

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

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CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA

SUFFOLK TECHNOLOGIES, LLC)
)
)
Plaintiff,)
v.)
)
AOL INC. and GOOGLE INC.)
)
Defendants.)
)
)
)

Civil Action No. 1:12 CV 625
TSE/IDD

COMPLAINT FOR PATENT INFRINGEMENT, PERMANENT INJUNCTION, AND
DAMAGES; DEMAND FOR JURY TRIAL

For its Complaint against Defendants AOL Inc. ("AOL") and Google Inc. ("GOOGLE") (collectively "Defendants"), Plaintiff Suffolk Technologies, LLC ("Suffolk" or "Plaintiff") alleges as follows:

NATURE OF ACTION

1. British Telecommunications plc ("BT") was a leader in developing innovative technology relating to the Internet, and this case involves two such BT patents that have been assigned to Plaintiff. This is a patent infringement action directed to the common use by AOL and GOOGLE of so called "snippet" technology by which a customized summary is generated for a person conducting a search on the Internet. The identical instrumentality is being used by both AOL and GOOGLE to infringe United States Patent No. 6,334,132 entitled "Method and Apparatus For Creating a Customized Summary of Text By Selection of Sub-Sections Thereof Ranked By Comparison to Target Data Items" (hereinafter "the '132 patent").

2. This case also involves the infringement of United States Patent No. 6,081,835 entitled “Internet Server and Method of Controlling an Internet Server” (hereinafter “the ‘835 patent”). The ‘835 patented technology is directed to methods and apparatus by which a server selectively determines whether and to what webpage a file is served and whether a customized file should be generated before service. AOL is infringing the ‘835 patent by virtue of services it provides under the AOL brand “Advertising.com” to selectively place paid advertisements for a company’s product or service on the webpage of another (hereinafter “AOL’s Advertising.com Service”). GOOGLE is infringing the ‘835 patent by virtue of its AdSense service, which also selectively places paid advertisements for a company’s product or service on the webpage of another.

JURISDICTION AND VENUE

3. This is a civil action arising under the laws of the United States relating to patents (35 U.S.C. §§ 271, 281, 283, 284, and 285). This Court has original jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a).

4. This Court has personal jurisdiction over AOL and GOOGLE. Defendants have extensive, systematic and continuous contacts with and dealings in the Commonwealth of Virginia and with this District. Defendants have committed acts of infringement in this District, and continue to commit acts of infringement in this District.

5. Venue is proper in this District and Division under 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b), and Local Civil Rule 3 because, on information and belief, Defendants have transacted business in this District, have advertised and solicited business in the District, have committed acts of infringement in this District, have established minimum contacts in this District, and Defendants have a regular and established place of business in this Division.

THE PARTIES

6. Plaintiff Suffolk is a limited liability corporation duly organized and existing under the laws of the state of Delaware, with its address at Bridgewater, New Jersey.

7. Upon information and belief, Defendant AOL is a corporation duly organized and existing under the laws of the state of Delaware, with its corporate headquarters located in New York City. On information and belief, AOL owns and operates a corporate campus comprising office buildings, a data center and support facilities of approximately 840,000 square feet located at 22000 AOL Way, Dulles, Virginia 20166 where a significant portion of AOL's operations directed to Internet search functionality occurs and thousands of AOL employees work.

8. Upon information and belief, Defendant GOOGLE is a corporation organized under the laws of the State of Delaware, with its corporate headquarters and principal place of business at 1600 Amphitheater Parkway, Mountain View, California 94043. A portion of GOOGLE's operation is conducted at a location in Reston, Virginia, where, on information and belief, about fifty (50) employees work on research, development, or design for GOOGLE, and where search and advertising infrastructure is found and is used to infringe the '132 and '835 patents. GOOGLE also, on information and belief, has two other technical facilities within this District in Ashburn, Virginia and in Virginia Beach, Virginia. In litigation before this Court, GOOGLE has admitted that it has facilities in this District and that it employs workers in this District, and it has not contested venue in this District or this Court's exercise of personal jurisdiction over it.

