

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

LANDMARK TECHNOLOGY, LLC,

Plaintiff,

v.

LEARNING RESOURCES, INC.,

Defendant.

Case No.

Jury Trial Demanded

LANDMARK TECHNOLOGY'S COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Landmark Technology, LLC (“Landmark”), for its Complaint against Learning Resources, Inc. (“Defendant” or “Learning Resources”), alleges as follows:

THE PARTIES

1. Plaintiff Landmark Technology, LLC (“Landmark”) is a limited liability company organized under the laws of the State of Delaware with its principal place of business at 329 Laurel, San Diego, CA 92101.

2. On information and belief, Learning Resources, Inc. (“Learning Resources”) is an Illinois corporation with a principal place of business located at 380 N. Fairway Dr., Vernon Hills, IL 60061. Landmark is further informed and believes, and, on that basis, alleges, that Learning Resources sells educational tools and toys and derives a significant portion of its revenue from sales and distribution via electronic transactions conducted on and using at least, but not limited to, the Internet website located at <http://www.learningresources.com> and/or the Learning Resources functionality found at <https://www.learningresources.com/basket>, and incorporated and/or related systems (collectively the “Learning Resources Website”). Landmark is informed and believes, and, on that basis, alleges, that, at all times relevant hereto, Learning Resources 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 Learning Resources Website and through its physical stores located in this district.

JURISDICTION AND VENUE

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

4. This Court has original and exclusive subject matter jurisdiction over the patent infringement claims for relief under 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over Learning Resources because Learning Resources maintains its principal place of business in the state of Illinois. On information and belief, LEARNING RESOURCES has transacted and is continuing to transact business in this District including, but is not limited to, using products and systems that practice the subject matter claimed in the patents involved in this action.

6. Venue is proper in this district under 28 U.S.C. § 1400(b) because Learning Resources is registered with the Secretary of State in the State of Illinois and thus resides in this district under the Supreme Court's opinion in *TC Heartland LLC v. Kraft Foods Group Brands LLC*, 137 S. Ct. 1514 (2017). Further, Learning Resources has committed acts of infringement in this district and has a regular and established place of business in this district.

FACTS

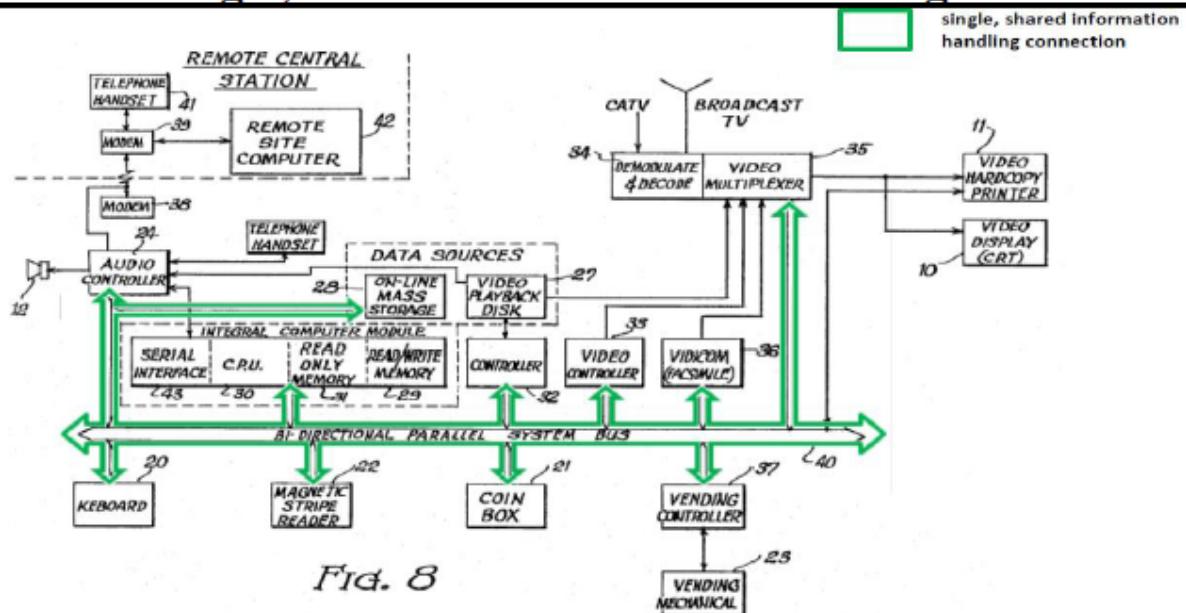
7. On September 11, 2001, United States Patent No. 6,289,319 entitled "Automated Business and Financial Transaction Processing System" was duly and legally issued to Lawrence B. Lockwood as inventor. A true and correct copy of United States Patent No. 6,289,319 is attached hereto as Exhibit A and incorporated herein by this reference.

