

PLI PATENT LITIGATION: 2019

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Tiny Turtle Technologies, Inc.

Plaintiff,

v.

Intelligent Toys, Inc., and
MATRIX, Inc.

Defendants.

Advanced Techniques & Best Practices

SUMMARY OF THE CASE

New York: November 13 & 14, 2019

Plaintiff, Tiny Turtle Technologies, Inc. (“Tiny Turtle”), and Defendants, Intelligent Toys, Inc. and Matrix, Inc. (Intelligent Toys) pursuant to Local Rule hereby submit a short and concise statement of the case by each party in this action.

Short and Concise Statement of the Case by Each Party in the Action:

Plaintiff: Tiny Turtle alleges that defendants’ EasyTouch Reader device infringes Claim 25 of U.S. Patent No. 7,121,818. Claim 25 describes an electronic interactive learning device that helps children read phonetically by learning the sounds that letters make in the context of written words. Claim 25 was invented by Tiny Turtle’s founder Phillip McGrath, a neuroscientist dedicated to ending illiteracy. Claim 25 of the ‘818 patent is an improvement on work Mr. McGrath began in 1990 to help his son learn how to read. In fact, Tiny Turtle is McGrath’s pet name for his son Phillip Jr. McGrath’s first two commercial products that embody the invention of Claim 25, “Turtle Phonics Desk” and “Turtle Phonics Traveler,” were a huge commercial success, winning numerous awards and notoriety from prestigious learning institutions around the world. Building upon the success of these products, Tiny Turtle introduced the e-Turtle Reader in 1999 to record sales of \$500 million. McGrath’s e-Turtle Reader dominated the market until Intelligent Toys and Matrix launched its EasyTouch Reader, the accused product.

Defendants: Matrix is the largest toy manufacturer in the United States. Intelligent Toys is its wholly-owned subsidiary. Matrix has dominated the market share since the 1950’s. Intelligent Toys is well known for its state-of-the-art electronic learning tools and products for

early childhood through grade school. Intelligent Toys started work on the EasyTouch in 2000, engaging in the most extensive product development project in its history. Intelligent Toys leadership set out to produce a product “as good or better than the e-Turtle Reader.” During the very early stages, they purchased an e-Turtle Reader to analyze its functions and features. Aware of the ‘818 patent, Intelligent Toys and Matrix solicited a patent search for the product they were going to make. In addition, Intelligent Toys and Matrix received an opinion of outside counsel that the features of an early unbuilt prototype would not infringe Claim 25 of the ‘818 patent. At Matrix’s request, further diligence was conducted by obtaining another opinion from different outside counsel who opined that the early 2001 opinion was not clear. Intelligent Toys and Matrix proceeded to launch its EasyTouch Reader in July 2003 to enormous success.

Tiny Turtle asserts that defendants’ EasyTouch Reader product infringed Claim 25 of U.S. Patent No. 7,121,818 because it includes every element of the claim, both literally and under the doctrine of equivalents.

Intelligent Toys and Matrix both deny infringement, and allege that Claim 25 of the ‘818 patent is invalid and obvious. Further, Intelligent Toys and Matrix contend that the prior art when taken as a whole, teaches the combination of elements in the manner described in Claim 25.