

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

GRIFFIN TECHNOLOGY HOLDINGS, INC.,

Plaintiff,

v.

NETZERO, INC.,

Defendant.

Case No.

JURY TRIAL DEMANDED

COMPLAINT

Griffin Technology Holdings, Inc. (“Griffin”) files this Complaint for patent infringement against Defendant NetZero, Inc. (“NetZero” or “Defendant”) for infringement of U.S. Patent No. 6,473,617 (“the ’617 patent” or “Asserted Patent”).

THE PARTIES

1. Griffin is a Delaware corporation with its principal place of business at 43 Solstice, Irvine, CA 92602.

2. NetZero is a Delaware corporation with its principal place of business located at 21301 Burbank Blvd., Woodland Hills, CA 91367. NetZero may be served via its registered agent, the National Registered Agents, Inc., 160 Green Tree Drives, Ste. 101, Dover, Delaware 19904.

JURISDICTION AND VENUE

3. This is an action for patent infringement under Title 35 of the United States Code. Griffin is seeking injunctive relief as well as damages.

4. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents) because this is a civil action for patent infringement arising under the United States’ patent statutes, 35 U.S.C. § 101 *et seq.*

5. Venue is proper under 28 U.S.C. §§ 1391(c) and 1400(b) because NetZero has committed acts of infringement in this district and/or are deemed to reside in this district.

6. This Court has personal jurisdiction over NetZero and venue is proper in this district because NetZero has committed, and continues to commit, acts of infringement in the State of Delaware, including in this district and/or have engaged in continuous and systematic activities in the State of Delaware, including in this district.

THE ASSERTED PATENT

7. On March 3, 1998, the application for the ‘617 patent was filed with the United States Patent and Trademark Office (“USPTO”). The ‘617 patent is entitled “Enhanced Cellular Communication System.” On October 29, 2002, the USPTO duly and legally issued the ‘617 patent. A copy of the ‘617 patent is attached as Exhibit A.

8. Griffin is the exclusive licensee of the ‘617 patent with ownership of all substantial rights in the ‘617 patent, including the right to exclude others and to enforce, sue and recover damages for past and future infringement.

COUNT I **(INFRINGEMENT OF U.S. PATENT NO. 6,473,617)**

9. Griffin incorporates paragraphs 1 through 8 herein by reference.

10. This cause of action arises under the patent laws of the United States, and in particular, 35 U.S.C. §§ 271, *et seq.*

11. The ‘617 patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

12. Griffin has been damaged as a result of NetZero’s infringing conduct described in this Count. NetZero is liable to Griffin in an amount that adequately compensates it for their

infringement, 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.

13. NetZero has and continues to directly infringe one or more claims of the '617 patent in this judicial district and/or elsewhere in Delaware and the United States, including at least claim 1, by, among other things, practicing the steps of the patented methods of the '617 patent with respect to a cellular wireless communication system which includes the product known as the NetZero 4G Hotspot.

14. NetZero is thereby liable for direct infringement of the '617 patent.

ADDITIONAL ALLEGATIONS

15. Griffin has been damaged as a result of Defendant's infringing conduct described herein. Defendant is, thus, liable to Griffin in an amount that adequately compensates Griffin for Defendant's infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by the Court under 35 U.S.C. § 284.

16. Defendant's actions complained of herein will continue unless Defendant is enjoined by this Court.

17. Griffin has complied with 35 U.S.C. § 287.

18. Defendant's actions complained of herein are causing irreparable harm and monetary damage to Griffin and will continue to do so unless and until Defendant is enjoined and restrained by this Court.

JURY DEMAND

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

PRAYER FOR RELIEF

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

- a. Enter judgment for Plaintiff on this Complaint;
- b. Enter judgment that one or more claims of the '617 patent has been infringed, either directly or indirectly by Defendant;
- c. Enter judgment that Defendant account for and pay to Griffin all damages to and costs incurred by Griffin because of Defendant's infringing activities and other conduct complained of herein;
- d. Award Plaintiff damages resulting from Defendant's infringement in accordance with 35 U.S.C. § 284;
- e. Enter a permanent injunction enjoining Defendant and its offices, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert or participation with them, from infringing or inducing infringement of the '617 patents, or, in the alternative, judgment that Defendant account for and pay to Griffin a reasonable royalty and an ongoing post judgment royalty because of Defendant's past, present and future infringing activities and other conduct complained of herein;
- f. That Griffin be granted pre-judgment and post-judgment interest on the damages caused by Defendant's infringing activities and other conduct complained of herein;
- g. That Griffin be granted such other and further relief as the Court may deem just and proper under the circumstances.

Dated: October 10, 2012

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