

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

KEWAZINGA CORP.)
AND K LICENSING LLC)
)
) Plaintiffs)
)
) vs.)
)
) GOOGLE INC.)
)
) Defendant.)

Civil Action No. _____
JURY TRIAL DEMANDED

COMPLAINT

Kewazinga Corp. (“KC”) and K Licensing LLC (“KL,” collectively with KC, “Kewazinga”), hereby assert claims against Google Inc. (“Google”) for infringement of U.S. Patent Nos. 6,535,226 (“the ‘226 patent”) and 6,522,325 (“the ‘325 patent,” collectively with the ‘226 patent, “the Patents”) and alleges as follows:

THE PLAINTIFFS

1. Plaintiff KC is a corporation organized and existing under the laws of Delaware.
2. Plaintiff KC is the owner of all right, title and interest in the Patents.
3. Plaintiff KL is a limited liability company organized and existing under the laws of Delaware.
4. Plaintiff KL is the exclusive licensee of the Patents with the right to grant sublicenses.

THE DEFENDANT

5. Upon information and belief, Google is a Delaware corporation with its principal place of business located at 1600 Amphitheatre Parkway, Mountain View, California 94043. This Court has personal jurisdiction over Google because Google has committed, and continues to commit, acts of infringement in the state of Delaware, has conducted business in the state of Delaware, and/or has engaged in continuous and systematic activities in the state of Delaware.

6. Upon information and belief, without limitation, Google supplies, promotes, offers to sell and sells products and services, including web-based and mobile applications, to customers throughout the United States, including within this District.

7. Upon information and belief, Google has in the past offered, and currently offers, versions of Google Street View as part of its Maps product in the United States, including within this District. Upon information and belief, Google has also offered one or more versions of Street View as part of, and in connection with, other products, including, without limitation, Google Maps API, Google Maps API for Business, Google Navigation Apps for SmartPhones, including integration of Google Maps with Apple Inc.'s iOS and Google Maps app available for download via Apple Inc.'s AppStore, Google Earth, Google Earth Pro, Google Earth Enterprise, Google Maps Engine, Google Places API, Google Maps Coordinate, Google Driverless Car, Google-Nintendo Wii U Gaming Integration, General Electric Small World Applications, and Sony Corp.'s Promotional Online Game for Resident Evil: Retribution (available at <http://www.residentevil-movie.com/game/streetinvasion/>).

JURISDICTION AND VENUE

8. The claims asserted in this Complaint arise under the Patent Laws of the United States, 35 U.S.C. §§ 1-376.

9. Subject matter jurisdiction is proper pursuant to 28 U.S.C. §§ 1331 and 1338.

10. This Court has personal jurisdiction over Google. Google has committed and continues to commit, has contributed to and continues to contribute to, and has induced and continues to induce, acts of patent infringement in this District.

11. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400.

THE PATENTS-IN-SUIT

12. The '226 patent, entitled "NAVIGABLE TELEPRESENCE METHOD AND SYSTEM UTILIZING AN ARRAY OF CAMERAS," was lawfully issued by the United States Patent and Trademark Office on March 18, 2003. The '226 patent issued on United States Patent Application No. 09/283,413, filed April 1, 1999, which claims priority to United States Provisional Application No. 60/080,413, filed on April 2, 1998. A copy of the '226 patent is attached as **Exhibit A**.

13. The '226 patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

14. The '325 patent, entitled "NAVIGABLE TELEPRESENCE METHOD AND SYSTEM UTILIZING AN ARRAY OF CAMERAS," was lawfully issued by the United States Patent and Trademark Office on February 18, 2003. The '325 patent issued on United States Patent Application No. 09/419,274, filed October 15, 1999, which claims priority to the '226 patent and United States Provisional Application 60/080,413, filed on April 2, 1998. A copy of the '325 patent is attached as **Exhibit B**.

15. The '325 patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

16. All right, title and interest in and to the Patents have been assigned to KC. KC is the rightful owner of the Patents, and holds the entire right, title and interest in the Patents. KC granted to KL an exclusive license to the Patents, which includes the exclusive rights to make, have made, modify, use, sell, import, export, distribute, lease or otherwise transfer products within the scope of the Patents and to sue for and recover damages for all present, future, and past infringements of the Patents.

INTRODUCTION

17. From about November 2005 through October 2006, KC had dozens of communications with high-level executives at Google, in which KC exposed to Google KC's proprietary and confidential information, including business and technological ideas, plans and strategies.

