

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

BOXEY TECH LLC,

Plaintiff,

v.

ASICS AMERICA CORPORATION,

Defendant.

Civil Action No.:

TRIAL BY JURY DEMANDED

COMPLAINT FOR INFRINGEMENT OF PATENT

Now comes, Plaintiff, Boxey Tech LLC (“Plaintiff” or “Boxey Tech”), by and through undersigned counsel, and respectfully alleges, states, and prays as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement under the Patent Laws of the United States, Title 35 United States Code (“U.S.C.”) to prevent and enjoin Defendant ASICS America Corporation (hereinafter “Defendant”), from infringing and profiting, in an illegal and unauthorized manner, and without authorization and/or consent from Plaintiff from U.S. Patent Nos. 8,560,238 (“the ‘238 Patent”) and 8,731,833 (“the ‘833 Patent”) (collectively the “Patents-in-Suit”), which are attached hereto as Exhibits A and B, respectively, and incorporated herein by reference, and pursuant to 35 U.S.C. §271, and to recover damages, attorney’s fees, and costs.

THE PARTIES

2. Plaintiff is a Texas limited liability company with its principal place of business at 5570 FM 423 – Suite 250-2049, Frisco, Texas 75034.


3. Upon information and belief, Defendant is a corporation organized under the laws of California, having a principal place of business in Irvine, California. Upon information and

belief, Defendant may be served with process c/o Registered Agent Solutions, Inc., 4568 Mayfield Road – Suite 204, Cleveland, Ohio 44121.

4. Upon information and belief, Defendant owns, operates, or maintains a physical presence at 400 Premium Outlets Drive, Monroe, Ohio 45050, which is in this judicial district.

5. Upon information and belief, and as shown in below, Defendant, or a related/affiliated company to Defendant, acquired Fitness Keeper, Inc. in the USA as a wholly owned subsidiary.

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ABOUT ASICSINVESTOR RELATIONSCSR & SUSTAINABILITYPRESSCAREER

Multi-Sport FLAME Series Based on “Connection” Concept is Released.

2016

ASICS launches the FLAME SERIES, a line of footwear designed around the concept of “connection”. The new series features 19 products across six key sports—track & field, tennis, rugby, hockey, volleyball, and wrestling.

The “connection” concept is meant to include various meanings such as connecting the world, connecting people”, connecting mind with body, and connecting past with future. The entire upper is designed to visually evoke the word, action, and behavior of connection.



Fitness Keeper, Inc. is Acquired

2016

ASICS acquires Fitness Keeper, Inc. in the USA as a wholly owned subsidiary. Fitness Keeper is the operator of Runkeeper, a global fitness tracking app.

6. Plaintiff is further informed and believes, and on that basis alleges, that Defendant operates the website www.runkeeper.com, which is in the business of providing geographic location services for running and other fitness activities, amongst other things. Defendant derives a portion of its revenue from sales and distribution via electronic transactions conducted on and using at least, but not limited to, its Internet website located at www.runkeeper.com, and its incorporated and/or related systems (collectively the “Runkeeper Website”). Plaintiff is informed and believes, and on that basis alleges, that, at all times relevant hereto, Defendant has done and continues to do business in this judicial district, including, but not limited to, providing products/services to customers located in this judicial district by way of the Runkeeper Website.

JURISDICTION AND VENUE

7. This is an action for patent infringement in violation of the Patent Act of the United States, 35 U.S.C. §§1 *et seq.*

8. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§1331 and 1338(a).

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

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

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

FACTUAL ALLEGATIONS

12. On October 12, 2013, the United States Patent and Trademark Office ("USPTO") duly and legally issued the '238 Patent, entitled "COMPUTING PATHS BETWEEN GEOGRAPHIC LOCALITIES" after a full and fair examination. The '238 Patent is attached hereto as Exhibit A and incorporated herein as if fully rewritten.

13. Plaintiff is presently the owner of the '238 Patent, having received all right, title and interest in and to the '238 Patent from the previous assignee of record. Plaintiff possesses all rights of recovery under the '238 Patent, including the exclusive right to recover for past infringement.

14. To the extent required, Plaintiff has complied with all marking requirements under 35 U.S.C. § 287.

15. The invention claimed in the '238 Patent comprises a computer-readable storage medium storing content that, if executed by computing system having a processor, causes the computing system to perform a method.

16. Claim 13 of the '238 Patent recites a non-abstract method for a method for computing paths between geographical localities.

17. Claim 13 of the '238 Patent provides the practical application of a method for computing paths between geographical localities.

18. Claim 13 of the ‘238 Patent provides an inventive step for computing paths between geographical localities to address the deficiencies and needs identified in the Background section of the ‘238 Patent. See Ex. A at Col.1:19-30

19. Claim 13 of the ‘238 Patent states:

“13. A computer-readable storage medium storing content that, if executed by computing system having a processor, causes the computing system to perform a method comprising:

receiving a set of connections between geographical localities, each connection connecting one geographical locality to one other geographical locality with no intermediate geographical localities along the connection;

receiving a request to provide a path from a first geographical locality to a second geographical locality;

determining, based at least in part on the received set of connections, a plurality of paths from the first geographical locality to the second geographical locality, wherein a first path includes a third geographical locality but does not include a fourth geographical locality and wherein the second path includes the fourth geographical locality but does not include the third geographical locality; and

identifying, by the processor, a path between the first geographical locality and the second geographical locality based at least in part on a popularity rating for the third geographical locality and a popularity rating for the fourth geographical locality.” Ex. A at Col.16:1-23.

20. As identified in the ‘238 Patent, prior art systems had technological faults, namely, “turn-by-turn directions are directions suitable for people who are familiar with reading maps or who reside in developed areas where all streets have names. However, in some areas, e.g., in some developing countries, not all streets have street names. Moreover, many people in these areas do not think of directions in terms of streets, distances, and turn.” Ex. A at Col 1:25-30.

21. Claim 13 of the ‘238 Patent addressed the need for an improved a method for computing paths between geographical localities that overcomes one or more of the aforementioned computer-centric or internet-centric disadvantages of prior art methods and systems. Specifically, to deal with situations where turn-by-turn directions are required for streets

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