

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Aplix IP Holdings Corporation,

Plaintiff,

v.

Sony Computer Entertainment, Inc. and
Sony Computer Entertainment America,
LLC,

Defendants.

Civil Action No. 1:14-cv-12745-MLW

JURY TRIAL DEMANDED

AMENDED COMPLAINT

Plaintiff Aplix IP Holdings Corporation (“Aplix”), for its amended complaint against defendants Sony Computer Entertainment, Inc. (“SCE”) and Sony Computer Entertainment America, LLC (“SCEA”), collectively “Defendants,” states and alleges as follows:

INTRODUCTION

1. This case concerns patented technology covering game devices such as the hand-held Sony PlayStation Vita gaming console, the Sony PlayStation DualShock 3 and DualShock 4 controllers. The DualShock 3 and DualShock 4 controllers are used with the Sony Xperia line of smartphones and tablets. The DualShock 4 controller is also used with the PlayStation 4 system.

2. Beginning in 2003, a group of Massachusetts inventors, led by Dr. Beth Marcus, developed interactive-design technologies for improving data entry, control, and game-play on hand-held devices and host devices. Among other advancements, Marcus and her team deployed configurable input systems and elements on multiple surfaces of a hand-held device, taking advantage of the biomechanics of the human hand; leveraged the benefits associated with thumb-finger opposition; and designed hand-held accessory devices that would enable users to remotely operate (and play video games on) cell phones and tablet devices. Marcus and her team applied for patents on their inventions, and, after a thorough review, the United States Patent & Trademark Office awarded them several patents. These patents were assigned to Marcus' Boston-area start-up company, Zeemote, Inc., which sought to commercialize the technology. Aplix acquired Zeemote's assets, including the patents, and now asks this Court to find that the Defendants infringe the patents by importing, marketing, selling, and using the PlayStation Vita and accessories, including memory cards and pre-installed or bundled games, as well as the DualShock 3 and DualShock 4 controllers.

PARTIES, JURISDICTION, AND VENUE

3. Aplix is a Japanese corporation with its principal place of business in Tokyo, Japan.

4. SCE is a Japanese corporation with its principal place of business in Tokyo, Japan.

5. SCEA is a Delaware limited liability company with its principal place of business in San Mateo, California.

6. This action arises under the patent laws of the United States, Title 35 of the United States Code. Accordingly, this Court has subject-matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. This Court has personal jurisdiction over Defendants pursuant to Massachusetts's long-arm statute, Mass. Gen. Laws ch. 223A, § 3. On information and belief, Defendants have, directly and/or indirectly through their agents and intermediaries, advertised (including through web sites), offered to sell, sold, and/or distributed in Massachusetts products that infringe Aplix's patents. Given Defendants' substantial and sustained contacts with the state, and their purposeful availment of the state's benefits and protections, the Court's exercise of personal jurisdiction over Defendants in this lawsuit satisfies due-process requirements. In addition, Defendants have voluntarily appeared in this action.

8. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and (c) and 28 U.S.C. § 1400(b) because Defendants have committed, and continue to commit, acts of infringement in the district.

FACTUAL BACKGROUND

9. In the spring of 2003, Massachusetts residents Beth Marcus and David Lee began developing ideas for improving how people interact with hand-held devices.

Marcus and Lee, both graduates of the Massachusetts Institute of Technology, applied for a patent in October of that same year.

10. Two years later, Marcus, with three others residing in the Boston area, founded Zietoo, Inc. (later changing the company name to Zeetoo, Inc., and then to Zeemote, Inc. (“Zeemote”)) to continue the research and development of products. Among other activities, Zeemote developed and sold a hand-held electronic game controller that communicated with a user’s mobile phone via Bluetooth technology.

11. Marcus brought additional inventors to Zeemote, including Massachusetts residents Elaine Chen, Lorraine Wheeler, and Rob Podoloff. Together, the team worked to patent their innovations.

12. On May 15, 2007, the United States Patent and Trademark Office (“USPTO”) duly and legally issued United States Patent No. 7,218,313 (“the ’313 patent”), titled “Human Interface System.”

13. On October 9, 2007, the USPTO duly and legally issued United States Patent No. 7,280,097 (the “’097 patent”), titled “Human Interface Input Acceleration System.”

14. On December 9, 2008, the USPTO duly and legally issued United States Patent No. 7,463,245 (the “’245 patent”), also titled “Human Interface System.”

15. On February 23, 2010, the USPTO duly and legally issued United States Patent No. 7,667,692 (the “’692 patent”), also titled “Human Interface System.”

16. On April 26, 2011, the USPTO duly and legally issued United States Patent No. 7,932,892 (the “’892 patent”), also titled “Human Interface Input Acceleration System.”

17. In late 2009, Aplix, a Japanese operating company that sells a variety of products, purchased Zeemote’s assets and patent portfolio, which included the ’313, ’097, ’245, ’692, and ’892 patents. Aplix owns all right, title and interest in this group of patents.

18. In 2006, Defendants released the PlayStation 3 (“PS3”), a video game system, in the United States. Defendants offer for sale a hand-held controller, known as the DualShock 3, alone and in conjunction with the PS3.

19. In 2008, Sony Mobile Communications (formerly Sony Ericsson Mobile Communications AB) released its first Xperia smartphone in the United States. Since that time, a family of Sony Xperia smartphones and tablets have been released.

20. In 2012, Defendants released the PlayStation Vita (“PS Vita”), a hand-held electronic game console, in the United States. Defendants offer the PS Vita for sale with pre-installed applications and memory cards. Defendants offer for sale additional applications (e.g., video games) and memory cards for use with the PS Vita.

21. In addition, Defendants induce users to install and use additional applications (e.g., video games) on the PS Vita delivered by download through the PlayStation Store or delivered on PlayStation Vita cards.

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