

General Complaint

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

RICHARD J BAKER.,

Plaintiff,

Case Number. 6:15CV146 JRG/KNM

VS.

JURY TRIAL DEMANDED

MICROSOFT CORPORATION; UBISOFT
HOLDINGS, INC; RESPONDESIGN, INC;
NINTENDO CO LTD: ELECTRONIC
ARTS INC; HARMONIX MUSIC SYSTEMS,
INC., THQ INC; MAJESCO
ENTERTAINMENT

Defendants.

COMPLAINT FOR PATENT INFRINGEMENT & UNJUST ENRICHMENT

I. ATTEMPT TO SECURE COUNSEL

Please answer the following concerning your attempt to secure counsel

A. In the preparation or this suit, 'have attempted to secure the aid of
an attorney as follows: (circle one)

1. Employ Counsel
2. Court - Appointed Counsel
3. Lawyer Referral Service of the State Bar of Texas,
P.O. Box - 24S7, Austin, Texas 78711

B. List the name(s) and address(es) of the attorney(s):

1. Philip P. Mann, Mann Law Group
Seattle Tower, 1218 3rd Avenue, Ste. 1809 Seattle
2. Barry Barnett, Susman Godfrey
901 Main Street, Suite 5100 Dallas, TX

3. Daniel A. Kent, Kent Law, P.C.
555 North Point Center East, Suite 400, Alpharetta, GA

C. Results of the conference with counsel:

They believe there is a possible case for the defendants to answer but it "has difficulties".

Some lawyers did not understand what technology was like when plaintiff thought of the invention in 1991.

Plaintiff believes he can prove to a court defendants used his patented technology during 2009-2013 without a license and gained an Unjust Enrichment whilst the invention was still current in America. Some of the defendants where advised of the invention before infringement but still went ahead and put the plaintiff technology into the US marketplace.

The Plaintiff has extensively searched for legal representation in America since first infringement in 2009 without success, his only avenue for justice now is to represent his invention Pro Se before his Statute of Limitations rights expire or else protecting the invention for 20 years, trying to develop the technology, bring it to market etcetera would have been a complete waste of time, effort and money. If he does nothing now the defendants continue to claim it as their own idea.

II. List previous lawsuits:

- A. Have you filed other lawsuits in slate or federal court dealing with the same facts involved in this action or any other incidents? Yes ☒ No
- B. If your answer to "A" is "yes", describe the lawsuit in the space below. If there is more than one lawsuit, attach a separate piece of paper describing each.

1. Approximate file date of lawsuit: _____

2. Parties to previous lawsuit(s):

Plaintiff _____

Defendants _____

Attach a separate piece of paper for additional plaintiffs or defendants.

3. Identify the court the lawsuit was filed, If federal, name the district. If state, name the county.
4. Docket number in other court _____
5. Name of judge to whom the case was assigned.

6. Disposition: Was the case dismissed, appealed or still pending?

7. Approximate date of disposition. _____

III. **Parties to this suit:**

- A. List the full name and address each plaintiff:

Richard J Baker, 9 Deloraine Court, Mermaid Waters, Queensland, Australia 4218.

- B. List the full name of each defendant, their official position, place of employment and full mailing address.

Defendant 1. Upon information and belief, Defendant Microsoft Corporation ("Microsoft") is a corporation organized and existing under the laws of Texas with its principal place of business at 1 Microsoft Way, Redmond, Washington 98052. Microsoft manufactures for sale and/or sells video game consoles, motion tracking equipment, software and video games to consumers in the United States and, more particularly, in the Eastern District of Texas

Defendant 2. Upon information and belief, Defendant Ubisoft Holdings, Inc. ("Ubisoft") is a corporation organized and existing under the laws of Texas with its principal place of business at 625 Third Street, 3rd Floor, San Francisco, California 94017. Ubisoft manufactures for sale and/or sells motion tracking equipment and video games to consumers in the United States and, more particularly, in the Eastern District of Texas

Defendant 3. Upon information and belief, Defendant ResponDesign Inc (also trading as "RespondWell") is a corporation organized and existing under the laws of Texas with its principal place of business at 1750 Southwest Skyline Boulevard, Portland, Oregon. ResponDesign manufactures for sale and/or sells software, digital fitness trainer for video game consoles to consumers and licenses it

to other companies in the United States and, more particularly, in the Eastern District of Texas who then produce and sell digital fitness trainer programs under their own trading name or in partnership with others.

