

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

<p>TAMABO, INC., and 511 TECHNOLOGIES, INC,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>MASS GENERAL BRIGHAM, INC., GENERAL HOSPITAL CORPORATION d/b/a MASSACHUSETTS GENERAL HOSPITAL, TUMOR IMAGING METRICS CORE, PRECISIONS IMAGING METRICS, LLC, and YUNU, INC.</p> <p style="text-align: center;">Defendants.</p>	<p>Civil Action No. _____</p> <p>JURY TRIAL DEMANDED</p>
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COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs Tamabo, Inc. (“Tamabo”) and 511 Technologies, Inc. (“511”) (collectively “Plaintiffs”), for its Complaint against Defendant Mass General Brigham, Inc. (“MGB”), General Hospital Corporation d/b/a Massachusetts General Hospital, (“GHC”), Tumor Imaging Metrics Core (“TIMC”), Precision Imaging Metrics, LLC (“PIM”) and YUNU, Inc. (“YUNU”) (individually each a “Defendant” and collectively “Defendants”) alleges the following:

NATURE OF THE ACTION

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

THE PARTIES

2. Plaintiff Tamabo is corporation organized under the laws of the State of Texas with a place of business at 511 N. Washington Avenue, Marshall, Texas 75670.

3. Plaintiff 511 is a corporation organized under the laws of Texas with a place of business at 511 N. Washington Avenue, Marshall, Texas 75670.

4. Upon information and belief, MGB is a Non-Profit Corporation organized and existing under the laws of the Commonwealth of Massachusetts, with a place of business at 800 Boylston Street, Suite 1150, Boston, MA 02199.

5. Upon information and belief, GHC is a corporation organized under the laws of the State of Massachusetts with a place of business at 55 Fruit Street, Boston, Massachusetts 02114. Upon information and belief, GHC offers services throughout the Northeastern United States. Upon information and belief, GHC is a wholly owned subsidiary of MGB.

6. Upon information and belief, MGB was known as MGH/Brigham Health Care System, Inc until 1994, and was known as Partners Healthcare System, Inc. from 1994 until 2020 when it was renamed Massachusetts General Brigham, Inc.

7. Upon information and belief, Tumor Imaging Metrics Core (TIMC) is a wholly owned operating entity of MGB also known as Core Lab, with a place of business at 25 New Charden Street, Suite 501, Boston, Massachusetts 02114. Upon information and belief, TIMC offers services throughout the entire United States.

8. Upon information and belief, Precision Imaging Metrics, LLC (PIM) is a wholly owned corporate subsidiary of MGB, organized under the laws of Massachusetts, with a place of business at 9 Field Road, Lexington, Massachusetts 24218. Upon information and belief, PIM offers services throughout the entire United States.

9. Upon information and belief, YUNU, Inc. is a partially owned subsidiary of MGB. Upon information and belief, most of its personnel and its primary facility are located in Boston,

Massachusetts. Upon information and belief, YUNU offers services throughout the entire United States.

10. Upon information and belief, Defendants sell and offer to sell products and services throughout the United States, including in this judicial district, and introduces products and services into the stream of commerce and that incorporate infringing technology knowing that they would be sold in this judicial district and elsewhere in the United States.

JURISDICTION AND VENUE

11. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code.

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

13. Venue is proper in this judicial district under 28 U.S.C. §1400(b). On information and belief, Defendants MGB, MGH and PIM are incorporated in Massachusetts; all Defendants and have their principle and regular and established place of business in Massachusetts. Each of the Defendants individually and in active concert has committed acts of infringement in this District and has a regular and established place of business within this District.

14. On information and belief, each Defendant is subject to this Court's general and specific personal jurisdiction because each Defendant has sufficient minimum contacts within the State of Massachusetts and this District, pursuant to due process and/or the Long Arm Statute of Massachusetts because each Defendant purposefully availed itself of the privileges of conducting business in the State of Massachusetts and in this District, because each Defendant regularly conducts and solicits business within the State of Massachusetts and within this District, and because Plaintiff's causes of action arise directly from each of Defendant's business contacts and other activities in the State of Massachusetts and this District. Further, this Court

has personal jurisdiction over Defendants MGB, MGH and PIM because each is incorporated in Massachusetts and has purposely availed itself of the privileges and benefits of the laws of the State of Massachusetts.

