

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

)	
3M COMPANY, and)	
3MINNOVATIVE PROPERTIES)	
COMPANY,)	C.A.No.:
)	
Plaintiffs,)	
)	
v.)	
)	
ELO TOUCH SOLUTIONS, INC.,)	JURY TRIAL DEMANDED
)	
Defendant.)	

COMPLAINT

Plaintiffs 3M Company and 3M Innovative Properties Company (collectively, “Plaintiffs” or “3M”) bring this action against Defendant Elo Touch Solutions, Inc. (“Elo”) to stop Elo’s infringement of 3M’s patented touch screen sensor technology. For its Complaint against Elo, 3M hereby alleges and states as follows.

NATURE OF THE ACTION

1. This is a civil action arising under the laws of the United States, 35 U.S.C. § 1, et seq., for patent infringement. 3M seeks damages and injunctive relief as provided in 35 U.S.C. §§ 281, 283-85.

THE PARTIES

2. Plaintiff 3M Company is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 3M Center, St. Paul, Minnesota 55133.

3. Plaintiff 3M Innovative Properties Company is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 3M Center, St. Paul, Minnesota 55133.

4. Upon information and belief, Elo is a corporation organized and existing under the laws of the State of Delaware, having its headquarters and principal place of business at 670 N. McCarthy Boulevard, Milpitas, California 95035.

5. 3M and Elo compete directly in making and/or selling certain touch screen products, including products at issue in this lawsuit.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) because the claims alleged herein arise under the patent laws of the United States, 35 U.S.C. § 1, *et seq.*

7. This Court has personal jurisdiction over Elo because Elo is incorporated in the State of Delaware. This Court also has personal jurisdiction over Elo because Elo has committed acts of patent infringement in this judicial district, has systematic and continuous contacts in this judicial district, regularly transacts business within this judicial district, and/or regularly avails itself of the benefits of this judicial district.

8. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1400(b) because Elo is incorporated in the State of Delaware and therefore “resides” in this judicial district.

THE PATENTS-IN-SUIT

9. 3M conducts and has conducted extensive research, development, and testing to create touch screen sensors possessing superior quality.

10. 3M has applied for and obtained several patents to protect its intellectual property in its touch screen sensor technology, including U.S. Patent No. 8,179,381 (“the ‘381 Patent”), U.S. Patent No. 8,274,494 (“the ‘494 Patent”), U.S. Patent No. 8,704,799 (“the ‘799 Patent”), and U.S. Patent No. 9,823,786 (“the ‘786 Patent”). These patents are collectively referred to herein as the “Patents-In-Suit.”

11. The ‘381 Patent, entitled “TOUCH SCREEN SENSOR,” was duly and legally issued by the United States Patent and Trademark Office on May 15, 2012. The ‘381 Patent generally relates to a touch screen sensor comprising a visible light transparent substrate with an electrically conductive micropattern on or in the visible light transparent substrate.

12. The ‘494 Patent, entitled “TOUCH SCREEN SENSOR HAVING VARYING SHEET RESISTANCE,” was duly and legally issued by the United States Patent and Trademark Office on September 25, 2012. The ‘494 Patent generally relates to a touch screen sensor comprising a visible light transparent substrate with an electrically conductive micropattern on or in the visible light transparent substrate, where the micropattern exhibits a varying sheet resistance.

13. The ‘799 Patent, entitled “TOUCH SCREEN SENSOR HAVING VARYING SHEET RESISTANCE,” was duly and legally issued by the United States Patent and Trademark Office on April 22, 2014. The ‘799 Patent generally relates to a touch screen sensor comprising a visible light transparent substrate with an electrically conductive micropattern on or in the visible light transparent substrate, where the micropattern exhibits a varying sheet resistance.

14. The ‘786 Patent, entitled “TOUCH SCREEN SENSOR,” was duly and legally issued by the United States Patent and Trademark Office on November 21, 2017. The ‘786 Patent generally relates to a touch screen sensor comprising a visible light transparent substrate,

an electrically conductive micropattern on or in the visible light transparent substrate, where the micropattern includes a visible light transparent conductive mesh region and a larger feature that is not transparent.

15. True and correct copies of the '381 Patent, the '494 Patent, the '799 Patent, and the '786 Patent are attached to this complaint as Exhibit A, Exhibit B, Exhibit C, and Exhibit D, respectively.

16. All right, title, and interest in and to the Patents-In-Suit have been assigned to 3M Innovative Properties Company, which is the sole owner of the Patents-In-Suit. 3M Company is the exclusive licensee of the Patents-In-Suit.

ELO'S INFRINGING PRODUCTS

17. Elo has directly infringed and is continuing to directly infringe one or more claims of the Patents-In-Suit, literally and/or under the doctrine of equivalents, by making, using, offering to sell, and/or selling within the United States, and/or importing into the United States, at least its Pro-M series metal mesh products, as well as other sensors and displays that utilize metal mesh touch sensors ("the Metal Mesh Products"). One example of such a product is the Elo Interactive 46" Digital Signage Display 4602L, part number E222373 (the "Elo Display").