Defendant 4. Upon information and belief, Defendant Nintendo Co. Ltd ("Nintendo America") is a corporation organized and existing under the laws of Texas, having its principle place of business at 4600 150th Ave NE Redmond, WA 98052. Nintendo manufacturers for sale and/or sells software, game consoles, motion tracking equipment and video games to consumers in the United States and, more particularly, in the Eastern District of Texas.

Defendant 5. Upon information and belief, Defendant Electronic Arts, Inc. ("EA") is a corporation organized and existing under the laws of Texas with its principle place of business at 209 Redwood Shores Parkway, Redwood City, California. EA manufacturers for sale and/or sells software, video games to consumers in the United States and, more particularly, in the Eastern District of Texas.

Defendant 6. Upon information and belief, Defendant Harmonix Music Systems, Inc. ("Harmonix") is a corporation organized and existing under the laws of Texas, having its principle place of business at 625 Massachusetts Avenue, Cambridge, MA. Harmonix manufacturers for sale and/or sells software, video games to consumers in the United States and, more particularly, in the Eastern District of Texas.

Defendant 7. Upon information and belief, Defendant THQ Inc. ("THQ") is a corporation organized and existing under the laws of Texas with its principle place of business at 29903 Agoura Road, Agoura Hills, California. THQ manufacturers for sale and/or sells software, video games to consumers in the United States and, more particularly, in the Eastern District of Texas.

Defendant 8. Upon information and belief, Defendant Majesco Entertainment Company ("Majesco") is a corporation organized and existing under the laws of Texas with its principle place of business at 160 Raritan Center Parkway, Edison, New Jersey. Majesco manufacturers for sale and/or sells software, video games to consumers in the United States and, more particularly, Eastern District of Texas.

IV: Statement of Claim:

State as briefly as possible the fact of your case. Describe how each defendant is involved. Include the names of other persons involved

with dates and places. Do not give any legal arguments or cite cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Use as much space as you need, attaching additional pages if necessary.

The Patent-In-Suit

U.S. Patent No. 5,486,001 (the '001 patent) entitled "Personalised Instructional Aid" was lawfully and duly issued on January 23, 1996. Richard Baker is the owner of all right, title, and interest in the '001 patent, including the right to sue and recover damages for infringement.

Subject Matter Jurisdiction and Venue

1. This action is one for patent infringement arising under 35 U.S.C. § 271. Damages under 35 US Code § 284.
2. The Court has jurisdiction under 28 U.S.C. § 1338(a).
3. Venue lies in this district under 28 U.S.C. §~ 1391(b), (c), (d), and 1400 (b).
4. Plaintiff has an overseas address. Is a non-U.S. citizen. Diversity jurisdiction codified at 28 U.S.C. § 1332 allows district court in the federal judiciary to hear a civil case where the parties are "diverse" in citizenship of different states or non-U.S. citizens. All the defendants are US Corporations, trade in all States of America including Eastern District of Texas.
5. To satisfy 35 U.S.C., Chapter 29, section 299 the various products, programs the joined defendants produced all work the same way for Joinder, have used inventive process covered by U.S. Patent No. 5,486,001 and disregarded pioneer inventors further rights to claim infringement under Doctrine of Equivalents and After-Arising Technology rights.

Defendants Activities

1. **First Claim for Relief (Microsoft)**
 - 1.1 Upon information and belief, Microsoft has made, used, offered to sell, and/or sold within the United States, and/or has imported into the United States, products incorporating motion tracking technology including at least the Kinect for

Xbox 360 game console, Xbox 360, Your Shape Fitness Evolved & Your Shape Fitness Evolved 2012 for Kinect, Dance Central for Kinect, Dance Central 2 for Kinect, Dance Central 3 for Kinect, The Biggest Loser Ultimate Workout for Kinect, Zumba Fitness for Kinect, EA Sports Active 2 for Kinect.

