

FILED

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

2010 JUL -7 A 11: 24

ICEBERG INDUSTRIES, LLC, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 SHAZAM ENTERTAINMENT, LTD. )  
 )  
 Defendant. )

CLERK US DISTRICT COURT  
ALEXANDRIA, VIRGINIA

Civil Action No. 1:10CV755  
GBL/IDD

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Iceberg Industries, LLC ("Iceberg"), by counsel, complains of defendant, Shazam Entertainment, Ltd. ("Shazam"), as follows:

NATURE OF LAWSUIT

1. This is a suit for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code § 1 et seq. This Court has exclusive jurisdiction over the subject matter of the Complaint under 28 U.S.C. § 1338(a).

PARTIES AND PATENTS

2. Iceberg is a company organized and existing under the laws of the Commonwealth of Virginia with a principal place of business at 3545 Chain Bridge Road, Fairfax, Virginia 22030. The inventors of the '293 patent are Stephen Kenyon and Laura Simkins. The inventors have been developing automatic signal recognition systems and technology for over 30 years, and have been developing media identification technology for over 25 years.

3. Iceberg owns all right, title and interest in and has standing to sue for infringement of United States Patent No. 7,174,293 B2 (the "'293 patent") entitled

“Audio Identification System and Method” which issued on February 6, 2007. The ‘293 patent is attached hereto as Exhibit A and is incorporated herein by reference.

4. Shazam is a corporation organized under the law of England with a registered U.S. address for the purposes of service of process of 415 Cambridge Avenue, Suite 11, Paolo Alto, California 94306-1608. Shazam has committed acts of infringement in this judicial district and does regular business in this judicial district, including providing the services accused of infringement in this judicial district.

5. This Court has personal jurisdiction over Shazam by virtue of its tortious acts of patent infringement which have been committed in the Commonwealth of Virginia and in this judicial district, and by virtue of Shazam’s regular and systematic transaction of business in the Commonwealth of Virginia.

#### **VENUE**

6. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(d) and 1400(b).

#### **SHAZAM’S ACTS OF PATENT INFRINGEMENT**

7. Shazam has infringed one or more claims of the ‘293 patent (including but not limited to claims 65-68 and 113-115), through, among other activities, the hosting, use, sale and/or offer for sale of music recognition services and technology employing the inventions of the claims of the ‘293 patent. Shazam has also knowingly and intentionally induced others to infringe (such as its customers, users, resellers, wireless service providers and business partners in this judicial district and throughout the United States) by willfully and intentionally aiding, assisting and encouraging their infringement.

8. Shazam's infringement has injured Iceberg, and Iceberg is entitled to recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

9. Shazam's infringement has injured and will continue to injure Iceberg, unless and until this Court enters an injunction prohibiting further infringement and, specifically, enjoining further use, offers for sale and/or sale of Iceberg's technologies that fall within the scope of the claims of the '293 patent.

10. Iceberg has fully complied with all applicable provisions of 35 U.S.C. § 287.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, Iceberg, asks this Court to enter judgment against Shazam and against its respective subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with them, granting the following relief:

A. An award of damages adequate to compensate Iceberg for the infringement that has occurred, together with prejudgment interest from the date infringement of the '293 patent began;

B. An award to Iceberg of all remedies available under 35 U.S.C. §§ 284 and 285;

C. A permanent injunction prohibiting further infringement and inducement to infringe the '293 patent; and,

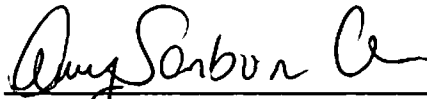
D. Such other and further relief as this Court or a jury may deem proper and just.

**JURY DEMAND**

Iceberg demands a trial by jury on all issues so triable.

Respectfully submitted,

Dated: July 7, 2010



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