BACKGROUND

The Invention

15. Armin Moehrle is the inventor of U.S. Patent No. 6,599,130 (“the ’130 patent”). A true and correct copy of the ’130 patent is attached as Exhibit A-1.

16. The ’130 patent resulted from the pioneering efforts of Mr. Moehrle (hereinafter “the Inventor”) in the area of tutorial and diagnostic aids. These efforts resulted in the development of a method for interpretation of visual images. At the time of these pioneering efforts, the most widely implemented technology failed to preserve externalized knowledge communicated during a diagnostic or teaching session. In prior systems, the knowledge expressed in gestures, highlighting, indication and commentary critical to diagnostics and teaching were left unrecorded and inaccessible. The Inventor conceived of the inventions claimed in the ’130 patent as a way to record and make accessible the externalized knowledge from a session.

17. For example, the Inventor developed a way to record the deictic gestures of a viewer in time and synchronize the location with the video or image through a software application.

Advantage Over the Prior Art

18. The patented invention disclosed in the ’130 patent, provides many advantages over the prior art, and in particular improved the efficiency and the accessibility to an image interpreter’s analysis of a particular image or video. (See ’130 patent at 3:39-3:60.) One advantage of the patented invention is that it overlays an interpretation layer on the video or

image layer to record the deictic gestures of a viewer in time and location synchronization with the video, which is then labeled a “session”. (See ’130 patent at 2:37-2:42.)

19. Another advantage of the patented invention is that it allows the user to create a concept map, where the concept map is an indexing system for sessions that may be built or modified according to user input. (See ’130 patent at 5:1-5:25.)

20. Yet another advantage of the patented invention is that later sessions having additional gestures and commentary may be built upon a previous session, whereby recordation of additional deictic gestures and associated commentary may be added at any time to any part of the frame. (See ’130 patent at 5:43-5:45.)

Technological Innovation

21. The patented invention disclosed in the ’130 patent resolves technical problems related to tutorial or diagnostic aids, particularly problems related to the utilization of image and video interpretation in a teaching setting. As the ’130 patent explains, one of the limitations of the prior art in regard to tutorial or diagnostic aids was that the externalized knowledge expressed in gestures, highlighting, indication and commentary critical to diagnostics and teaching were left unrecorded and inaccessible. (See ’130 patent at 1:45-1:55.)

22. The claims of the ’130 patent do not merely recite the performance of some well-known business practice from the pre-Internet world along with the requirement to perform it on the Internet. Instead, the claims of the ’130 patent recite inventive concepts that are deeply rooted in engineering technology and overcome problems specifically arising out of how to make the externalized knowledge expressed in gestures and accompanying commentary during a session available for future use.

23. In addition, the claims of the '130 patent recite inventive concepts that improve the functioning of a teaching or diagnostic aid and/or knowledge recording system, whereby images or portions of images may be selected and labeled, and concurrent image-specific commentary applied to the visual image to create a session that is indexable for later study, creation of future session, or research.

24. Moreover, the claims of the '130 patent recite inventive concepts that are not merely routine or conventional use of a method for interpretation of visual images. Instead, the patented invention disclosed in the '130 patent provides a new and novel solution to specific problems related to improving the quality and efficiency of digital image interpretation by creating a workflow that allows the direct annotation of digital images and added recordable indexing to increase efficiency.

25. And finally, the patented invention disclosed in the '130 patent does not preempt all the ways that a video teaching aid with recordable commentary and indexing may be used to improve the of area of tutorial or diagnostic aids, nor does the '130 patent preempt any other well-known or prior art technology.

