

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

Naraka, LLC)	
)	
Plaintiff,)	14-cv-4161 (PGG)
)	
v.)	COMPLAINT AND JURY DEMAND
)	ECF Case
ooVoo LLC d/b/a ooVoo,)	
)	
Defendant.)	

COMPLAINT

Plaintiff, Naraka, LLC, (“Naraka” or “Plaintiff”) hereby sues Defendant ooVoo LLC (“ooVoo” or “Defendant”) and alleges as follows:

THE PARTIES

1. Plaintiff is a limited liability company of the State of Texas having a place of business at 104 E. Houston Street, Suite 170A, Marshall, Texas 75670.
2. On information and belief, Defendant ooVoo is a Delaware limited liability company having a place of principal business at 44 East 30th Street, New York, New York 10016.

JURISDICTION AND VENUE

3. This action is a civil action arising under the patent laws of the United States.

4. The jurisdiction of this Court arises under 28 U.S.C. §§ 1331 (federal question) and §§ 1338(a) and (b) (patent action).

5. Upon information and belief, Defendant is engaged in the business of providing video chat and instant messaging services and/or products on the internet through its website, www.oovoo.com, and through other types of software designed for mobile devices, and conducts business throughout the United States, the State of New York, and the County of New York.

6. This Court has personal jurisdiction over Defendant because Defendant resides in this State and in this judicial district, has conducted extensive commercial activities, and continues to conduct extensive commercial activities within the state of New York. On information and belief, Defendant directly and/or through intermediaries, makes, uses, imports, provides, utilizes, offers for sale and/or sells its products and services, including but not limited to the products and services that are accused of infringement in this lawsuit, within the state of New York and in this judicial district. On information and belief, Defendant has committed and continues to commit acts of direct and indirect infringement in this judicial district by making, using, importing, providing, utilizing, offering for sale, and/or selling infringing products and/or providing infringing services, and inducing others to infringe the patent-in-suit in New York, as alleged hereafter. In addition, Defendant regularly does and/or solicits business or engages in other persistent course of conduct or derive substantial revenue from goods used or consumer services rendered in the State of New York that violate Plaintiff's patent rights or reasonably expect or should have

expected the act of violating Plaintiff's patent rights to have consequences in New York, and Defendant has derived substantial revenue from interstate commerce.

7. Venue is proper in this district under 28 U.S.C. §§ 1391 (b), (c), and/or (d) and 28 U.S.C. §§ 1400(a) and/or (b), for the reasons, *inter alia*, that Defendant resides in this district, does business in this district and/or has committed acts of infringement in this district.

8. On information and belief, Defendant's activities constitute purposeful activities in New York in relation to the cause of action alleged.

BACKGROUND

9. Naraka's principals developed a video communication technological system called Shared Video On Demand (the "SVOD Technology"). Originally, NxtGen TV L.L.C. ("NxtGen") was the original corporate vehicle for such principals. During this development process, they learned that the SVOD Technology can be a powerful technological tool if utilized in social group environments.

10. They also learned during this investigation that ooVoo was the preferred method of video communication through a social media website called www.odnoklassniki.ru, and that ooVoo's video communication technologies did not utilize the SVOD Technology.

11. Kevin Upton ("Upton"), one of NxtGen's principals, was introduced to Maoz Shacht, Executive Vice President of ooVoo, approximately in June, 2009

and demonstrated the SVOD Technology to Schacht in an extended telephone video conference. During that conference, NxtGen shared technical information about the SVOD Technology with Schacht and addressed concerns raised by Schacht such as being able to circumvent the need to have an application installed on the end user's computer.

12. On or about January, 2013, Upton learned through a press release issued by ooVoo, a true and correct copy which is attached hereto as Exhibit A, that ooVoo added new technology to its website, which was identical to the SVOD Technology that NxtGen shared with ooVoo in June, 2009.

13. ooVoo never requested permission from Naraka to make, use, provide, utilize, and/or offer the SVOD Technology on its website and/or through its app(s).

