

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

_____)	
WIRELESS RECOGNITION)	
TECHNOLOGIES LLC,)	
)	
Plaintiff,)	Civil Action No. 2:10-cv-364 (TJW-CE)
)	
v.)	JURY TRIAL DEMANDED
)	
A9.COM, INC., AMAZON.COM, INC.,)	
GOOGLE, INC., NOKIA, INC., and)	
RICOH INNOVATIONS, INC.)	
)	
Defendants.)	
_____)	

**DEFENDANT RICOH INNOVATIONS, INC.’S ANSWER,
AFFIRMATIVE DEFENSES, AND COUNTERCLAIMS**

Defendant Ricoh Innovations, Inc. (“Ricoh”) responds to the allegations of the Complaint of plaintiff Wireless Recognition Technologies LLC (“WRT”) as follows:

NATURE OF THE ACTION

1. Ricoh admits that WRT purports to assert a claim for patent infringement.

PARTIES

2. Ricoh lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 2, and therefore denies them.
3. Ricoh lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 3, and therefore denies them.
4. Ricoh lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 4, and therefore denies them.
5. Ricoh lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 5, and therefore denies them.

6. Ricoh lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 6, and therefore denies them.

7. Ricoh admits that it is a California Corporation, admits that its principal place of business is at 2882 Sand Hill Road, Suite 115, Menlo Park, CA 94025, USA, and admits that it may be served through its registered agent, Kevin Ridout located at 2882 Sand Hill Road, Suite 115, Menlo Park, CA 94025.

JURISDICTION AND VENUE

8. Ricoh admits that WRT purports to assert a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code and that this Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and § 1338(a), Ricoh states that it has not committed any act of infringement, and Ricoh denies that it commits, induces and/or contributes to the acts of patent infringement alleged in the complaint.

9. Ricoh admits that WRT purports that venue is proper under 28 U.S.C. §§ 1391(b)-(c) and 1400(b), Ricoh denies the allegations of Paragraph 9 as to itself and Ricoh lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 9, and therefore denies them. Ricoh further states that, even if venue were proper in the Eastern District of Texas, which Ricoh does not admit, this judicial district is not the most convenient venue for adjudication of the claims raised by WRT in this action.

10. Ricoh denies the allegations of Paragraph 10 as to itself and lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 10, and therefore denies them.

COUNT I
A9'S INFRINGEMENT OF U.S. PATENT NO. 7,392,287

11. Ricoh incorporates by reference its responses to paragraphs 1-8.

12. Ricoh admits that U.S. Patent 7,392,287 (“the ‘287 patent”) issued on June 24, 2008, is entitled “Method and Apparatus for Sharing Information Using a Handheld Device,” and that a copy of the ‘287 patent is attached to the complaint as Exhibit A; denies that the ‘287 patent was duly or legally issued, and Ricoh lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 12, and therefore denies them.

13. Ricoh denies the allegations of Paragraph 13.

14. Ricoh lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 14, and therefore denies them.

15. Ricoh lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 15, and therefore denies them.

16. Ricoh lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 16, and therefore denies them.

COUNT II
AMAZON'S INFRINGEMENT OF U.S. PATENT NO. 7,392,287

17. Ricoh incorporates by reference its responses to paragraphs 1-15.

18. Ricoh admits that U.S. Patent 7,392,287 (“the ‘287 patent”) issued on June 24, 2008, is entitled “Method and Apparatus for Sharing Information Using a Handheld Device,” and that a copy of the ‘287 patent is attached to the complaint as Exhibit A; denies that the ‘287 patent was duly or legally issued, and Ricoh lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 18, and therefore denies them.

19. Ricoh denies the allegations of Paragraph 19.

20. Ricoh lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 20, and therefore denies them.

21. Ricoh lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 21, and therefore denies them.

22. Ricoh lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 22, and therefore denies them.

COUNT III
GOOGLE'S INFRINGEMENT OF U.S. PATENT NO. 7,392,287

23. Ricoh incorporates by reference its responses to paragraphs 1-15.

24. Ricoh admits that U.S. Patent 7,392,287 (“the ‘287 patent”) issued on June 24, 2008, is entitled “Method and Apparatus for Sharing Information Using a Handheld Device,” and that a copy of the ‘287 patent is attached to the complaint as Exhibit A; denies that the ‘287 patent was duly or legally issued, and Ricoh lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 24, and therefore denies them.