26. Accordingly, the claims in the '130 patent recite a combination of elements sufficient to ensure that the claim in substance and in practice amounts to significantly more than a patent-ineligible abstract idea.

The Defendants

27. The Moehrle '130 Patent-in-Suit was filed on February 2, 2001 and issued on July 29, 2003.

28. In 2004, an employee of Defendant GHC, Dr. Gordon Harris, and an employee of the Dana Farber Cancer Center, Dr. Van den Abbeele, founded the Defendant Core Lab: Tumor

Imaging Metrics Core (TIMC) at the Dana-Farber/Harvard Cancer Center. At that time, TIMC was imaging patients and practicing the prior art methods of transient teaching and transient analysis.

29. In 2013, the inventor of the '130 patent, Mr. Moehrle, through his company MEDKEN, LLC, was introduced to GHC, MGB and TIMC to discuss improving the TIMC software through implementation of the Moehrle invention. A first Mutual Confidentiality Agreement (MCA) was executed in March of 2013 between GHC and MEDKEN. The MCA was amended in September of 2014. The MCA was amended a second time in September of 2016 to include Plaintiff Tamabo.

30. In November of 2014, MEDKEN executed a vendor Agreement with Partners HealthCare Systems (Defendant MGB) related to the work being performed under the MCA.

31. Mr. Moehrle founded the Open Health Imaging Foundation (OHIF) in 2014 with the goal of accelerating innovation of health imaging solutions by unifying open source imaging software. During his discussions with GHC under the MCA, Mr. Moehrle invited Gordon Harris of GHC/IMC to join the board of OHIF. Without permission from MEDKEN or Mr. Moehrle, Mr. Harris directed the engineering team at OHIF to implement the intellectual property of MEDKEN into the open source solution and thus to avoid licensing the intellectual property and thus began infringement and began to induce others to infringe. When confronted, Mr. Harris led a campaign to remove Mr. Moehrle from the board of OHIF and then dissolved the Foundation.

32. Beginning in 2016, Plaintiff Tambo and Defendants GHC, MGB and TIMP engaged in extensive discussions, including meetings and exchanges of technical information and discussions regarding infringement of the '130 patent by the activities of Defendants GHC, MGB and TIMP. The discussions included communications regarding an offer to license the '130

patent to Defendants. The discussions included legal counsel from Tambo and internal counsel at Partners HealthCare (Defendant MGB).

33. Upon information and belief, since GHC and MGB had knowledge of the '130 patent, GHC and MGB induced others to infringe at least claims 19-25 of the '130 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including but not limited to GHC and MGB's partners and customers, whose use of the Accused Instrumentalities constituted direct infringement of at least claims 19-25 of the '130 patent.

34. Upon information and belief, Defendant MGB established Defendant PIM for the commercialization of the TIMP software which had improperly incorporated the '130 patented technology, naming Dr. Gordon Harris as a Co-Director of PIM.

35. The TIMP software was branded as "Metrics Manager Imaging Measurement Tools" and "LesionTracker" for commercialization. The website for PIM states that: "In 2004, Dr. Harris and Dr. Van den Abbeele founded the Core Lab: Tumor Imaging Metrics Core (TIMC) at the Dana-Farber/Harvard Cancer Center. Since then, the Core Lab has analyzed over 45,000 scans for almost 1000 clinical trials. This vast experience is the foundation on which Precision Imaging Metrics – and its flagship Metrics Manager application – has been built."

36. Upon Information and belief, Defendant YUNU was established in 2019 by Defendant MGB, to continue the commercialization of the Metrics Manager Imaging Measurement Tools and LesionTracker also referred to as Yunu software as a service. Dr. Gordon Harris is a Co-Director of Defendant YUNU.

37. Upon information and belief, the Metrics Manager Imaging Measurement Tools and LesionTracker software is owned by MGB and controlled through TIMP by providing software

accessibility and imaging services to health care providers throughout the US, both directly and through PIM and YUNU.