18. The Elo Display product is available on Elo's website at <https://www.elotouch.com/touchscreen-signage/4602l.html>. A copy of this webpage is attached as Exhibit E.

19. In addition, Elo sells cables and components to accompany its Metal Mesh Products and Elo Display, and systems management software ("EloView") to allow users to manage multiple signage displays in an installation including Metal Mesh Products. But for its sale of Metal Mesh Products to customers, Elo would not have made these accompanying sales.

**3M'S CLAIM OF INFRINGEMENT OF
THE PATENTS-IN-SUIT**

20. 3M incorporates by reference the allegations in paragraphs 1 through 19, as if fully set forth herein.

21. Elo has infringed one or more claims of the '381 Patent, including at least claim 14.

22. Elo has infringed one or more claims of the '494 Patent, including at least claim 1.

23. Elo has infringed one or more claims of the '799 Patent, including at least claim 10.

24. Elo has infringed one or more claims of the '786 Patent, including at least claim 1.

25. Elo has infringed at least the above referenced claims of the '381 Patent, the '494 Patent, the '799 Patent, and the '786 Patent in violation of 35 U.S.C. § 271(a), by manufacturing, using, offering to sell, and/or selling at least the Metal Mesh Products and Elo Display in the United States, and/or importing the Metal Mesh Products and the Elo Display into the United States.

26. 3M has suffered and continues to suffer damages as a result of Elo's infringement of the '381 Patent, the '494 Patent, the '799 Patent, and the '786 Patent in an amount to be determined at trial.

27. Elo's infringement of the '381 Patent, the '494 Patent, the '799 Patent, and the '786 Patent has damaged and will continue to damage 3M, causing irreparable harm for which there is no adequate remedy at law, unless and until Elo's infringement is enjoined by this Court.

ELO'S WILLFUL INFRINGEMENT

28. The '381 Patent, the '494 Patent, the '799 Patent, and the '786 Patent are pioneering and groundbreaking inventions in the field of touch screen sensors. Elo knew or should have known of the '381 Patent, the '494 Patent, the '799 Patent, and the '786 Patent no later than August 1, 2017 in the case of the '381, '494 and '799 patents and no later than November 21, 2017 in the case of the '786 patent.

29. By deciding to sell and continuing to sell the Metal Mesh Products and the Elo Display despite knowing of the '381 Patent, the '494 Patent, the '799 Patent, and the '786 Patent, Elo recklessly disregarded 3M's rights in the '381 Patent, the '494 Patent, the '799 Patent, and the '786 Patent and willfully infringed the '381 Patent, the '494 Patent, the '799 Patent, and the '786 Patent. Elo's conduct is sufficiently egregious to warrant an award of enhanced damages pursuant to 35 U.S.C. § 284.

PRAYER FOR RELIEF

WHEREFORE, 3M prays for the following judgment and relief against Elo:

1. A judgment that Elo has infringed and is infringing the '381 Patent, the '494 Patent, the '799 Patent, and the '786 Patent;
2. A judgment that Elo's infringement was and is willful;
3. A permanent injunction against Elo and its affiliates, subsidiaries, assigns, employees, agents, or anyone acting in privity or concert with Elo, from infringing the '381 Patent, the '494 Patent, the '799 Patent, and the '786 Patent.
4. An award of all damages adequate to compensate 3M for Elo's patent infringement, such damages to be determined by a jury, and if necessary an accounting adequate to compensate 3M for the infringement;

5. An award of enhanced damages, including up to three times the amount found or assessed, based on Elo's willful infringement;
6. An award of pre-judgment and post-judgment interest at the maximum rate allowed by law;
7. An order finding that this is an exceptional case and awarding 3M its costs, expenses, disbursements, and reasonable attorneys' fees related to Elo's patent infringement under 35 U.S.C. § 285 and all other applicable statutes, rules, and common law; and
8. Such other relief, in law or equity, as this Court deems just and proper.

DEMAND FOR JURY TRIAL

3M hereby demands a jury trial on any and all issues appropriately triable before a jury.

DATED: January 3, 2018

Of Counsel:

Paul H. Berghoff
Matthew J. Sampson
David R. Grosby
**MCDONNELL BOEHNEN HULBERT
& BERGHOFF LLP**
300 South Wacker Drive, Suite 3100
Chicago, Illinois 60606
Tel. (312) 913-0001
berghoff@mbhb.com
sampson@mbhb.com
grosby@mbhb.com

RATNERPRESTIA

/s/ Jeffrey B. Bove
Jeffrey B. Bove (# 998)
Karen R. Poppel (# 5373)
Nemours Building
1007 North Orange Street, Suite 205
Wilmington, DE 19801
Tel: (302) 778-2500
jbove@ratnerprestia.com
kpoppel@ratnerprestia.com

Attorneys for Plaintiffs
3M Company and
3M Innovative Properties Company

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