

UNITED STATE DISTRICT COURT
DISTRICT OF COLUMBIA

DENNIS J. SOLOMON,
PLAINTIFF.

v.

Civil Action No. 07-1811-EGS

UNIVERSITY OF SOUTHERN CALIFORNIA
MICHAEL MACEDONIA
SCOTT EDELMAN
EVANS & SUTHERLAND
MR. QUINN,
MR. HAIRSTON,
MR. HOLTZMAN
TRADEMARK TRIAL AND APPEAL BOARD
JON DUDAS
UNITED STATES TRADEMARK OFFICE

DEFENDANTS.

COMPLAINT

DEMAND FOR JURY TRIAL

Plaintiff Dennis J. Solomon hereby demands a jury trial and avers as follows:

SUMMARY OF THIS ACTION

The plaintiff, Dennis J. Solomon, filed an application for registration of the trademark 'HoloDeck' on August 23, 1993, which was granted on May 30, 2000. USC opposed the registration on the grounds the term 'holodeck' was generic and was being used to describe a \$200 million US Army-USC simulation project which began in 1999, under the direction of U.S. Army officer Macedonia. Following depositions, a majority of the participating USC scientists testified that they had no knowledge of the term 'holodeck' prior to employment by USC. USC also testified that Macedonia demanded that USC file the opposition.

The United States Air Force had been funding a competitive project with Solomon since 1993.

USC subsequently amended the opposition to claim that there was no 'use in commerce'. Solomon provided sales materials, published advertisements and conference

publications. USC demanded detailed customer lists, engineering plans and manuals. Solomon objected on the grounds that USC counsel, Scott Edelman, was a direct competitor. USC filed a motion for a default judgment as a discovery sanction. The TTAB granted the default judgment without trial on the discovery evidence provided.

The USC opposition was part of an unlawful scheme to monopolize funding and commercialization of advanced C4I and Simulation technologies.

PARTIES

Plaintiff

1. Dennis J. Solomon is a Massachusetts resident and the applicant for the trademark HoloDeck.

Defendants

2. University of Southern California, hereinafter referred to as 'USC', is a non-profit educational institution with a permanent facility at 701 Pennsylvania Avenue, Washington, D.C. 2004
3. Scott Edelman is believed to be an attorney with Gibson, Dunn & Crutcher in California.
4. Evans and Sutherland is believed to be a Utah corporation
5. Michael Macedonia is believed to be a resident of the District of Columbia and a contracting officer for the U.S. Army.
6. Mr. Quinn is believed to be an administrative trademark judge on the TTAB.
7. Mr. Hairston is believed to be an administrative trademark judge on the TTAB.
8. Mr. Holtzman is believed to be an administrative trademark judge on the TTAB.
9. Mr. Dudas is believed to be the Director of the USPTO.
10. The Trademark Trial and Appeal Board 'TTAB' is a division of United States Patent and Trademark Office of the Department of Commerce of the United States.

Jurisdiction

11. This Court has subject matter jurisdiction under 15 USC 1071, 28 USC 1331, and 28 USC 1332.

Venue

12. This District is the appropriate venue. The Opposer USC maintains a facility and conducts regular business activities within the District. Most of the other parties are employees of the Department of Commerce, headquartered within the District.

STATEMENT OF FACTS

13. Plaintiff Dennis J. Solomon was educated at MIT, and has been actively involved in the science of lasers and holography since the 1970s. In 1973, he purchased a 43' ketch which he named Starship, and formed an enterprise by that name. His associates coined the term 'virtual reality' and fanciful names with the prefix 'holo' at the time.

14. From 1978 to 1984, Solomon was actively engaged in imaging and holography imaging at MIT including activities with MIT's famous holographers, Stephen Benton and Harriet Casdin-Silver.

15. In 1985, Solomon filed his first independent three-dimensional United States patent application. Shortly thereafter, in conjunction with projects known to Bran Ferren at Disney, he began using the fanciful term 'holodeck display'. On or about 1989 Solomon began the commercial development of a three dimensional display.

16. On August 23, 1993, Solomon formally applied for the stylized 'HoloDeck' trademark in Class 009 to identify the source of his three dimensional displays. Solomon did not search other classes, and was unaware of any other filings.

17. On 1995, Solomon displayed the trademark Holodeck in his booth at the SIGGRAPH computer show. Attorneys for Paramount Pictures, believed to be Scott Edelman, sent Solomon a cease and desist letter. Solomon responded and Paramount took no further action. Shortly thereafter, the Paramount application expired and was not renewed.