- 1.2 Richard Baker alleges Microsoft infringes one or more patent 'process', "method" claims of the '001 patent under 35 U.S.C. § 271 (a), (b), and/or (c).and his pioneer inventor Doctrine of Equivalents, After-Arising Technology rights.
- 1.3 Microsoft has had actual notice of the '001 patent or constructive notice of '001, before the filing of the Complaint.
- 1.4 At least as early as 29th October, 2010, Microsoft was notified by letter of the existence of at the '001 patent but still went ahead an infringed.
- 1.5. In pre-suit correspondence, Microsoft was informed October 29, 2010 via signature proof of delivery that Richard Baker's patent '001 covered sensing a person's movement, transmitting the movement to a computer database and having a computer analyse person's movement against a preferred movement and producing a personalised audio-visual teaching presentation. Richard Baker advised interest in licensing the '001 patent to Microsoft before infringement. Microsoft used '001 patent at least between November 24, 2010 and patent expiry date of January 23, 2013 with Kinect camera & Xbox 360 to show new interactive home entertainment services to people via a computer, help Microsoft sell the Kinect camera & Xbox 360 games console in America. Help Microsoft compete against Nintendo Wii & Sony Playstation interactive home entertainment services. Microsoft promoted the new personalised audio-visual instructional teaching features of "001 patent with defendants heavily during this time thus removing all credit for the invention from Richard Baker.
- 1.6. Microsoft is liable for direct infringement of one or more claims of the '001 patent and inventor Doctrine of Equivalents, After-Arising Technology rights by making, using, associating, offering to sell, and/or selling, and/or importing into the United States, products including at least, Your Shape Fitness Evolved & Your Shape Fitness Evolved 2012 for Kinect, Dance Central for Kinect, Dance Central 2 for Kinect, Dance

Central 3 for Kinect, The Biggest Loser Ultimate Workout for Kinect, Zumba Fitness for Kinect, EA Sports Active 2 for Kinect.

- 1.7. Microsoft is liable for inducing infringement as it has actively induced end user customers to use its products, including at least the Kinect, the Xbox 360 system, Your Shape Fitness Evolved & Your Shape Fitness Evolved 2012 for Kinect, Dance Central for Kinect, Dance Central 2 for Kinect, Dance Central 3 for Kinect, The Biggest Loser Ultimate Workout for Kinect, Zumba Fitness for Kinect, EA Sports Active 2 for Kinect, intending that the end users will use its products in a manner that infringes one or more claims of the '001 patent, inventor Doctrine of Equivalents, After-Arising Technology rights. Despite knowledge of the '001 patent, Microsoft has actively sold its products and shown end user customers how to use its products, including at least the Kinect, the Xbox 360 system with Your Shape Fitness Evolved and Your Shape Fitness Evolved 12 for Kinect, Dance Central for Kinect, Dance Central 2 for Kinect, Dance Central 3 for Kinect, The Biggest Loser Ultimate Workout for Kinect, Zumba Fitness for Kinect and EA Sports Active 2 for Kinect, through online and hardcopy resources and literature in a manner that infringes one or more claims of the '001 patent and inventor Doctrine of Equivalents, After-Arising Technology rights.
- 1.8. Microsoft is also liable for contributory infringement as it had knowledge that its products, including at least the Kinect, the Xbox 360 system, Your Shape Fitness Evolved and Your Shape Fitness Evolved 2012 for Kinect, Dance Central for Kinect, Dance Central 2 for Kinect, Dance Central 3 for Kinect, The Biggest Loser Ultimate Workout for Kinect, Zumba Fitness for Kinect, EA Sports Active 2 for Kinect, is a component that is especially made or adapted for use in infringement of one or more claims of the '001 patent. Microsoft's products along with the third party software developers products mentioned herein are material components of a combination, where the combination is the personalised instructional teaching presentation for use in practicing the '001 patent. Microsoft Kinect products mentioned above are specifically made and licensed exclusively to Microsoft by Ubisoft, ResponDesign, EA, THQ, Harmonix, Majesco, for use with Kinect Camera and Xbox 360 gaming console and are not a staple article of commerce suitable for substantial non-infringing use.

