

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

TACTUS TECHNOLOGIES, LLC,

Plaintiff,

v.

BLU PRODUCTS, INC.

Defendant.

Civil Action No.:

TRIAL BY JURY DEMANDED

COMPLAINT FOR INFRINGEMENT OF PATENT

Plaintiff Tactus Technologies, LLC (“Tactus” or “Plaintiff”) files this Original Complaint against Defendant BLU Products, Inc. (“BLU” or “Defendant”) for infringement of U.S. Patent No. 9,696,847 (“the ‘847 Patent” or “the Patent-in-Suit”) under the Patent Laws of the United States, Title 35 United States Code (“U.S.C.”) to prevent and enjoin Defendant from infringing and profiting, in an illegal and unauthorized manner, and without authorization and/or consent from Plaintiff from the ‘847 Patent, which is attached hereto as Exhibit A and incorporated herein by reference, and pursuant to 35 U.S.C. §271, and to recover damages, attorney’s fees, and costs

THE PARTIES

1. Plaintiff is a Texas limited liability company with its principal place of business located at 312 W 8th Street, Dallas, TX 75208.

2. On information and belief, Defendant BLU Products, Inc. is a company incorporated in Florida with a principle place of business in Doral and may be served by its registered agent Bernard L. Egozi, 2999 NE 191st Street #407, Aventura, Florida 33180.

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, namely 35 U.S.C. §§ 271, 281, and 284-285, among others.

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over Defendant by virtue of its systematic and continuous contacts with this jurisdiction and its residence in this District, as well as because of the injury to Plaintiff, and the cause of action Plaintiff has risen in this District, as alleged herein.

6. Defendant is subject to this Court's specific and general personal jurisdiction pursuant to its substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in this forum state and in this judicial District; and (iii) being incorporated in this District.

7. Venue is proper in this judicial district pursuant to 28 U.S.C. §1400(b) because Defendant resides in this District under the Supreme Court's opinion in *TC Heartland v. Kraft Foods Group Brands LLC*, 137 S. Ct. 1514 (2017) through its incorporation, and regular and established place of business in this District.

THE PATENT-IN-SUIT

8. The '847 patent is titled "User-Defined Gesture Enablement Protocols for Touch Input Device." The inventions claimed in the Patent-in-Suit generally relate to a new and novel user interface method for unlocking an electronic device, such as a smartphone, via a pattern.

9. The '847 Patent lawfully issued on July 4, 2017, and stems from Application No. 15/056,015. A copy of the '847 Patent is attached hereto as Exhibit A.

10. The named inventors on the Patent-in-Suit are Graham Roy Atkins and Ian Andrew Maxwell.

11. The Patent-in-Suit claims priority to U.S. Application No. 12/118,047, which was filed on May 9, 2008.

12. The technologies claimed in the Patent-in-Suit consist of ordered combinations of features and functions that were not, alone or in combinations, considered well-understood by, and routine, generic, and conventional to, skilled artisans in the industry at the time of invention.

13. Each asserted claim in the Patent-in-Suit is presumed valid.

14. Each asserted claim in the Patent-in-Suit is directed to patent eligible subject matter under 35 U.S.C. § 101.

15. The specification of the Patent-in-Suit discloses shortcomings in the prior art and then explains, in detail, the technical way the inventions claimed in the Patent-in-Suit resolve or overcome those shortcomings. *See, e.g.*, ‘847 patent, 1:30-2:20.

16. The Patent-in-Suit has over 100 forward citations, which is indicative of the value and importance of the inventions claimed in the Patent-in-Suit.

COUNT I
(Infringement of U.S. Patent No. 9,696,847)

17. Plaintiff incorporates paragraphs 1 through 16 herein by reference.

18. This cause of action arises under the patent laws of the United States, and in particular, 35 U.S.C. §§ 271, *et seq.*

19. Plaintiff is the owner of the ‘847 Patent with all substantial rights to the ‘847 Patent including the exclusive right to enforce, sue, and recover damages for past and future infringement.

20. The ‘847 Patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

DIRECT INFRINGEMENT (35 U.S.C. §271(a))

21. Defendant has, and continues to, infringe one or more claims of the '847 Patent in this judicial district and elsewhere in Florida and the United States.

22. On information and belief, Defendant has, and continues to, either by itself or via an agent, infringe at least Claim 13 of the '847 Patent by, among other things, practicing the method of Claim 13 via at least its testing of the pattern lock feature in its smartphones with Pattern Lock functionality ("the Accused Products").

23. Attached hereto as Exhibit B, and incorporated herein by reference, is a claim chart detailing how the Accused Products infringe the '847 patent.

24. Each Defendant is liable for these infringements of the '847 Patent pursuant to 35 U.S.C. § 271.

INDIRECT INFRINGEMENT (INDUCEMENT - 35 U.S.C. §271(b))

25. Based on the information presently available to Plaintiff, absent discovery, and in the alternative to direct infringement, Plaintiff contends that Defendant has, and continues to, indirectly infringe one or more claims of the '847 Patent by inducing direct infringement by end users of the Accused Products.

26. Defendant have had knowledge of the '847 Patent since at least as early as the filing date of this Complaint.

27. Defendant instructs and encourages users to use the Accused Products in a manner that infringes the '847 Patent. For example, Defendants' user guides for its phones provide end users detailed instructions on how to use the Pattern Lock technology in the Accused Products. In addition, Defendant's website includes support articles with detailed instructions on how to use the Pattern Lock technology in the Accused Products.

28. Furthermore, Defendant has not provided any information or indication that it has implemented a design around or otherwise taken any remedial action with respect to the '847 Patent. In accordance with Fed. R. Civ. P. 11(b)(3), Plaintiff will likely have additional evidentiary support after a reasonable opportunity for discovery on this issue.

29. Plaintiff has been damaged as a result of Defendant's infringing conduct described in this Count. Defendant is, thus, liable to Plaintiff in an amount that adequately compensates Plaintiff for Defendant's infringements, 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.

COUNT II
(Willful Infringement)

30. From the date of the Complaint forward, Defendant has acted recklessly and/or egregiously, and continue to willfully, wantonly, and deliberately engage in acts of infringement of the '847 Patent, justifying a finding of willful infringement and an award to Plaintiff of increased damages under 35 U.S.C. § 284, and attorneys' fees and costs incurred under 35 U.S.C. § 285.

JURY DEMAND

Plaintiff requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

Plaintiff asks that the Court find in its favor and against Defendant and that the Court grant Plaintiff the following relief:

- a. Judgment that one or more claims of the '847 Patent have been infringed, either literally and/or under the doctrine of equivalents, by Defendant;
- b. Judgment that one or more claims of the '847 Patent have been willfully infringed, either literally and/or under the doctrine of equivalents, by Defendant;
- c. Judgment that Defendants account for and pay to Plaintiff all damages and costs incurred by Plaintiff because of Defendant's infringing activities and other

conduct complained of herein, including an accounting for any sales or damages not presented at trial;

- d. Judgment that Defendant account for and pay to Plaintiff a reasonable, ongoing, post judgment royalty because of Defendant's infringing activities, including continuing infringing activities, and other conduct complained of herein;
- e. That Plaintiff be granted pre-judgment and post judgment interest on the damages caused by Defendant's infringing activities and other conduct complained of herein;
- f. Find this case exceptional under the provisions of 35 U.S.C. § 285 and award enhanced damages; and
- g. That Plaintiff be granted such other and further relief as the Court may deem just and proper under the circumstances.

Dated: July 19, 2021

Respectfully submitted,

SAND, SEBOLT & WERNOW CO., LPA

/s/ Howard L. Wernow

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