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9 **UNITED STATES DISTRICT COURT**
10 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
11 **WESTERN DIVISION**

12 VIRTUAL IMMERSION
13 TECHNOLOGIES LLC,

14 Plaintiff,

15 v.

16 FLUOR CORPORATION,

17 Defendant.

Case No.: 2:22-cv-4516

**COMPLAINT FOR PATENT
INFRINGEMENT**

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1 Plaintiff Virtual Immersion Technologies LLC (“VIT” or “Plaintiff”), for its
2 Complaint against Defendant Fluor Corporation (“Fluor” or “Defendant”), alleges
3 the following:

4 **NATURE OF THE ACTION**

5 1. This is an action for patent infringement arising under the patent laws
6 of the United States, 35 U.S.C. § 1 *et seq.*

7 **THE PARTIES**

8 2. Plaintiff VIT is a limited liability company organized under the laws
9 of the state of Texas.

10 3. Upon information and belief, Fluor is a corporation organized and
11 existing under the laws of the state of Delaware, with a principal place of business
12 located at 6700 Las Colinas Boulevard, Irving, Texas, 75039. Upon information
13 and belief, Fluor sells and offers to sell products and services throughout the
14 United States, including in this District, and introduces products and services into
15 the stream of commerce that incorporate infringing technology knowing that they
16 would be sold in this District and elsewhere in the United States.

17 **JURISDICTION AND VENUE**

18 4. This is an action for patent infringement arising under the patent laws
19 of the United States, Title 35 of the United States Code.

20 5. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331
21 and 1338(a).

22 6. Venue is proper in this judicial district pursuant to 28 U.S.C.
23 §1400(b). On information and belief, Fluor has committed acts of infringement in
24 this District and maintains an established place of business in the state of
25 California and in this District, specifically including the Fluor offices at 1) 1500
26 Hughes Way Pod B, Long Beach, California, 90810 and 2) 3 Polaris Way, Aliso
27 Viejo, California, 92698.
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1 7. Upon information and belief, the Defendant is subject to this Court’s
2 general and specific personal jurisdiction due at least to their substantial business
3 in California and in this District, directly or through intermediaries, including: (i)
4 at least a portion of the infringements alleged herein; and (ii) regularly doing or
5 soliciting business, engaging in other persistent courses of conduct and/or deriving
6 substantial revenue from goods and services provided to individuals and entities in
7 the State of California.

8 **BACKGROUND AND PATENT ELIGIBILITY OF THE PATENT IN SUIT**

9 8. A true and correct copy of U.S. Patent No. 6,409,599 (“the ’599
10 patent” or the “patent in suit”) is attached as Exhibit A. The ’599 patent includes 9
11 claims (’599 patent, Ex. A at 16:6-20:12)¹, including claim 9 (*id.* at 18:61-20:12).

12 9. The ’599 patent relates to systems and methods in which participants
13 interact with a computerized environment in addition to live and/or pre-recorded
14 performers. (*See* Ex. A at 1:20-23.) The ’599 patent describes and enables
15 immersive interactive virtual reality computer systems and methods in which
16 participants interact with a virtual reality environment and live performers using a
17 variety of immersion and input devices.” (*Id.* at 1:23-26.)

18 10. The claims of the ’599 patent are directed to tangible embodiments.
19 Claim 9, for example, is a method claim, which requires providing several
20 input/output devices in electronic communication with an immersive virtual reality
21 environment. (*Id.* at 18:61-20:12.)

22 11. The claims of the ’599 patent are directed to providing a unique
23 computing solution that addresses a problem particular to computerized virtual
24 reality systems—providing an immersive interactive virtual reality system in which
25 there exists three-way communication among and between participants, live
26 performers and the virtual reality environment. (*Id.* at 3:24-27.)

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28 ¹ Citations to patents in this Complaint refer to columns and lines within columns of any cited patent. For example, the citation referenced by this footnote refers to column 16, at line 6 through column 20, line 12, in the ’599 patent.

1 12. Providing an immersive interactive virtual reality system with three-
2 way communication in the manner claimed in the '599 patent solved new
3 challenges over the techniques and systems known in the art at the time. Thus, the
4 claims of the '599 patent contain inventive concepts, being both novel and
5 unconventional, which are sufficient to render the '599 patent claims to be patent-
6 eligible.

7 13. Prior to the priority date of the '599 patent, in systems such as
8 traditional virtual reality systems, figures or objects not controlled by participants
9 moved autonomously or, if a participant had an opportunity to interact with such
10 objects in the virtual reality environment, the objects were limited to computer
11 generated images and not live performers. (*Id.* at 1:57-67.)