JOINDER

9. Joinder of accused infringers AOL and GOOGLE as Defendants in this action is proper under 35 U.S.C. Section 299. In its Complaint herein, Suffolk asserts a right to relief against Defendants GOOGLE and AOL jointly, with respect to acts arising out of the same transactions, occurrences, and series of transactions relating to the use of the same accused

process. GOOGLE provides “snippets” to GOOGLE visitors and AOL provides “snippets” to AOL’s visitors which AOL receives from GOOGLE. In its First Claim for Relief, herein, Suffolk alleges that AOL is liable for indirect infringement under 35 U.S.C. Sections 271(b) and (c) for actively inducing and contributing to GOOGLE’s direct infringement of U.S. Patent No. 6,334,132. Specifically, Suffolk alleges that visitors to AOL’s website input search terms that AOL sends to GOOGLE so that GOOGLE can search the AOL-provided terms and provide the search results to AOL’s website together with snippets that GOOGLE generated.

PERTINENT BACKGROUND FACTS

10. Plaintiff Suffolk is the owner by assignment of U.S. Patent Nos. 6,334,132 and 6,081,835 (collectively, the “patents-in-suit”). The patents-in-suit were originally filed in the United States Patent and Trademark Office (the “PTO”) by BT. BT is the world’s oldest telecommunications company, and its origins date back to the establishment of the first telecommunications companies in the United Kingdom. Among them was the first commercial telegraph service, the Electric Telegraph Company, established in 1846.

11. Each of the inventors of the patents-in-suit was an employee of BT when the inventions contained in the patents-in-suit were conceived and when the application for each of the patents-in-suit was filed. Each of the named inventors of the patents-in-suit resides in Great Britain.

U.S. Patent No. 6,334,132 and Defendants’ Infringement

12. In the Spring of 1998, BT employee Richard Weeks filed with the PTO an application for a United States patent entitled “Method and Apparatus for Creating a Customized Summary of Text By Selection of Sub-Sections Thereof Ranked by Comparison to Target Data Items.” On December 25, 2001, the PTO duly and legally issued this application as the ’132 patent. A true and correct copy of the ’132 patent is attached hereto as Exhibit 1.

13. The inventions of the '132 patent provide, among other things, a means by which a customized summary of a set of data responsive to a user's search request is generated.

14. In general, the '132 patent accomplishes this by dividing the data set into sections and calculating a "ranking value" for each section depending on a comparison of one or more search terms to each section. The relevant summary is then compiled by selecting one or more of the sections according to their ranking values.

15. When a search query is provided to GOOGLE for a search, GOOGLE returns a list of webpages that meet, or potentially meet, the visitor's search query. Included in the list is, for each webpage, what GOOGLE calls a "snippet." A "snippet" is selected text from the webpage that describes the content of the page. On information and belief GOOGLE performs the methods claimed in the '132 patent to generate snippets.

16. When a visitor to Defendant AOL's website enters a search query, the search query is sent by AOL to GOOGLE's servers and GOOGLE conducts the search and returns to AOL's website a list of webpages that meet, or potentially meet, the visitor's search query. Included in the list is, for each webpage, a "snippet" that is generated by GOOGLE, as described above.

**U.S. Patent No. 6.081,835, Defendant AOL's Advertising.com Service
and Defendant GOOGLE's AdSense Service**

17. On or about March 11, 1997, BT employees Stuart J. Antcliff, John C. Regnault, and Laurence D. Bradley filed with the PTO an application for a United States patent entitled "Internet Server and Method of Controlling an Internet Server." On June 27, 2000, the PTO duly and legally issued this application as the '835 patent. A true and correct copy of the '835 patent is attached hereto as Exhibit 2.

