

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

B-50.com, LLC,)
)
 Plaintiff,)
)
 v.) Civil Action No. _____
)
 InfoSync Services, LLC,)
 An Oklahoma Corporation) (Jury Trial Demanded)
)
 Defendant.)

COMPLAINT

As and for its Complaint against the above-named Defendant, Plaintiff, B-50.com, LLC, states and alleges as follows:

THE PARTIES

1. Plaintiff, B-50.com, LLC, (hereinafter "Plaintiff" or "B-50") is a limited liability corporation organized and existing under the laws of Delaware and having its principal place of business at 965 Decatur Avenue North, Golden Valley, Minnesota 55427.

2. On information and belief, Defendant, InfoSync Services, LLC (hereinafter "Defendant" or "InfoSync"), is a limited liability corporation organized and existing under the laws of Oklahoma. InfoSync does business in Texas and has an office in Texas, located at 6330 LBJ Freeway, Suite 237, Dallas, Texas 75240. Service of process on InfoSync can be perfected

by serving one of its officers, David Oden at the Texas address, or alternatively through its registered agent, Douglass A. Hall, 2616 Tahoe Drive, Edmund, Oklahoma 73013.

JURISDICTION AND VENUE

3. This is a case for patent infringement arising under the Acts of Congress relating to patents, 35 U.S.C. §§ 271, 282, 283 and 285.

4. This Court has subject matter jurisdiction over the matter in controversy under 28 U.S.C. §§ 1331 and 1338(a). Defendant's National Marketing & Sales office is located at 6330 LBJ Freeway, Suite 237, Dallas, Texas 75240, which is within this judicial district. (Exhibit A.) Therefore, venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and (c), and 1400(b) because Defendant resides within this judicial district, conducts business within this judicial district, and is subject to personal jurisdiction within this judicial district.

5. On information and belief, Defendant has sold, is selling and/or is offering for sale an infringing product, process or method from within this Judicial District. By selling and/or offering for sale an infringing product, process or method from within this Judicial District, Defendant has established the requisite contacts in this Judicial District, subjecting itself to the jurisdiction of this Court.

FACTS COMMON TO ALL COUNTS

6. On October 14, 2003, United States Patent No. 6,633,851, entitled, "Systems and Methods for Generating Custom Reports Based on Point-Of-Sale Data" (hereinafter, the "851 Patent"), was duly and legally issued to Plaintiff, as assignee, of inventors Jeffrey T. Engler et al. Plaintiff is the owner of the entire right, title and interest in and to the '851 Patent, and has been

and still is the owner thereof. The '851 Patent generally claims a method for generating custom reports in a secure web-based environment based upon restaurant point-of-sale data transferred between multiple remote computers and a central server. A copy of the '851 Patent is attached hereto as Exhibit B and is incorporated herein by this reference.

7. The '851 Patent generally includes claims that cover a method of generating custom reports based on restaurant point of sale data transferred between multiple remote computing devices and a central computing device, including defining a custom report format specifying one or more locations (i.e. stores or restaurants) and a date or date range. Typically, the multiple remote computing devices from which the data is retrieved are located within individual restaurants. Plaintiff's customers, as well as Defendant's customers, are entities and/or restaurant users that own and operate such restaurant locations.

8. Defendant is making, using, selling and/or offering for sale products, methods and/or systems, known as "RightViewWeb reporting application" that infringe B-50's rights under the '851 Patent. Defendant describes its product as follows:

InfoSync's RightViewWeb reporting application provides secure, online, single sign on access to operational, menu mix, accounting and payroll data from our systems in Excel, HTML and .PDF formats. Many reports utilize drill-thru capability allowing research from a single interface. Multiple rollups (store, area, market, district, etc.) allow users to interact with their data easily. Security is user-specific and can be as wide as the entire company or as narrow as a single store.

(Exhibit C.)

