

Jacobsen Declaration Exhibit AE

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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
 DISTRICT OF OREGON

MATTHEW A. KATZER, an individual, and)
 KAMIND ASSOCIATES, INC., d/b/a Kam)
 Industries, an Oregon corporation,)

Plaintiffs,)

v.)

MIREILLE S. TANNER,)
 an individual, doing business as)
 DigiToys Systems,)

Defendant.)

Civil No. **CV '02 1293**

**COMPLAINT
FOR PATENT INFRINGEMENT**

PATENT CASE

Demand for Jury Trial

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1ST

For their complaint against defendant, plaintiffs allege:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff Matthew A. Katzer is an individual resident of the State of Oregon.

Plaintiff Kamind Associates, Inc., d/b/a Kam Industries, is an Oregon corporation with its principal place of business in Hillsboro, Oregon. Plaintiffs design, manufacture and distribute computer software for use with model railroads.

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2. Upon information and belief, defendant Mireille S. Tanner, d/b/a DigiToys Systems, is a resident of the State of Georgia.

3. This case arises under the patent laws of the United States, 35 USC §§ 1-376. The Court has jurisdiction of the subject matter herein pursuant to 28 USC §§ 1331 and 1338(a). Venue is proper in this District pursuant to 28 USC § 1391(b).

PLAINTIFFS' FACTUAL ALLEGATIONS

4. Plaintiffs own three United States patents directed toward the control of a model railroad, namely U.S. Patent No. 6,065,406 ("the '406 patent"), U.S. Patent No. 6,270,040 ("the '040 patent"), and U.S. Patent No. 6,267,061 ("the '061 patent"). Copies of these patents are attached hereto as Exhibit A.

5. Upon information and belief, defendant is manufacturing and/or distributing in Oregon and elsewhere in the United States computer software known as "WinLok" that infringes one or more claims of the '406, '040 and '061 patents.

6. Upon information and belief, the actions of defendant complained of herein have been willful, wanton and carried out with full knowledge and blatant disregard of plaintiffs' patent rights.

CLAIM FOR RELIEF

(Patent Infringement)

7. This claim arises under 35 USC § 281. Plaintiffs reallege and incorporate by reference paragraphs 1-6.

8. By manufacturing, using, selling and/or offering to sell its WinLok software, defendant is infringing, contributing to infringement, and inducing infringement of the '406, '040 and '061 patents owned by plaintiffs.

9. Plaintiffs have suffered and are continuing to suffer irreparable damage due to the infringing acts of defendant, and because the infringing acts of defendant are continuing, plaintiffs will suffer additional irreparable damage unless defendant is enjoined by this Court from those acts which infringe, contribute to infringement, and induce infringement of the '406, '040, and '061 patents.

10. Plaintiffs have suffered damages as a result of defendant's infringement of the '406, '040 and '061 patents.

11. Defendant's acts of infringement have been willful, making this an exceptional case within the meaning of 35 USC § 285. Plaintiffs are therefore entitled to an award of their reasonable attorney fees pursuant to that statutory provision.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs pray for judgment in their favor and against defendant as follows:

A. For an Order that U.S. Patent Nos. 6,065,406, 6,270,040 and 6,267,061 are each valid and infringed by defendant;

B. For an Order permanently enjoining defendant, her agents, officers, assigns and all others acting in concert with them from infringing, inducing infringement and contributing to infringement of the '406, '040 and '061 patents.

C. For damages, and an accounting for damages, based on the value of infringing products sold, to compensate plaintiff for the aforesaid infringement of plaintiffs' patents;

D. For an Order trebling any damages awarded, pursuant to 35 USC § 284;

E. For pre-judgment interest and post-judgment interest on all damages

awarded;

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F. For an Order that this is an exceptional case and an award to plaintiffs of their reasonable attorney fees, pursuant to 35 USC § 285;


G. For plaintiffs' costs and disbursements incurred herein; and

H. For such other relief as the Court may deem just and equitable.

DATED this 17 day of September 2002.

Respectfully submitted,

CHERNOFF, VILHAUER, MCCLUNG & STENZEL, LLP

By: 
Kevin L. Russell, OSB No. 93485
Of Attorneys for Plaintiffs

Plaintiffs hereby demand a jury trial of all issues so triable.


Kevin L. Russell, OSB No. 93485

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