- 1.9. As a consequence of Microsoft's patent infringement of the '001 patent and inventor Doctrine of Equivalents, After-Arising Technology rights, Microsoft has had "Unjust Enrichment" whilst Richard Baker has suffered harm and injury, loss royalties, interest, monetary damages in an amount exceeding US\$58,084,490 to the defendant.

2. Second Claim for Relief (Ubisoft)

- 2.1 Upon information and belief, Ubisoft has made, used, offered to sell, and/or sold within the United States, and/or has imported into the United States, products incorporating motion tracking technology for use with the Kinect for the Xbox 360 including at least Your Shape, Your Shape Fitness Evolved & 2012 for Kinect which operate on at least Xbox 360, Wii & PC.
- 2.2 Richard Baker alleges Ubisoft infringes one or more patent 'process', "method" claims of the '001 patent under 35 U.S.C. § 271 (a), (b), and/or (c).and his pioneer inventor Doctrine of Equivalents, After-Arising Technology rights.
- 2.3. Ubisoft has had actual notice of the '001 patent or constructive notice of the '001 patent before the filing of the Complaint.
- 2.4 At least as early as June 26, 2009, Ubisoft Senior Legal counsel was notified of the existence of Richard Baker's patent '001, and that it covered the way Ubisoft /Respondesign "Your Shape" was shown to work. Sensing a person's movement, transmitting the movement to a computer database and having a computer analyse person's movement against a preferred movement and automatically producing a personalised audio-visual teaching presentation after Richard Baker saw that Ubisoft had an interest in motion tracking a person's movement via camera, software and providing a "Personalised Audio-Visual Trainer" from a computer system. Richard Baker advised interest in licensing the 001 patent to Ubisoft before infringement and provided copy of the issued '001 patent.
- 2.5 Ubisoft is liable for direct infringement of '001 patent and pioneer inventors Doctrine of Equivalents, After-Arising Technology rights by making, using, offering to sell, and/or selling, and/or importing into the United States in partnership

with Responddesign Inc, products which go with Microsoft Xbox 360 and Kinect Camera, including at least 'Your Shape for Wii, Your Shape for PC, Your Shape Fitness Evolved, Your Shape Fitness Evolved 2012 '.

- 2.6. Ubisoft is liable for inducing infringement as it has actively induced end user customers to use its products, including at least 'Your Shape for Wii, Your Shape for PC, Your Shape Fitness Evolved, Your Shape Fitness Evolved 2012 ', intending that the end users will use its products in a manner that infringes one or more claims of the '001 patent and pioneer inventors Doctrine of Equivalents, After-Arising Technology rights. Despite knowledge of the '001 patent, Ubisoft has actively sold its products and shown end user customers how to use its products, including at least 'Your Shape, Your Shape Fitness Evolved & 2012' for Xbox 360, Kinect and 'Your Shape for Wii, Your Shape for PC, Your Shape Fitness Evolved, Your Shape Fitness Evolved 2012 'through online and hardcopy resources and literature in a manner that infringes one or more claims of the '001 patent and pioneer inventors Doctrine of Equivalents, After-Arising Technology rights.
- 2.7. Ubisoft is also liable for contributory infringement as it had knowledge that at least 'Your Shape, Your Shape Fitness Evolved & 2012' for Xbox 360, Kinect and "Your Shape for Wii, Your Shape for PC, Your Shape Fitness Evolved, Your Shape Fitness Evolved 2012 ', is a component that if especially made or adapted for use with Microsoft Xbox 360 & Kinect, Nintendo Wii, Personal Computer are material components of a combination, where the combination is the personalised audio-visual instructional trainer for practicing '001 patent.
- 2.8. 'Your Shape for Wii, Your Shape for PC, Your Shape Fitness Evolved, Your Shape Fitness Evolved 2012 ' was specifically made for use with Xbox 360, Nintendo Wii and Personal Computer with motion sensing Kinect or Ubisoft Camera and are not a staple article of commerce suitable for substantial non-infringing use.
- 2.9 As a consequence of Ubisoft patent infringement with Responddesign, Microsoft & Nintendo of the '001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights, the defendants have had "Unjust Enrichment" and Richard Baker has suffered harm and

injury, loss profits, loss royalties, interest, monetary damages in an amount exceeding US\$4,000,000 to the defendant.

