

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

VERTICAL COMPUTER SYSTEMS, INC.,

Plaintiff,

v.

INTERWOVEN, INC.,  
LG ELECTRONICS MOBILECOMM  
U.S.A., INC., LG ELECTRONICS INC.,  
SAMSUNG ELECTRONICS CO., LTD.,  
SAMSUNG ELECTRONICS AMERICA,  
INC.,

Defendants.

Civil No. 2:10-CV-00490

JURY TRIAL DEMANDED

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**DECLARATION OF LUIZ CLAUDIO VALDETARO  
IN SUPPORT OF OPPOSITION TO INTERWOVEN, INC.'S  
MOTION TO STAY, DISMISS OR TRANSFER**

I, Luiz Claudio Valdetaro, declare and state as follows:

1. I am the Chief Technical Officer at Vertical Computer Systems, Inc. ("Vertical"). I reside in Coppell, Dallas County, Texas.

2. On April 18, 2007, Vertical brought an action against Microsoft in the Eastern District of Texas, for infringement of U.S. Patent No. 6,826,744 ("the '744 patent," **Exhibit A**). On the day before the claim construction hearing, July 24, 2008, the parties settled the action.

3. Vertical then investigated Interwoven, Inc. ("Interwoven"), a competitor, to determine if Interwoven was infringing the '744 patent. Vertical sent Interwoven a notice letter on January 12, 2009 (**Exhibit C**). On March 5, 2009, one of Vertical's attorneys, Vasilios D. Dossas and I, met representatives of Interwoven in San Jose, California to discuss Vertical's claims against Interwoven. Interwoven's representatives made a detailed presentation and argued that Interwoven had developed its products before the invention of the '744 patent. Interwoven did not disclose the now accused TeamSite 2006 product or how it functions. Its representatives focused their entire presentation and subsequent discussion to products from the 1990s. We told the Interwoven representatives that we would investigate further.

4. Vertical continued to investigate Interwoven's products and with the help of a book titled "The Definite Guide to Interwoven TeamSite" and written by Brian Hastings and Justin McNeal concluded that the Interwoven TeamSite 2006 product infringes the claims of the '744 patent and U.S. Patent No. 7,716,629 ("the '629 patent," **Exhibit B**). The '629 patent is a continuation of the '744 patent and has essentially the same specification and drawings. Vertical then contacted Interwoven on August 12, 2010 to renew the settlement discussions. (**Exhibit F**).

5. In the meantime, Autonomy Corp. plc ("Autonomy") had purchased Interwoven. Mr. Joel Scott, Autonomy's general counsel corresponded with Vertical's counsel, seeking more time to review the matter so that he could prepare for subsequent settlement discussions (**Exhibit G**). One of the reasons given by Mr. Scott was the fact that the Interwoven employees involved in the March, 2009 meeting were no longer with the company. Vertical granted the requested time, but before its expiration, Interwoven filed the present lawsuit.

6. Vertical has its principle place of business in Richardson, Texas. The material witnesses for this case reside at this location. For example, I reside in Coppell, Texas; the chief executive officer of Vertical, Richard Wade, resides in Dallas, Texas; Vertical's current chief financial officer, Freddie Holder, resides in Richardson, Texas in the Eastern District of Texas as did the previous chief financial officer who resided in Rockwall, Texas. Vertical's documents relevant to this litigation are located in Richardson. Vertical sells and services its products, including the SiteFlash product that the patents-in-suit cover, out of Richardson.

7. Vertical does not have any offices in California. It does not have any employees that are material witnesses that reside in California. (One Vertical employee and one employee of a Vertical subsidiary reside in the Los Angeles area and work out of their houses, an employee for a subsidiary resides in San Diego and works out of her house, and two employees of another subsidiary work out of their houses in the Bay Area. But these employees do not have any connection to this lawsuit or the products covered by the patents-in-suit). In addition, Vertical has not sold its SiteFlash product, the product covered by the patents-in-suit, in California. To the best of Vertical's knowledge, a prior owner of the patents-in-suit (a company that did not have any

relation to Vertical) sold a product covered by those patents to a company in California. Vertical collected maintenance fees for that product, but it has not collected any fees or serviced that product since 2004. Since that time, Vertical has not sold any product or provided any services in California.

8. Aubrey McAuley is the inventor of the patents-in-suit. He resides in Austin, Texas. He is not an employee or an officer of Vertical or its subsidiaries. He is an employee of an unrelated company that does not grant him flexibility to travel for this lawsuit.

9. Interwoven's website, [www.interwoven.com](http://www.interwoven.com), identifies it as Autonomy. The website also reveals that Interwoven has customers in Texas, including Texas Instruments of Richardson, Texas and the Texas Department of Transportation.

10. Interwoven made a number of statements in its complaint in the California action that it brought that are not accurate. The following paragraphs correct those inaccuracies: Effective September 8, 2003, Vertical announced the closing of its office in Los Angeles, California and moved its principal executive office to Austin, Texas. It subsequently moved to Fort Worth and then Richardson, Texas. Vertical moved from Fort Worth, Texas to this location in the Spring of 2008 for the convenience of its employees. It did so after considering six (6) different locations, starting in the Spring of 2007. Two of the sites, including what ultimately became the present address of Vertical, were located in Colin County and the rest in Dallas County. **(Exhibit H)**. The location of any pending or prospective litigation did not influence in any way the selection of the present place of business. Since September 2003, Vertical has not kept any offices in California.

11. Vertical does indeed have a registered agent for service of process in California. William Kenneth Mills of 865 South Figueroa Street, Suite 3200, Los Angeles, CA 90017 has been a director of Vertical since December 2000 and is Vertical's agent for service of process in California.

12. SnAPPnet, Inc., a Texas corporation, not Vertical Healthcare Solutions, Inc. purchased the business and assets of Pelican Applications, LLC. Both SnAPPnet, Inc. and Vertical Healthcare Solutions, Inc. are Texas corporations and Vertical subsidiaries. The assets that SnAPPnet purchased from Pelican were not located in California.

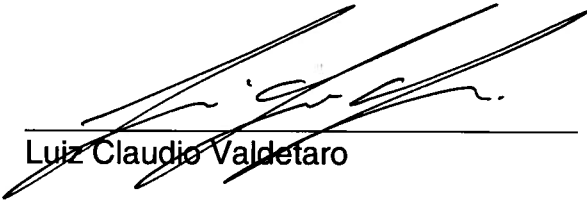
13. Pointmail.com, Inc. and Vertical Internet Solutions, Inc. have been inactive entities since at least 2003 and their status with the California Secretary of State office is "suspended."

14. Vertical has previously entered into a royalty agreement with TranStar, Inc. ("TranStar"), but it has never received royalties from TranStar. To the best of my knowledge, TranStar is not active. TranStar is a Nevada corporation and its status with the Nevada Secretary of State's offices is "revoked."

15. Vertical does not have a distribution agreement with TranStar, Inc.

I declare under the penalty of perjury that the foregoing is true and correct.

Dated: 01/24/11

  
Luiz Claudio Valdetaro