

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT FOR THE MIDDLE DISTRICT
OF FLORIDA - ORLANDO DIVISION

OCT 13 PM 12:52

CLERK, U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO, FLORIDA

ROBERT KEYES,

Plaintiff,

v.

DISNEY ENTERPRISES, INC. and
THE WALT DISNEY COMPANY,

Defendant,

C.A. No. 04-CV-1511-DRL-28 KRS

COMPLAINT

Plaintiff, Robert Keyes ("Keyes"), for his Complaint against the defendants, Disney Enterprises, Inc. and The Walt Disney Company (hereinafter collectively referenced as "Disney"), states as follows:

NATURE OF ACTION

1. This is an action under the patent laws of the United States, 35 U.S.C. § 256, seeking correction of inventorship of a United States patent by adding plaintiff as a joint inventor and possibly deleting incorrectly named inventors. Plaintiff also has asserted a claim for unjust enrichment based upon Disney's obtaining a patent on an invention in which Keyes should have been included as an inventor.

PARTIES

2. Keyes is a citizen of the State of Tennessee; he resides at 2245 Sunningdale Road, Kingsport, Tennessee.

3. Disney Enterprises, Inc. is a Delaware corporation with its principal place of business in Burbank, California. Disney Enterprises, Inc. manages the intellectual property

of The Walt Disney Company. Disney Enterprises, Inc. was known as "The Walt Disney Company" until February 9, 1996, when it became a wholly owned subsidiary of The Walt Disney Company as a consequence of an acquisition.

4. The Walt Disney Company is a Delaware corporation with its principal place of business in Burbank, California. The Walt Disney Company was known as DC Holdco, Inc. until February 9, 1996, and is now the parent corporation of Disney Enterprises, Inc. The Walt Disney Company owns and operates, through its subsidiaries, theme parks in Orlando, Florida, and elsewhere. It has successfully directed and maintained the exclusive use of the below described patent at such theme parks.

JURISDICTION AND VENUE

5. This action arises under the patent laws of the United States, more particularly 35 U.S.C. § 256, and therefore, jurisdiction of this Court arises under 28 U.S.C. § 1331. The Court also has jurisdiction over non-federal questions under 28 U.S.C. §§1332(a)(1) and 1367(a).

6. This is also the judicial district in which a substantial part of the events and omissions giving rise to the claims occurred. Venue is proper in this judicial district by virtue of 28 U.S.C. §§ 1391(a), (b) and (c).

BACKGROUND

7. In January of 1991, Keyes sent two letters to Richard Nunis and Robert Matheison, Disney executives located in Orlando, Florida, disclosing his invention for a system which would reduce the waiting time for people seeking entrance to attractions at MGM Studios and the Disney theme parks.

8. In essence, the invention which Keyes disclosed to Disney comprised a systematic method for managing guest density at various attractions by allowing guests two separate ways to access such attractions. One means of access was regulated by a document available to each guest at no additional charge. That document - - which Keyes called a "pass" - - entitled guests to subsequently obtain a printed time for future access to a particular attraction. A guest could then leave the vicinity of the attraction and later return to access that attraction through a separate line at the future time printed on the pass. A second means of access allowed guests the opportunity to access the attraction through a normal line called the "Stand By line."

9. Keyes' invention allowed guests to avoid waiting in long lines for popular attractions. The invention, in effect, guaranteed access to attractions at a future time and allowed guests to shop, dine or carry out other activities in the time that would normally be spent waiting in line without the system.

10. The system Keyes invented had the potential to significantly improve park and attraction efficiency by more effectively distributing guests' waiting time. The increased efficiency would not only increase satisfaction of guests, but would also increase park revenue for Disney by allowing guests significantly greater opportunities for shopping and dining.

11. Nunis and Mathelson charged Greg Emmer, the Director of EPCOT for Walt Disney World, with the task of responding to Keyes' letters. On or about February 4, 1991, Emmer, on behalf of Disney, sent Keyes a letter stating that his invention would not work, but would instead result in "more guest inconvenience."

