

FILED 20 DEC '11 16:20 USCDC-GRP

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
Portland Division

RECOGNICORP, LLC

Plaintiff

V.

**NINTENDO CO., LTD., AND
NINTENDO OF AMERICA, INC.,**

Defendants.

CV '11 - 1532 - ST
Civil Action No. ...

PLAINTIFF'S ORIGINAL COMPLAINT
FOR PATENT INFRINGEMENT

DEMAND FOR JURY TRIAL

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff RecogniCorp, LLC (“RecogniCorp” or “Plaintiff”), by way of its Complaint against Defendants Nintendo Co., Ltd. and Nintendo of America, Inc. (collectively “Nintendo” or “Defendants”) alleges the following:

NATURE OF THE ACTION

1. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. §§ 1, *et seq.*

THE PARTIES

2. Plaintiff RecogniCorp, LLC is a limited liability company organized under the laws of Texas with its principal place of business at 106 Fannin Avenue East, Round Rock, Texas 78664-5219.

3. On information and belief, Nintendo Co., Ltd. is a Japanese corporation with its principal place of business at 11-1 Kamitoba hokotate-cho, Minamiku, Kyoto, Japan.

4. On information and belief, Defendant Nintendo of America, Inc. is a Washington corporation with its principal place of business at 4600 150th Avenue N.E., Redmond, Washington 98052. Nintendo may be served with process by serving its registered agent, CT Corporation, located at 388 State St., Suite 420, Salem, Oregon 97301.

5. On information and belief, Defendant Nintendo of America, Inc. is a wholly owned subsidiary of Nintendo Co., Ltd.

JURISDICTION AND VENUE

6. This is an action alleging infringement of a United States patent. Accordingly this action arises under the patent laws of the United States of America, 35 U.S.C. § 271 and 28 U.S.C. §§ 1331 and 1338(a).

7. Nintendo is subject to the jurisdiction of this Court by reason of its tortious acts of patent infringement which have been committed in the State of Oregon, by virtue of its regularly conducted and systematic business contacts in the State of Oregon and by having appointed a

resident agent for service of process in the State of Oregon. As such, Nintendo has purposefully availed itself of the privilege of conducting business within this Judicial District; has established sufficient minimum contacts with Oregon such that it should reasonably and fairly anticipate being haled into court in Oregon; has purposefully directed activities at residents of Oregon; and at least a portion of the patent infringement claims alleged herein arise out of or are related to one or more of the foregoing activities.

8. Venue is proper in this district under 28 U.S.C. §§ 1391(b-c) and 1400(b).

INFRINGEMENT OF U.S. PATENT NO. 8,005,303

9. RecogniCorp repeats and re-alleges the allegations of paragraphs 1 through 8 as if fully set forth herein.

10. On August 23, 2011, United States Patent No. 8,005,303 (hereinafter referred to as “the ’303 Patent”), entitled METHOD AND APPARATUS FOR ENCODING/DECODING IMAGE DATA, was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the ’303 Patent is attached as Exhibit A to this Complaint.

11. Pursuant to 35 U.S.C. 282, the ’303 Patent is presumed valid.

12. Upon information and belief, RecogniCorp is the assignee and owner of the right, title, and interest in and to the ’303 Patent, including the right to assert all causes of action arising under said patent and the right to any remedies for past, present and future infringement of it.

13. Upon information and belief, without license or authorization, Defendant Nintendo Co., Ltd. is and has been directly infringing and continues to infringe the ’303 Patent at least by making, selling, using, or offering to sell in the United States, and importing into the

United States, including within this judicial district, composite image customization products that infringe one or more claims of the '303 Patent.

14. Defendant Nintendo of America, Inc. also has been directly infringing and continues to infringe the '303 Patent at least by making, selling, using, or offering to sell in the United States, and importing into the United States, including within this judicial district, composite image customization products that infringe one or more claims of the '303 Patent.

15. Such acts constitute infringement under at least 35 U.S.C. § 271(a). The Nintendo composite image customization products that infringe the '303 Patent include, but are not limited to, software included on the Nintendo Wii to create and customize a facial (or other) feature of a Mii. Infringing aspects of the Mii-related software include, for example, the instructions to permit a selected facial feature image, such as eyes, to be incorporated into a composite image, and instructions for modifying a selected facial feature image that has been incorporated into the composite image.

16. RecogniCorp has been damaged by Defendants' infringing activities.

JURY DEMAND

17. Pursuant to Rule 38 of the Federal Rules of Civil Procedure, RecogniCorp demands a trial by jury on all issues triable as such.

PRAYER FOR RELIEF

WHEREFORE, RecogniCorp respectfully demands judgment for itself and against Defendants as follows:

A. An adjudication that Defendants have infringed the '303 Patent;

B. An award of damages to be paid by Defendants adequate to compensate RecogniCorp for Defendants' past infringement of the '303 Patent and any continuing or future infringement through the date such judgment is entered, including interest, costs, and expenses;

C. An accounting of all infringing acts including, but not limited to, those acts not presented at trial;

D. An award to RecogniCorp of such further relief at law or in equity as the Court deems just and proper.

Dated: December 20, 2011

Respectfully submitted,



Lloyd L. Pollard, II
Oregon Bar No. 07490
GANZ LAW, PC
163 SE 2nd Avenue
P.O. Box 2200
Hillsboro, OR 97123
mail@ganzlaw.com
Attorneys for Plaintiff
RecogniCorp, LLC