Prior Litigation

38. The '130 patent was previously litigated in the Eastern District of Texas (2-17-cv-00750). The suit was settled, and thus voluntarily dismissed.

39. Claim construction of the claims of the '130 patent was not done during the Prior Litigation.

COUNT I – MGB INFRINGEMENT OF U.S. PATENT NO. 6,599,130

40. The allegations set forth in the foregoing paragraphs are incorporated into this First Claim for Relief.

41. On July 29, 2003, the '130 patent was duly and legally issued by the United States Patent and Trademark Office under the title “ITERATIVE VIDEO TEACHING AID WITH RECORDABLE COMMENTARY AND INDEXING”.

42. Plaintiffs are the assignees and owners of the right, title and interest in and to the '130 patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

43. Upon information and belief, MGB has directly infringed one or more claims of the '130 patent by practicing the claimed method and by using, and/or providing and causing to be used products which are used to practice the patented methods, specifically one or more video teaching aids with recordable commentary and indexing, which by way of example include the Metrics Manager Imaging Measurement Tools; LesionTracker and Yunu software (the “Accused Instrumentalities”).

44. Upon information and belief, the Accused Instrumentalities performs a method for producing a teaching session with in- motion video and a diagnostic and teaching aid method.

45. Exemplary infringement analysis showing infringement of claims 19-25 of the '130 patent is set forth in Exhibit A-2. This infringement analysis is necessarily preliminary, as it is provided in advance of any discovery provided by MGB with respect to the '130 patent.

Plaintiffs reserve all rights to amend, supplement and modify this preliminary infringement analysis. Nothing in the attached chart should be construed as any express or implied contention or admission regarding the construction of any term or phrase of the claims of the '130 patent.

46. The Accused Instrumentalities infringed claims 19-25 of the '130 patent during the pendency of the '130 patent.

47. On information and belief, MGB had knowledge of the '130 patent. Beginning in early 2016, the inventor of the '130 patent, Mr. Moehrle, had extensive discussions with MGB, including meetings and exchanges of technical information the interactions included discussions about infringement of the '130 patent by the activities of MGB. Additionally, there were multiple communications between the Inventor and MGB concerning the '130 patent, and an offer to license the '130 patent was made to MGB.

48. Upon information and belief, since MGB had knowledge of the '130 patent, MGH induced others to infringe at least claims 19-25 of the '130 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including but not limited to MGB's partners and customers, whose use of the Accused Instrumentalities constituted direct infringement of at least claims 19-25 of the '130 patent.

49. In particular, MGB's actions that aided and abetted others such as their partners, doctors, professors, clinicians and the like to infringe include providing access for performing the patented methods, distributing the Accused Instrumentalities and providing materials and/or services related to the Accused Instrumentalities. On information and belief, MGB has engaged in such actions with specific intent to cause infringement or with willful blindness to the resulting infringement because MGB had actual knowledge of the '130 patent and that its acts were inducing infringement of the '130 patent.

50. MGB, with its knowledge of the patent, its involvement in the development of the accused instrumentalities and with MGB's interactions with Mr. Moehrle, could not have formed a good faith belief of non-infringement or invalidity.

51. Tamabo and 511 have been harmed by MGB's infringing activities.

COUNT II – GHC INFRINGEMENT OF U.S. PATENT NO. 6,599,130

52. The allegations set forth in the foregoing paragraphs are incorporated into this First Claim for Relief.

53. On July 29, 2003, the '130 patent was duly and legally issued by the United States Patent and Trademark Office under the title "ITERATIVE VIDEO TEACHING AID WITH RECORDABLE COMMENTARY AND INDEXING"

54. Plaintiffs are the assignees and owners of the right, title and interest in and to the '130 patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

55. Upon information and belief, GHC has directly infringed one or more claims of the '130 patent by practicing the claimed method and by using, and/or providing and causing to be used products which are used to practice the patented methods, specifically one or more video

teaching aids with recordable commentary and indexing, which by way of example include the Metrics Manager Imaging Measurement Tools; LesionTracker and Yunu software (the “Accused Instrumentalities”).

