

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

**ROTATABLE TECHNOLOGIES LLC,**

**Plaintiff,**

**v.**

- 1. BMC SOFTWARE, INC.;**
- 2. BURNS & MCDONNELL, INC.;**
- 3. THE DALLAS MORNING NEWS,  
INC.;**
- 4. HOAK MEDIA, LLC.; AND**
- 5. MARY KAY, INC.;**

**Defendants.**

**CIVIL ACTION NO. 2:13-cv-215**

**JURY TRIAL DEMANDED**

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**PLAINTIFF'S ORIGINAL COMPLAINT**

This is an action for patent infringement in which Rotatable Technologies LLC ("Rotatable Technologies") makes the following allegations against BMC Software, Inc.; Burns & McDonnell, Inc.; The Dallas Morning News, Inc.; Hoak Media, LLC.; and Mary Kay, Inc.; (collectively, "Defendants"):

**PARTIES**

1. Rotatable Technologies is a limited liability company formed under the laws of the State of Texas with a principle place of business located at 815 Brazos Street, Suite 500, Austin, Texas 78701.

2. Defendant BMC Software, Inc. ("BMC") is a corporation organized and existing under the laws of the State of Delaware with a principle place of business located at 2101 Citywest Blvd. Building 1, Houston, Texas 77042-2828. BMC can be served via its registered agent for service of process: C T Corporation System, 350 N. ST. Paul Street, STE. 2900, Dallas, Texas 75201.

3. Defendant Burns & McDonnell, Inc. (“B & N”) is a corporation organized and existing under the laws of the State of Kansas with a principle place of business located at 9400 Ward Parkway Kansas City, Missouri 64114-3319. B & N can be served via its registered agent for service of process: Incorp Services, Inc., 815 Brazos St. STE. 500 Austin, Texas 78701.

4. Defendant The Dallas Morning News, Inc. (“DMN”) is a corporation organized and existing under the laws of the State of Delaware with a principle place of business located at 400 South Record Street Dallas, Texas 75202-4888. DMN can be served via its registered agent for service of process: C T Corporation System, 350 N. ST. Paul Street, STE. 2900, Dallas, Texas 75201.

5. Defendant Hoak Media, LLC (“Hoak”) is a corporation organized and existing under the laws of the State of Delaware with a principle place of business located at 500 Crescent Court STE. 220, Dallas, Texas 75201-7808. Hoak can be served via its registered agent for service of process: Eric Van Den Branden 500 Crescent Court STE. 220 Dallas, Texas 75201-7808. 16251 Dallas Parkway Addison, TX 75001-6801

6. Defendant Mary Kay Inc. (“Mary Kay”) is a corporation organized and existing under the laws of the State of Delaware with a principle place of business located at 16251 Dallas Parkway Addison, Texas 75001-6801. Mary Kay can be served via its registered agent for service of process: The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

### **JURISDICTION AND VENUE**

7. This is an action for infringement of a United States patent arising under 35 U.S.C. §§ 271, 281, and 284 - 85, among others. This Court has subject matter jurisdiction over this action under 28 U.S.C. §1331 and §1338(a).

8. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400(b). Upon information and belief, each Defendant has transacted business in this district, and has committed and/or induced acts of patent infringement in this district.

9. Defendants are subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to each Defendant's substantial business in this forum, 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 Texas and in this district.

10. Joinder of the Defendants is proper pursuant to 35 U.S.C. § 299(a) at least because each Defendant's infringing products includes, complies with, and/or utilizes the iOS operating system, the practice of which by each Defendant necessarily results in infringement of the patent-in-suit. In addition, questions of fact common to all of the Defendants will arise in the action at least because, upon information and belief, Defendants' infringing acts arise from their common acts of including, complying with and/or utilizing the iOS operating system. Each of the Defendants' iOS applications made the basis of this suit are only available for download in the Apple App Store.

**COUNT I**  
**INFRINGEMENT OF U.S. PATENT NO. 6,326,978**

11. On December 4, 2001, United States Patent No. 6,326,978 (the "'978 patent") was duly and legally issued by the United States Patent and Trademark Office for an invention entitled "Display Method for Selectively Rotating Windows on a Computer Display". A true and correct copy of the '978 patent is attached hereto as Exhibit A.

12. Rotatable Technologies is the owner of the '978 patent with all substantive rights in and to that patent, including the sole and exclusive right to prosecute this action and enforce the '978 patent against infringers, and to collect damages for all relevant times.

13. BMC directly or through intermediaries, made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale products and/or systems (including at least the BMC Today Mobile Application for iOS) that infringed one or more claims of the '978 patent.

14. B & N directly or through intermediaries, made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale products and/or systems (including at least the B & N HV Spacing Mobile Application for iOS) that infringed one or more claims of the '978 patent.

15. DMN directly or through intermediaries, made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale products and/or systems (including at least the DMN Dallas Skyline, Best in DFW, Dallas Best Burgers, Vegetarian Dallas, Dog About Town, and SportsDay College Mobile Applications for iOS) that infringed one or more claims of the '978 patent.

16. Hoak directly or through intermediaries, made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale products and/or systems (including at least the VNL Weather, KALB-TV, KNOE 8 WX, KMOT, KUMV, KFYZ-TV Wx, KMOT Wx, KQCD WX, KQCD, KUMV WX Mobile Applications for iOS) that infringed one or more claims of the '978 patent.

17. Mary Kay directly or through intermediaries, made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale products and/or systems (including

at least the Mary Kay eCatalog Mobile Application for iOS) that infringed one or more claims of the '978 patent.

**JURY DEMAND**

Rotatable Technologies hereby requests a trial by jury on all issues so triable by right.

**PRAYER FOR RELIEF**

Rotatable Technologies requests that the Court find in its favor and against Defendants, and that the Court grant Rotatable Technologies the following relief:

a. Judgment that one or more claims of the '978 patent have been infringed, either literally and/or under the doctrine of equivalents, by Defendants and/or by others to whose infringement Defendants have contributed and/or by others whose infringement has been induced by Defendants;

b. A permanent injunction enjoining Defendants and their officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert therewith from infringement, inducing infringement of, or contributing to infringement of the '978 patent;

c. Judgment that Defendants account for and pay to Rotatable Technologies all damages and costs incurred by Rotatable Technologies, caused by Defendants' infringing activities and other conduct complained of herein;

d. That Rotatable Technologies be granted pre-judgment and post-judgment interest on the damages caused by Defendants' infringing activities and other conduct complained of herein;

e. That this Court declare this an exceptional case and award Rotatable Technologies reasonable attorneys' fees and costs in accordance with 35 U.S.C. § 285; and

f. That Rotatable Technologies be granted such other and further relief as the Court may deem just and proper under the circumstances.

Dated: March 18, 2013

Respectfully submitted,

By: /s/ Austin Hansley

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**ATTORNEY FOR PLAINTIFF**

**ROTATABLE TECHNOLOGIES LLC**