

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

AERITAS, LLC,)	
)	
Plaintiff,)	Civil Action No. _____
)	
vs.)	(JURY DEMANDED)
)	
CINEMARK USA, INC.,)	
)	
Defendants.)	

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Aeritas, LLC (“Aeritas”), alleges as follows:

PARTIES

1. Aeritas is a limited liability company organized and existing under the laws of the State of Texas, with its principal place of business in Dallas, Texas.
2. Upon information and belief, Cinemark USA, Inc. (“Cinemark”) is a corporation organized and existing under the laws of the State of Delaware, with a place of business at 3900 Dallas Parkway, Suite 500, Plano, Texas 75093. Cinemark may be served with process by serving its registered agent for service of process in the State of Texas, namely, Corporation Service Company, 211 E. 7th Street, Suite 620, Austin, Texas, 78701-3218.

JURISDICTION AND VENUE

3. This is an action for infringement of United States patents arising under 35 U.S.C. §§ 271, 281 and 284-285, among others. This Court has subject matter jurisdiction of the action under Title 28 U.S.C. § 1331 and § 1338(a).

4. Upon information and belief, personal jurisdiction by this Court over Defendant is proper based upon its having regularly conducted business, including the acts complained of herein, within the State of Texas and this judicial district and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this judicial district.

5. Venue properly lies in this district under the provisions of 28 U.S.C. § 1391 because Defendant has purposely and repeatedly availed itself of the privilege of doing business within the district, and because a substantial part of the events giving rise to the claims herein occurred in this district.

THE PATENTS-IN-SUIT

6. On April 27, 2010, United States Patent No. 7,706,819 (the “’819 patent”) was duly and legally issued for a “Mixed-Mode Interaction.” A true and correct copy of the ‘819 patent is attached hereto as Exhibit A. Aeritas is the owner of all right, title and interest in and to the ‘819 patent.

7. On November 8, 2011, United States Patent No. 8,055,285 (the “’285 patent”) was duly and legally issued for a “Mixed-Mode Interaction.” A true and correct copy of the ‘285 is attached hereto as Exhibit B. Aeritas is the owner of all right, title and interest in and to the ‘285 patent.

BACKGROUND

8. Aeritas developed its mobile device location-based information service based on research and development activities that began in early 2000. In recognition of its pioneering efforts in this field, the United States Patent & Trademark Office issued the inventors several U.S. patents directed to the Company's innovative technology platform, service and notification method. These include the patent-in-suit.

DEFENDANT'S ACTS

9. Defendant provides and uses systems, software applications, articles and methods that practice one or more claimed inventions in the patent-in-suit. In particular, Cinemark offers end users a mobile application for the Apple® iPhone® and for other mobile phones that run the Android™ operating system. The Cinemark iPhone and Android mobile phone applications allows a user "easy access to any domestic Cinemark Theatre" and, in particular, to find Cinemark theatre locations via GPS, to establish, access and use a set of "My Cinemark" favorite theatres, to purchase movie tickets securely, to search and view movie listing and trailers, to view and share movie information via social network sites, and the like. By interacting with Cinemark servers and applications, the mobile application allows users to locate their nearest Cinemark theatre, to search for preferred Cinemark theatre locations, and set up their own "My Cinemark" favorite theatre locations. One particular function provided by the Cinemark mobile application and the Cinemark server is a search function that, upon a search query, highlights nearby "favorite" theaters when the end user searches for local theaters screening a particular movie. Using this technology and information service, end users locate their favorite Cinemark

theatres reliably and efficiently, thereby increasing the likelihood that the end users will go to those theatres to view desired entertainment. In addition, Cinemark advertises and promotes these mobile applications from its Internet web site, located at www.cinemark.com, and this web site is delivered from one or more servers that are Internet-accessible and located at one or more IP addresses 64.202.66.xx in Texas.

10. On information and belief, when end users interact with these mobile applications, requests are received at Cinemark's Internet-accessible servers, and these servers perform processing and provide responses to the end user requests. During these end user interactions with Cinemark's Internet-accessible servers, Defendant directly infringes at least claims 17-21 of the '819 patent, and at least claims 1, 3-9 and 13-14 of the '285 patent, each in violation of 35 U.S.C. § 271(a).

11. In the alternative, Defendant is inducing infringement of the '819 and '285 patents because it has known of the patents since at least June 1, 2012, because, with respect to any step (of claims 17-21 of the '819 patent, or of claims 1, 3-9 and 13-14 of the '285 patent) not performed by Defendant itself, Defendant has induced a third party to perform such step, and such third party in fact has performed such step.

12. Defendant's inducement has occurred with the specific intent of encouraging others to infringe, or with willful blindness to the fact that its actions would induce infringement of the '819 and '285 patents, as demonstrated by, among other things, providing specifications and instructions for the installation and operation of its mobile application, including uses that infringe one or more claims of the '819 and '285 patents, and/or causing, urging, encouraging and/or aiding others through contracts, agreements, and/or computerized instructions to perform one or more steps of a method claimed in '819 and '285 patents.

13. Defendant acquired knowledge of the patent-in-suit through direct notice that was communicated to Defendant on June 1, 2012, and, again, on August 20, 2012. On information and belief, Defendant's infringement of the patents-in-suit is now being carried out willfully.

14. As a result of Defendant's infringement of the '819 and '825 patents, Aeritas has suffered monetary damages that are adequate to compensate it for the infringement under 35 U.S.C. §284, but in no event less than a reasonable royalty.

15. Upon information and belief, Defendant's infringing conduct will continue unless enjoined by this Court, resulting in continuing harm to Plaintiff.

JURY DEMAND

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

PRAYER FOR RELIEF

WHEREFORE, Aeritas requests that the Court enter a judgment in its favor and against Defendant as follows:

- A. permanently enjoining Defendant, its agents, servants, and employees, and all those in privity with it or in active concert and participation with it, from engaging in acts of infringement of the patents-in-suit;
- B. awarding Aeritas past and future damages together with prejudgment interest and post-judgment interest to compensate for the infringement of the patents-in-suit in accordance with 35 U.S.C. § 384;
- C. declare this case exceptional, pursuant to 35 U.S.C. § 285; and

- D. awarding Aeritas its costs (including expert fees), disbursements, attorneys' fees, and such further and additional relief as is deemed appropriate by this Court; and
- E. granting such further relief as this Court deems to be just and proper.

Dated: November 19, 2012

Respectfully submitted,

/S/ David H. Judson

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Texas Bar No. 11047150

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