

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

Lochner Technologies, LLC,

Plaintiff,

v.

Barnes & Noble, Inc.,

Defendant.

Civil Action No.

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Lochner Technologies, LLC (“Lochner”) makes the following allegations:

PARTIES

1. Lochner is a California limited liability company with its principal place of business at 719 West Front Street, Suite 173, Tyler, Texas 75702-7959.

2. Defendant Barnes & Noble, Inc. (“Barnes & Noble”) is a Delaware corporation with a principal place of business at 122 Fifth Avenue, Second Floor, New York, New York 10011-5693. Barnes & Noble has appointed Capitol Corporate Services, Inc., 800 Brazos Street, Suite 400, Austin, Texas 78701-2548 as its agent for service of process.

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b). On information and belief, Barnes & Noble has a regular and established place of business in this

district, has transacted business in this district, and/or has committed, contributed to, and/or induced acts of patent infringement in this district.

5. On information and belief, Barnes & Noble is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to its substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this Judicial District.

COUNT I

INFRINGEMENT OF U.S. PATENT NO. 7,035,598

6. Lochner incorporates paragraphs 1-5 above as if fully repeated and restated herein.

7. Lochner is the owner by assignment of United States Patent No. 7,035,598 (the "'598 patent") entitled "Modular Computer System." The '598 patent issued on April 25, 2006 to inventors Scott Lochner and Meir Bartur. A true and correct copy of the '598 patent is attached as Exhibit A.

8. Barnes & Noble has been and now is indirectly infringing by way of inducing infringement by others or contributing to the infringement by others of the '598 patent in the State of Texas, in this judicial district, and elsewhere in the United States, by, among other things, making, using, importing, offering for sale, or selling, without license or authority, products for use in systems that fall within the scope of one or more claims of the '598 patent. Such products include, without limitation, tablet computers, such as the NOOK Color and NOOK Tablet, that wirelessly play streaming video from servers. Such products are for use in

systems that infringe at least claims 1 and 12, and likely other claims, of the '598 patent. By making, using, importing, offering for sale, or selling such products, Barnes & Noble has injured Lochner and is thus liable to Lochner for infringement of the '598 patent under 35 U.S.C. § 271. Those whom Barnes & Noble induces to infringe or whose infringement to which Barnes & Noble contributes are the end users of the above-referenced products. Barnes & Noble has had knowledge of the '598 patent at least as early as the filing of this complaint and is thus liable for infringement of one or more claims of the '598 patent by actively inducing infringement or is liable as a contributory infringer of one or more claims of the '598 patent under 35 U.S.C. § 271.

9. As a result of Barnes & Noble's infringement of the '598 patent, Lochner has suffered monetary damages to its goodwill, as well as lost profits, and the '598 patent has suffered monetary damages to its value, in an amount not yet determined, and will continue to suffer damages in the future unless Barnes & Noble's infringing activities are enjoined by this Court.

10. Unless a permanent injunction is issued enjoining Barnes & Noble and its agents, servants, employees, attorneys, representatives, affiliates, and all others acting on its behalf from infringing the '598 patent, both Lochner and the '598 patent will be greatly and irreparably harmed.

PRAYER FOR RELIEF

WHEREFORE, Lochner respectfully requests that this Court enter:

A. A judgment in favor of Lochner that Barnes & Noble has infringed, directly or indirectly, by way of inducing or contributing to the infringement of the '598 patent, and that such infringement was willful;

B. A permanent injunction enjoining Barnes & Noble and its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in concert or privity with it from infringing, inducing the infringement of, or contributing to the infringement of the '598 patent;

C. A judgment and order requiring Barnes & Noble to pay Lochner its damages, costs, expenses, and prejudgment and post-judgment interest for the defendant's infringement of the '598 patent as provided under 35 U.S.C. § 284;

D. An award to Lochner for enhanced damages resulting from the knowing, deliberate, and willful nature of Barnes & Noble's prohibited conduct, with notice being made at least as early as the date of the filing of this Complaint, as provided under 35 U.S.C. § 284;

E. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Lochner its reasonable attorneys' fees; and

F. Any and all other relief to which Lochner may show itself to be entitled.

DEMAND FOR JURY TRIAL

Lochner demands a trial by jury on all issues so triable.

Dated: November 16, 2011

Respectfully submitted,

/s/ Bruce D. Kuyper

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