

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

**VIRTUAL IMMERSION
TECHNOLOGIES LLC,**

Plaintiff,

v.

**TOYOTA MOTOR CORPORATION AND
TOYOTA MOTOR NORTH AMERICA,
INC.**

Defendants.

Civ. No. 6:20-cv-612

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Virtual Immersion Technologies LLC (“VIT” or “Plaintiff”), by and through its attorneys, hereby alleges for its Complaint on personal knowledge as to its own activities and on information and belief as to all other matters, as follows:

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 Virtual Immersion Technologies LLC is a limited liability company organized under the laws of the State of Texas.

3. VIT is the current assignee of United States Patent No. 6,409,599 (“the ’599 patent” or “the patent-in-suit.”) On June 25, 2002, the United States Patent and Trademark Office duly and legally issued the ’599 patent. The ’599 patent is titled “Interactive Virtual Reality Performance Theater Entertainment System.” The application leading to the ’599 patent

was filed on July 19, 1999. A true and correct copy of the '599 patent is attached hereto as Exhibit A.

4. On or around February 24, 2016, VIT acquired 100% ownership of all right, title and interest in the patent-in-suit, including the right to bring patent enforcement actions for damages accruing prior to February 24, 2016. The assignment to VIT of ownership of the patent-in-suit was recorded with the United States Patent & Trademark Office (“PTO”) on or around August 26, 2016.

5. Defendant Toyota Motor Corporation (“Toyota JPN”) is a foreign corporation having its principal place of business at 1 Toyota-Cho, Toyota City, Aichi Prefecture, Japan. Toyota JPN makes use of virtual and augmented reality technologies worldwide, including in the United States.

6. Defendant Toyota Motor North America, Inc. (“Toyota NA”) is a corporation organized and existing under the laws of the State of California, with its principal place of business at 6565 Headquarters Dr. Plano, TX 75024. Upon information and belief, Toyota NA is a wholly owned subsidiary of Toyota NA. Toyota NA has a regular and established place of business in this District located at 1 Lone Star Pass San Antonio, TX 78264 and has committed and continues to commit acts of infringement within this District.

7. Toyota NA is a subsidiary of Toyota JPN. Both defendants, Toyota NA and Toyota JPN (collectively referred to as “Toyota” or “Defendants”) act in concert regarding the allegations set forth in this Complaint and, therefore, the conducts described herein are fairly attributable to either or both entities.

JURISDICTION AND VENUE

8. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code. Jurisdiction as to these claims is conferred on this Court by 35 U.S.C. §§ 1331 and 1338(a).

9. Venue with respect to Defendant Toyota JPN is proper in this District under 28 U.S.C. § 1391(c)(3) because Defendant Toyota JPN is not a resident of the United States, and that venue is proper as to a foreign defendant in any district. *See In re HTC Corp.*, Appeal No. 2018-130 (Fed. Cir. 2018). Also, under 28 U.S.C. § 1391(b)(2), venue is proper because Toyota JPN imports, sells and offers to sell products and services throughout the United States, including in this District, and introduces products and services into the stream of commerce and effectuates these sales knowing that the products and services would be sold in this District and elsewhere in the United States.

10. This Court has personal jurisdiction over Toyota JPN. Toyota JPN is amenable to service of summons for this action. Defendant Toyota JPN has sought protection and benefit from the laws of the State of Texas by maintaining one or more of its United States affiliates (Defendant Toyota NA) in this District and/or by placing infringing products and services into the stream of commerce through an established distribution channel with the awareness and/or intent that they will be purchased by consumers in this District.

11. Toyota JPN – directly or through intermediaries (including distributors, retailers, and others), subsidiaries, alter egos, and/or agents – ships, distributes, offers for sale, and/or sells its products and services in the United States and this District. Toyota JPN has purposefully and voluntarily placed one or more of its infringing products into the stream of commerce with the awareness and/or intent that they will be purchased by consumers in this District. Toyota JPN knowingly and purposefully ships infringing products into and within this District through an

established distribution channel. These infringing products have been and continue to be purchased by consumers in this District. Upon information and belief, through those activities, Toyota JPN has committed the tort of patent infringement in this District.

12. On information and belief, Defendant Toyota JPN is subject to this Court's general and specific personal jurisdiction because Toyota JPN has sufficient minimum contacts within Texas and this District, because Defendant Toyota JPN purposefully availed itself of the privileges of conducting business in Texas and in this District, because Defendant Toyota JPN regularly conducts and solicits business within Texas and within this District, and because Plaintiff's causes of action arise directly from Defendant Toyota JPN's business contacts and other activities in Texas and this District. Having purposefully availed itself of the privilege of conducting business within this District, Defendant Toyota JPN should reasonably and fairly anticipate being brought into court here.

13. Regarding Defendant Toyota NA, venue is proper within this District under 28 U.S.C. § 1400(b) because, on information and belief, Toyota NA maintains a regular and established place of business in this District and has committed infringing acts in this District.

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

District. Having purposefully availed itself of the privilege of conducting business within this District, Toyota NA should reasonably and fairly anticipate being brought into court here.

15. Upon information and belief, Defendant Toyota NA maintains at least one regular and established place of business in this District: at least part or all of a Toyota Logistics Center and a Toyota Motor Manufacturing facility in this District (the “Toyota Facilities.”) (*See* source: <https://www.toyota.com/usa/operations/map.html#!/USTX>; last accessed and downloaded July 6, 2020.) The Toyota Facilities are located at 1 Lone Star Pass, Sant Antonio, TX 78264 within Bexar County in this District. (*Id.*)

16. Currently, the Toyota Facilities are publicly associated with Toyota. (Source: <https://www.toyota.com/usa/operations/map.html#!/tmmtx>, last accessed and downloaded July 6, 2020.) Based at least on these facts, the Toyota Facilities in San Antonio, Texas are believed to be a regular and established place of business that is associated directly with Toyota.

17. Toyota has committed and continues to commit acts of infringement within the state of Texas, as alleged herein.

18. Toyota is utilizing virtual reality to “play a significant role in reducing cost, improving quality, time to market, building ever better cars and putting smiles on our customers faces.” (Source: <https://www.pny.com/File%20Library/Case%20Studies/Toyota-Case-Study.pdf>, last accessed and downloaded July 6, 2020.) For example, Toyota realizes these benefits through the use of VR/AR headsets which has virtual reality functionality. (Source: *See id.*; and *see also* <https://www.wardsauto.com/technology/toyota-tilts-toward-future-maker-lab>, <https://design.toyota-forklifts.eu/designing-in-virtual-reality/>; and <https://virtualreality.esi-group.com/our-profile/our-clients-across-world>; all last accessed and downloaded July 6, 2020.) On information and belief, Toyota uses and develops these virtual reality technologies within the

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