3. Third Claim for Relief (Respondesign)

- 3.1. Upon information and belief, Respondesign has made, used, offered to sell, and/or sold within the United States, and/or has imported into the United States, products incorporating motion tracking technology for use with Nintendo Wii, Xbox 360 or a Personal Computer including at least Your Shape, Your Shape for Wii, Your Shape for PC, Your Shape Fitness Evolved for Kinect & Your Shape Fitness Evolved 2012 for Kinect.
- 3.2. Richard Baker alleges Respondesign infringes one or more patent 'process', "method" claims of the '001 patent under 35 U.S.C. § 271 (a), (b), and/or (c).and his pioneer inventor Doctrine of Equivalents, After-Arising Technology rights.
- 3.3. Respondesign is liable for direct infringement of '001 patent and pioneer inventors Doctrine of Equivalents, After-Arising Technology rights by making, using, offering to sell, and/or selling, and/or importing into the United States, products which go with Ubisoft Camera, Nintendo Wii, Microsoft Xbox 360 and Kinect, including at least 'Your Shape for Wii, Your Shape for PC, Your Shape Fitness Evolved, Your Shape Fitness Evolved 2012 '.
- 3.4. Respondesign is liable for inducing infringement as it has actively induced end user customers to use its products, including at least 'Your Shape for Wii, Your Shape for PC, Your Shape Fitness Evolved, Your Shape Fitness Evolved 2012 ', intending that the end users will use its products in a manner that infringes one or more claims of the '001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights. Respondesign through online and hardcopy resources and literature in a manner that infringes one or more claims of the '001 patent and pioneer inventors Doctrine of Equivalents, After-Arising Technology rights.
- 3.5. Respondesign is also liable for contributory infringement "Your Shape for Wii, Your Shape for PC, Your Shape Fitness Evolved, Your Shape Fitness Evolved 2012 ', is a component that if especially made or adapted for use with at least Microsoft Xbox 360 computer, Nintendo Wii, a PC, Kinect and Ubisoft motion sensing camera, are material components of a

combination, where the combination is the personalised audio-visual instructional trainer for practicing the '001 patent. Respondesign "Your Shape for Wii, Your Shape for PC, Your Shape Fitness Evolved, Your Shape Fitness Evolved 2012" was specifically made software, interactive computer teaching program for use with at least Xbox 360, Wii, PC and Ubisoft and Microsoft Kinect motion sensing camera, are not a staple article of commerce suitable for substantial non-infringing use.

- 3.6. As a consequence of Respondesign patent infringement with at least Ubisoft, Microsoft & Nintendo of the '001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights, the defendants have had had "Unjust Enrichment" and Richard Baker has suffered harm and injury, loss profits, loss royalties, interest, monetary damages in an amount exceeding US\$4,000,000 to the defendant.

4. **Fourth Claim for Relief (Nintendo)**

- 4.1 Upon information and belief, Nintendo has made, used, offered to sell, and/or sold within the United States, and/or has imported into the United States, products incorporating motion tracking technology for use with Nintendo Wii including at least Your Shape, Your Shape for Wii.
- 4.2. Richard Baker alleges Nintendo infringes one or more patent 'process', "method" claims of the '001 patent under 35 U.S.C. § 271 (a), (b), and/or (c).and his pioneer inventor Doctrine of Equivalents, After-Arising Technology rights.
- 4.3 Nintendo has had actual notice of the '001 patent or constructive notice of the '001 patent before the filing of the Complaint.
- 4.4. At least as early as March 15, 2007, Nintendo was notified via delivery letter of the existence of Richard Baker's patent '001 and that it covered sensing a person's movement, transmitting the movement to a computer database, having a computer analyse person's movement against a preferred movement and automatically producing personalised audio-visual teaching presentation. After Richard Baker saw that Nintendo had an interest in this type of system and providing a "Personalised Audio-Visual Trainer" from a computer. Richard Baker advised interest in licensing the 001 patent to Nintendo before infringement.