8. Specifically, the '319 Patent claims a novel automatic data processing system, including an interactive multimedia terminal capable of providing a video-based user interface while both dynamically sending and fetching remote information in order to fetch new inquiring sequences for the user.

9. By January 24, 1986—the date to which the '319 Patent claims priority—conventional “self-service terminals,” such as that disclosed in U.S. Pat. No. 4,359,631 (“the ‘631 Patent”), “evolved to a high degree of sophistication.” Ex. A, 1:34-37. A true and correct copy of the '631 Patent is attached as Exhibit B. However, in spite of their sophistication, conventional terminals of the day were incapable of “the more complex types of goods and services distribution which requires a great deal of interaction between individuals and institutions.” Ex. A, 1:35-41. In particular, they were incapable of supporting an interactive video presentation while at the same time sending and fetching information to and from remote locations. During prosecution of the '319 Patent, a three-judge panel of the Board of Patent Appeals and Interferences at the USPTO found no suggestion of these higher-level functions being performed simultaneously in even the most sophisticated prior art terminal: “While [the prior art terminal of] Lockwood ['631] may fetch additional inquiring sequences (as in presenting additional questions or options to a user) in response to a user input, we find no suggestion in [the prior art terminal of] Lockwood ['631] of fetching the additional inquiring sequences in response to both user entry of data and to information received from the central processor,” as claimed in the '319 Patent. A true and correct copy of the Board’s decision is attached as Ex. C. Attempting to perform these functions at the same time on the prior art terminals of the early-to-mid 1980s, such as that disclosed in the '631 Patent, would have resulted in the congestion of their systems, rendering them virtually inoperable. These technical limitations of the prior art terminals were recognized by persons of ordinary skill in the art, as evidenced by the declaration of Joey A. Maitra, an engineer with extensive experience in the relevant subject matter who held multiple positions in industry during the 1980s. A true and correct copy of the Maitra Declaration is attached as Exhibit D.

10. By 1986, the structure employed by the prior art terminal of the '631 Patent was conventional. That structure, and its technical limitations, are representative of terminals of the period. As shown in Figure 8 of the '631 Patent, the terminal “employs a bi-directional parallel

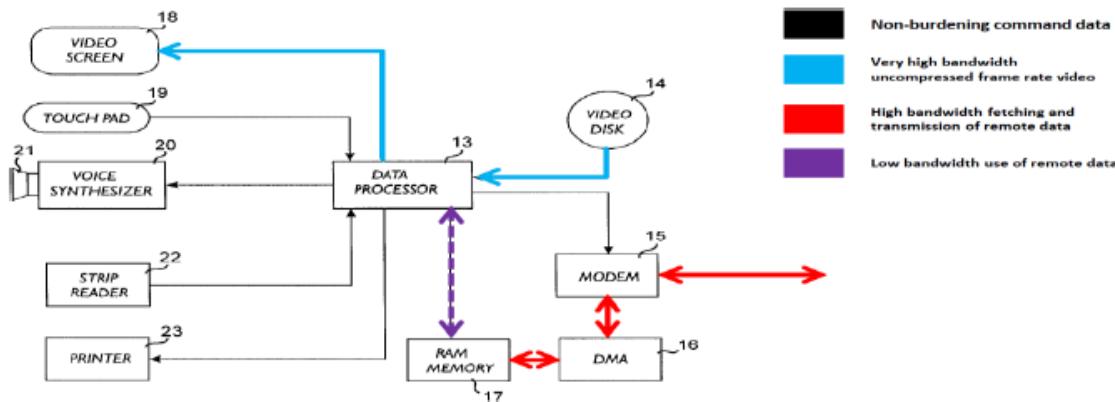
Figure 8 of Lockwood '631 – The Prior Art Terminal and its Single, Shared Information Handling Connection