18. The inventions of the '835 patent provide, among other things, a means by which an Internet server (a device that stores and sends requested files) can determine whether a

webpage requesting a file is authorized to receive that file, and by which it can customize its file response in one of two ways, depending upon the identity of the requesting webpage: (1) it can choose to serve some but not all of the existing files that the requesting webpage is authorized to receive and (2) it can generate a new file based upon stored information that the requesting webpage is authorized to receive to better present information most relevant to the requesting computer.

19. In general, the '835 patented invention accomplishes this by programming the server in such a way that it can: (1) identify the webpage making the request for information by checking its identification signal; (2) compare the identification signal of the requesting webpage to a stored list of identification signals for many webpages; and (3) determine, based on the comparison, what existing file(s) to send or whether to generate and send one or more new files.

20. Defendant AOL operates the AOL Advertising.com Service, which is an Internet advertising service. Using the AOL Advertising.com Service, an advertiser can have its advertisements displayed on pages of websites that subscribe to the AOL Advertising.com Service. Webmasters of the participating AOL Advertising.com Service websites (i.e., publishers) agree to have the advertisements shown on a portion of their webpages by placing AOL-provided code within their webpages. When the webpage is visited, AOL's server receives a request for ads from the webpage's server. This request includes, among other things, identification signals for the webpage from which the request is made.

21. Upon information and belief, when serving an ad to a webpage using the AOL Advertising.com Service, AOL's server compares the identification signals of the webpage from which the request is made to identification signals stored by AOL to determine which ad(s) to send to the webpage.

22. Defendant GOOGLE operates an Internet advertising service called AdSense. Using AdSense, an advertiser can have its advertisements displayed on pages of websites that are

part of the GOOGLE “Display Network.” Webmasters of the Display Network websites (i.e., publishers) agree to have the advertisements shown on a portion of their webpages by placing GOOGLE-provided code within their webpages. When the webpage is visited, GOOGLE’s server receives a request for ads from the webpage’s server. This request includes, among other things, identification signals of the webpage from which the request is made.

23. Upon information and belief, when serving an ad to a webpage in the GOOGLE Display Network using the GOOGLE AdSense service, GOOGLE’s server compares the identification signals of the webpage from which the request is made to identification signals stored by GOOGLE. GOOGLE uses the results of that comparison to determine which ad(s) to send to the webpage.

FIRST CLAIM FOR RELIEF

Infringement of the ’132 Patent against AOL and GOOGLE

24. Plaintiff incorporates herein by reference the allegations set forth in paragraphs 1-23 of this Complaint as though fully set forth herein.

25. Defendant GOOGLE has been and is directly infringing claims of the ’132 patent under 35 U.S.C. Section 271(a) at least by generating, in the United States, snippets in response to search queries provided to GOOGLE’s servers.

26. Defendant AOL has been and is indirectly infringing claims of the ’132 patent under 35 U.S.C. Section 271(b) by actively inducing GOOGLE to generate, in the United States, snippets in response to search queries entered by visitors to AOL’s website, in a manner that is covered by the claims of the ’132 patent, with knowledge of the ’132 patent, and with knowledge that the acts it was causing would be covered by claims of the ’132 patent.

27. Defendant AOL has been and is indirectly infringing claims of the ’132 patent under 35 U.S.C. Section 271(c) by supplying GOOGLE with search queries entered by visitors to AOL’s website which GOOGLE uses to automatically generate, in the United States, snippets

in response to search queries entered by visitors to AOL's website, in a manner that is covered by claims of the '132 patent, with knowledge of the '132 patent and with knowledge that the AOL website visitors' search terms sent from AOL to GOOGLE were especially made or adapted for use in a manner covered by claims of the '132 patent and whereby the AOL website visitors' search terms do not have a substantial non-infringing use.

28. On or about December 3, 2008, GOOGLE was provided written notice of the existence of the '132 patent and therefore, by at least as early as December 3, 2008, GOOGLE was aware of the '132 patent.

29. On or about September 18, 2009, AOL was provided written notice of the existence of the '132 patent and therefore, by at least as early as September 18, 2009, AOL was aware of the '132 patent.