12. Subsequently, on February 25, 1991, Disney's corporate law department sent Keyes a second letter. Although Disney had already accepted, reviewed, evaluated and answered Keyes' letters, the February 25, 1991 letter recited Disney's purported policy on unsolicited ideas and represented that the policy did not allow Disney to accept or review Keyes' "idea." In that letter, Disney also claimed that it was returning to Keyes all originals and copies of his letters. Disney, however, did not return the original of Keyes' first letter, but returned a fax copy of that letter instead.

13. Moreover, Disney made several copies or faxes of Keyes' letters, all of which it retained and internally distributed. In addition to sending Keyes' letters to Emmer, Nunis and Matheison distributed them to others in the Disney organization, likely including Bruce Laval, who then held a position roughly equivalent to that of Emmer on the MGM side of the Disney business. Laval also succeeded to Robert Matheison's position; Matheison was one of the named addressees on the Keyes letters. Eventually, Emmer reported directly to Laval.

14. On information and belief, Nunis also had a practice of retaining promising ideas in written submissions in a box in his office for subsequent review and possible implementation. On information and belief, this was yet another way the Keyes' invention was reviewed and evaluated within Disney.

15. On January 9, 2001, Disney obtained the issuance of U.S. Patent No. 6,173,209 (the '209 patent) on the very invention which Keyes earlier disclosed to Disney. The abstract of the '209 patent describes the invention as follows:

The invention is a method and system for managing admission to an attraction. In one or more embodiments, the system comprises a first queue

by which customers may access the attraction by waiting in line and a second queue by which customers may access the attraction in a manner which avoids the first queue. The system includes a first validator for validating an entitlement of a customer to receive an assigned time in the future for accessing the attraction via the second queue, a media distributor for distributing a media to an entitled customer, the media including the assigned time at which the entitled customer is entitled to access the attraction in the future, and a second validator for validating the entitled customer access to the attraction at the time provided on the media. In accordance with a method of the invention, a customer may access an attraction in a manner which avoids standing in a first waiting line by verifying entitlement to utilize a second queue, obtaining a pass entitling the customer to access the attraction at a future time, and returning to the attraction at the future time and gaining access with the pass. In this method, the customer may leave the vicinity of the attraction between when the pass is issued and the future time at which the customer is entitled to access to the attraction.

(Exhibit A).

16. Keyes' invention as disclosed to Disney likewise comprised:
- a. a first line or "queue" by which customers may access the attraction by waiting in line;
 - b. a second queue by which customers may access the attraction in a manner which avoids the first queue;
 - c. a first "validator" -- a pass without any assigned times -- for validating an entitlement of a customer to receive assigned times in the future for accessing the attraction via the second queue;
 - d. a "media distributor" for distributing media, the media including the assigned time for future access to the attraction -- an assigned time for future access to the attraction is placed on the pass at the site of the attraction;
 - e. a "second validator" for validating the entitled customers access to the attraction at the time provided on the media -- a customer gains access to the second queue only with a pass containing the appropriate time;
 - f. the ability of a customer to access an attraction in a manner which avoids standing in a first waiting line by verifying entitlement to utilize a second queue, obtaining a pass entitling the customer to access the

attraction at a future time, and returning to the attraction at the future time and gaining access with the pass; and

- g. the ability of a customer to leave the vicinity of the attraction between when the pass is issued and the future time at which the customer is entitled to access to the attraction.

16. Disney was assigned the '209 patent by Bruce Laval and Gregory Hale, who were identified as the purported inventors. Laval is the same Disney executive who had access to -- and likely studied -- the Keyes letters. The '209 patent was the first and only time that Laval was a named inventor on any patent.

17. Disney has not licensed the '209 patent to any competitor, and the '209 patent has enabled Disney the exclusive right to practice the patent at its theme parks. This has allowed Disney to obtain a significant competitive advantage over competitors such as Universal, Anheuser Busch and Six Flags, which have had to resort to charging extra for patrons seeking faster access to attractions. The '209 patent is so important to Disney that it has filed additional patent applications continuing from the '209 patent, seeking additional patent coverage on multiple variations of the Keyes' invention.

