

FILED IN CLERK'S OFFICE
U.S.D.C. - Atlanta

JUN 04 2012

JAMES N. HATTEN, Clerk
By: [Signature] Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

KaiJet Technology International
Limited, a Georgia corporation,

Plaintiff,

vs.

Action Star Enterprise Co., Ltd., a
Taiwanese Corporation,

Defendant.

)
)
) Case No.
)
)
)

1 12·CV-1917

) DEMAND FOR JURY TRIAL
)
)
)
)
)
)
)
)
)
)

COMPLAINT

Plaintiff KaiJet Technology International Limited files this complaint against Action Star Enterprise, Co., Ltd. and alleges as follows:

PARTIES AND BACKGROUND

1. Plaintiff KaiJet Technology International Limited (“KaiJet”), d/b/a/ “KaiJet” and “J5 Crate,” is organized under the laws of Georgia, with a place of business at 1000 Cobb International Drive, Suite F, Kennesaw, Georgia 30152.

2. KaiJet is in the business of developing and making computer peripherals such as USB adapters, KM (keyboard-mouse) cables and docking stations that allow users multiple access points to all kinds of personal computers, tablets, and mobile phones under the brand names of “KaiJet” and “j5create.” KaiJet operates the website www.j5create.com.

3. Upon information and belief, Defendant Action Star Enterprise Co., Ltd. (“Action Star”) is a Taiwanese corporation with a place of business at 10F, No. 159, Sec. 2, Datong Road, Xizhi District, New Taipei City, Taiwan 221.

4. Action Star is the assignee of United States Patent No. 8,099,535 (“the ‘535 Patent”). The ‘535 Patent was filed on August 20, 2009 entitled “Method for Converting a KVM System.” A true copy of the ‘535 Patent is attached as **Exhibit A**.

5. Action Star is in the business of making and selling computer peripherals, such including KVM switch.

NATURE OF THE ACTION

6. This is an action for declaratory judgment of non-infringement and invalidity of the '535 Patent pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201-02, and the Patent Laws of the United States, 35 U.S.C. §§ 100, *et seq.*, and for such other relief as the Court deems just and proper.

JURISDICTION AND VENUE

7. On April 27, 2012, Action Star through its counsel, Jeff Lee, sent a cease and desist letter to J5 Create, alleging infringement of its '535 Patent by KaiJet's Wormhole JUC #100/200/400 KM switch products ("Products-at-issue") and demanding that J5 Create "[i]mmediately take steps to recall the [Products-at-issue] sold/distributed and remove them from any of [J5 Create's] web offering, catalog, poster and other forms of advertisement." A true copy of the cease and desist letter to KaiJet dated April 27, 2012 is attached as **Exhibit B**.

8. On May 14, 2012, Mr. Steven Lyu, KaiJet's Chief Operation Officer, responded by sending an e-mail to Mr. Lee and stated, "J5 Create takes any allegation of patent infringement seriously." Further, Mr. Lyu provided the detailed contact information of the vendor for the Products-at-issue because the

Products-at-issue are not designed, developed, or manufactured by KaiJet. A true copy of Mr. Lyu's e-mail dated May 14, 2012 is attached as **Exhibit C**.

9. In response to Mr. Lyu's e-mail, Mr. Lee sent an e-mail dated May 17, 2012 reiterating the demands stated in his earlier letter of April 27, 2012 and asserting that J5 Create can still be held liable for infringement. A true copy of Mr. Lee's e-mail dated May 17, 2012 is attached as **Exhibit D**.

10. Therefore, a substantial controversy exists between the parties concerning the validity, enforceability and/or infringement of the '535 Patent, which is of sufficient immediacy and reality to warrant declaratory relief.

11. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

12. This Court has personal jurisdiction over Action Star because it has purposely directed its activities to Georgia by sending correspondence to and alleging patent infringement against KaiJet in Georgia.

13. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400.

COUNT I
DECLARATORY JUDGMENT OF NON-INFRINGEMENT
OF THE '535 PATENT

14. KaiJet incorporates by reference the allegations set forth in the preceding paragraphs as if fully set forth herein.

15. KaiJet does not infringe directly, contributorily or by inducement any valid and enforceable claim of the '535 Patent.

COUNT II
DECLARATORY JUDGMENT OF INVALIDITY
OF THE '535 PATENT

16. KaiJet incorporates by reference the allegations set forth in the preceding paragraphs as if fully set forth herein.

17. The '535 Patent is invalid under one or more of the provisions of 35 U.S.C. §§ 102, 103, and/or 112.

JURY DEMAND

18. Plaintiff demands a jury trial on all issues triable before a jury.

PRAYER FOR RELIEF

WHEREFORE, KaiJet prays for judgment against Defendant Action Star and an order:

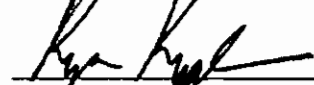
- A. Declaring that KaiJet has not infringed any valid and enforceable claim of the '535 Patent;

- B. Declaring that the claims of '535 Patent are invalid;
- C. Preliminarily and permanently enjoining Action Star, its officers, directors, servants, managers, employees, agents, successors and assignees, and all persons in active concert or participation with any of them from directly or indirectly charging KaiJet with infringement of the '535 Patent under any theory;
- D. Declaring that this is an exceptional case under 35 U.S.C. 285;
- E. Awarding KaiJet's costs, expenses, and attorney's fees in this action; and
- F. Granting such other and further relief as the Court may deem appropriate.

Dated: June 4, 2012

Respectfully submitted,

ALSTON & BIRD LLP



Ryan W. Koppelman

Georgia Bar No. 428404

Email: ryan.koppelman@alston.com

ALSTON & BIRD, LLP

1201 W. Peachtree Street

Atlanta, Georgia 30309-3424

Telephone: (404) 881-7000

Fax: (404) 881-7777

Attorneys for Plaintiff
KAIJET TECHNOLOGY
INTERNATIONAL LIMITED

Of Counsel:

Yitai Hu
Helen Su
ALSTON & BIRD, LLP
275 Middlefield Rd.
Suite 150
Menlo Park, California 94025-4008
yitai.hu@alston.com
Helen.su@alston.com
Telephone: (650) 838-2000
Fax: (650) 838-2001