

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

**ABARTA, LLC,
Plaintiff,**

v.

**INVENSYS SYSTEMS, INC.
Defendant.**

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CIVIL ACTION NO.

JURY TRIAL DEMANDED

PLAINTIFF’S ORIGINAL COMPLAINT

Plaintiff Abarta, LLC (“Plaintiff” or “Abarta”), by and through its undersigned counsel, state, with knowledge or upon information and belief, as follows:

NATURE OF THE ACTION

1. This is a patent infringement action to stop Defendant Invensys Systems, Inc.’s infringement of Plaintiff’s United States Patent No. 7,224,326 entitled “*Virtual Reality System*” (the “‘326 patent”; a copy of which is attached hereto as Exhibit A). Plaintiff is the exclusive licensee of the ‘326 patent and seeks injunctive relief and monetary damages.

PARTIES

2. Plaintiff Abarta, LLC is a limited liability company organized under the laws of the State of Texas. Plaintiff maintains its principal place of business at 3301 W. Marshall Ave., Suite 303, Longview, Texas 75601. Plaintiff is the exclusive licensee of the ‘326 patent and possesses the right to sue for infringement and recover past damages.

3. Defendant Invensys Systems, Inc. (“Invensys”), D/B/A “Invensys Operations Management”, is a corporation organized and existing under the laws of the State of Texas, with its principal place of business located at 5601 Granite Parkway, Suite 1000, Plano, Texas 75024.

JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, 35 U.S.C. § *et seq.*, including 35 U.S.C. § 271. This Court has subject matter jurisdiction over this case for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

5. The Court has personal jurisdiction over Defendant because: Defendant is present within or has minimum contacts with the State of Texas and the Eastern District of Texas; Defendant has purposefully availed itself of the privileges of conducting business in the State of Texas and in the Eastern District of Texas; Defendant has sought protection and benefit from the laws of the State of Texas; Defendant regularly conducts business within the State of Texas and within the Eastern District of Texas; and Plaintiff’s causes of action arise directly from Defendant’s business contacts and other activities in the State of Texas and in the Eastern District of Texas.

6. More specifically, Defendant, directly and/or through authorized intermediaries, ships, distributes, offers for sale, sells, and/or advertises (including the provision of an interactive web page) its products and services in the United States, the State of Texas, and the Eastern District of Texas. Defendant has committed patent infringement of the ‘326 patent in the State of Texas and in the Eastern State of Texas, and/or has induced others to commit patent infringement in the State of Texas and in the Eastern District of Texas. Defendant solicits customers in the State of Texas and in the Eastern District of Texas. Defendant has paying

customers who are residents of the State of Texas and the Eastern District of Texas and who use the Defendant's products and services in the State of Texas and in the Eastern District of Texas.

7. Venue is proper in the Eastern District of Texas pursuant to 28 U.S.C. §§1391 and 1400(b).

COUNT I– INFRINGEMENT OF U.S. PATENT 7,224,326

8. Abarta refers to and incorporates herein the allegations of Paragraphs 1-7 above.

9. The '326 Patent was duly and legally issued by the United States Patent and Trademark Office on May 29, 2007, after full and fair examination. Plaintiff has standing to sue Defendant for infringement of the '326 patent. Plaintiff is an exclusive licensee of the '326 patent, and it possesses all rights of recovery under the '326 patent, including the right to sue for infringement and recover past damages.

10. Defendant owns, operates, advertises, controls, sells, and otherwise provides hardware and software that infringes the '326 patent. The '326 patent provides, among other things, a method “of operating a virtual reality (VR) system comprising: maintaining a plurality of images where each image has a 360-degree field-of-view defining a X direction and a Y direction; determining a viewing direction of a user in both of the X and Y directions; displaying a portion of the plurality of images to the user; and sending a rate of change of the plurality of images moving in a Z direction; the method characterized by simultaneously coordinating the X and Y directions and the Z direction and interlacing the viewing direction and the rate of change for automatically changing the plurality of images in the X, Y, and Z directions as the user changes the viewing direction in at least one of the X and Y directions and simultaneously moves in the Z direction.”