18. On December 13, 1996, Evans and Sutherland filed an application for the trademark 'HOLODECK' in class 9 for virtual reality rooms.
19. On May 30, 2000, the Trademark Office granted Solomon registration of the HoloDeck trademark for class 9.
20. On or about June 30, 2000, USC, through attorney Edelman at Gibson, Dunn and Crutcher, filed a motion for extension of time to opposition claiming the term was generic.
21. Discussions between Solomon and USC ensued, and USC offered to withdraw the opposition, if USC could use the term for its US Department of Defense project and obscured in the contract language - claim and apply for a secondary meaning.
22. Solomon stated that he would agree to license the trademark to USC for a nominal fee for limited use on the U.S. Army project but would not agree to the secondary meaning clause.
23. USC formally filed the opposition.
24. On or about 1999, USC had received \$250 million dollars from the U.S. Army to build a holographic, virtual reality space which they were calling the holodeck.
25. USC took extensive depositions in person and thorough discovery. Solomon conducted a few hours telephonically, during which a majority of USC personnel testified that they had no knowledge of the term 'holodeck' until arriving at USC.
26. USC then amended the opposition to include 'failure to use in commerce'.
27. Solomon responded by producing photographs, sales flyers and advertisements including publication in the SIGGRAPH Journals, original copies of which are available in the USC library.
28. USC requested customer lists, detailed plans, and manuals. Solomon requested a protective order and agreed to produce the same to an independent outside attorney.
29. Edelman filed a motion to compel the production to himself. Solomon opposed the motion on the grounds that Edelman was not an independent, outside attorney, and documented the fact that Edelman and his firm had close ties to Solomon's direct competitors, including Teledyne, and was the regular USC attorney for trademarks. Nonetheless, the motion was granted.

30. During discussions to find a compromise on the subject and without prior notice to Solomon, Edelman filed a motion for a default judgment was the TTAB. Solomon opposed the motion on the previous grounds, and further, that the appropriate sanction was exclusion at trial. The motion for default was granted, and reconsideration denied.

In the following Counts the aforementioned facts are incorporated:

Count I. Error, Violation of Civil Rights, Due Process

31. Exclusion of evidence is the appropriate sanction for limited discovery non-production.
32. The TTAB erred in granting a default judgment without trial, and violated the Constitutional, due process and civil rights of the Plaintiff.

Count II. Lacking to Standing

33. USC would suffer no damages from the grant of the trademark to Solomon.
34. USC lacks standing to bring an opposition.

Count III. Attempt to Monopolize, Interference with Interstate Commerce

35. Edelman, Macedonia and Evan & Sutherland engaged in an unlawful conspiracy to personal enrichment themselves through a series of unlawful schemes to obtain the trademark HoloDeck.
36. Macedonia unlawfully required USC to file the opposition in order to continue to receive U.S. Army funding.
37. Edelman knowingly participated in said scheme to generate fees for his firm.
38. Edelman knowingly engaged in a criminal scheme to obtain trade secrets which he planned to convey to USC
39. Evans & Sutherland, a defense contractor, agreed to license the trademark HoloDeck to Macedonia in return for continued government funding.

Count IV Fraud

40. In the seven years since the filing of this opposition, USC has been unable to build a three dimensional, virtual reality space.

41. USC, Edelman and Macedonia conspired to defraud the U.S. Government by submitting proposals based on unlawful obtained designs of Solomon.

Count V. Interference with Business Relations, Unfair Competition

42. Macedonia, as an agent of the U.S. Army, unlawfully attempted to use the opposition proceeding to obtain detailed knowledge of Solomon's classified U.S. Air Force projects, in order to obtain further funding.

43. Macedonia conspired with UCS and Edelman to further damage Solomon and unjustly enrich themselves.

All Counts: Damages

44. Said aforementioned actions caused substantial harm and damage to the soldiers of the U.S. Army placing them in harm's way without adequate training and with inferior equipment.

45. Said aforementioned actions caused substantial monetary damage to Solomon in excess of \$3,000,000.

Wherefore, the Plaintiff, Dennis J. Solomon respectfully requests that this Court:

1. vacate the TTAB judgment of default,
2. find USC without standing to oppose,
3. allow the grant of the registration trademark HoloDeck to Solomon to stand,
4. and award damages and costs as the Court deems appropriate.

Respectfully submitted on October 4, 2007.

Dennis J. Solomon, pro se.
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