56. Upon information and belief, the Accused Instrumentalities performs a method for producing a teaching session with in- motion video and a diagnostic and teaching aid method.

57. Exemplary infringement analysis showing infringement of claims 19-25 of the ’130 patent is set forth in Exhibit A-2. This infringement analysis is necessarily preliminary, as it is provided in advance of any discovery provided by GHC with respect to the ’130 patent.

Plaintiffs reserve all rights to amend, supplement and modify this preliminary infringement analysis. Nothing in the attached chart should be construed as any express or implied contention or admission regarding the construction of any term or phrase of the claims of the ’130 patent.

58. The Accused Instrumentalities infringed claims 19-25 of the ’130 patent during the pendency of the ’130 patent.

59. On information and belief, GHC had knowledge of the ’130 patent. Beginning in early 2016, the inventor of the '130 patent, Mr. Moehrle, had extensive discussions with GHC, including meetings and exchanges of technical information the interactions included discussions about infringement of the ’130 patent by the activities of GHC. Additionally, there were multiple communications between the Inventor and GHC concerning the ’130 patent, and an offer to license the ’130 patent was made to GHC.

60. Upon information and belief, since GHC had knowledge of the ’130 patent, GHC induced others to infringe at least claims 19-25 of the ’130 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including but not limited to GHC’s partners and customers, whose use of the

Accused Instrumentalities constituted direct infringement of at least claims 19-25 of the '130 patent.

61. In particular, GHC's actions that aided and abetted others such as their partners, doctors, professors, clinicians and the like to infringe include providing access for performing the patented methods, distributing the Accused Instrumentalities and providing materials and/or services related to the Accused Instrumentalities. On information and belief, GHC has engaged in such actions with specific intent to cause infringement or with willful blindness to the resulting infringement because GHC had actual knowledge of the '130 patent and that its acts were inducing infringement of the '130 patent.

62. GHC, with its knowledge of the patent, its involvement in the development of the accused instrumentalities and with GHC's interactions with Mr. Moehrle, could not have formed a good faith belief of non-infringement or invalidity.

63. Tamabo and 511 have been harmed by GHC's infringing activities.

COUNT III– TIMP INFRINGEMENT OF U.S. PATENT NO. 6,599,130

64. The allegations set forth in the foregoing paragraphs are incorporated into this First Claim for relief.

65. On July 29, 2003, the '130 patent was duly and legally issued by the United States Patent and Trademark Office under the title "ITERATIVE VIDEO TEACHING AID WITH RECORDABLE COMMENTARY AND INDEXING"

66. Plaintiffs are the assignees and owners of the right, title and interest in and to the '130 patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

67. Upon information and belief, TIMP has directly infringed one or more claims of the '130 patent by practicing the claimed method and by using, and/or providing and causing to be used products which are used to practice the patented methods, specifically one or more video teaching aids with recordable commentary and indexing, which by way of example include the Metrics Manager Imaging Measurement Tools; LesionTracker and Yunu software (the "Accused Instrumentalities").

68. Upon information and belief, the Accused Instrumentalities performs a method for producing a teaching session with in- motion video and a diagnostic and teaching aid method.

69. Exemplary infringement analysis showing infringement of claims 19-25 of the '130 patent is set forth in Exhibit A-2. This infringement analysis is necessarily preliminary, as it is provided in advance of any discovery provided by TIMP with respect to the '130 patent.

Plaintiffs reserve all rights to amend, supplement and modify this preliminary infringement analysis. Nothing in the attached chart should be construed as any express or implied contention or admission regarding the construction of any term or phrase of the claims of the '130 patent.

70. The Accused Instrumentalities infringed claims 19-25 of the '130 patent during the pendency of the '130 patent.

71. On information and belief, TIMP had knowledge of the '130 patent. Beginning in early 2016, the inventor of the '130 patent, Mr. Moehrle, had extensive discussions with TIMP, including meetings and exchanges of technical information the interactions included discussions about infringement of the '130 patent by the activities of TIMP. Additionally, there were multiple communications between the Inventor and TIMP concerning the '130 patent, and an offer to license the '130 patent was made to TIMP.

