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

IMMERVISION, INC.)
)
)
Plaintiff,)
)
vs.)
)
VIVOTEK, INC.,)
VIVOTEK USA, INC., AND)
VIVOTEK HOLDINGS, INC.)
)
)
Defendants.)

Case No.:

COMPLAINT

JURY TRIAL DEMANDED

COMES NOW, plaintiff ImmerVision, Inc. (“ImmerVision”), by and through its undersigned counsel, and for its complaint against the defendants, Vivotek, Inc. (“Vivotek”), Vivotek USA, Inc. (“Vivotek USA”), and Vivotek Holdings, Inc. (“Vivotek Holdings”) (collectively referred to herein as “Vivotek Defendants”), avers as follows:

NATURE OF THE ACTION

1. This is a civil action arising under the laws of the United States, specifically for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code, §§ 1 *et seq.*

THE PARTIES

2. Plaintiff ImmerVision, Inc. is a Canadian corporation, assigned Canadian Federal Corporation Number 6115187, having a principal place of business at 2020 University Road, Suite 2320, Montreal, Quebec H3A 2A5, Canada.

3. Upon information and belief, defendant Vivotek, Inc. is a Taiwanese corporation having a principal place of business at 6F, No. 192, Lien-Cheng Road, Chung-Ho, New Taipei City, Taiwan.

4. Upon information and belief, defendant Vivotek USA, Inc. is a California corporation, and wholly owned subsidiary of Vivotek, Inc., having a principal place of business at 2050 Ringwood Ave., San Jose, California, 95131.

5. Upon information and belief, defendant Vivotek Holdings, Inc. is a Nevada corporation having a principal place of business at 801 South Garfield Avenue, Suite 328, Alhambra, California 91801, and having a registered agent in Nevada at 8275 S. Eastern Avenue, Suite 200, Las Vegas, Nevada 89123.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331-32 and 1338(a).

7. This Court has personal jurisdiction over the Vivotek Defendants at least because the Vivotek Defendants have substantial, continuing, and on-going contacts with this State and judicial district, and the Vivotek Defendants have and continue to sell into this State and judicial district the products at issue in this case. This Court also has personal jurisdiction over Vivotek Holdings because Vivotek Holdings is incorporated in the State of Nevada.

8. Venue is proper in this judicial district pursuant to Title 28, U.S.C. §§ 1391(b)-(d) and § 1400(b) in that acts of patent infringement and unfair competition are occurring within this judicial district, and Vivotek Holdings is incorporated in the State of Nevada.

9. The Vivotek Defendants are in the business of manufacturing, selling, offering for sale, and importing various types of surveillance cameras and related accessories and software.

FACTS

10. On November 12, 2003, Jean-Claude Artonne, Christophe Moustier, and Benjamin Blanc (“the Inventors”), filed U.S. Patent Application No. 10/706,513 (“the ‘513 application”). In March 2004, the Inventors assigned their interest in and to the ‘513 application and all divisionals, continuations, substitutes, renewals, reissues, and reexaminations thereof and any patents that issued therefrom to ImmerVision, identified by ImmerVision’s Canadian corporation number as “6115187 Canada, Inc.,” and this assignment was recorded in the United States Patent and Trademark Office (“USPTO”) on March 15, 2004 at Reel 015071, beginning at Frame 0574.

11. On January 18, 2005, the '513 application was issued by the USPTO as U.S. Patent No. 6,844,990 (“the ‘990 patent”) assigned to ImmerVision, identified by ImmerVision’s Canadian corporation number as “6115187 Canada, Inc.” A copy of the ‘990 patent is attached hereto as Exhibit A and is incorporated by reference as if fully set forth herein.

12. The ‘990 patent is valid and enforceable. The term of the ‘990 patent will expire on or about May 10, 2022.

13. The ‘990 patent discloses and claims various novel and unique features relating to panoramic objective lens and a method for capturing a digital panoramic image involving projection of a panorama onto an image sensor by means of a panoramic objective lens and displaying a corrected version of the captured image.

14. Plaintiff ImmerVision is the assignee of all right, title, and interest in and to the ‘990 patent and possesses all rights of recovery under the ‘990 patent, including the right to sue for infringement, recourse for damages, and to seek injunctive relief.

15. Upon information and belief, in or about 2012, the Vivotek Defendants began using, manufacturing, selling, offering for sale or importing panomorph lenses incorporated in their “Vivotek FE8171” and “Vivotek FE8172” video surveillance cameras and associated program software for displaying images captured by the cameras (hereinafter “Infringing Products”) in the U.S., and continue to do so to this day.