25. Ricoh denies the allegations of Paragraph 25.

26. Ricoh lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 26, and therefore denies them.

27. Ricoh lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 27, and therefore denies them.

28. Ricoh lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 28, and therefore denies them.

COUNT IV
NOKIA'S INFRINGEMENT OF U.S. PATENT NO. 7,392,287

29. Ricoh incorporates by reference its responses to paragraphs 1-15.

30. Ricoh admits that U.S. Patent 7,392,287 (“the ‘287 patent”) issued on June 24, 2008, is entitled “Method and Apparatus for Sharing Information Using a Handheld Device,” and that a copy of the ‘287 patent is attached to the complaint as Exhibit A; denies that the ‘287 patent was duly or legally issued, and Ricoh lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 30, and therefore denies them.

31. Ricoh denies the allegations of Paragraph 31.

32. Ricoh lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 32, and therefore denies them.

33. Ricoh lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 33, and therefore denies them.

34. Ricoh lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 34, and therefore denies them.

COUNT V
RICOH'S INFRINGEMENT OF U.S. PATENT NO. 7,392,287

35. Ricoh incorporates by reference its responses to paragraphs 1-15.

36. Ricoh admits that U.S. Patent 7,392,287 (“the ‘287 patent”) issued on June 24, 2008, is entitled “Method and Apparatus for Sharing Information Using a Handheld Device,” and that a copy of the ‘287 patent is attached to the complaint as Exhibit A; denies that the ‘287 patent was duly or legally issued, and Ricoh lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 36, and therefore denies them.

37. Ricoh denies the allegations of Paragraph 37.

38. Ricoh admits that Ricoh was involved in the development of French Rev and DriveTube, and denies the remaining allegations of Paragraph 38.

39. Ricoh denies the allegations of Paragraph 39.

40. Ricoh denies the allegations of Paragraph 40.

41. Ricoh denies that WRT is entitled to any relief, including prayers for relief (1) – (5) of the complaint.

DEFENSES AND AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Ricoh is not subject to this Court’s specific or general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute. Ricoh reserves the right to move to dismiss under Fed. R. Civ. P. 12(b)(2).

SECOND AFFIRMATIVE DEFENSE

Venue is not proper in this judicial district. Ricoh reserves the right to move to dismiss under Fed. R. Civ. P. 12(b)(3).

THIRD AFFIRMATIVE DEFENSE

WRT has failed to state a claim upon which relief can be granted.

FOURTH AFFIRMATIVE DEFENSE

Ricoh is not infringing and has not infringed, either by direct infringement, contributory infringement, or inducement of infringement, any valid claim of the ‘287 patent.

FIFTH AFFIRMATIVE DEFENSE

One or more claims of the '287 patent are invalid for failure to comply with one or more provisions of Title 35 of the United States Code, including without limitation §§ 101, 102, 103 and/or 112.

SIXTH AFFIRMATIVE DEFENSE

By reason of the proceedings in the U.S. Patent and Trademark Office during prosecution of the applications for the '287 patent and related patents, and proceedings in prior litigations involving the '287 patent, WRT is estopped from claiming infringement, including literally or under the doctrine of equivalents, by Ricoh of one or more claims of the '287 patent.

SEVENTH AFFIRMATIVE DEFENSE

Any claim by WRT for damages is limited under 35 U.S.C. §§ 286 and 287.

EIGHTH AFFIRMATIVE DEFENSE

WRT is not entitled to injunctive relief at least because any alleged injury is not immediate or irreparable, and because WRT has an adequate remedy at law.

NINTH AFFIRMATIVE DEFENSE

To the extent that WRT does not own all rights to the '287 patent, WRT lacks standing to bring this action.

RICOH'S COUNTERCLAIMS

Pursuant to Rule 13, Fed. R. Civ. P., Ricoh counterclaims against WRT as follows:

PARTIES

1. Ricoh is a corporation organized and existing under the laws of California, with a principal place of business at 2882 Sand Hill Road, Suite 115, Menlo Park, CA 94025, USA.