18. Without the permission of Kewazinga, upon information and belief, Google has implemented or plans to implement certain of KC's proprietary and confidential ideas disclosed to Google as part of such communications, including adding navigable street-level imagery to Google Maps and Google Earth, providing navigable imagery of points of interest, such as museums, zoos and aquariums, and embedding advertisements in navigable imagery.

19. As part of such communications, KC advised Google of its Patents.

20. As part of such communications, Google never disclosed to KC that it was developing, had developed or was planning to develop or release Street View or any navigable street-level imagery product.

21. On March 1, 2011, the '226 patent was cited by the PTO Examiner in connection with the prosecution of Google's United States Patent No. 8,125,481, entitled "Full-Text Lightweight Three-Dimensional Display."

COUNT I – INFRINGEMENT OF THE ‘226 PATENT

22. KC and KL reallege and incorporate by reference each of the preceding paragraphs.

23. Upon information and belief, Google, by itself and/or through its subsidiaries, affiliates, agents, and/or business partners, has in the past and continues to directly infringe claims of the ‘226 patent pursuant to 35 U.S.C. § 271(a) by making, having made, using, providing, selling and/or offering for sale systems and methods protected thereby within the United States and within this District. Google has been and is engaged in direct infringement activities with respect to at least Street View, which provides street-level imagery (including imagery within this District) and controls for navigating among images and which is incorporated in at least its: Google Maps desktop (accessible at <http://maps.google.com/>) and mobile applications; Google Earth desktop and mobile applications; Google Maps API; Google Maps API for Business; Google Navigation Apps for SmartPhones; Google Earth Pro; Google Earth Enterprise; Google Maps Engine; Google Places API; and Google Maps Coordinate. Google has further been and is engaged in direct infringement activities with respect to at least the offer for sale and sale of Street View in connection with the Google-Nintendo Wii U Gaming Integration, General Electric Small World Applications, and Sony's Promotional Online Game for Resident Evil.

24. Upon information and belief, Google, by itself and/or through its subsidiaries, affiliates, agents, and/or business partners, has induced and/or will continue to induce the direct infringement of the ‘226 patent by end users of Street View pursuant to 35 U.S.C. § 271(b) at least by one or more of: (1) providing Street View that is designed and intended to enable end users to select and display, in response to image navigation commands, images captured from

one or more camera arrays, as well as additional content; (2) dictating via its design and instructions to users of Street View the manner in which Street View is used such that, when Street View is operated as intended by Google on a computer, smartphone, tablet and other computing device of an end user, each component and step of patented systems and methods of the Patents are used and performed in a manner dictated by Street View; (3) providing instructions and directions to end users regarding the use of Street View; and (4) providing Street View to third party direct infringers in connection with Google-Nintendo Wii U Gaming Integration, General Electric Small World Applications, and Sony's Promotional Online Game for Resident Evil. Upon information and belief Google has engaged and/or will continue to engage in these activities with knowledge and intent that such activities would cause and/or encourage direct infringement of the '226 patent.

25. Google, by itself and/or through its subsidiaries, affiliates, agents, and/or business partners, has contributed to and/or will continue to contribute to the direct infringement by end users of the Street View of claims of the '226 patent pursuant to 35 U.S.C. § 271(c) at least by providing software, including as part of Street View, that is designed and intended to enable end users to select and display, in response to image navigation commands, images captured from one or more camera arrays, as well as additional content, and otherwise provides software, including Street View, for use by end users, knowing that such software is especially made or especially adapted for use in infringing the patented systems and methods and not a staple article or commodity of commerce suitable for substantial non-infringing use.

26. As a consequence of each of Google's direct, inducement and contributory infringement of the '226 patent, KC and KL have been, and continue to be, damaged in an amount not yet determined and are entitled to recover damages pursuant to 35 U.S.C. § 284.

27. Upon information and belief, Google's infringement of the '226 patent will continue in the future, and KC and KL will continue to suffer damages as a consequence, unless Google's infringing acts are enjoined by this Court.

28. Upon information and belief, Google's infringement of the '226 patent has been, and continues to be, willful.

COUNT II – INFRINGEMENT OF THE '325 PATENT

29. KC and KL reallege and incorporate by reference each of the preceding paragraphs.

30. Upon information and belief, Google, by itself and/or through its subsidiaries, affiliates, agents, and/or business partners, has in the past and continues to directly infringe claims of the '325 patent pursuant to 35 U.S.C. § 271(a) by making, having made, using, providing, selling and/or offering for sale systems and methods protected thereby within the United States and within this District. Google has been and is engaged in direct infringement activities with respect to at least Street View, which provides street-level imagery (including imagery within this District) and controls for navigating among images and which is incorporated in at least its: Google Maps desktop (accessible at <http://maps.google.com/>) and mobile applications; Google Earth desktop and mobile applications; Google Maps API; Google Maps API for Business; Google Navigation Apps for SmartPhones; Google Earth Pro; Google Earth Enterprise; Google Maps Engine; Google Places API; and Google Maps Coordinate. Google has further been and is engaged in direct infringement activities with respect to at least the offer for sale and sale of Street View in connection with the Google-Nintendo Wii U Gaming Integration, General Electric Small World Applications, and Sony's Promotional Online Game for Resident Evil.