12 14. Groups of participants have been entertained by graphically enhanced
13 performers on stage or television. However, these instances occurred through non-
14 immersion mediums without the enhancements of immersion-type devices or
15 methods. (*Id.* at 2:5-9.)

16 15. Early entertainment systems, which allowed participants to interact
17 with a host and an environment using some input device, did not operate within an
18 immersive virtual reality environment and therefore lacked its immersive effects
19 and their impact on participants. (*Id.* at 2:40-47.)

20 16. The '599 patent overcame these disadvantages by, for example,
21 describing and enabling a system and method for delivering information “which
22 provides three-way immersive interactive communication amongst and between”
23 participants, an immersive environment, and live performers. (*Id.* at 2:55-57.)

24 17. The inventors of the claimed invention in the '599 patent changed the
25 focus from an interaction between individual participants and computer-generated
26 graphical objects within a virtual reality environment to a three-way
27 communication amongst and between participants, live or pre-recorded performers,
28 and an immersive virtual reality environment. (*Id.* at 3:11-17.) The inclusion of

1 three-way communication results in a synergistic effect, which creates an
2 unparalleled experience. (*Id.* at 3:18-22.)

3 18. Furthermore, the claimed invention of the '599 patent represents an
4 intrinsic improvement to the underlying computer technology involved. The
5 disclosed system includes a variety of audio and video components. (*See, e.g.*,
6 claim 9 of the '599 patent.) The variety of audio and video components enable
7 innovative mixing and switching techniques which allows the system to present to
8 each of the participants a virtual reality environment in which a live representation
9 of the performers is superimposed within the environment. (*Id.* at 4:5-9.) The
10 participants are able to view and interact with a novel display of both graphical
11 data and live representations for an exciting experience. (*Id.* at 4:9-12.)

12 19. The inventors of the '599 patent took considerable personal risks to
13 nurture and prove out the technology systems described in the '599 patent,
14 contributing substantially to today's virtual reality industry explosion.

15 20. The inventors of the '599 patent have utilized the technology
16 described by the '599 patent for more than ten years, shipping virtual reality
17 systems to five continents and entertaining or educating an estimated 30 million
18 people worldwide with their immersive virtual reality live theater attractions and
19 promotions.

20 21. The virtual reality theater technology created by the inventors has
21 been recognized and awarded on an international scale, the products winning "Best
22 New Product" and "Best of Show" at the International Association of Amusement
23 Parks and Attractions global convention in Atlanta in November 2000, and again
24 for 'Best of Show' in 2002 in Orlando, as well as national awards for graphics and
25 creativity in the Print Media industry. The products and concepts have garnered
26 dozens of feature articles in news media promoting clients and their products in a
27 variety of industries.

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1 22. The inventors of the '599 patent continue to have a direct interest in
2 activities related to the '599 patent, working closely with VIT to identify and
3 evaluate entities making use of the technology claimed by the '599 patent without
4 permission or license thereto.

5 23. The inventions of the '599 patent resolve technical problems related to
6 virtualized interactive technology. For example, the inventions allow parties to
7 interact in a virtual environment in real time with one or more live performers and
8 participants, which, on information and belief, is exclusively implemented using
9 computer technology.

10 24. The claims of the '599 patent do not merely recite the performance of
11 some method known from the pre-Internet world along with the requirement to
12 perform it on the Internet. Instead, the claims of the '599 patent recite inventive
13 concepts that are rooted in computerized virtual reality technology and overcome
14 problems specifically arising in the realm of computerized virtual reality
15 technologies.

16 25. The claims of the '599 patent recite an invention that is not merely the
17 routine or conventional use of computerized communication technology. Instead,
18 the invention makes it possible to interact with one or more live performers and/or
19 participants in a virtualized environment, which does not require the physical
20 presence of either the one or more performers, or participants in order for such
21 interactions to take place. The '599 patent claims thus specify how communication
22 input, output, and system devices are manipulated to yield a virtual, interactive
23 experience controlled in part by one or more participants.

24 26. The technology claimed in the '599 patent does not preempt all ways
25 of using interactive communications technology, nor preempt the use of any well-
26 known communications technology, nor preempt any other well-known or prior art
27 technology.

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1 27. The '599 patent claims are not directed to any “method of organizing
2 human activity,” “fundamental economic practice long prevalent in our system of
3 commerce,” nor are any of the claims “a building block of the modern economy.”

4 28. The '599 patent does not take a well-known or established business
5 method or process and apply it to a general-purpose computer. Instead, the
6 specific systems and processes described in the '599 patent have no direct
7 corollary to a process that predates the advent of the Internet.

