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Hologram USA, Inc., Musion Das
9 *Hologram Limited, and Uwe Maass*

10
11 **UNITED STATES DISTRICT COURT**
12 **SOUTHERN DISTRICT OF CALIFORNIA**

13 HOLOGRAM USA, INC., a Delaware
14 corporation; MUSION DAS
15 HOLOGRAM LIMITED, a corporation
organized under the laws of the United
16 Kingdom; and UWE MAASS, an
17 individual,

18 Plaintiffs,

19 v.

20 TWENTIETH CENTURY FOX
21 CORPORATION, a corporation
organized under the laws of Delaware;
22 and GRACIE FILMS, a corporation
23 organized under the laws of California;
24 and DOES 1 through 10,

25 Defendants.
26

Case No. '14CV1915 GPC WVG

**COMPLAINT; DEMAND FOR
JURY TRIAL**

INTRODUCTION

1
2 1. In 1862, John Pepper and Henry Dircks invented an illusion technique
3 now known as “Pepper’s Ghost.” Over the last 150 years, Pepper’s Ghost has
4 appeared in movies, concerts, magic shows and amusement park rides, such as
5 Disneyland’s Haunted Mansion. Today, thanks to technology patented in over 180
6 countries (the “Patented Technology”), a new, revolutionized version of Pepper’s
7 Ghost has appeared. The Patented Technology creates a lifelike illusion of three-
8 dimensional images that can interact with live performers in numerous settings.
9 One such setting was Comic-Con International event held in San Diego, California,
10 the most famous and largest comic related arts and culture conventions in the
11 world. On July 26, 2014, defendants in this case used the Patented Technology to
12 produce an image of Homer Simpson, which interacted with his creator, Matt
13 Groening, during a highly publicized panel discussion with the Simpsons show
14 producers and directors.

15 2. Plaintiff Hologram USA acquired exclusive rights to the Patented
16 Technology directly from plaintiffs Musion Das Hologram Limited (“MDH”) and
17 Uwe Maass, the patent-holders. Hologram USA was created to specifically
18 promote and publicize the type of entertainment only made possible by the
19 Patented Technology.

20 3. The Performance resulted in much publicity and attention for
21 Defendants. Defendants do not possess a valid license to practice that technology.
22 Such a license may only be provided by Plaintiffs. In spite of their knowledge of
23 Plaintiffs’ rights, the Performance was made anyway.

24 4. Defendants’ infringement of the Patents At Issue has damaged and
25 continues to damage Plaintiffs. Plaintiffs seek to enjoin Defendants’ wrongful
26 conduct. Plaintiffs also seek damages they have incurred as a result of Defendants’
27 infringing conduct.
28

THE PARTIES

1
2 5. Plaintiff Hologram USA, Inc. (“Hologram USA”) is a corporation
3 organized and existing under the laws of the State of Delaware, having a principal
4 place of business in Beverly Hills, California. Hologram USA has licensed
5 exclusive rights to practice U.S. Patent No. 7,883,212 (the “‘212’ patent”) and U.S.
6 Patent No. 5,865,519 (the “‘519 patent,” and along with the ‘212 patent, the
7 “Patents At Issue”) from MDH and Maass.

8 6. Plaintiff Uwe Maass (“Maass”) is a citizen of Germany and an
9 individual residing in Dubai in the United Arab Emirates. Plaintiff Maass holds
10 the ‘519 patent. A true and correct copy of the ‘519 patent is attached as Exhibit
11 A.

12 7. Plaintiff Musion Das Hologram Limited (“MDH”) is a corporation
13 organized and existing under the laws of the United Kingdom, having a principal
14 place of business in London. MDH holds the ‘212 patent. A true and correct copy
15 of the ‘212 patent is attached as Exhibit B.

16 8. On information and belief, defendant Twentieth Century Fox
17 Corporation (“Fox”) is a corporation organized and existing under the laws of the
18 state of Delaware, having a principal place of business in Los Angeles, California.
19 Fox co-produces the Simpsons television show, and on information and belief,
20 owns the copyrights and trademarks to the Simpsons and was involved in the
21 Performance.

22 9. On information and belief, defendant Gracie Films is a corporation
23 organized and existing under the laws of California, having a principal place of
24 business in Los Angeles, California. Gracie Films co-produces the Simpsons
25 television show, and on information and belief, was involved with the
26 Performance.