31. Upon information and belief, Google, by itself and/or through its subsidiaries, affiliates, agents, and/or business partners, has induced and/or will continue to induce the direct infringement of the '325 patent by end users of Street View pursuant to 35 U.S.C. § 271(b) at least by one or more of: (1) providing Street View that is designed and intended to enable end users to select and display, in response to image navigation commands, images captured from one or more camera arrays, as well as additional content; (2) dictating via its design and instructions to users of Street View the manner in which Street View is used such that, when Street View is operated as intended by Google on a computer, smartphone, tablet and other computing device of an end user, each component and step of patented systems and methods of the Patents are used and performed in a manner dictated by Street View; (3) providing instructions and directions to end users regarding the use of Street View; and (4) providing Street View to third party direct infringers in connection with Google-Nintendo Wii U Gaming Integration, General Electric Small World Applications, and Sony's Promotional Online Game for Resident Evil. Upon information and belief Google has engaged and/or will continue to engage in these activities with knowledge and intent that such activities would cause and/or encourage direct infringement of the '325 patent.

32. Google, by itself and/or through its subsidiaries, affiliates, agents, and/or business partners, has contributed to and/or will continue to contribute to the direct infringement by end users of the Street View of claims of the '325 patent pursuant to 35 U.S.C. § 271(c) at least by providing software, including as part of Street View, that is designed and intended to enable end users to select and display, in response to image navigation commands, images captured from one or more camera arrays, as well as additional content, and otherwise provides software, including Street View, for use by end users, knowing that such software is especially made or

especially adapted for use in infringing the patented systems and methods and not a staple article or commodity of commerce suitable for substantial non-infringing use.

33. As a consequence of each of Google's direct, inducement and contributory infringement of the '325 patent, KC and KL have been, and continue to be, damaged in an amount not yet determined and are entitled to recover damages pursuant to 35 U.S.C. § 284.

34. Upon information and belief, Google's infringement of the '325 patent will continue in the future, and KC and KL will continue to suffer damages as a consequence, unless Google's infringing acts are enjoined by this Court.

35. Upon information and belief, Google's infringement of the '325 patent has been, and continues to be, willful.

JURY DEMAND

36. KC and KL request a trial by jury for all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, KC and KL respectfully request that the Court enter judgment against Google:

A. determining that Google has infringed and continues to infringe one or more claims of the '226 patent;

B. permanently enjoining Google, their respective officers, agents, servants, directors, employees and attorneys, and all persons acting in concert or participation with them, directly or indirectly, or any of them who receive actual notice of the judgment, from further infringing, inducing others to infringe, or contributing to the infringement of any claim of the '226 patent, and/or ordering payment of ongoing royalties for further infringing, inducing others to infringe, or contributing to the infringement of any claim of the '226 patent;

C. ordering Google to account for and pay to KC and KL all damages suffered by KC and KL as a consequence of Google's infringement of the '226 patent, together with pre and post judgment interest and costs as fixed by the Court;

D. declaring that Google's infringement of the '226 patent was and is willful and trebling KC and KL's damages under U.S.C. § 284 on that ground;

E. determining that Google has infringed and continues to infringe one or more claims of the '325 patent;

F. permanently enjoining Google, their respective officers, agents, servants, directors, employees and attorneys, and all persons acting in concert or participation with them, directly or indirectly, or any of them who receive actual notice of the judgment, from further infringing, inducing others to infringe, or contributing to the infringement of any claim of the '325 patent, and/or ordering payment of ongoing royalties for further infringing, inducing others to infringe, or contributing to the infringement of any claim of the '325 patent;

G. ordering Google to account for and pay to KC and KL all damages suffered by KC and KL as a consequence of Google's infringement of the '325 patent, together with pre and post judgment interest and costs as fixed by the Court;

H. declaring that Google's infringement of the '325 patent was and is willful and trebling KC and KL's damages under U.S.C. § 284 on that ground;

I. declaring that this case is exceptional and awarding KC and KL its costs and attorneys' fees in accordance with 35 U.S.C. § 285; and

J. granting KC and KL such other and further relief as the Court may deem just and proper.

Date: May 24, 2013

FARNAN LLP

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