11. Defendant has infringed and continues to infringe one or more claims of the ‘326 patent. For example, it has directly infringed by making, using, providing, offering to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United States, systems and methods for sending images with a 360-degree field of view to a viewing device whereby the user views a portion of the images determined by a directional sensor mounted to a device. More particularly, Defendant sells and/or requires and/or directs users to access and/or use a virtual reality system that maintains a plurality of images with a 360-degree field-of-view in the X, Y, and Z directions, in a manner claimed in the ‘326 patent. Defendant infringes the ‘326 patent via its SimSci-Esscor EYESIM Immersive Virtual Reality Training System (“the EYESIM System”) that practices a method for maintaining a plurality of images for use in a 360-degree field-of-view virtual reality system.

12. Defendant infringes the ‘326 patent by providing customers a stereoscopic headset designed to provide a 360 degree viewing experience, including tracking movement in the X and Y directions to display a portion of corresponding images. Directional sensors are mounted, on headset and hand controls included with the Defendant’s system, to track the user’s movements that correspond with imagery used in the virtual environment. See Exhibit B. The EYESIM System detects movement and displays a portion of the environment as a function of the X and Y directions. See Exhibit B.

13. While the Defendant’s system receives movement information as a function of the X and Y directions, the headset also measures the Z direction through the user’s change in head movements. See Exhibit B. The system then displays portions of the environment as a function of these simultaneous movements in the X, Y, and Z directions, to create an improved lifelike

virtual reality experience. See Exhibit B. The Defendant infringes the '326 patent when the headset simultaneously displays the change of movement in the Z and X/Y directions and interlaces the imagery portions to follow the user's movements through the virtual environment.

14. Defendant's aforesaid activities have been without authority and/or license from Plaintiff.

15. Defendant also has infringed under 35 U.S.C. § 271(b) by inducing infringement of the '326 patent in the State of Texas, in this judicial district, and elsewhere in the United States, by, among other things, performing certain steps of the methods claimed by the '326 patent, and advising, encouraging, or otherwise inducing others to perform the remaining steps claimed by the '326 patent to the injury of Abarta. For example, Defendant has configured the EYESIM System's architecture to link to major DCS systems and other 'traditional' training simulators so that Defendant's system interacts with other systems, inducing them to infringe on the '326 patent. Since at least the original filing date of this complaint, Defendant has had knowledge of the '326 patent and, by continuing the actions described above, has had the specific intent to induce infringement of the '326 patent pursuant to 35 U.S.C. § 271(b).

16. Plaintiff is entitled to recover from the Defendant the damages sustained by Plaintiff as a result of the Defendant's wrongful acts in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

17. Defendant's infringement of Plaintiff's exclusive rights under the '326 patent will continue to damage Plaintiff, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

JURY DEMAND

18. Plaintiff hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

Plaintiff respectfully requests that the Court find in its favor and against Defendant, and that the Court grant Plaintiff the following relief:

- A. An adjudication that one or more claims of the '326 patent have been infringed, either literally and/or under the doctrine of equivalents, directly and/or indirectly by Defendant;
- B. An award to Plaintiff of damages adequate to compensate Plaintiff for the Defendant's acts of infringement together with pre-judgment and post-judgment interest;
- C. That, should Defendant's acts of infringement be found to be willful from the time that Defendant became aware of the infringing nature of their actions, which is the time of filing of Plaintiff's Original Complaint at the latest, that the Court award treble damages for the period of such willful infringement pursuant to 35 U.S.C. § 284;
- D. A grant of permanent injunction pursuant to 35 U.S.C. § 283, enjoining the Defendant from further acts of infringement with respect to the claims of the '326 patent;
- E. That this Court declare this to be an exceptional case and award Plaintiff its reasonable attorneys' fees and costs in accordance with 35 U.S.C. §285; and
- F. Any further relief that this Court deems just and proper.

Respectfully submitted,

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