bus oriented input/output structure.” Ex. B, 4:57-59 & Fig. 8. This information handling connection—bus 40—was *shared* among the terminal’s systems. Ex. B, 4:62-64 (noting this “structure . . . accommodate[s] the various terminal components.”). This structure presented a significant technical problem; in order to carry provide a higher degree of interactivity appropriate to the “more complex” transactions the '319 Patent sought to carry out, the terminal’s video playback and communication systems would have been required to operate at the same time. However, persons of ordinary skill in the art recognized this would have exhausted the data transfer capacity of conventional terminals. Ex. D [Maitra Decl.] ¶¶ 12, 14, 20.

11. To solve these issues, the '319 Patent introduced a novel hardware improvement in the claimed terminal. As demonstrated in Figure 2 of the '319 Patent, a DMA unit was positioned

'319 Patent, Figure 2 – Unconventional Arrangement of DMA Within a Second, Independent Information Handling Connection



independently along its own information handling connection within the terminal, unlike the systems of the prior art. Ex. A, Fig. 2. While prior art terminals would have incorporated a DMA unit into a single information handling connection shared among their systems (such as that illustrated in Fig. 8 of the '631 Patent), the '319 Patent disclosed two independent information handling connections designed to prevent congestion resulting from concurrent operation of terminal systems. Ex. D [Maitra Decl.] ¶ 20. As the specification of the '319 Patent explains, the terminal's modem "handles a batch of information through a direct memory access [DMA] unit 16, to and from a RAM memory"—i.e., placing information directly into memory along an independent information handling connection, and not, as in the prior art, by first traversing a shared connection already bogged down by other systems. Ex. A, 3:41-43; Ex. D [Maitra Decl.] ¶¶ 17-20. This unconventional hardware architecture enabled a higher level of interactivity and personalization of user transactions than was possible on conventional terminals in 1986, such as that disclosed in the '631 Patent. Persons of ordinary skill in the art would have recognized that the architecture of the terminal claimed in the '319 Patent overcame the technical limitations of conventional terminals, enabling the terminal to provide a richer interactive presentation to the

user while simultaneously utilizing its communication systems to fetch necessary data from remote sources. Ex. D [Maitra Decl.] ¶ 14.

12. In an amendment filed on September 19, 1995 during prosecution of the '319 Patent, the inventor stressed his claims "define[d] a new set of interrelated apparatuses." Thus, "the claims [did] not merely recite the use of 'conventional hardware,'" and were directed to a "claimed new machine," not a method of doing business. A true and correct copy of the September 19, 1995 amendment is attached as exhibit E.

13. Following a reexamination of Patent No. 6,289,319, the United States Patent and Trademark Office issued an Ex Parte Reexamination Certificate, Number US 6,289,319 C1, on July 17, 2007, confirming the validity of all six (6) original claims and allowing twenty-two (22) additional claims. A true and correct copy of Ex Parte Reexamination Certificate, Number US 6,289,319 C1 is attached hereto as Exhibit F and incorporated herein by this reference.

14. Following a second reexamination of Patent No. 6,289,319, the United States Patent and Trademark Office issued an Ex Parte Reexamination Certificate, Number US 6,289,319 C2, on January 31, 2013, confirming the validity of all twenty-eight (28) original claims. A true and correct copy of Ex Parte Reexamination Certificate, Number US 6,289,319 C2 is attached hereto as Exhibit F and incorporated herein by this reference (United States Patent No. 6,289,319, together with the additional claims allowed by Ex Parte Reexamination Certificate, Number US 6,289,319 C1, and reaffirmed by Ex Parte Reexamination Certificate, Number US 6,289,319 C2 shall hereinafter be referred to as the "'319 Patent.")

