

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

MOAEC TECHNOLOGIES, LLC,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:18-cv-00375-LPS-CJB
)	
DEEZER S.A. and DEEZER INC.,)	JURY TRIAL DEMANDED
)	
Defendants.)	

**DEEZER INC.'S ANSWER TO COMPLAINT FOR PATENT INFRINGEMENT,
AFFIRMATIVE DEFENSES AND COUNTERCLAIMS**

Defendant Deezer Inc. (“Deezer”), by its attorneys of record, responds to the allegations of the Complaint for Patent Infringement (“Complaint”) (D.I. 1), filed by MOAEC Technologies, LLC (“MOAEC” or “Plaintiff”) as follows. All allegations not expressly admitted are denied.

NATURE OF THE ACTION

1. Deezer admits that the Complaint purports to allege an action arising under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*

PARTIES TO THE ACTION

2. Deezer is without knowledge or information sufficient to form a belief as to the allegations set forth in paragraph 2, and therefore denies them.

3. Deezer admits that Deezer S.A. is a corporation (Reg. No. 511 716 573) organized and existing under the laws of France, with a place of business at 12 Rue d’Athènes, 75009 Paris, France. Deezer admits that Deezer S.A. sells and offers to sell products and services throughout the United States, including in this judicial district. Deezer denies the remaining allegations in paragraph 3.

4. Deezer admits that it is a corporation organized and existing under the laws of Delaware, with a place of business at 527 Howard St., Floor 4, San Francisco, CA 94105, and can be served through its Delaware registered agent, Paracorp Incorporated, 2140 S. Dupont Hwy, Camden, DE 19934. Deezer denies the remaining allegations in paragraph 4.

JURISDICTION, VENUE, AND CHOICE OF LAW

5. Deezer admits that the Complaint purports to allege an action arising under the Patent Laws of the United States, Title 35 of the United States Code.

6. At this time, Deezer does not contest this Court's subject matter jurisdiction over MOAEC's claims.

7. Deezer admits that it is incorporated in the State of Delaware. Deezer does not presently contest venue in this district for purposes of this action only, but specifically denies that venue is convenient in this district. Deezer reserves its right to file a motion to transfer this case to a proper and more convenient venue.

8. Deezer admits that this Court has personal jurisdiction over Deezer because it is incorporated in Delaware. Deezer denies the remaining allegations in paragraph 8.

FACTUAL ALLEGATIONS

9. Deezer admits that this lawsuit purports to assert infringement of U.S. Patent No. 6,232,539 (the "539 Patent") which issued on May 15, 2001. Deezer admits that the '539 Patent is entitled "Music Organizer and Entertainment Center" and that a copy of the '539 Patent was attached as Exhibit A to the Complaint. Deezer is without knowledge or information sufficient to form a belief as to the rest of the allegations in paragraph 9 and therefore denies them.

10. Deezer admits that the '539 Patent lists Brian Looney, Dale R. McMullin, Joseph Pasciuto and Edward T. Doyle as inventors. Deezer is without knowledge or information

sufficient to form a belief as to the remaining allegations in paragraph 10 and therefore denies them.

11. Deezer is without knowledge or information sufficient to form a belief as to the allegations in paragraph 11 and therefore denies them.

12. Deezer is without knowledge or information sufficient to form a belief as to the allegations in paragraph 12 and therefore denies them.

13. Deezer is without knowledge or information sufficient to form a belief as to the allegations in paragraph 13 and therefore denies them.

14. Deezer denies the allegations of paragraph 14.

15. Deezer denies the allegations of paragraph 15.

16. Deezer denies the allegations of paragraph 16.

COUNT I
DIRECT INFRINGEMENT OF U.S. PATENT NO. 6,232,539

17. Deezer incorporates its responses to the above paragraphs herein by reference.

18. Deezer is without knowledge or information sufficient to form a belief as to the allegations in paragraph 18 and therefore denies them.

19. Deezer denies the allegations of paragraph 19.

20. The '539 Patent speaks for itself. To the extent the allegations in paragraph 20 differ from the '539 Patent, Deezer denies those allegations.

21. Deezer denies the allegations of paragraph 21.

22. The '539 Patent speaks for itself. To the extent the allegations in paragraph 22 differ from the '539 Patent, Deezer denies those allegations.

23. Deezer denies the allegations of paragraph 23.

24. The '539 Patent speaks for itself. To the extent the allegations in paragraph 24 differ from the '539 Patent, Deezer denies those allegations.

25. Deezer denies the allegations of paragraph 25.

26. The '539 Patent speaks for itself. To the extent the allegations in paragraph 26 differ from the '539 Patent, Deezer denies those allegations.

27. Deezer denies the allegations of paragraph 27.

28. The '539 Patent speaks for itself. To the extent the allegations in paragraph 28 differ from the '539 Patent, Deezer denies those allegations.

29. Deezer denies the allegations of paragraph 29.

30. The '539 Patent speaks for itself. To the extent the allegations in paragraph 30 differ from the '539 Patent, Deezer denies those allegations.

31. Deezer denies the allegations of paragraph 31.

32. The '539 Patent speaks for itself. To the extent the allegations in paragraph 32 differ from the '539 Patent, Deezer denies those allegations.