FIRST CLAIM FOR RELIEF
(Patent Infringement as to U.S. Patent No. 8,112,490 B2)

14. Plaintiff incorporates paragraphs 1 through 13 of this complaint as if set forth in full herein.

15. Naraka is the owner of the entire right, title, and interest in and to U.S. Patent No. 8,112,490 (the '490 patent), entitled SYSTEM AND METHOD FOR PROVIDING A VIRTUAL ENVIRONMENT WITH SHARED VIDEO ON DEMAND. The '490 patent was duly and legally issued on February 7, 2012. Attached hereto as Exhibit B is a true and correct copy of the '490 patent asserted for this action.

16. Plaintiff has the right to sue and recover for any and all

infringements of the '490 patent.

17. Defendant has directly infringed and continues to infringe, either literally and/or under the doctrine of equivalents, the '490 patent by making, using, providing, utilizing, offering, offering for sale, and/or selling in the United States certain methods and/or systems disclosed and claimed in the '490 patent, including, but not limited to Defendant's ooVoo videochat products/services. For instance, Defendant's website utilizes a system that brings multi-window shared video features to users.

18. Before Defendant was named in this lawsuit, Defendant was aware of the SVOD Technology owned by Naraka and its predecessors which is the basis of the '490 patent.

19. Upon information and belief, instead of licensing the SVOD Technology from Naraka, ooVoo chose to develop software that is identical to the SVOD technology and which infringes the '490 patent.

20. Plaintiff provided notice of its patent rights in full compliance with the provisions of 35 U.S.C. 287(a).

21. The infringement by Defendant of the '490 patent has been and continues to be willful, rendering this case exceptional within the meaning of 35 U.S.C. 285.

22. As a direct and proximate result of Defendant's conduct, Plaintiff has suffered, and will continue to suffer, irreparable injury for which it has no adequate remedy at law.

23. Plaintiff has been damaged by the acts of infringements of the '490

patent committed by Defendant and will continue to be damaged by the infringements, unless the infringements by Defendant are enjoined by this court.

24. Upon information and belief, Defendant will continue to infringe and induce infringement of the '490 patent unless enjoined by this court.

25. Upon information and belief, Defendant has had actual knowledge of the specification and issued claims of the '490 patent, and its continuing infringement of the '490 patent is willful and deliberate.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendant ooVoo LLC as follows:

(1) for Judgment that Defendant ooVoo, its officers, agents, servants, employees, representatives, attorneys and all persons acting in active concert or participation with it, be found to have infringed the '490 patent;

(2) For an Order enjoining Defendant ooVoo, its officers, agents, servants, employees, representatives, attorneys and all persons acting in active concert or participation with it from making, using, utilizing, offering for sale, and/or selling products, services and/or product packaging which infringe the '490 patent;

(3) For an Order enjoining and restraining Defendant ooVoo, its officers, agents, servants, employees, representatives, attorneys and all persons acting in active concert or participation with it from inducing infringement of the '490 patent;

(4) That Plaintiff be compensated for the damages caused by Defendant ooVoo's infringement under 35 U.S.C. §284, in an amount to be precisely determined by an accounting, but not less than a reasonable royalty plus interest;

- a. That the award of damages for this exceptional case be trebled as provided by 35 U.S.C. §284;
- b. That Plaintiff be awarded its costs and attorneys fees incurred in prosecuting this action, including reasonably attorney's fees, as provided for by 35 U.S.C. §285, (plus interest); and
- c. Such other and further relief as the court deems just and equitable.

(5) Ordering Defendant ooVoo to turn over to the Court or to Plaintiff or to destroy within ten (10) days from the entry of any Final Judgment or Preliminary Decree entered in this action, all property owned by Defendant which unlawfully violates the '490 patent, any infringing product literature owned by Defendant, and all other works owned by Defendant that infringe the '490 patent, including an award of costs incurred by Plaintiff for the destruction of said articles and product packaging.

JURY DEMAND

Plaintiff demands a jury trial on all issues so triable.

Dated: June __, 2014

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