1 10. The true names and capacities, whether individual, corporate,
2 associate, or otherwise, of certain defendants sued in this complaint as DOES 1-10
3 (the “Doe Defendants”), are presently unknown to Plaintiffs, who therefore sue
4 them by fictitious names. Plaintiffs will amend the complaint to allege their true
5 names and capacities when ascertained. Plaintiffs are informed and believe and
6 therefore allege that all Defendants were or are, in some way or manner,
7 responsible for the events, happenings, and damaged alleged in this complaint.

8 11. Plaintiffs are informed and believe and thereon allege that at all times
9 mentioned each Defendant was the agent, servant, employee, co-venturer,
10 representative, or co-conspirator of each of the other defendants, and acted with the
11 knowledge, consent, ratification, authorization and/or at the direction of each
12 defendant, or is otherwise responsible in some manner for the occurrences alleged
13 in this complaint.

14 **JURISDICTION AND VENUE**

15 12. This is a civil action for patent infringement arising under the Patent
16 Laws of the United States of America, 35 U.S.C. § 101, *et seq.*

17 13. This Court has jurisdiction over the subject matter of this Complaint
18 pursuant to 28 U.S.C. §§ 1331 and 1338.

19 14. This Court has personal jurisdiction over Defendants for at least the
20 following reasons: (i) Defendants are citizens of this State; (ii) Defendants
21 regularly do business or solicit business, engage in other persistent courses of
22 conduct, and/or derive substantial revenue from products and/or services provided
23 to individuals in this District and in this State; (iii) Defendants have purposefully
24 established substantial, systematic, and continuous contacts with this District and
25 expect or should reasonably expect to be in court here; and (iv) the Defendants
26 purposefully availed themselves of the privilege of conducting activities within the
27 forum state and the causes of action alleged herein arise out of Defendants’
28

1 contacts with the forum. Thus, this Court's exercise of jurisdiction over
2 Defendants will not offend traditional notions of fair play and substantial justice.

3 15. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391
4 and 1400(b) because Defendants have committed acts of infringement in this
5 District, Defendants have a regular and established place of business in this
6 District, and Defendants reside in and are subject to personal jurisdiction in this
7 District.

8 **FACTUAL BACKGROUND**

9 **A. The Patented Technology**

10 16. The Patented Technology is an amazing technique of projecting video
11 to create the illusion of life-size, full color, 3D moving images. All of the images
12 used in this system are projected as two-dimensional images into a three-
13 dimensional stage-like setting. This technology is capable of creating the
14 appearance of life-size, three-dimensional moving images on stage that are nearly
15 indistinguishable from real people.

16 17. The Patented Technology is protected by patents in the United States.
17 As described in the '519 and '212 patents, the Patented Technology is a proprietary
18 projection system that allows moving images, which can appear within a stage-like
19 setting. It creates the illusion of moving, three-dimensional images through use of
20 a patented system that projects a two-dimensional image onto a reflecting surface,
21 which projects the image onto a thin transparent foil arranged on stage at an angle.
22 From the audience's perspective, the image appears as a life-like three-dimensional
23 moving image.

24 18. Hologram USA has licensed exclusive rights to exploit the Patented
25 Technology (including the Patents At Issue) in the United States. Accordingly,
26 Hologram USA has the exclusive right to use the Patented Technology and to
27 sublicense its use to third parties for use in performances such as the Performance.
28

1 **B. Homer Simpson Performance**

2 19. On July 26, 2014, at the world famous Comic-Con International event
3 in San Diego, California, Homer Simpson appeared to participate in Fox's panel
4 discussion with the Simpsons' creator, directors and producers. Comic-Con San
5 Diego is one of the most famous and largest comic related arts and culture
6 conventions in the world. The Simpsons show, on information and belief through
7 Fox and Gracie Films, held a forty-five minute panel discussion with the show's
8 creator Matt Groening, executive producer Al Jean, supervising director Mike
9 Anderson and director David Silverman, in celebration of the show's twenty-fifth
10 anniversary. At the close of the panel, Matt Groening introduced to the stage a
11 seemingly three-dimensional, live Simpson. Mr. Groening and Simpson talked on
12 stage for approximately two minutes about Comic-Con and the Simpsons show.

