

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

WEBVENTION LLC

Plaintiff,

v.

**ACER AMERICA CORPORATION;
ACER, INC.**

Defendants.

Case No. 2:11-cv-493

JURY TRIAL DEMANDED

PLAINTIFF'S ORIGINAL COMPLAINT

1. Plaintiff WEBVENTION LLC files this Original Complaint against the above-named Defendants, alleging as follows:

THE PARTIES

2. Plaintiff WEBVENTION LLC ("Webvention") is a Texas Limited Liability Company with its principal place of business at 505 East Travis Street, Suite 209, Marshall, Texas 75670.

3. Defendant ACER AMERICA CORPORATION ("Acer America") is a California corporation having its principal offices located at 2641 Orchard Pkwy., San Jose, CA 95134. Acer America may be served with process via its registered agent, C T CORPORATION SYSTEM, located at 350 N. St. Paul St. Ste. 2900, Dallas, TX 75201.

4. Defendant ACER, INC. ("Acer") is a Taiwanese corporation having its principal offices located at 8F, 88, Sec. 1, Hsin Tai Wu Rd., Hsichih 221, Taiwan. Acer may be served with process via C T CORPORATION SYSTEM, located at 350 N. St. Paul St. Ste. 2900, Dallas, TX 75201.

JURISDICTION AND VENUE

5. This is an action for infringement of United States patents arising under 35 U.S.C. §§ 271; 281; 284-285; and 171, among others. This Court has subject matter jurisdiction of this action under Title 28 U.S.C. §§1331 and 1338(a).

6. The Court has general and specific personal jurisdiction over Defendants, and venue is proper pursuant to 28 U.S.C. §§ 1391 and 1400(b). Defendants have substantial contacts with the forum as a result of conducting substantial business within the State of Texas and within this District. Upon information and belief, Defendants regularly solicit business in the State of Texas and in this District, and derive substantial revenue from products and/or services provided to individuals residing in the State of Texas and in this District. In addition, Defendants conduct business utilizing the claimed systems and methods of the patent-at-suit, with and for customers residing in this District. Specifically, Defendants provide and/or market their products and services directly to consumers in this District through their website(s). By means of their website(s), Defendants have committed and continue to commit acts of patent infringement in the State of Texas and in this District.

7. Venue is proper in the Eastern District of Texas pursuant to 28 U.S.C. §§1391 and 1400(b).

INFRINGEMENT OF U.S. PATENT NO. 5,251,294

8. On October 5, 1993, United States Patent No. 5,251,294 (“the ’294 patent”) was duly and legally issued for “Accessing, Assembling, and Using Bodies of Information.” Webvention is the owner by assignment of all rights, title and interest in and to the ’294 patent and possesses all rights of recovery thereunder. A true and correct copy of the ’294 patent is attached hereto as Exhibit A.

9. Defendant Acer America has infringed and continues to infringe the patent-in-suit directly by making, selling, offering for sale and/or using websites, including but not limited to us.acer.com, that practice or embody the patented invention. Defendant Acer America has also infringed and continues to infringe contributorily, and/or through the inducement of others, by making, selling, offering for sale and/or using websites, including but not limited to us.acer.com. With regards to Defendant's indirect infringement, direct infringers include end users of the us.acer.com website.

10. Defendant Acer has infringed and continues to infringe the patent-in-suit directly by making, selling, offering for sale and/or using websites, including but not limited to us.acer.com, that practice or embody the patented invention. Defendant Acer has also infringed and continues to infringe contributorily, and/or through the inducement of others, by making, selling, offering for sale and/or using websites, including but not limited to us.acer.com. With regards to Defendant's indirect infringement, direct infringers include end users of the us.acer.com website.

11. Webvention has been damaged as a result of Defendants' infringing conduct. Defendants are thus liable to Webvention in an amount that adequately compensates Webvention for Defendants' infringement of the '294 patent—which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

12. Upon information and belief, Defendants' infringement of the '294 patent has been willful and deliberate, entitling Webvention to enhanced damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

JURY DEMAND

13. Webvention hereby requests trial by jury pursuant to FED. R. CIV. P. 38.

PRAYER FOR RELIEF

14. Webvention respectfully requests the Court find in its favor and against Defendants, and that the Court grant Webvention the following relief:

15. Judgment that one or more claims of United States Patent No. 5,251,294 has been infringed, either literally and/or under the doctrine of equivalents, by Defendants and/or by others to whose infringement Defendants have contributed and/or by others whose infringement has been induced by Defendants;

16. Judgment that Defendants account for and pay to Webvention all damages and costs incurred by Webvention due to Defendants' infringing activities and other conduct complained of herein;

17. A finding that Defendants' infringement was willful from the time that Defendants became aware of the infringing nature of their products and services, which is the time of filing Plaintiff's Original Complaint at the latest, and a concomitant award of treble damages for the period of such willful infringement pursuant to 35 U.S.C. § 284;

18. A finding that this an exceptional case, and an award of reasonable attorney's fees and costs to Webvention in accordance with 35 U.S.C. § 285;

19. Grant of pre-judgment and post-judgment interest to Webvention on damages caused by Defendants' infringing activities and other conduct complained of herein; and

20. Grant of such other and further relief as the Court may deem just and proper to accord Webvention under the circumstances.

Dated: November 17, 2011

Respectfully Submitted,

WEBVENTION LLC

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**ATTORNEYS FOR PLAINTIFF
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