- 4.5 Nintendo is liable for direct infringement of '001 patent and pioneer inventors Doctrine of Equivalents, After-Arising Technology rights by association with Responddesign, Ubisoft, making, using, offering to sell, and/or selling, and/or importing into the United States, products which go with Wii Your Shape.
- 4.6. Nintendo is liable for inducing infringement as it has actively induced end user customers to use its products, including at least Wii Your Shape, intending that the end users will use its products in a manner that infringes one or more claims of the '001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights. Despite knowledge of the '001 patent, Nintendo has actively sold its products and shown end user customers how to use its products, including at least Wii Your Shape through online and hardcopy resources and literature in a manner that infringes one or more claims of the '001 patent, inventor Doctrine of Equivalents, After-Arising Technology rights.
- 4.7 Nintendo is also liable for contributory infringement as it had knowledge that its products, including at least Your Shape for Wii, a computer system, motion sensing camera is a component that if especially made or adapted for use in infringement of '001 patent. Nintendo products are material components of a combination, where the combination is the personalised audio-visual instructional trainer for practicing the '001 patent. Your Shape for Wii was specifically made for use Nintendo Wii computer console and Ubisoft motion sensing camera and are not a staple article of commerce suitable for substantial non-infringing use.
- 4.8 As a consequence of Nintendo's patent infringement of the '001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights, Nintendo has had "Unjust Enrichment" and Richard Baker has suffered harm and injury, loss profits, loss royalties, interest, monetary damages in an amount exceeding US\$6,800,000 to the defendant.

5. Fifth Claim for Relief (EA)

- 5.1 Upon information and belief, EA has made, used, offered to sell, and/or sold within the United States, and/or has imported into the United States, products incorporating motion tracking technology, the Kinect camera for use with Xbox 360

including at least EA Sports Active 2.

- 5.2 Richard Baker alleges EA infringes one or more patent 'process', "method" claims of the '001 patent under 35 U.S.C. § 271 (a), (b), and/or (c).and his pioneer inventor Doctrine of Equivalents, After-Arising Technology rights.
- 5.3 EA has had actual notice of the '001 patent or constructive notice of the '001 patent before the filing of the Complaint.
- 5.4 At least as early as October 29, 2010, EA was notified via signature proof of delivery letter of the existence of Richard Baker's patent '001 and that it covered sensing a person's movement, transmitting the movement to a computer database and having a computer analyse person's movement against a preferred movement and producing personalised audio-visual teaching presentation. After Richard Baker saw that EA had an interest in this type of system and providing a "Personalised Audio-Visual Trainer" from a computer. Richard Baker advised interest in licensing the 001 patent to EA before infringement.
- 5.5 EA is liable for direct infringement of '001 patent and pioneer inventors Doctrine of Equivalents, After-Arising Technology rights by making, using, offering to sell, and/or selling, and/or importing into the United States, products which go with Microsoft Xbox 360 and Kinect Camera, including at least EA Sports Active 2.0 'Personal Trainer' for Kinect.
- 5.6 EA is liable for inducing infringement as it has actively induced end user customers to use its products, including at least EA Sports Active 2.0 'Personal Trainer' for Kinect which runs on Xbox 360, intending that the end users will use its products in a manner that infringes one or more claims of the '001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights. Despite knowledge of the '001 patent, EA has actively sold its products and shown end user customers how to use its products, including at least EA Sports Active 2.0 'Personal Trainer', with the Kinect for the Xbox 360 through online and hardcopy resources and literature in a manner that infringes one or more claims of the '001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights.
- 5.7 EA is also liable for contributory infringement as it had knowledge that at least EA Sports Active 2.0 'Personal

Trainer' for Kinect & Xbox 360, is a component that if especially made or adapted for use with Microsoft Xbox 360 & Kinect are material components of a combination, where the combination is the personalised audio-visual instructional trainer for practicing the '001 patent. EA Sports Active 2.0 'Personal Trainer' was specifically made for use with Kinect Camera and Xbox 360 and are not a staple article of commerce suitable for substantial non-infringing use.