13 20. According to Comic-Con's website, approximately 1,230 people
14 reported online that they planned to attend the panel. This performance has been
15 widely reported and publicized by many news outlets. The video clip of the
16 Performance has approximately 850,000 views on YouTube as of August 7, 2014.
17 This YouTube video clip has Fox advertising imbedded in it, including for
18 example, an advertisement for the season premiere of the Simpsons Show.

19 21. While Mr. Groening and Simpson were talking, Simpson made a joke
20 about the difficulties with the registration process for Comic-Con. Mr. Groening
21 replied: "I don't care, I get my free ticket from the hologram of Tupac Shakur."
22 The Tupac Shakur "hologram" performed at the Coachella Music Festival in 2012.
23 As with the Simpson hologram, the Patented Technology was used to create the
24 Tupac Shakur hologram.

25 22. Unlike the creators of the Tupac Shakur hologram, however,
26 Defendants did not obtain a license or any other authorization to use the Patented
27 Technology for the Performance.
28

1 23. Based on information and belief, Defendants have infringed the
2 Patents At Issue.

3 24. Hologram USA's efforts to reach business deals with potential
4 customers has and will continue to be damaged by Defendants' wrongful conduct.

5 25. Defendants' infringement of the '519 and '212 patents has caused and
6 will continue to cause monetary and other damages to Plaintiffs.

7 **FIRST CLAIM FOR RELIEF – Against All Defendants**

8 **(Infringement of Patent No. 5,865,519)**

9 26. Plaintiffs incorporate by reference the preceding averments set forth
10 in the preceding paragraphs.

11 27. U.S. Patent No. 5,865,519 (“the ‘519 patent”) duly and lawfully
12 issued on February 2, 1999, to Uwe Maass and is titled “Device For Displaying
13 Moving Images In The Background Of A Stage.” The claims of the ‘519 patent
14 are directed at a device or apparatus for representing three-dimensional moving
15 images in the background of a stage or the like using an image source. *See* Exhibit
16 A.

17 28. Maass is the owner of the ‘519 patent, and Hologram USA has
18 exclusive rights to exploit this patent in the U.S. Maass and Hologram USA have
19 the right to bring this suit for injunctive relief and damages.

20 29. On information and belief, Defendants, and/or those acting in concert
21 with them, have been, are currently, and unless enjoined, will continue to directly
22 infringe one or more claims of the ‘519 patent by making, using, offering to sell,
23 and selling within the United States the patented invention, including but not
24 limited to the improper and unauthorized use of the Patented Technology to create
25 a hologram-like image of Homer Simpson on stage. Defendants' products and
26 services embody and/or practice one or more claims of the ‘519 patent.

1 30. Defendants' infringing activities have caused and will continue to
2 cause Plaintiffs irreparable harm, for which they have no adequate remedy at law,
3 unless Defendants' infringing activities are enjoined by this Court in accordance
4 with 35 U.S.C. § 283.

5 31. In addition to directly infringing the Patents At Issue, on information
6 and belief, the Doe Defendants are liable for indirect infringement under theories
7 of active inducement and contributory infringement.

8 32. On information and belief, the Doe Defendants actively induced the
9 direct infringement of the '519 patent in violation of 35 U.S.C. section 271(b).
10 The Doe Defendants worked with Fox, Gracie Films and each other to create the
11 accused apparatus and the Performance. Despite knowing that they and the other
12 defendants do not and did not have any valid rights to practice the Patented
13 Technology, the Doe Defendants and/or those acting in concert with them intended
14 to induce infringement of the '519 patent. On information and belief, the Doe
15 Defendants caused, urged, encouraged and/or aided in the infringing conduct. The
16 Doe Defendants intended to induce each other and Fox and Gracie Films to
17 infringe the '519 patent by, on information and belief, providing certain parts and
18 equipment and technological know-how of the Patents At Issue.

19 33. The Doe Defendants also are liable for contributory infringement
20 under 35 U.S.C. section 271(c). On information and belief, the Doe Defendants
21 and/or those acting in concert with them, with actual knowledge of the '519 patent
22 before the filing of this action, contributed to the infringement of the '519 patent,
23 by having its direct and indirect customers sell, offer for sale, use and import into
24 the United States and this Judicial District, and placing into the stream of
25 commerce, the Patented Technology, including but not limited to certain parts and
26 equipment and technological know-how of the Patents At Issue, with knowledge
27 that it infringes the '519 patent. On information and belief, any unauthorized use
28

1 of the parts and equipment of the Patents At Issue is especially made or adapted for
2 infringing the ‘519 patent, and has no substantially non-infringing uses.