15. On September 1, 2008, Lockwood licensed all rights in the '319 Patent to Landmark. Landmark is the exclusive licensee of the entire right, title and interest in and to the '319 Patent, including all rights to enforce the '319 Patent and to recover for infringement. The '319 Patent is valid and in force.

16. On or about February 28, 2017, Landmark sent Learning Resources a letter informing Learning Resources of the '319 Patent and that Learning Resources' actions, as more fully described below, infringed the '319 Patent. Landmark sent a second letter on May 4, 2017.

17. As more fully laid out below, Learning Resources has been and is now infringing the '319 Patent, in this judicial district and elsewhere, by providing its products/services using electronic transaction systems, which, individually or in combination, incorporate and/or use subject matter claimed by the '319 Patent.

FIRST CLAIM FOR RELIEF

(Direct Infringement of the '319 Patent, in Violation of 35 U.S.C. § 271(a))

18. Landmark refers to and incorporates herein by reference paragraphs 1-17.

19. Learning Resources has directly infringed, and continues to directly infringe, at least Claim 1 of the '319 Patent in this judicial district and elsewhere in the state of Illinois and the United States, through the sales and distribution via electronic transactions conducted on and using at least, but not limited to, the Learning Resources Website.

20. The claims of the '319 Patent relate to “an automated data processing system for processing business and financial transactions between entities from remote sites” comprising a variety of features. Landmark has described these features generally below and attaches a claim chart for Claim 1 as Exhibit G.

21. The Learning Resources functionality referenced above is “an automated data processing system for processing business and financial transactions between entities from remote sites” practicing the claims of the '319 Patent.

22. By way of example, and without limitation, the Learning Resources Website’s functionality and supporting server infringes at least Claims 1 of the '319 Patent in that the Learning Resources Website’s functionality and supporting server provide a system that, when accessed by a terminal, practices all of the limitations of the claims and on which Learning Resources processes business information and places purchase orders, including:

a.) The Learning Resources Website’s functionality and supporting server, when accessed by a terminal, comprise an automatic data processing system for processing business and financial transactions between entities from remote sites running the Learning Resources Website’s functionality.

b.) The Learning Resources Website system includes a central processor (the server and its supporting systems) programmed and connected to process a variety of inquiries and orders transmitted from Learning Resources' functionality running at said remote sites. Learning Resources' system allows for a broad range of transactions. Thus, a range of orders are possible. The system processes a "variety of inquiries and orders," such as inquiries regarding order history and order status, and the placement of orders for products.

c.) The system is operated through a terminal (e.g., the Learning Resources' computer(s) at each of said remote sites), which terminal includes a data processor and operates in response to operational sequencing lists of program instructions (the code constituting the transaction systems). That terminal includes a DMA positioned independently on its own information handling connection, or its equivalent.

d.) The system fetches additional inquiring sequences in response to a plurality of data entered through a keyboard and in response to information received from the central processor. For example, the "Sign-In" section of the Learning Resources Website fetches additional inquiring sequences relating to erroneous or empty data fields, depending on the user's entry and information received from the central processor.

e.) The server for the Learning Resources Website and Learning Resources' computerized station(s), together with software, practice all of the remaining limitations of Claim 1 and 3 of the '319 Patent. Learning Resources' Website, functionality and server, and incorporated and/or related systems, put the invention into service.

23. Learning Resources's Website exerts control over the transactions placed via the claimed terminal. On information and belief, when the terminal's browser accesses Learning Resources's Website, Learning Resources's server causes the browser to place a "cookie" on the claimed terminal, which allows users to store items in the website's shopping cart.

