

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

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

v.

**GENERAL ELECTRIC COMPANY and
JASCO PRODUCTS COMPANY LLC
Defendant.**

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CASE NO. 1:12-CV-00229-LY

PLAINTIFFS' FIRST AMENDED COMPLAINT AND JURY DEMAND

TO THE HONORABLE JUDGE OF SAID COURT:

1. Plaintiffs Andrew Katrinecz and David Byrd (hereinafter "Plaintiffs") file this action to remedy the illegal actions of General Electric Company and Jasco Products Company, LLC (collectively "Defendants"), including their willful and malicious infringement and misappropriation of Plaintiffs' intellectual property. Accordingly, Plaintiffs seek permanent injunctive relief and damages to redress the injuries they have suffered.

I. PARTIES

2. Plaintiffs David Byrd and Andrew Katrinecz are individuals residing in Round Rock, Texas, and Shalimar, Florida, respectively.

3. Defendant General Electric Company ("GE") is a foreign for-profit corporation registered in the state of Texas. GE has been served but has not yet filed its answer.

4. Defendant Jasco Products Company LLC ("Jasco") is a limited liability company that maintains its principal place of business at 10 E. Memorial Road, Oklahoma City, Oklahoma, 73114. The Texas Secretary of State is the agent for service of process on Defendant Jasco because it is a nonresident required by statute to designate or maintain a resident agent in Texas,

or it engages in business in Texas but has not designated or maintained a resident agent for service of process and this proceeding arises out of its business in this state. The Texas Secretary of State, as agent for service of process in Texas, may serve Jasco's Oklahoma registered agent for service, David V. Stewart at 10 W. Memorial Rd., Oklahoma, OK, 73114.

II. JURISDICTION AND VENUE

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

6. This Court has subject-matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338 (a).

7. This Court has personal jurisdiction over Defendants because, *inter alia*, they regularly do business in this judicial district, 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 products that infringe Plaintiffs' patents into the stream of commerce with the 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 sales or 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 infringement in this judicial district.

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

III. CONDITIONS PRECEDENT

9. All conditions precedent to Plaintiffs' right to recovery have been performed, occurred, or been waived.

IV. FACTS

10. United States Patent No. 6,199,996 ("996"), 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 ("872"), 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 both valid and enforceable.

13. Together Plaintiffs own all right, title, and interest in patents '996 and '872.

14. Defendants have infringed and continue to infringe on patents '996 and '872 by using, offering to sell, selling, and/or importing products that infringe one or more of the claims of the '996 and '872 patents, including but not limited to Defendants' GE remotes, model numbers 25001, 24918, 24931, 24958, 24959, and RCR312W.

V. CAUSES OF ACTION

A. Count 1 — Infringement of Patent '996

15. Defendants have infringed and are still infringing (literally and/or under the doctrine of equivalents) on 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, including but not limited to Defendants' GE remotes, model numbers 25001, 24918, 24931, 24958, 24959, and RCR312W.

16. 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.

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

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

19. 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 Defendants' infringement is enjoined by this Court.

B. Count 2 — Infringement of Patent '872

20. Defendants have infringed and are still infringing (literally and/or under the doctrine of equivalents) on 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, including but not limited to Defendants' GE remotes, model numbers 25001, 24918, 24931, 24958, 24959, and RCR312W.

21. 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.

22. On information and belief, Defendants' infringement of one or more claims of the '872 patent has taken place, with Defendants' full knowledge of the '872 patent. Their infringement has been, and continues to be, willful, deliberate, and intentional.

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

24. 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 Defendants' infringement is enjoined by this Court.

VI. NOTICE OF REQUIREMENT OF LITIGATION HOLD

25. Defendants are hereby notified that they are legally obligated to locate, preserve, and maintain all records, notes, drawings, documents, data, communications, materials, electronic recordings, audio/video/photographic recordings, and digital files, including edited and unedited or "raw" source material, and other information and tangible things that Defendants know, or reasonably should know, may be relevant to actual or potential claims, counterclaims, defenses, and/or damages by any party or potential party in this lawsuit, whether created or residing in hard copy form or in the form of electronically stored information (hereafter collectively referred to as "Potential Evidence").

26. As used above, the phrase “electronically stored information” includes without limitation: computer files (and file fragments), e-mail (both sent and received, whether internally or externally), information concerning e-mail (including but not limited to logs of e-mail history and usage, header information, and deleted but recoverable e-mails), text files (including drafts, revisions, and active or deleted word processing documents), instant messages, audio recordings and files, video footage and files, audio files, photographic footage and files, spreadsheets, databases, calendars, telephone logs, contact manager information, internet usage files, and all other information created, received, or maintained on any and all electronic and/or digital forms, sources and media, including, without limitation, any and all hard disks, removable media, peripheral computer or electronic storage devices, laptop computers, mobile phones, personal data assistant devices, Blackberry devices, iPhones, video cameras and still cameras, and any and all other locations where electronic data is stored. These sources may also include any personal electronic, digital, and storage devices of any and all of Defendants’ agents or employees if Defendants’ electronically stored information resides there.

27. Defendants are hereby further notified and forewarned that any alteration, destruction, negligent loss, or unavailability, by act or omission, of any Potential Evidence may result in damages or a legal presumption by the Court and/or jury that the Potential Evidence is not favorable to Defendants’ claims and/or defenses. To avoid such a result, Defendants’ preservation duties include, but are not limited to, the requirement that Defendants immediately notify their agents and employees to halt and/or supervise the auto-delete functions of Defendants’ electronic systems and refrain from deleting Potential Evidence, either manually or through a policy of periodic deletion.

VII. JURY DEMAND

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

VIII. PRAYER

29. WHEREFORE, Plaintiffs pray for the following relief:

- (a) that Defendants be summoned to appear and answer;
- (b) that the Court enter an order declaring that
 - i. Defendants have infringed, contributorily infringed, and/or induced the infringement of patents '996 and '872;
 - ii. Defendants' infringement of patents '996 and '872 has been willful, intentional, and deliberate; and
 - iii. that this is an exceptional case under 35 U.S.C. § 285;
- (c) that the Court permanently enjoin Defendants and their officers, directors, servants, consultants, managers, employees, agents, attorneys, successors, assigns, affiliates, subsidiaries, and all persons or entities acting in concert or participation with any of them from infringing, contributorily infringing, and/or inducing the infringement of patents '996 and '872, including the making, using, offering to sell, selling, or importing any products that infringe on (literally or under the doctrine of equivalents) patents '996 and '872;
- (d) that the Court grant Plaintiffs judgment against Defendants for
 - i. all actual, consequential, special, punitive, exemplary, increased, and/or statutory damages, including treble damages pursuant to 35 U.S.C. 284;
 - ii. if necessary, an accounting of all damages;
 - iii. pre and post-judgment interest as allowed by law; and
 - iv. reasonable attorney's fees, costs, and expenses incurred in this action; and
- (e) such further relief to which Plaintiffs may show themselves justly entitled.

Respectfully submitted,

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