33. Deezer denies the allegations of paragraph 33.

34. The '539 Patent speaks for itself. To the extent the allegations in paragraph 34 differ from the '539 Patent, Deezer denies those allegations.

35. Deezer denies the allegations of paragraph 35.

36. The '539 Patent speaks for itself. To the extent the allegations in paragraph 36 differ from the '539 Patent, Deezer denies those allegations.

37. Deezer denies the allegations of paragraph 37.

38. Deezer admits that Deezer S.A. received a letter dated October 19, 2016 that alleged that the Deezer music application infringes the '539 Patent. Deezer denies the remaining allegations in paragraph 38.

39. Deezer denies the allegations of paragraph 39.

40. Deezer denies the allegations of paragraph 40.

41. Deezer denies the allegations in paragraph 41.

42. Deezer denies the allegations of paragraph 42.

PRAYER FOR RELIEF

43. Deezer denies that MOAEC is entitled to any relief whatsoever.

JURY DEMAND

44. No answer required.

AFFIRMATIVE DEFENSES

45. Deezer asserts the following affirmative and other defenses in response to the allegations of the Complaint. Deezer reserves the right to supplement and amend its defenses and to assert additional defenses as this action proceeds.

NONINFRINGEMENT

46. Deezer does not directly or indirectly infringe any claim of the '539 Patent by making, using, marketing, selling, offering to sell, or licensing its products and/or services.

INVALIDITY

47. Each claim of the '539 Patent is invalid for failure to meet one or more of the requirements set forth in Title 35 of the United States Code, including Sections 101, 102, 103, and/or 112, as well as any judicial doctrine of invalidity.

PROSECUTION HISTORY ESTOPPEL

48. MOAEC is estopped from asserting that one or more claims of the '539 Patent are infringed by Deezer or any users of Deezer's products or services based on statements, representations, and/or amendments made to and/or before the United States Patent and Trademark Office during the prosecution of the applications for the '539 Patent.

EQUITABLE ESTOPPEL

49. Any purported claims that Deezer or any users of Deezer's products or services infringe the '539 Patent are barred by equitable estoppel.

COUNTERCLAIMS

1. Deezer seeks a declaratory judgment of non-infringement and invalidity pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201(a) and 2202.

2. Deezer is a Delaware corporation.

3. Upon information and belief, MOAEC is a Florida limited liability company with corporate offices located at 990 Biscayne Boulevard, Suite 503, Miami, Florida 33132.

4. This action arises under the patent law of the United States, 35 U.S.C. §§ 101 et seq., and the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201(a) and 2202.

5. These counterclaims arise under federal law, and this Court has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1338, 2201 and 2202, and the Patent Laws of the United States, 35 U.S.C. § 1, *et seq.*

6. This Court has personal jurisdiction over MOAEC by virtue of, *inter alia*, MOAEC's filing of the Complaint in this action.

7. Venue is technically proper in this judicial district under 28 U.S.C. §§ 1391(b) and 1400.

8. MOAEC has asserted that Deezer infringes the '539 Patent. Accordingly, an actual controversy exists between Deezer and MOAEC over the alleged infringement and invalidity of the 539 Patent.

FIRST COUNTERCLAIM – NON-INFRINGEMENT OF THE '539 PATENT

9. Deezer incorporates by reference the allegations in the paragraphs above as though fully set forth herein.

10. Deezer has not infringed and does not infringe any valid and enforceable claim of the '539 Patent, either literally or under the doctrine of equivalents.

11. Deezer seeks a declaratory judgment that it has not infringed and does not infringe any valid and enforceable claim of the '539 Patent, either literally or under the doctrine of equivalents.

SECOND COUNTERCLAIM – INVALIDITY OF THE '539 PATENT

12. Deezer incorporates by reference the allegations in the paragraphs above as though fully set forth herein.

13. The '539 Patent, and each claim thereof, is invalid for failing to satisfy one or more of the requirements of the Patent Act, 35 U.S.C. § 1, *et seq.*, including but not limited to the conditions of patentability set forth in 35 U.S.C. §§ 101, 102, 103 and/or 112.

14. Deezer therefore seeks a declaratory judgment that each claim of the '539 Patent is invalid for failure to satisfy one or more requirements of the Patent Act, 35 U.S.C. § 1, *et seq.*

DEMAND FOR JURY TRIAL

15. Deezer hereby demands a jury trial as to all issues triable by jury.

EXCEPTIONAL CASE

16. This case is exceptional, and Deezer is entitled to fees and costs against MOAEC under 35 U.S.C. § 285.

PRAYER FOR RELIEF

17. Deezer respectfully requests that this Court enter a judgment in its favor and grant the following relief:

- a. An order and judgment declaring that Deezer does not infringe any claim of any of the '539 Patent;
- b. An order and judgment declaring that the claims of the '539 Patent are each invalid;
- c. Dismissal of the Complaint with prejudice;
- d. An order declaring this case exceptional and awarding Deezer its reasonable attorney's fees and costs in accordance with 35 U.S.C. § 285; and
- e. Any other relief that the Court may deem appropriate and just under the circumstances.

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Dated: April 4, 2018