8 29. The '599 patent claims are directed toward a solution rooted in
9 computer technology and uses technology, unique to computers and networks, to
10 overcome a problem specifically arising in the realm of computerized virtual
11 reality technologies.

12 30. The '599 patent claims are not directed at a mere mathematical
13 relationship or formula.

14 31. The '599 patent claims cannot be performed by a human, in the
15 human mind, or by pen and paper.

16 32. Accordingly, claim 9 of the '599 patent recites a combination of
17 elements sufficient to ensure that the claim in practice amounts to significantly
18 more than a patent on an ineligible concept.

19 **VIT'S PATENT LITIGATION HISTORY**

20 33. The '599 patent has been subject to prior litigation through VIT in
21 approximately 50 different matters in various other districts, all of which have been
22 terminated.

23 **COUNT I – INFRINGEMENT OF U.S. PATENT NO. 6,409,599**

24 34. The allegations set forth in the foregoing paragraphs 1 through 33 are
25 incorporated into this First Claim for Relief.

26 35. On June 25, 2002, the '599 patent, was duly and legally issued by the
27 United States Patent and Trademark Office under the title “Interactive Virtual
28 Reality Performance Theater Entertainment System.”

1 36. VIT is the assignee and owner of the right, title and interest in and to
2 the '599 patent, including the right to assert all causes of action arising under said
3 patents and the right to any remedies for infringement of them.

4 37. The '599 patent expired on or about July 19, 2019.

5 38. Upon information and belief, Defendant has directly infringed under
6 35 U.S.C. § 271(a), literally and/or under the doctrine of equivalents, claim 9 of the
7 '599 patent by making, using, selling, offering to sell, importing and/or providing
8 and/or causing to be used systems in a method according to claim 9. (*See, e.g.*,
9 Fluor augmented reality remote expert inspections in PDF of 2020 sustainability
10 report at page 22 of 70 at [https://www.fluor.com/SiteCollectionDocuments/2020-](https://www.fluor.com/SiteCollectionDocuments/2020-fluor-sustainability-report.pdf)
11 [fluor-sustainability-report.pdf](https://www.fluor.com/SiteCollectionDocuments/2020-fluor-sustainability-report.pdf) last accessed and downloaded, June 30, 2022, the
12 "Accused Instrumentalities".)

13 39. Upon information and belief, the Accused Instrumentalities performs
14 a method for providing interactive communications between participants and
15 performers including providing an immersive virtual reality environment and
16 providing in electronic communication with the immersive virtual reality
17 environment, a performer input device, a participant input device, a performer
18 output device, a participant output device. The method includes having a live
19 performer interact with a participant and said immersive virtual reality
20 environment, by including with the virtual reality environment a live or
21 prerecorded video image of the live performer and audio communication between
22 the live performer and the participant, or between the participant and the live
23 performer, or both and having the participant interact with the live performer and
24 the immersive virtual reality environment, resulting in an experience which is in
25 part controlled by the participant and the participant input device.

26 40. Exemplary infringement analysis showing infringement of claim 9 of
27 the '599 patent is set forth in Exhibit B. This infringement analysis is necessarily
28 preliminary, as it is provided in advance of any discovery provided by Fluor with

1 respect to the '599 patent. VIT reserves all rights to amend, supplement and
2 modify this preliminary infringement analysis. Nothing in the attached chart
3 should be construed as any express or implied contention or admission regarding
4 the construction of any term or phrase of the claims of the '599 patent.

5 41. Claim 9, which is a method claim, is the only claim of the '599 patent
6 that is asserted in this Complaint.

7 42. Upon information and belief, the Accused Instrumentality has
8 infringed claim 9 of the '599 patent during the pendency of the '599 patent.

9 43. VIT has been harmed by Fluor's infringing activities.

10 **JURY DEMAND**

11 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff VIT
12 demands a trial by jury on all issues triable as such.

13 **PRAYER FOR RELIEF**

14 WHEREFORE, VIT demands judgment for itself and against Fluor as
15 follows:

- 16 A. An adjudication that Fluor has infringed the '599 patent;
- 17 B. An award of damages to be paid by Fluor adequate to compensate
18 VIT for Fluor's past infringement of the '599 patent, including interest, costs,
19 expenses and an accounting of all infringing acts including, but not limited to,
20 those acts not presented at trial;
- 21 C. A declaration that this case is exceptional under 35 U.S.C. § 285, and
22 an award of VIT's reasonable attorneys' fees; and
- 23 D. An award to VIT of such further relief at law or in equity as the Court
24 deems just and proper.

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Dated: July 1, 2022

Respectfully submitted,
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