

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SHUTTERFLY, INC.,)	
)	
Plaintiff,)	
)	Civil Action No. _____
v.)	
)	
EASTMAN KODAK COMPANY, and)	JURY TRIAL DEMANDED
KODAK IMAGING NETWORK, INC.,)	
)	
Defendants.)	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Shutterfly, Inc. ("Shutterfly"), a Delaware corporation, by and through its attorneys, states as follows:

NATURE OF THE ACTION

1. This is an action brought by Shutterfly against the Eastman Kodak Company ("Eastman Kodak") and Kodak Imaging Network, Inc. ("KIN") (collectively "Kodak") for infringement of U.S. Patent Nos. 6,583,799 ("the '799 Patent"), 7,269,800 ("the '800 Patent"), 6,587,596 ("the '596 Patent"), 6,973,222 ("the '222 Patent"), 7,474,801 ("the '801 Patent"); 7,016,869 ("the '869 Patent") and 7,395,229 ("the '229 Patent") (collectively, "the Asserted Patents").

THE PARTIES

2. Plaintiff Shutterfly is a Delaware corporation with its principal place of business at 2800 Bridge Parkway, Redwood City, California.

3. Defendant Eastman Kodak is a New Jersey corporation with a principal place of business at 343 State Street, Rochester, New York.

4. Defendant KIN is a Delaware corporation with its principal place of business at 1480 64th Street, Emeryville, California. KIN is a subsidiary of Eastman Kodak.

JURISDICTION AND VENUE

5. This is an action arising under the patent laws of the United States. Accordingly, this Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over Defendants. On information and belief, Defendants have transacted business in this District, supplied goods or services in this District directly or through their agents, purposely availed themselves of the privileges and benefits of the laws of this state, and committed acts of patent infringement during the course of their business in this District. Personal jurisdiction and venue are therefore proper in this District pursuant to 28 U.S.C. §§ 1391 and 1400(b).

FIRST CLAIM FOR RELIEF

(Infringement of U.S. Patent No. 6,583,799)

7. Paragraphs 1 through 6 are incorporated by reference as if fully stated herein.

8. Shutterfly owns by assignment the entire right, title, and interest in and to the '799 Patent including the right to bring this suit for damages. The '799 Patent issued on June 24, 2003 and is entitled "Image Uploading." A true and correct copy of the '799 Patent is attached as Exhibit A and incorporated herein by reference.

9. The '799 Patent is valid and enforceable under the United States Patent Laws.

10. Kodak has infringed and is infringing at least claim 1 of the '799 Patent, in violation of 35 U.S.C. § 271 *et seq.*, by, including but not limited to, making, using, offering for sale, selling in the United States, and/or importing into the United States, without authority, Kodak Gallery Upload Software.

11. Shutterfly has been and will continue to be irreparably damaged by Kodak's infringement of the '799 patent.

12. Kodak's infringement will continue unless enjoined by this court.

SECOND CLAIM FOR RELIEF

(Infringement of U.S. Patent No. 7,269,800)

13. Paragraphs 1 through 12 are incorporated by reference as if fully stated herein.

14. Shutterfly owns by assignment the entire right, title, and interest in and to the '800 Patent including the right to bring this suit for damages. The '800 Patent issued on September 11, 2007 and is entitled "Restartable Image Uploading." A true and correct copy of the '800 Patent is attached as Exhibit B and incorporated herein by reference.

15. The '800 Patent is valid and enforceable under the United States Patent Laws.

16. Kodak has infringed and is infringing at least claim 1 of the '800 Patent, in violation of 35 U.S.C. § 271 *et seq.*, by, including but not limited to, making, using, offering for sale, selling in the United States, and/or importing into the United States, without authority, Kodak Gallery Upload Software.

17. Shutterfly has been and will continue to be irreparably damaged by Kodak's infringement of the '800 patent.

18. Kodak's infringement will continue unless enjoined by this court.

THIRD CLAIM FOR RELIEF

(Infringement of U.S. Patent No. 6,587,596)

19. Paragraphs 1 through 18 are incorporated by reference as if fully stated herein.

20. Shutterfly owns by assignment the entire right, title, and interest in and to the '596 Patent including the right to bring this suit for damages. The '596 Patent issued on July 1, 2003

and is entitled "System and Method of Cropping an Image." A true and correct copy of the '596 Patent is attached as Exhibit C and incorporated herein by reference.

21. The '596 Patent is valid and enforceable under the United States Patent Laws.

22. Kodak has infringed and is infringing at least claim 1 of the '596 Patent, in violation of 35 U.S.C. § 271 *et seq.*, by, including but not limited to, making, using, offering for sale, selling in the United States, and/or importing into the United States, without authority, the Kodak Gallery Software.