72. Upon information and belief, since TIMP had knowledge of the '130 patent, TIMP induced others to infringe at least claims 19-25 of the '130 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including but not limited to TIMP's partners and customers, whose use of the Accused Instrumentalities constituted direct infringement of at least claims 19-25 of the '130 patent.

73. In particular, TIMP's actions that aided and abetted others such as their partners, doctors, professors, clinicians and the like to infringe include providing access for performing the patented methods, distributing the Accused Instrumentalities and providing materials and/or services related to the Accused Instrumentalities. On information and belief, TIMP has engaged in such actions with specific intent to cause infringement or with willful blindness to the resulting infringement because TIMP had actual knowledge of the '130 patent and that its acts were inducing infringement of the '130 patent.

74. TIMP, with its knowledge of the patent, its involvement in the development of the accused instrumentalities and with TIMP's interactions with Mr. Moehrle, could not have formed a good faith belief of non-infringement or invalidity.

75. Tamabo and 511 have been harmed by TIMP's infringing activities.

COUNT IV – PIM INFRINGEMENT OF U.S. PATENT NO. 6,599,130

76. The allegations set forth in the foregoing paragraphs are incorporated into this First Claim for relief.

77. On July 29, 2003, the '130 patent was duly and legally issued by the United States Patent and Trademark Office under the title "ITERATIVE VIDEO TEACHING AID WITH RECORDABLE COMMENTARY AND INDEXING"

78. Plaintiffs are the assignees and owners of the right, title and interest in and to the '130 patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

79. Upon information and belief, PIM has directly infringed one or more claims of the '130 patent by practicing the claimed method and by using, and/or providing and causing to be used products which are used to practice the patented methods, specifically one or more video teaching aids with recordable commentary and indexing, which by way of example include the Metrics Manager Imaging Measurement Tools; LesionTracker and Yunu software (the "Accused Instrumentalities").

80. Upon information and belief, the Accused Instrumentalities performs a method for producing a teaching session with in- motion video and a diagnostic and teaching aid method.

81. Exemplary infringement analysis showing infringement of claims 19-25 of the '130 patent is set forth in Exhibit A-2. This infringement analysis is necessarily preliminary, as it is provided in advance of any discovery provided by PIM with respect to the '130 patent. Plaintiffs reserve all rights to amend, supplement and modify this preliminary infringement analysis. Nothing in the attached chart should be construed as any express or implied contention or admission regarding the construction of any term or phrase of the claims of the '130 patent.

82. The Accused Instrumentalities infringed claims 19-25 of the '130 patent during the pendency of the '130 patent.

83. On information and belief, PIM had knowledge of the '130 patent. Beginning in early 2016, the inventor of the '130 patent, Mr. Moehrle, had extensive discussions with Dr. Gordon, Co-Director of PIM, including meetings and exchanges of technical information the interactions included discussions about infringement of the '130 patent by the activities of

PIM. Additionally, there were multiple communications between the Inventor and Dr. Gordon concerning the '130 patent, and an offer to license the '130 patent was made.

84. Upon information and belief, since PIM had knowledge of the '130 patent, PIM induced others to infringe at least claims 19-25 of the '130 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including but not limited to PIM's partners and customers, whose use of the Accused Instrumentalities constituted direct infringement of at least claims 19-25 of the '130 patent.

85. In particular, PIM's actions that aided and abetted others such as their partners, doctors, professors, clinicians and the like to infringe include providing access for performing the patented methods, distributing the Accused Instrumentalities and providing materials and/or services related to the Accused Instrumentalities. On information and belief, PIM has engaged in such actions with specific intent to cause infringement or with willful blindness to the resulting infringement because PIM had actual knowledge of the '130 patent and that its acts were inducing infringement of the '130 patent.