COUNT I-ACTIVE INDUCEMENT OF PATENT INFRINGEMENT

9. Plaintiff incorporates by this reference all of the previous allegations as though fully set forth herein.

10. Defendant has actual knowledge of Plaintiff's '851 patent. (Exhibit D.)
11. Despite having actual knowledge, Defendant continues to sell products, methods and/or systems that induce third parties to directly infringe one or more claims of the '851 patent.
12. On information and belief, Defendant has actively and knowingly aided and abetted direct infringement of the '851 patent by third parties.
13. On information and belief, Defendant intended to cause the acts which led to direct infringement of the '851 patent by third parties.
14. The Defendant's aforesaid activities have been without authority and/or license from Plaintiff.
15. Defendant's infringement of the '851 Patent has been knowing, willful and malicious.
16. Defendant has actively induced infringement of the '851 patent and is therefore liable as an infringer under 35 U.S.C. Section 271(b).
17. Plaintiff has been damaged by Defendant's infringement of the '851 Patent, and Plaintiff will continue to be damaged in the future unless the Defendant is enjoined from infringing the '851 Patent. Plaintiff is entitled to compensation from Defendant for such infringement pursuant to 35 U.S.C. §§ 283 and 284. Furthermore, Plaintiff has no adequate remedy at law, and will suffer irreparable harm if Defendant is not enjoined from further infringement of the '851 Patent.

COUNT II—CONTRIBUTORY PATENT INFRINGEMENT

18. Plaintiff incorporates by this reference all of the previous allegations as though fully set forth herein.

19. By making and selling the products, methods and/or systems, referred to in paragraph 8, above, Defendant has sold to its customers a component especially designed for use in a patented combination or process.

20. Defendant's customers' use of Defendant's products, methods and/or systems referred to in paragraph 8, above, constitutes direct infringement of the '851 Patent.

21. Defendant knows and has reason to know that the products, methods and/or systems it sells and has sold to its customers, as referred to in paragraph 8, above, are especially adapted for uses that are prohibited by the '851 Patent.

22. The products, methods and/or systems sold by Defendant, and referred to in paragraph 8, above, are not staple articles or commodities of commerce capable of substantial non-infringing use.

23. Defendant knows and has reason to know that the products, methods and/or systems it sells and has sold to its customers, as referred to in paragraph 8, above, are not staple articles or commodities of commerce capable of substantial non-infringing use.

24. Defendant is liable for contributory infringement of the '851 Patent under 35 U.S.C. Section 271(c).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief:

1. A judgment that Defendant has induced the infringement of, and has contributed to the infringement of United States Patent No. 6,633,851;
2. A permanent injunction enjoining and restraining Defendant, and its officers, directors, agents, servants, employees, attorneys, and all others acting under or through it from directly infringing, inducing others from infringing, or contributorily infringing the '851 Patent, including indemnifying or defending other infringements of said Patent;
3. A judgment and order requiring Defendants to pay damages under 35 U.S.C. § 284, including treble damages for willful infringement as provided by 35 U.S.C. § 284, with interests and costs; and
4. Such other and further relief as this Court may deem just and equitable.

DEMAND FOR JURY TRIAL

Plaintiff B-50 hereby demands a trial by jury of all issues in the Complaint so triable.

Respectfully submitted,

By: 

Richard G. Urquhart
Attorney In Charge
rurquhar@zelle.com
Texas Bar No. 00792887
James W. Holbrook, III
jholbrook@zelle.com
Texas Bar No. 24032426

ZELLE HOFMANN VOELBEL & MASON LLP
901 Main Street, Suite 4000
Dallas, TX 75202
Telephone: (214) 742-3000
Facsimile: (214) 760-8994

and

Jonathan D. Jay
jjay@LJP-IPLaw.com
Daniel Polglaze
dpolglaze@LJP-IPLaw.com
Terrance Newby
TNewby@LJP-IPLaw.com
LEFFERT JAY & POLGLAZE, P.A.
150 South Fifth Street
Suite 1900
Minneapolis, MN 55402
Telephone: (612) 312-2200
Facsimile: (612) 312-2250

**ATTORNEYS FOR PLAINTIFF
B-50.com, LLC**