3 34. Plaintiffs have been and continue to be damaged by Defendants’
4 direct and indirect infringement of the ‘519 patent in an amount to be determined
5 at trial.

6 **SECOND CLAIM FOR RELIEF – Against All Defendants**

7 **(Infringement of Patent No. 7,883,212)**

8 35. Plaintiffs incorporate by reference the preceding averments set forth
9 in the preceding paragraphs.

10 36. U.S. Patent No. 7,883,212 (“the ‘212 patent”) duly and lawfully
11 issued on February 8, 2011, to Ian O’Connell and James Rock and is titled
12 “Projection Apparatus And Method For Pepper’s Ghost Illusion.” The claims of
13 the ‘212 patent are directed at a projection apparatus arranged to project an image
14 of an object upon an inclined, partially reflective, screen so as to give a false
15 perception of depth and a method for constructing such an apparatus. *See Exhibit*
16 *B.*

17 37. In or about September 2006, Ian O’Connell and James Rock assigned
18 all their interests in the anticipated application for the ‘212 patent to Musion
19 Systems Limited. A true and correct copy of the Patent Assignment Abstract of
20 Title printed on March 13, 2014 is attached as Exhibit C.

21 38. In or about September 2013, Musion Systems Limited assigned all its
22 interests in the ‘212 patent to MDH.¹ In fact, on May 21, 2014, the Court of
23

24 ¹ On or about June 17, 2014, a fraudulent assignment for the ‘212 patent was
25 filed with the U.S. Patent and Trademark Office, which falsely reports that the
26 ‘212 patent was assigned from Musion Systems Limited to Musion IP Limited on
27 May 29, 2013. In fact, there was no such assignment. In any event, since Musion
28 IP Limited did not record its alleged assignment within three months from the date
(footnote continued)

1 Appeal for the Royal Courts of Justice in the United Kingdom issued a decision in
2 which a three-judge panel unanimously affirmed a lower court order permitting an
3 administration sale of Musion Systems Limited's assets to MDH. A true and
4 correct copy of this decision by the Court of Appeal is attached as Exhibit D.

5 39. MDH is the owner of the '212 patent, and Hologram USA has
6 licensed exclusive rights to exploit this patent in the U.S. MDH and Hologram
7 USA have the right to bring this suit for injunctive relief and damages.

8 40. On information and belief, Defendants, and/or those acting in concert
9 with them, have been, are currently, and unless enjoined, will continue to directly
10 infringe one or more claims of the '212 patent by making, using, offering to sell,
11 and selling within the United States the patented invention, including but not
12 limited to the improper and unauthorized use of the Patented Technology to create
13 a hologram-like image of Homer Simpson on stage. Defendants' products and
14 services embody and/or practice one or more claims of the '212 patent.

15 41. Defendants' infringing activities, including but not limited to the
16 repeat performances on YouTube.com and other internet sites, have caused and
17 will continue to cause Plaintiffs irreparable harm, for which they have no adequate
18 remedy at law, unless Defendants' infringing activities are enjoined by this Court
19 in accordance with 35 U.S.C. § 283.

20 42. In addition to directly infringing the Patents At Issue, on information
21 and belief, the Doe Defendants are liable for indirect infringement under theories
22 of active inducement and contributory infringement.

23 43. On information and belief, the Doe Defendants actively induced the
24 direct infringement of the '212 patent in violation of 35 U.S.C. section 271(b).

25 _____
26 it was supposedly executed, its assignment is void against the subsequent
27 assignment to MDH. *See* 35 U.S.C. § 261.

1 The Doe Defendants worked with Fox, Gracie Films and each other to create the
2 accused apparatus and the Performance. Despite knowing that they and the other
3 defendants do not and did not have any valid rights to practice the Patented
4 Technology, the Doe Defendants and/or those acting in concert with them intended
5 to induce infringement of the ‘212 patent. On information and belief, the Doe
6 Defendants caused, urged, encouraged and/or aided in the infringing conduct. The
7 Doe Defendants intended to induce each other and Fox and Gracie Films to
8 infringe the ‘212 patent by, on information and belief, providing certain parts and
9 equipment and technological know-how of the Patents At Issue.

