

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ETISON LLC d/b/a CLICKFUNNELS,)
)
Plaintiff,)
)
v.) C.A. No. _____
)
HIGHLEVEL, INC.,) **DEMAND FOR JURY TRIAL**
)
Defendant.)

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Etison LLC d/b/a ClickFunnels hereby alleges for its Complaint for Patent Infringement against Defendant HighLevel, Inc. as follows:

THE PARTIES

1. Plaintiff Etison LLC d/b/a ClickFunnels (“ClickFunnels”) is a limited liability company organized under the laws of Idaho, with its principal place of business located at 3443 W. Bavaria Street, Eagle, ID 83616.

2. On information and belief, Defendant HighLevel, Inc. (“HighLevel”) is a corporation organized under the laws of Delaware with its principal place of business located at 400 North Saint Paul Street, Suite 920, Dallas, TX 75201.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the Patent Laws of the United States of America, Title 35, United States Code §§ 100, *et seq.*

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

5. This Court has personal jurisdiction over HighLevel because, on information and belief, HighLevel is a corporation organized and existing under the laws of the State of Delaware with a registered agent in the State of Delaware.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b) because, on information and belief, HighLevel is a corporation organized and existing under the laws of the State of Delaware.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 10,846,357

7. ClickFunnels reasserts and incorporates herein by reference the allegations of Paragraphs 1-6 of this Complaint as if fully set forth herein.

8. The U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 10,846,357 (the “’357 Patent”) titled “Website Creation System for Creating Websites Having at Least One Series of Directional Webpages and Related Methods” on November 24, 2020. A true and correct copy of the ’357 Patent is attached hereto as Exhibit A.

9. ClickFunnels is the owner by assignment of all right, title, and interest in and to the ’357 Patent, including the right to recover for past infringement thereof.

10. HighLevel has in the past and continues to infringe, literally or under the doctrine of equivalents, at least Claim 1 of the ’357 Patent by making, using, offering to sell, selling, and/or importing in this judicial district and elsewhere in the United States its “HighLevel” platform. A chart showing HighLevel’s infringement of Claim 1 of the ’357 Patent is attached hereto as Exhibit B.

11. ClickFunnels has sustained and continues to sustain damages as a direct and proximate result of HighLevel’s infringement of the ’357 Patent.

12. As a consequence of HighLevel's infringement of the '357 Patent, ClickFunnels is entitled to recover damages in the form of lost profits or, at a minimum, a reasonable royalty together with interest and costs pursuant to 35 U.S.C. § 284.

13. As a consequence of HighLevel's continued and future infringement of the '357 Patent as complained of herein, ClickFunnels is entitled to an injunction against HighLevel or royalties for HighLevel's infringement of the '357 Patent on a going-forward basis.

COUNT II – INFRINGEMENT OF U.S. PATENT NO. 11,361,047

14. ClickFunnels reasserts and incorporates herein by reference the allegations of Paragraphs 1-6 of this Complaint as if fully set forth herein.

15. The U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 11,361,047 (the "'047 Patent") titled "Website Creation System for Creating Websites Having at Least One Series of Directional Webpages and Related Methods" on June 14, 2022. A true and correct copy of the '047 Patent is attached hereto as Exhibit C.

16. ClickFunnels is the owner by assignment of all right, title, and interest to the '047 Patent, including the right to recover for past infringement thereof.

17. HighLevel has in the past and continues to infringe, literally or under the doctrine of equivalents, at least Claim 1 of the '047 Patent by making, using, offering to sell, selling, and/or importing in this judicial district and elsewhere in the United States "HighLevel" platform. A chart showing HighLevel's infringement of Claim 1 of the '047 Patent is attached hereto as Exhibit D.

18. ClickFunnels has sustained and continues to sustain damages as a direct and proximate result of HighLevel's infringement of the '047 Patent.

19. As a consequence of HighLevel's infringement of the '047 Patent, ClickFunnels is entitled to recover past damages in the form of lost profits or, at a minimum, a reasonable royalty together with interest and costs pursuant to 35 U.S.C. § 284.

20. As a consequence of HighLevel's continued and future infringement of the '047 Patent as complained of herein, ClickFunnels is entitled to an injunction against HighLevel or royalties for HighLevel's infringement of the '047 Patent on a going-forward basis.

PRAYER FOR RELIEF

ClickFunnels respectfully requests that this Court enter judgment against HighLevel as follows:

A. Adjudging that HighLevel has infringed one or more claims of the '357 Patent, directly or indirectly, literally or under the doctrine of equivalents, in violation of 35 U.S.C. § 271(a);

B. Adjudging that HighLevel has infringed one or more claims of the '047 Patent, directly or indirectly, literally or under the doctrine of equivalents, in violation of 35 U.S.C. § 271(a);

C. Awarding damages to be paid by HighLevel to ClickFunnels adequate to compensate for HighLevel's past infringement and any continuing or future infringement up until the date a judgment is entered, and in no event less than a reasonable royalty, in accordance with 35 U.S.C. § 284 in an amount to be determined at trial;

D. Enjoining Defendant and its officers, agents, servants, employees, and attorneys as well as all other persons who are in active concert or participation with any of them from infringement of the '357 Patent and the '047 Patent or ordering Defendant to pay post-judgment

royalties to ClickFunnels for infringement of the '357 Patent and/or the '047 Patent on a going-forward basis at a rate to be determined at trial;

E. Awarding ClickFunnels pre-judgment and post-judgment interest on its damages at the maximum rate permitted by law;

F. Awarding ClickFunnels its costs and expenses in this action; and

G. Granting ClickFunnels such further relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

ClickFunnels demands a trial by jury on all claims and issues so triable.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

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