2. WRT states in its complaint that it is a limited liability company organized and existing under the laws of Texas with its principal place of business at 6136 Frisco Square Blvd., Suite 400, Frisco, TX 75034.

JURISDICTION AND VENUE

3. These counterclaims arise under the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, and the patent laws of the United States recited in Title 35 of the United States Code.

4. On September 14, 2010, WRT filed a complaint initiating this action.

5. U.S. Patent 7,392,287 (“the ‘287 patent”) issued on June 24, 2008, and is entitled “Method and Apparatus for Sharing Information Using a Handheld Device.” WRT states in its complaint that it is the owner of the ‘287 patent.

6. Ricoh is not infringing and has not infringed any valid claim of the ‘287 patent, by direct infringement, contributory infringement, or inducement of infringement.

7. One or more claims of the ‘287 patent are invalid for failure to comply with one or more provisions of Title 35 of the United States Code, including without limitation §§ 101, 102, 103 and/or 112.

8. An actual, substantial, and continuing justiciable controversy exists between Ricoh and WRT with respect to which Ricoh requires a declaration of rights by this Court. At present, the controversy relates to noninfringement and invalidity of the ‘287 patent.

9. Subject matter jurisdiction exists pursuant to 28 U.S.C. §§ 1331 and 1332.

10. This Court has jurisdiction over WRT because WRT has brought suit in this forum alleging patent infringement against Ricoh.

11. Ricoh maintains its right to seek a transfer of venue on forum non conveniens grounds or pursuant to 28 U.S.C. § 1404. In the event of such transfer, Ricoh consents to the transfer of its counterclaims set forth herein to the transferee forum. To the extent that this action remains in this District, venue is appropriate because Plaintiff has consented to the propriety of venue in this Court by filing its claim for patent infringement in this Court, in response to which these counterclaims are asserted.

FIRST COUNTERCLAIM
DECLARATORY JUDGMENT OF NONINFRINGEMENT FOR '287 PATENT

12. Ricoh realleges and incorporates by reference paragraphs 1 through 10 above.

13. Ricoh is not infringing and has not infringed any valid claim of the '287 patent by direct infringement, contributory infringement, or inducement of infringement.

14. WRT in its complaint alleges that Ricoh infringes one or more claims of the '287 patent.

15. An actual controversy exists between Ricoh and WRT as to whether Ricoh infringes any claim of the '287 patent.

16. A declaratory judgment of noninfringement is appropriate at this time.

SECOND COUNTERCLAIM
DECLARATORY JUDGMENT OF INVALIDITY FOR '287 PATENT

17. Ricoh realleges and incorporates by reference paragraphs 1 through 10 above.

18. One or more claims of the '287 patent are invalid for failure to comply with one or more provisions of Title 35 of the United States Code, including without limitation §§ 101, 102, 103 and/or 112.

19. An actual controversy exists between Ricoh and WRT as to whether the claims of the '287 patent are invalid.

20. A declaratory judgment of invalidity is appropriate at this time.

JURY DEMAND

21. Ricoh demands a trial by jury on all issues.

PRAYERS FOR RELIEF

WHEREFORE, defendant and counterclaimant Ricoh prays:

1. That WRT take nothing by its complaint;
2. That WRT's complaint and claims for relief alleged therein be dismissed with prejudice, and that all relief requested by WRT be denied with prejudice;
3. That this Court declare that Ricoh has not infringed and does not infringe in any manner any claim of the '287 patent;
4. That this Court declare that each claim of the '287 patent is invalid, void, and without any force of effect against Ricoh, its officers, agents, servants, employees and attorneys;
5. That this Court deem this to be an exceptional case under 35 U.S.C. § 285 and entitling Ricoh to an award of its reasonable attorneys' fees;
6. That this Court award to Ricoh its costs associated with this case; and
7. That this Court award to Ricoh such further relief, in law or in equity, as this Court deems just and proper.

Dated: November 12, 2010

Respectfully submitted,

/s/ Michael E. Jones

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on November 12, 2010. Any other counsel of record will be served by First Class U.S. mail on this same date.

/s/ Michael E. Jones
Michael E. Jones