30. Upon information and belief, GOOGLE's and AOL's infringement of the '132 patent has been and is willful, and will continue unless enjoined by the Court. Suffolk has suffered, and will continue to suffer, irreparable injury as a result of this willful infringement. Pursuant to 35 U.S.C. § 284, Suffolk is entitled to damages for infringement and treble damages. Pursuant to 35 U.S.C. § 283, Suffolk is entitled to a permanent injunction against further infringement.

31. This case is exceptional, and Suffolk therefore is entitled to attorneys' fees pursuant to 35 U.S.C. §285.

SECOND CLAIM FOR RELIEF

Infringement of the '835 Patent against AOL and GOOGLE

32. Plaintiff incorporates herein by reference the allegations set forth in paragraphs 1 - 23 of this Complaint as though fully set forth herein.

33. Defendant AOL has been and is directly infringing claims of the '835 patent under 35 U.S.C. Section 271(a) by operating its AOL Advertising.com Service in the United

States.

34. On or about September 18, 2009, AOL was provided written notice of the existence of the '835 patent and therefore, by at least as early as September 18, 2009, AOL was aware of the '835 patent.

35. Defendant GOOGLE has been and is directly infringing claims of the '835 patent under 35 U.S.C. Section 271(a) by operating its AdSense service in the United States.

36. On or about December 3, 2008 GOOGLE was provided written notice of the existence of the '835 patent and therefore, by at least as early as December 3, 2008, GOOGLE was aware of the '835 patent.

37. Upon information and belief, AOL's and GOOGLE's infringement of the '835 patent has been and is willful, and will continue unless enjoined by the Court. Suffolk has suffered, and will continue to suffer, irreparable injury as a result of this willful infringement. Pursuant to 35 U.S.C. § 284, Suffolk is entitled to damages for infringement and treble damages. Pursuant to 35 U.S.C. § 283, Suffolk is entitled to a permanent injunction against further infringement.

38. This case is exceptional, and Suffolk therefore is entitled to attorneys' fees pursuant to 35 U.S.C. §285.

PRAYER FOR RELIEF

Suffolk respectfully requests the following relief:

1. that AOL be adjudged to have indirectly infringed the '132 patent and to have directly infringed the '835 patent;
2. that GOOGLE be adjudged to have directly infringed the '132 and '835 patents;
3. that the Court enter a permanent injunction against AOL, and all others in active concert with it, prohibiting them from indirectly infringing the '132 patent and from directly infringing the '835 patent;

4. that the Court enter a permanent injunction against GOOGLE, and all others in active concert with it, prohibiting them from directly infringing the '132 and '835 patents;
5. that the Court order an accounting for damages by virtue of AOL's infringement of the '132 and '835 patents;
6. that the Court order an accounting for damages by virtue of GOOGLE's infringement of the '132 and '835 patents;
7. that the Court award damages to Suffolk against AOL and GOOGLE, pursuant to 35 U.S.C. § 284;
8. that the Court treble the damages to Suffolk against AOL and GOOGLE for willful infringement pursuant to 35 U.S.C. § 284;
9. that the Court award Suffolk pre-judgment and post-judgment interest and its costs, pursuant to 35 U.S.C. §284;
10. that the Court award Suffolk attorneys' fees incurred in this action pursuant to 35 U.S.C. § 285; and
11. that Suffolk be awarded such other and further relief as this Court deems just and proper.

Dated: June 7, 2012

Respectfully submitted,



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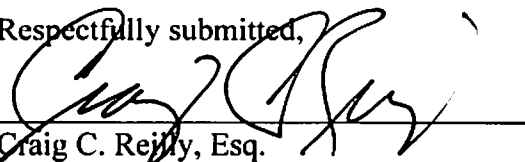
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DEMAND FOR A JURY TRIAL

Suffolk hereby demands a trial by jury as to all issues triable by a jury.

Dated: June 7, 2012

Respectfully submitted,



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