10 44. The Doe Defendants also are liable for contributory infringement
11 under 35 U.S.C. section 271(c). On information and belief, the Doe Defendants
12 and/or those acting in concert with them, with actual knowledge of the ‘212 patent
13 before the filing of this action, contributed to the infringement of the ‘212 patent,
14 by having its direct and indirect customers sell, offer for sale, use and import into
15 the United States and this Judicial District, and placing into the stream of
16 commerce, the Patented Technology, including but not limited to certain parts and
17 equipment and technological know-how of the Patents At Issue, with knowledge
18 that it infringes the ‘212 patent. On information and belief, any unauthorized use
19 of the parts and equipment of the Patents At Issue is especially made or adapted for
20 infringing the ‘212 patent, and has no substantially non-infringing uses.

21 45. Plaintiffs have been and continue to be damaged by Defendants’
22 direct and indirect infringement of the ‘212 patent in an amount to be determined
23 at trial.

24 **THIRD CLAIM FOR RELIEF – Against All Defendants**

25 **(Willful Infringement)**

26 46. Plaintiffs incorporate by reference the preceding averments set forth
27 in the preceding paragraphs.
28

1 47. Defendants willfully and deliberately infringe the Patents At Issue in
2 disregard of Plaintiffs' rights. On information and belief, each of the Defendants
3 was aware of the '519 and '212 patents. Defendants are experienced and
4 sophisticated companies in the entertainment industry and certainly have reason to
5 know that the technology used to make the hologram of Simpson is patented.
6 Indeed, Mr. Groening's reference to the hologram of Tupac Shakur indicates that
7 he is familiar with the applications of the Patented Technology in the past.

8 48. Despite the Defendants' knowledge of the existence of the Patents At
9 Issue, each of the Defendants willfully, intentionally and consciously infringed the
10 Patents At Issue by making, using, selling and/or offering to sell the Patented
11 Technology to create a holographic-like projection of Homer Simpson. Plaintiffs
12 will continue to be irreparably harmed by the infringement because the Defendants
13 have contributed to confusion in the marketplace as to the rightful owners and
14 licensors of the Patents At Issue.

15 49. As alleged above, the Defendants did not possess a valid license from
16 the Plaintiffs to make, use, offer to sell or sell the Patented Technology to create a
17 holographic-like performance of Homer Simpson. Despite not having the proper
18 license, Defendants willfully infringed the Patents At Issue.

19 50. On information and belief, all Defendants knew about the Patents At
20 Issue before the complaint in this action was filed, and acted despite an objectively
21 high likelihood that their actions constituted infringement of a valid patent.

22 51. Despite their knowledge of the existence of the Patents At Issue,
23 based on information and belief, Defendants willfully, intentionally and
24 consciously infringed the Patents At Issue in disregard of Plaintiffs' rights.

25 52. As a direct and proximate result of Defendants' willful infringement
26 of the Patents At Issue, Plaintiffs have been and will continue to suffer monetary
27 damages and irreparable injury. Defendants have contributed to on-going
28

1 confusion in the marketplace as to the rightful owners and licensors of the Patents
2 At Issue, which renders this case appropriate for treble damages.

3 **REQUEST FOR RELIEF**

4 WHEREFORE, Plaintiffs respectfully request that:

5 a. Judgment be entered that Defendants have infringed one or more
6 claims of the '212 and '519 patents;

7 b. Judgment be entered permanently enjoining Defendants, their
8 directors, officers, agents, servants, and employees, and those acting in privity or in
9 concert with them, and their subsidiaries, divisions, successors and assigns, from
10 further acts of infringement of the '212 and '519 patents;

11 c. Judgment be entered that Defendants' infringement has been willful;

12 d. Judgment be entered awarding Plaintiffs all damages adequate to
13 compensate it for Defendants' infringement of the '212 and '519 patents, including
14 all pre-judgment and post-judgment interest at the maximum rate permitted by law,
15 and including a trebling of such damages due to Defendants' willful infringement.

16 e. For reasonable attorneys' fees incurred in bringing and litigating this
17 action;

18 f. For costs of suit herein; and

19 g. Judgment be entered awarding all other relief as the Court deems
20 proper.

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1 August 14, 2014

BAKER MARQUART LLP

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DEMAND FOR JURY TRIAL

Please take notice that Plaintiffs demand trial by jury in this action.

DATED this 14th day of August, 2014.

BAKER MARQUART LLP

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