

21. Upon information and belief, Ubisoft is or has indirectly infringed the '896 Patent under 35 U.S.C. § 271(b) by actively inducing users to infringe the '896 Patent.

22. Upon information and belief, the users of Ubisoft's Rocksmith video game are directly infringing the '896 Patent by performing each step of the methods of one or more claims of Guitar Apprentice's '896 Patent.

23. Upon information and belief, Ubisoft is or has further indirectly infringed the '896 Patent under 35 U.S.C. § 271(c) by offering to sell or selling the Rocksmith video game that is especially made or especially adapted for use as claimed in the '896 Patent, the game not being a staple article or commodity of commerce suitable for substantial non-infringing uses.

24. Ubisoft will continue to induce the infringement of, and contributorily infringe, the '896 Patent unless enjoined by the Court.

25. Alternatively, Ubisoft's making, using, offering for sale, and/or selling of the Rocksmith video game is infringing the '896 Patent under the doctrine of equivalents under 35 U.S.C. §271(a), (b), and/or (c).

26. Ubisoft's making, using, offering for sale, and/or selling of the Rocksmith video game is without consent, authority, or license from Guitar Apprentice.

27. Ubisoft has made profits from its infringement of the '896 Patent and Guitar Apprentice has suffered damages for which it is entitled to relief under 35 U.S.C. § 284.

28. Ubisoft's act of infringing the '896 Patent will continue unless enjoined by this Court.

29. Unless the future occurrence of Ubisoft's actions is enjoined, Guitar Apprentice will suffer irreparable injury for which there is no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Guitar Apprentice respectfully prays for the following relief:

- A. That Ubisoft and all of its subsidiaries, affiliates, officers, agents, servants, employees, attorneys, and their heirs, successors and assigns, and all persons acting in concert or participation with it and each of them, be immediately enjoined and restrained, preliminarily and permanently, without bond, from manufacturing, importing, distributing, selling or offering for sale products manufactured that directly and/or indirectly infringe (literally or under the doctrine of equivalents) U.S. Patent No. 8,119,896;
- B. A determination that Ubisoft has infringed and is infringing one or more claims of the '896 Patent;

- C. An award of damages suffered by Guitar Apprentice as a result of the conduct of Ubisoft complained of herein, including but not limited to damages for patent infringement pursuant to 35 U.S.C. § 284 in an amount to be determined at trial, but in no event less than a reasonable royalty for infringement of the '896 Patent;
- D. Prejudgment and post-judgment interest; and
- F. Such other, further, or different relief as this Court may deem just and proper.

JURY TRIAL

Guitar Apprentice, under Rule 38 of the Federal Rules of Civil Procedure, respectfully demands a trial by jury of any issues triable of right by a jury.

RESPECTFULLY SUBMITTED, this the 25th day of June, 2012.

Respectfully submitted,

/s/ John F. Triggs

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