86. PIM, with its knowledge of the patent, its involvement in the development of the accused instrumentalities and with Dr. Gordon's interactions with Mr. Moehrle, could not have formed a good faith belief of non-infringement or invalidity.

87. Tamabo and 511 have been harmed by PIM's infringing activities.

COUNT V – YUNU INFRINGEMENT OF U.S. PATENT NO. 6,599,130

88. The allegations set forth in the foregoing paragraphs are incorporated into this First Claim for Relief.

89. On July 29, 2003, the '130 patent was duly and legally issued by the United States Patent and Trademark Office under the title "ITERATIVE VIDEO TEACHING AID WITH RECORDABLE COMMENTARY AND INDEXING"

90. Plaintiffs are the assignees and owners of the right, title and interest in and to the '130 patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

91. Upon information and belief, YUNU has directly infringed one or more claims of the '130 patent by practicing the claimed method and by using, and/or providing and causing to be used products which are used to practice the patented methods, specifically one or more video teaching aids with recordable commentary and indexing, which by way of example include the Metrics Manager Imaging Measurement Tools; LesionTracker and Yunu software (the "Accused Instrumentalities").

92. Upon information and belief, the Accused Instrumentalities performs a method for producing a teaching session with in- motion video and a diagnostic and teaching aid method.

93. Exemplary infringement analysis showing infringement of claims 19-25 of the '130 patent is set forth in Exhibit A-2. This infringement analysis is necessarily preliminary, as it is provided in advance of any discovery provided by YUNU with respect to the '130 patent. Plaintiffs reserve all rights to amend, supplement and modify this preliminary infringement analysis. Nothing in the attached chart should be construed as any express or implied contention or admission regarding the construction of any term or phrase of the claims of the '130 patent.

94. The Accused Instrumentalities infringed claims 19-25 of the '130 patent during the pendency of the '130 patent.

95. On information and belief, YUNU had knowledge of the '130 patent. Beginning in early 2016, the inventor of the '130 patent, Mr. Moehrle, had extensive discussions with Dr. Gordon, a Co-Director of YUNU, including meetings and exchanges of technical information the interactions included discussions about infringement of the '130 patent by the activities of YUNU. Additionally, there were multiple communications between the Inventor and Dr. Gordon concerning the '130 patent, and an offer to license the '130 patent was made.

96. Upon information and belief, since GHC had knowledge of the '130 patent, YUNU induced others to infringe at least claims 19-25 of the '130 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including but not limited to YUNU's partners and customers, whose use of the Accused Instrumentalities constituted direct infringement of at least claims 19-25 of the '130 patent.

97. In particular, YUNU's actions that aided and abetted others such as their partners, doctors, professors, clinicians and the like to infringe include providing access for performing the patented methods, distributing the Accused Instrumentalities and providing materials and/or services related to the Accused Instrumentalities. On information and belief, YUNU has engaged in such actions with specific intent to cause infringement or with willful blindness to the resulting infringement because YUNU had actual knowledge of the '130 patent and that its acts were inducing infringement of the '130 patent.

98. YUNU, with its knowledge of the patent, its involvement in the accused instrumentalities and with Dr. Gordon's interactions with Mr. Moehrle, could not have formed a good faith belief of non-infringement or invalidity.

99. Tamabo and 511 have been harmed by YUNU's infringing activities.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiffs demand a trial by jury on all issues triable as such.

PRAYER FOR RELIEF

WHEREFORE, Tamabo and 511 demand judgment for itself and against MGH as follows:

- A. An adjudication that MGH infringed the '130 patent;
- B. An award of damages to be paid by MGH adequate to compensate Plaintiffs for MGH's past infringement of the '130 patent, and any continuing or future infringement through the date such judgment is entered, including interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;
- C. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of Plaintiffs' reasonable attorneys' fees; and
- D. An award to Plaintiffs of such further relief at law or in equity as the Court deems just and proper.

Dated: January 12, 2023

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