COUNT I
CORRECTION OF INVENTORSHIP

18. Plaintiff realleges and reincorporates paragraphs 1 through 17 above as if specifically set forth herein.

19. Plaintiff contributed in a significant manner to the conception of the inventions claimed in the Disney '209 patent; he also communicated to Disney a definite and permanent idea of a complete and operative invention.

20. As a consequence, plaintiff should have been named at least co-inventor of

the '209 patent, as he conceived of every element of at least many, if not all of, the independent claims in that patent. Plaintiff may also be the true inventor of related patent applications filed by Disney.

21. Pursuant to 35 U.S.C. § 256, an order should issue correcting inventorship of the '209 patent by either naming plaintiff at least as a co-inventor of the '209 patent.

COUNT II
UNJUST ENRICHMENT

22. Plaintiff realleges and reincorporates paragraphs 1 through 21 above as if specifically set forth herein.

23. Disney has been unjustly enriched at the expense of Keyes. Specifically, by obtaining the '209 patent without naming Keyes as a co-inventor, Disney has enjoyed exclusivity on Keyes' invention, which has been a significant benefit to Disney, without having paid Keyes for either an assignment of his ownership interest in the '209 patent or for an exclusive license thereunder for the value of the invention to Disney.

24. The circumstances are such that it would be unjust for Disney to retain the benefit conferred by exclusive ownership of the patent without paying fair value to Keyes for such exclusivity.


WHEREFORE, plaintiff respectfully requests:

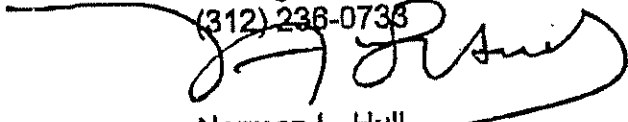
- A. An order correcting inventorship of the '209 patent (and related pending applications), and
- B. An award of damages from Disney Enterprises, Inc. and The Walt Disney Company in an amount to be determined at trial, plus interest and costs of suit.
- C. Such further relief as a jury or the Court may find appropriate.

JURY DEMAND

Plaintiff demands a trial by jury.

Plaintiff, ROBERT KEYES

By: 
Raymond P. Niro
Paul K. Vickrey
Christopher J. Lee
Niro, Scavone, Haller & Niro
181 West Madison, Suite 4600
Chicago, Illinois 60602
(312) 236-0736


Norman L. Hull
Norman Linder Hull, P.A.
746-A North Magnolia Avenue
P.O. Box 533068
Orlando, FL 32853
407-422-1235
Fax: 407-423-2842
email: nlhull@lx.netcom.com

United States Patent: 6,173,209

USPTO PATENT FULL-TEXT AND IMAGE DATABASE

(1 of 1)

United States Patent
Laval, et al.

6,173,209
January 9, 2001

Method and system for managing attraction admission

Abstract

The invention is a method and system for managing admission to an attraction. In one or more embodiments, the system comprises a first queue by which customers may access the attraction by waiting in line and a second queue by which customers may access the attraction in a manner which avoids the first queue. The system includes a first validator for validating an entitlement of a customer to receive an assigned time in the future for accessing the attraction via the second queue, a media distributor for distributing a media to an entitled customer, the media including the assigned time at which the entitled customer is entitled to access the attraction in the future, and a second validator for validating the entitled customer access to the attraction at the time provided on the media. In accordance with a method of the invention, a customer may access an attraction in a manner which avoids standing in a first waiting line by verifying entitlement to utilize a second queue, obtaining a pass entitling the customer to access the attraction at a future time, and returning to the attraction at the future time and gaining access with the pass. In this method, the customer may leave the vicinity of the attraction between when the pass is issued and the future time at which the customer is entitled to access to the attraction.

Inventors: Laval; Bruce G. (Wintermere, FL); Hale; Gregory B. (Orlando, FL)
Assignee: Disney Enterprises, Inc. (Burbank, CA)
Appl. No.: 372405
Filed: August 10, 1999

Current U.S. Class: 700/91; 235/382; 705/5
Intern'l Class: G06F 155/00; G06F 013/00; G06F 017/60; G06K 005/00
Field of Search: 700/91 705/5,7 345/326 235/382

References Cited [Referenced By]