

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE

APOLLO INTELLECTUAL PROPERTIES,
LLC,

Plaintiff,

vs.

PANAMAX LLC and PANAMAX, INC.,

Defendants.

CASE NO.: _____

ECF CASE

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Apollo Intellectual Properties, LLC (“Apollo IP”), for its Complaint against Defendants Panamax LLC and Panamax Inc. (collectively “Panamax”) hereby alleges as follows:

THE PARTIES

1. Plaintiff Apollo IP is a limited liability company organized and existing under the laws of the State of New York with its principal place of business in New York, New York.

2. Defendant Panamax LLC is a limited liability company organized and existing under the laws of State of California with a business address of 1690 Corporate Circle, Petaluma, California 94954. Panamax LLC has appointed the Corporation Service Company d/b/a CSC located at 2710 Gateway Oaks Drive Suite 150N, Sacramento, California 95833 as its agent for service of process.

3. Defendant Panamax Inc. is a corporation formed and existing under the laws of the State of California with a business address of 1690 Corporate Circle, Petaluma, California

94954. Upon information and belief, Panamax Inc. was converted out to Panamax LLC. Panamax Inc. has appointed the Corporation Service Company d/b/a CSC located at 2710 Gateway Oaks Drive Suite 150N, Sacramento, California 95833 as its agent for service of process.

NATURE OF THE ACTION

5. This is a civil action for infringement of United States Patent No. 5,838,776 (“the ‘776 Patent” or “the Patent-in-Suit”) (attached as Exhibit A) under the Patent Laws of the United States 35 U.S.C. § 1 *et. seq.*

JURISDICTION AND VENUE

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

7. This Court has personal jurisdiction over Defendants because, among other things, Defendants have committed, aided, abetted, contributed to, and/or participated in the commission of patent infringement in this judicial district and elsewhere that led to foreseeable harm and injury to Apollo IP.

8. This Court also has personal jurisdiction over Defendants because, among other things, Defendants have established minimum contacts within the forum such that the exercise of jurisdiction over Defendants will not offend traditional notions of fair play and substantial justice. Moreover, Defendants have placed products that practice the claimed inventions of the Patent-in-Suit into the stream of commerce with the reasonable expectation and/or knowledge that purchasers and users of such products were located within this judicial district. In addition,

Defendants sold, advertised, marketed, and distributed products in this District that practice the claimed inventions of the Patent-in-Suit.

9. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400(b).

THE PATENT IN SUIT

10. On November 17, 1998, the '776 Patent was duly and legally issued by the United States Patent and Trademark Office. Apollo IP is the assignee of all rights, title and interest in the '776 Patent, and Apollo IP possesses all rights to sue and recover for any current or past infringements of the '776 Patent.

11. The '776 Patent claims, among other things, products, systems and methods with power inputs and power outputs that monitor a parameter of the received power and remove and apply power after a predetermined event.

COUNT I

Infringement of U.S. Patent No. 5,838,776

12. Paragraphs 1-11 are incorporated by reference as if fully restated herein.

13. Defendants have infringed, and continue to infringe, the '776 Patent under 35 U.S.C. § 271, either literally and/or under the doctrine of equivalents, by making, using, offering for sale, selling, and/or importing into the United States products, systems and methods that contain power inputs and power outputs that monitor a parameter of the received power and remove and apply power after a predetermined event (the "776 Infringing Products"), including at least the M8 line of products such as the M8-AV-PRO, M8-AV, M8-HT, and M8-HT-PRO; the MFP line of products such as the MFP-400 and MFP500-EX; the MIP line of products such as the MIP-15LT, MIP-15A-EX, MIP-20A-EX and MIP-20LT; the MR line of products such as

the MR5100, MR4300, and MR4000; the M line of products such as the M5400-PM, M5300-PM, M5100-PM, M4300-PM, M4300-EX, M7500-PRO, M5500-EX, M5400-EX, M5300-EX, M5100-EX, M4300-EX, M5500-EX and M4400-20A; the MB line of products such as the MB1500, MB1000; the MX line of products such as the MX5102; and the M10 line of products such as the M10-HT-PRO.

14. Defendants directly infringed, and continue to infringe, at least claims 3, 16, 29 and 43 of the '776 Patent.

15. Apollo IP has been and continues to be damaged by Defendants' infringement of the '776 Patent.

PRAYER FOR RELIEF

Wherefore, Plaintiff Apollo IP respectfully requests that this Court enter judgment against Defendants Panamax LLC and Panamax Inc. as follows:

a) adjudging that the Defendants have infringed, literally or under the doctrine of equivalents, U.S. Patent No. 5,838,776;

b) awarding Apollo IP the damages to which it is entitled under 35 U.S.C. § 284 for Defendants' past infringement and any continuing or future infringement up until the date Defendants are finally and permanently enjoined from further infringement, including both compensatory damages and ordering a full accounting of same;

c) awarding Apollo IP pre-judgment and post-judgment interest on its damages; and

d) awarding Apollo IP such other and further relief in law or equity that the Court deems just and proper.

DEMAND FOR JURY TRIAL

Apollo IP hereby demands a trial by jury on all claims and issues so triable.

DATED: January 14, 2013

KENNERLY, MONTGOMERY & FINLEY, P.C.

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