16. The Vivotek Defendants have targeted, and continue to target directly, the Infringing Products to residents of Nevada, particularly in this judicial district, as well as elsewhere in the United States.

17. Upon information and belief, the Vivotek Defendants have sold and offered for sale, and continue to sell and offer for sale, the Infringing Products to commercial retailers in this

State and judicial district for sales and offers for sale to residents of this State and judicial district, as evidenced by Vivotek's Field Sales Territory Map found on Vivotek's website at http://www.vivotek.com/web/images/wheretobuy/banner_northamerica_2.gif, a copy of which is attached hereto as Exhibit B.

18. The Vivotek Defendants have not sought, nor obtained, a license under the '990 patent and are not authorized or permitted to market, manufacture, use, offer for sale, sell or import any products embodying the invention disclosed and claimed in the '990 patent.

19. On or about May 24, 2013, ImmerVision sent a cease and desist letter to Vivotek, Inc. ImmerVision advised Vivotek that it had received evidence that Vivotek Inc. and its affiliates were violating the '990 patent by manufacturing or selling cameras incorporating a wide angle lens for 360° solutions with augmented resolution on periphery supplied by CBC Co., Ltd., in addition to software that displays, processes, or controls images captured by the infringing lenses. In the letter, ImmerVision demanded that Vivotek cease all manufacturing and commercializing of cameras incorporating the infringing lenses or, in the alternative, execute ImmerVision's standard license agreement to certify the product. A copy of ImmerVision's letter is attached hereto as Exhibit C.

20. To date, neither Vivotek Inc. or any of its affiliates have responded in any way to the cease and desist request (Exhibit C).

COUNT I
INFRINGEMENT OF THE '990 PATENT

21. Plaintiff realleges and incorporates by reference paragraphs 1 through 20 of this Complaint as though fully set forth herein.

22. The '990 patent is presumed valid pursuant to 35 U.S.C. § 282.

23. Upon information and belief, the Vivotek Defendants have been and are currently engaged in acts which constitute direct infringement of one or more claims of the '990 patent, literally or under the doctrine of equivalents, in the United States, including, but not limited to, within this judicial district, in violation of 35 U.S.C. § 271.

24. Upon information and belief, the Infringing Products were introduced into the marketplace by the Vivotek Defendants in or about 2012.

25. Upon information and belief, the Vivotek Defendants have been and are currently manufacturing, causing to be manufactured, using, offering for sale, selling or importing into the United States, including, but not limited to, within this judicial district, without license or authority, at least the Infringing Products, which are covered by one or more claims of the '990 patent, in violation of 35 U.S.C. § 271.

26. Upon information and belief, the Vivotek Defendants have willfully infringed and will continue to willfully infringe one or more claims of the '990 patent by the use, manufacture, offer for sale, sale, or importation of the Infringing Products unless this Court enjoins the Vivotek Defendants' infringing activities.

27. The infringement by the Vivotek Defendants of one or more claims of the '990 patent has deprived plaintiff ImmerVision of revenues which it otherwise would have made or caused to be made, and has in other respects, injured plaintiff ImmerVision and will cause plaintiff ImmerVision irreparable injury and loss of revenues unless and until enjoined by this Court.

JURY DEMAND

Plaintiff hereby demands a jury trial on all issues appropriately triable by jury.

PRAYER FOR RELIEF

WHEREFORE, plaintiff ImmerVision, Inc. prays for judgment in its favor and against defendants Vivotek, Inc. and Vivotek USA, Inc. and requests that this Court:

(a) enter a finding and a judgment in favor of plaintiff ImmerVision and against the Vivotek Defendants for patent infringement in an amount to be ascertained and in an amount adequate to compensate plaintiff ImmerVision for the Vivotek Defendants' infringement of one or more claims of the '990 patent, including, but not limited to, the Vivotek Defendants' profits, but in no event less than a reasonable royalty for the use made of the invention by the Vivotek Defendants together with prejudgment and post-judgment interest and costs as fixed by the Court, as provided by 35 U.S.C. § 284;

(b) enter a preliminary and permanent injunction against further and continued infringement of the claims of the '990 patent by the Vivotek Defendants as provided by 35 U.S.C. § 283;

(c) declare that this case is exceptional and award plaintiff ImmerVision its reasonable attorney fees as the prevailing party, as provided by 35 U.S.C. § 285; and

(d) grant plaintiff ImmerVision such other and further relief as the Court may deem just and appropriate.

Dated this 25th day of June, 2013.

/s/ Philip M. Ballif
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