

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

CDD TECHNOLOGIES, LLC,	)	
	)	
Plaintiff,	)	
	)	Civil Action No. _____
v.	)	
	)	<b>JURY TRIAL DEMANDED</b>
ACER AMERICA CORPORATION,	)	
GATEWAY, INC. and EMACHINES, INC.,	)	
	)	
Defendants.	)	
_____	)	

**COMPLAINT**

For its Complaint, Plaintiff CDD Technologies, LLC ("CDD Technologies"), by and through the undersigned counsel, alleges as follows:

**THE PARTIES**

1. CDD Technologies is a Texas limited liability company with a place of business located at 719 West Front Street, Suite 242, Tyler, Texas 75702.
2. Defendant Acer America Corporation ("Acer") is a California corporation with, upon information and belief, a place of business located at 333 West San Carlos Street, Suite 1500, San Jose, California 95110.
3. Defendant Gateway, Inc. ("Gateway") is a Delaware corporation with, upon information and belief, a place of business located at 7565 Irvine Center Drive, Irvine, California 92618.
4. Defendant eMachines, Inc. ("eMachines") is a Delaware corporation with, upon information and belief, a place of business located at 14350 Myford Road, Building 100, Irvine, California 92606.

5. Upon information and belief, each of the Defendants work jointly and concurrently with their parent Ace Inc. to develop, manufacture, import, market and sell the products accused of infringement herein.

### **JURISDICTION AND VENUE**

6. This action arises under the Patent Act, 35 U.S.C. § 1 *et seq.*

7. Subject matter jurisdiction is proper in this Court under 28 U.S.C. §§ 1331 and 1338.

8. Upon information and belief, Defendant conducts substantial business in this forum, directly or through intermediaries, 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 this district.

9. Venue is proper in this district pursuant to §§ 1391(b), (c) and 1400(b).

### **THE PATENT-IN-SUIT**

10. On December 14, 1999, United States Patent No. 6,002,402 (the "'402 patent"), entitled "System and Method for Producing a Drag-and-Drop Object from a Popup Menu Item," was duly and lawfully issued by the U.S. Patent and Trademark Office ("USPTO"). A true and correct copy of the '402 patent is attached hereto as Exhibit A.

11. CDD Technologies is the assignee and owner of the right, title and interest in and to the '402 patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

**COUNT I – INFRINGEMENT OF U.S. PATENT NO. 6,002,402**

12. CDD Technologies repeats and realleges the allegations of paragraphs 1 through 11 as if fully set forth herein.

13. Without license or authorization and in violation of 35 U.S.C. § 271(a), Acer has infringed and continues to infringe at least claims 1 and 21 of the '402 patent by making, using, offering for sale, and/or selling within this district and elsewhere in the United States and/or importing into this district and elsewhere in the United States, (a) computers that include or incorporate certain computer program products and methods including but not limited to, computer program products and methods which create a shortcut for an application or file when an application or file is selected from a selected menu and dragged to another location and dropped at that location, or (b) computer systems that contain components for creating a shortcut for an application or file when an application or file is selected from a selected menu and dragged to another location and dropped at that location. Examples of such products include, but are not limited to, Aspire S7, Aspire S5, Aspire S3, Aspire M, Aspire V5, Aspire V3, Aspire E, Aspire, Aspire One, ICONIA W7, ICONIA W5, Aspire U, Aspire Z and Veriton Z.

14. Without license or authorization and in violation of 35 U.S.C. § 271(a), Gateway has infringed and continues to infringe at least claims 1 and 21 of the '402 patent by making, using, offering for sale, and/or selling within this district and elsewhere in the United States and/or importing into this district and elsewhere in the United States, (a) computers that include or incorporate certain computer program products and methods including but not limited to, computer program products and methods which create a shortcut for an application or file when an application or file is selected from a selected menu and dragged to another location and dropped at that location, or (b)

computer systems that contain components for creating a shortcut for an application or file when an application or file is selected from a selected menu and dragged to another location and dropped at that location. Examples of such products include, but are not limited to, LT Series netbooks, NE Series notebooks, NV Series notebooks, and One ZX Series.

15. Without license or authorization and in violation of 35 U.S.C. § 271(a), eMachines has infringed and continues to infringe at least claims 1 and 21 of the '402 patent by making, using, offering for sale, and/or selling within this district and elsewhere in the United States and/or importing into this district and elsewhere in the United States, (a) computers that include or incorporate certain computer program products and methods including but not limited to, computer program products and methods which create a shortcut for an application or file when an application or file is selected from a selected menu and dragged to another location and dropped at that location, or (b) computer systems that contain components for creating a shortcut for an application or file when an application or file is selected from a selected menu and dragged to another location and dropped at that location. Examples of such products include, but are not limited to, D Series notebooks, E Series notebooks, G Series notebooks and EZ Series.

16. CDD Technologies is entitled to recover from Defendants the damages sustained by CDD Technologies as a result of their infringement of the '402 patent 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.

### **JURY DEMAND**

CDD Technologies hereby demands a trial by jury on all issues so triable.

**PRAYER FOR RELIEF**

WHEREFORE, CDD Technologies requests that this Court enter judgment against Defendant as follows:

- A. An adjudication that Defendants have infringed the '402 patent;
- B. An award of damages to be paid by Defendants adequate to compensate CDD Technologies for their past infringement of the '402 patent and any continuing or future infringement through the date such judgment is entered, including interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;
- C. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of CDD Technologies' reasonable attorneys' fees; and
- D. An award to CDD Technologies of such further relief at law or in equity as the Court deems just and proper.

Dated: December 21, 2012

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