23. Shutterfly has been and will continue to be irreparably damaged by Kodak's infringement of the '596 patent.

24. Kodak's infringement will continue unless enjoined by this court.

FOURTH CLAIM FOR RELIEF

(Infringement of U.S. Patent No. 6,973,222)

25. Paragraphs 1 through 24 are incorporated by reference as if fully stated herein.

26. Shutterfly owns by assignment the entire right, title, and interest in and to the '222 Patent including the right to bring this suit for damages. The '222 Patent issued on December 6, 2005 and is entitled "System and Method of Cropping an Image." A true and correct copy of the '222 Patent is attached as Exhibit D and incorporated herein by reference.

27. The '222 Patent is valid and enforceable under the United States Patent Laws.

28. Kodak has infringed and is infringing at least claim 1 of the '222 Patent, in violation of 35 U.S.C. § 271 *et seq.*, by including but not limited to, making, using, offering for sale, selling in the United States, and/or importing into the United States, without authority, the Kodak Gallery Software.

29. Shutterfly has been and will continue to be irreparably damaged by Kodak's

infringement of the '222 patent.

30. Kodak's infringement will continue unless enjoined by this court.

FIFTH CLAIM FOR RELIEF

(Infringement of U.S. Patent No. 7,474,801)

31. Paragraphs 1 through 30 are incorporated by reference as if fully stated herein.

32. Shutterfly owns by assignment the entire right, title, and interest in and to the '801 Patent including the right to bring this suit for damages. The '801 Patent issued on January 6, 2009 and is entitled "Automatic Generation of a Photo Album." A true and correct copy of the '801 Patent is attached as Exhibit E and incorporated herein by reference.

33. The '801 Patent is valid and enforceable under the United States Patent Laws.

34. Kodak has infringed and is infringing at least claim 1 of the '801 Patent, in violation of 35 U.S.C. § 271 *et seq.*, by, including but not limited to, making, using, offering for sale, selling in the United States, and/or importing into the United States without authority, the Kodak Gallery Software.

35. Shutterfly has been and will continue to be irreparably damaged by Kodak's infringement of the '801 patent.

36. Kodak's infringement will continue unless enjoined by this court.

SIXTH CLAIM FOR RELIEF

(Infringement of U.S. Patent No. 7,016,869)

37. Paragraphs 1 through 36 are incorporated by reference as if fully stated herein.

38. Shutterfly owns by assignment the entire right, title, and interest in and to the '869 Patent including the right to bring this suit for damages. The '869 Patent issued on March 21, 2006 and is entitled "System and Method of Changing Attributes of an Image-Based Product."

A true and correct copy of the '869 Patent is attached as Exhibit F and incorporated herein by reference.

39. The '869 Patent is valid and enforceable under the United States Patent Laws.

40. Kodak has infringed and is infringing at least claim 1 of the '869 Patent, in violation of 35 U.S.C. § 271 *et seq.*, by, including but not limited to, making, using, offering for sale, selling in the United States, and/or importing into the United States, without authority, the Kodak Gallery Software.

41. Shutterfly has been and will continue to be irreparably damaged by Kodak's infringement of the '869 patent.

42. Kodak's infringement will continue unless enjoined by this court.

SEVENTH CLAIM FOR RELIEF

(Infringement of U.S. Patent No. 7,395,229)

43. Paragraphs 1 through 42 are incorporated by reference as if fully stated herein.

44. Shutterfly owns by assignment the entire right, title, and interest in and to the '229 Patent including the right to bring this suit for damages. The '229 Patent issued on July 1, 2008 and is entitled "System and Method of Changing Attributes an Image-Based Product." A true and correct copy of the '229 Patent is attached as Exhibit G and incorporated herein by reference.

45. The '229 Patent is valid and enforceable under the United States Patent Laws.

46. Kodak has infringed and is infringing at least claim 1 of the '229 Patent, in violation of 35 U.S.C. § 271 *et seq.*, by, including but not limited to, making, using, offering for sale, selling in the United States, and/or importing into the United States, without authority, the Kodak Gallery Software.

47. Shutterfly has been and will continue to be irreparably damaged by Kodak's infringement of the '229 patent.

48. Kodak's infringement will continue unless enjoined by this court.

PRAYER FOR RELIEF

WHEREFORE, Shutterfly prays that this Court:

(A) Enter judgment that Kodak has infringed each and every one of the Asserted Patents;

(B) Enter an order enjoining Kodak, its officers, agents, employees, and those persons in active concert or participation with any of them, and its successors and assigns, from infringing each and every one of the Asserted Patents;

(C) Award Shutterfly its damages resulting from Kodak's patent infringement pursuant to 35 U.S.C. § 284;

(D) Find that Kodak's infringement has been willful and increase the damages awarded to Shutterfly to three times the amount assessed, pursuant to 35 U.S.C. § 284;

(E) Find this to be an exceptional case and award Shutterfly its attorneys' fees, pursuant to 35 U.S.C. § 285;

(F) Award Shutterfly its prejudgment and post judgment interests on its damages;

(G) Award Shutterfly its costs; and

(H) Award Shutterfly such other and further relief as this Court deems just and appropriate.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Shutterfly demands a trial by jury of this action.

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998877

By: _____



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