- 5.8 As a consequence of EA's patent infringement of the '001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights, EA has had "Unjust Enrichment" and Richard Baker has suffered harm and injury, loss profits, loss royalties, interest, monetary damages in an amount exceeding US\$403,191 to the defendant.

6. Sixth Claim for Relief (Harmonix)

- 6.1 Upon information and belief, Harmonix has made, used, offered to sell, and/or sold within the United States, and/or has imported into the United States, products incorporating motion tracking technology for use with Kinect and Xbox 360 including at least Dance Central for Kinect, Dance Central 2 for Kinect, Dance Central 3 for Kinect.
- 6.2 Richard Baker alleges Harmonix infringes one or more patent 'process', "method" claims of the '001 patent under 35 U.S.C. § 271 (a), (b), and/or (c).his pioneer inventor Doctrine of Equivalents, After-Arising Technology rights.
- 6.3 Harmonix is liable for direct infringement of '001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights by making, using, offering to sell, and/or selling, and/or importing into the United States, products which go with Microsoft Xbox 360 and Kinect Camera, including at least Dance Central for Kinect, Dance Central 2 for Kinect, Dance Central 3 for Kinect.
- 6.4 Harmonix is liable for inducing infringement as it has actively induced end user customers to use its products, including at least Dance Central for Kinect, Dance Central 2 for Kinect, Dance Central 3 for Kinect, intending that the end users will use its products in a manner that infringes one or more claims of the '001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights. Harmonix has actively sold its products and shown end user customers how

to use its products, including at least Dance Central for Kinect, Dance Central 2 for Kinect, Dance Central 3 for Kinect, through online and hardcopy resources and literature in a manner that infringes one or more claims of the '001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights.

- 6.5 Harmonix is also liable for contributory infringement 'Dance Central for Kinect, Dance Central 2 for Kinect for Kinect, Dance Central 3 for Kinect & Xbox 360', is a component that if especially made or adapted for use with Microsoft Xbox 360 & Kinect are material components of a combination, where the combination is the personalised audio-visual instructional trainer for practicing the '001 patent. Harmonix 'Dance Central for Kinect, Dance Central 2 for Kinect, Dance Central 3 for Kinect & Xbox 360' was specifically made for use with Kinect Camera and Xbox 360 and are not a staple article of commerce suitable for substantial non-infringing use.
- 6.6 As a consequence of Harmonix patent infringement of the '001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights, Harmonix has had "Unjust Enrichment" and Richard Baker has suffered harm and injury, loss profits, loss royalties, interest, monetary damages in an amount exceeding US\$2,156,369 to the defendant.

7. Seventh Claim for Relief (THQ)

- 7.1 Upon information and belief, THQ has made, used, offered to sell, and/or sold within the United States, and/or has imported into the United States, products incorporating motion tracking technology for use with the Kinect and Xbox 360 including at least The Biggest Loser Ultimate Workout for Kinect.
- 7.2 Richard Baker alleges THQ infringes one or more patent 'process', "method" claims of the '001 patent under 35 U.S.C. § 271 (a), (b), and/or (c).and his pioneer inventor Doctrine of Equivalents, After-Arising Technology rights.
- 7.3 THQ is liable for direct infringement of '001 patent and pioneer inventors Doctrine of Equivalents, After-Arising Technology rights by making, using, offering to sell, and/or selling, and/or importing into the United States, products which go with Microsoft Xbox 360 and Kinect Camera, including at least 'The Biggest Loser Ultimate Workout for Kinect'.