24. Learning Resources, on information and belief, is also engaged in internal use of the claimed system, by developing and testing versions of its Website on its own computers. For example, Learning Resources has employed a Senior Director of eCommerce, as well as a Chief

Technology Officer, who are apparently responsible for its systems. *See* <https://www.linkedin.com/in/jasonhaefner>; <https://www.linkedin.com/in/ken-platt-580ba67>. Learning Resources, therefore, by the acts complained of herein, is making, using, selling, or offering for sale in the United States, including in this District, products and/or services embodying the invention, and has in the past and is now continuing to infringe the '319 Patent, either literally or under the doctrine of equivalents, in violation of 35 U.S.C. § 271(a).

25. Learning Resources threatens to continue to engage in the acts complained of herein and, unless restrained and enjoined, will continue to do so, all to Landmark's irreparable injury. It would be difficult to ascertain the amount of compensation that would afford Landmark adequate relief for such future and continuing acts, and a multiplicity of judicial proceedings would be required. Landmark does not have an adequate remedy at law to compensate it for the injuries threatened.

26. By reason of the acts of Learning Resources alleged herein, Landmark has suffered damage in an amount to be proved at trial.

27. Landmark is informed and believes, and on that basis alleges, that the infringement by Learning Resources is willful, wanton, and deliberate, without license and with full knowledge of the '319 Patent, thereby making this an exceptional case entitling Landmark to attorneys' fees and enhanced damages.

SECOND CLAIM FOR RELIEF

(Induced Infringement of the '319 Patent, Violating 35 U.S.C. § 271(b))

28. Landmark refers to and incorporates herein by reference paragraphs 1-25.

29. Landmark is informed and believes, and, on that basis, alleges, that Learning Resources has actively and knowingly induced infringement of the '319 Patent, in violation of 35 U.S.C. § 271(b) by, among other things, inducing its customers to utilize their own device in combination the Learning Resources Website, and incorporated and/or related systems, to search for and order information and products from the Learning Resources Website in such a way as to infringe the '319 Patent.

30. For example, Learning Resources is inducing its customers to infringe by encouraging them to create new accounts and to sign in to their accounts using their login information to retrieve their customer information.

31. By reason of the acts of Learning Resources alleged herein, Landmark has suffered damage in an amount to be proved at trial.

32. Learning Resources threatens to continue to engage in the acts complained of herein and, unless restrained and enjoined, will continue to do so, all to Landmark's irreparable injury. Landmark does not have an adequate remedy at law.

33. Landmark is informed and believes, and on that basis alleges, that the infringement by Learning Resources is willful, wanton, and deliberate, without license and with full knowledge of the '319 Patent, thereby making this an exceptional case entitling Landmark to attorneys' fees and enhanced damages.

PRAYER FOR RELIEF

WHEREFORE, Landmark prays for relief as follows:

A. Judgment that Learning Resources has directly infringed, and induced others to infringe, the '319 Patent either literally and/or under the doctrine of equivalents;

B. Judgment that Learning Resources' infringement of the '319 Patent has been willful;

C. Judgment permanently enjoining Learning Resources, its officers, directors, agents, servants, affiliates, employees, subsidiaries, divisions, branches, parents, attorneys, representatives, and all others acting in concert or privity with any of them, from infringing the '319 Patent, and from inducing others to infringe the '319 Patent;

D. Judgment awarding Landmark general and/or specific damages, including a reasonable royalty and/or lost profits, in amounts to be fixed by the Court in accordance with proof, including enhanced and/or exemplary damages, as appropriate, as well as all of Learning Resources' profits or gains of any kind from its acts of patent infringement;

E. Judgment awarding Landmark enhanced damages pursuant to 35 U.S.C. § 284 due to the willful and wanton nature of Learning Resources' infringement;

F. Judgment awarding Landmark all of its costs, including its attorneys' fees, incurred in prosecuting this action, including, without limitation, pursuant to 35 U.S.C. § 285 and other applicable law;

G. Judgment awarding Landmark pre-judgment and post-judgment interest; and

H. Judgment awarding Landmark such other and further relief as the Court may deem just and proper.

JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38(b), Landmark hereby demands a trial by jury on all issues triable to a jury.

Dated: July 6, 2018

Respectfully submitted,

By: /s/ Kenneth Matuszewski

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