- 7.4 THQ is liable for inducing infringement as it has actively induced end user customers to use its products, including at least 'The Biggest Loser Ultimate Workout' for Kinect & Xbox 360, intending that the end users will use its products in a manner that infringes one or more claims of the '001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights. THQ has actively sold its products and shown end user customers how to use its products, including at least 'The Biggest Loser Ultimate Workout for Kinect', with the Kinect for the Xbox 360 through online and hardcopy resources and literature in a manner that infringes one or more claims of the '001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights.
- 7.5 THQ is also liable for contributory infringement The Biggest Loser Ultimate Workout for Kinect is a component that if especially made or adapted for use with Microsoft Xbox 360 & Kinect are material components of a combination, where the combination is the personalised audio-visual instructional trainer for practicing the '001 patent. 'The Biggest Loser Ultimate Workout for Kinect' was specifically made for use with Kinect Camera and Xbox 360 and are not a staple article of commerce suitable for substantial non-infringing use.
- 7.6 As a consequence of THQ patent infringement of the '001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights, THQ has had "Unjust Enrichment" and Richard Baker has suffered harm and injury, loss profits, loss royalties, interest, monetary damages in an amount exceeding US\$450,000 to the defendant.

8. Eighth Claim for Relief (Majesco Entertainment)

- 8.1 Upon information and belief, Majesco has made, used, offered to sell, and/or sold within the United States, and/or has imported into the United States, products incorporating motion tracking technology for use with the Kinect and Xbox 360 including at least Zumba Fitness for Kinect.
- 8.2 Richard Baker alleges Majesco infringes one or more patent 'process', "method" claims of the '001 patent under 35 U.S.C. § 271 (a), (b), and/or (c).and his pioneer inventor Doctrine of Equivalents, After-Arising Technology rights.

- 8.3 Majesco is liable for direct infringement of '001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights by making, using, offering to sell, and/or selling, and/or importing into the United States, products which go with Microsoft Xbox 360 and Kinect Camera, including at least 'Zumba Fitness for Kinect'.
- 8.4 Majesco is liable for inducing infringement as it has actively induced end user customers to use its products, including at least 'Zumba Fitness for Kinect' & Xbox 360, intending that the end users will use its products in a manner that infringes one or more claims of the '001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights. Majesco has actively sold its products and shown end user customers how to use its products, including at least 'Zumba Fitness', with the Kinect for the Xbox 360 through online and hardcopy resources and literature in a manner that infringes one or more claims of the '001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights.
- 8.5 Majesco is also liable for contributory infringement 'Zumba Fitness for Kinect' is a component that if especially made or adapted for use with Microsoft Xbox 360 & Kinect are material components of a combination, where the combination is the personalised audio-visual instructional trainer for practicing the '001 patent. 'Zumba Fitness for Kinect' was specifically made for use with Kinect Camera and Xbox 360 and are not a staple article of commerce suitable for substantial non-infringing use.
- 8.6 As a consequence of Majesco patent infringement of the '001 patent and pioneer inventor Doctrine of Equivalents, After-Arising Technology rights, Majesco has had "Unjust Enrichment" and Richard Baker has suffered harm and injury, loss profits, loss royalties, interest, monetary damages in an amount exceeding US\$1,296,000 to the defendant.

PRAYER FOR JUDGMENT AND RELIEF

WHEREFORE, Richard Baker prays for the following relief:

- A. enter judgment that Defendants, its officers, agents, servants, employees and attorneys, and those persons in active concert or participation with them, infringe and have infringed the patent asserted against each Defendant above;
- B. award Richard Baker damages from Defendants adequate to compensate for Defendants' infringement, including interest;

JURY DEMAND

Richard Baker requests a jury trial for those issues so triable herein.

Signed this thirteenth day of february 2015

I declare (certify, verify or state) under penalty of perjury that the foregoing is true and correct.

Executed on: 13/2/2015
Date



Signature of plaintiff

Mr Richard J Baker
9 Deloraine Court, Mermaid Waters
Queensland Australia 4218
Tel: (61 7) 5526 5523
Mobile: 0407 588 985
Email: rb@personalised-video.com



Clerk of Court
William Steger U.S. Courthouse,
211 West Ferguson St.,
Tyler, TX 75702

16th February, 2015

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- Summons
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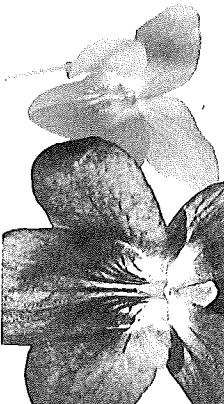
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Kind Regards

Richard J Baker

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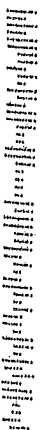
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