

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

EGAIN CORPORATION,)	
)	
Plaintiff,)	
)	C.A. No. _____
v.)	
)	JURY TRIAL DEMANDED
PRAGMATUS TELECOM, LLC,)	
)	
Defendant.)	

**COMPLAINT FOR DECLARATORY JUDGMENT OF
NON-INFRINGEMENT AND INVALIDITY**

eGain Corporation (“eGain”) complains and avers against Defendant Pragmatius Telecom, LLC (“Pragmatius”), as follows:

NATURE OF THE ACTION

1. This action seeks declaratory judgment that: (i) eGain has not infringed, directly or indirectly, any valid and enforceable claims of U.S. Patent Nos. 6,311,231 (“231 patent”), 6,668,286 (“286 patent”), or 7,159,043 (“043 patent”) (collectively, the “patents-at-issue”); and (ii) each of the claims of the patents-at-issue are invalid.

JURISDICTION AND VENUE

2. eGain brings this action under Title 35 of the United States Code, and 28 U.S.C. §§ 2201-2202, to obtain a declaration of non-infringement and invalidity with respect to the patents-at-issue.

3. As this action arises under the Patent Laws of the United States, this Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

4. The Court has personal jurisdiction over Defendant because, upon information and belief, Defendant transacts substantial business within this district including, *inter alia*,

efforts to license and enforce the patents-at-issue. In addition, Defendant has availed itself of this Court and the jurisdiction thereof by filing a complaint for patent infringement involving the patents-at-issue against multiple entities.

5. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c).

THE PARTIES

6. Plaintiff eGain Corporation is a Delaware corporation with its principal place of business in 1252 Borregas Avenue, Sunnyvale California, 94089.

7. On information and belief, Defendant Pragmatus is a limited liability company organized and existing under the laws of the Commonwealth of Virginia with its principal place of business at 601 North King Street, Alexandria, Virginia 22314.

THE PATENTS

8. U.S. Patent No. 6,311,231 is entitled “Method and System for Coordinating Data and Voice Communications via Customer Contract Channel Changing System Using Voice Over IP” and bears an issuance date of October 30, 2001. A true and correct copy of the ‘231 patent is attached as Exhibit A.

9. On information and belief, Pragmatus purports to be the assignee of all legal rights, title and interest in and to the ‘231 patent.

10. U.S. Patent No. 6,668,286 is entitled “Method and System for Coordinating Data and Voice Communications via Customer Contact Channel Changing System Over IP” and bears an issuance date of December 23, 2003. A true and correct copy of the ‘286 patent is attached as Exhibit B.

11. On information and belief, Pragmatus purports to be the assignee of all legal rights, title and interest in and to the ‘286 patent.

12. U.S. Patent No. 7,159,043 is entitled “Method and System for Coordinating Data and Voice Communications via Contact Channel Changing System” and bears an issuance date of January 2, 2007. A true and correct copy of the ‘043 patent is attached as Exhibit C.

13. On information and belief, Pragmatus purports to be the assignee of all legal rights, title and interest in and to the ‘043 patent.

FACTS

14. On November 21, 2012, Pragmatus commenced a patent infringement action in this Judicial District against General Motors LLC (“GM”) alleging that GM infringes the patents-at-issue through the use of a system that provides live chat service over the Internet. C.A. No. 12-1545-RGA, D.I. 1 and 5.

15. On information and belief, through a contract with International Business Machines Corporation (“IBM”), eGain provides some functionality to GM that Pragmatus alleges to infringe the patents-at-issue.

16. On information and belief, GM has sought indemnification from IBM against these allegations. eGain is obligated to indemnify IBM.

17. On November 21, 2012, Pragmatus commenced a patent infringement action in this Judicial District against Lands’ End, Inc. (“Lands’ End”) alleging that Lands’ End infringes the patents-at-issue through the use of a system that provides live chat service over the Internet. C.A. No. 12-1547-RGA, D.I. 1.

18. On information and belief, eGain provides the functionality to Lands’ End that Pragmatus alleges to infringe the patents-at-issue.

19. eGain is obligated to indemnify Lands’ End by written agreement.

20. Accordingly, there exists an actual and justiciable controversy between eGain and Pragmatus with respect to the validity and infringement of the '231, '286, and '043 patents.

COUNT I

(DECLARATORY JUDGMENT OF NONINFRINGEMENT OF THE '231 PATENT)

21. eGain realleges and incorporates by reference the allegations contained in paragraphs 1-20 of this Complaint as though set forth in full herein.

22. eGain does not infringe, has not infringed, and does not and has not induced infringement or contributed to infringement of any valid and enforceable claim of the '231 patent, either literally or under the doctrine of equivalents.

23. Accordingly, there exists an actual and justiciable controversy between eGain and Defendant with respect to infringement of the '231 patent.

24. eGain hereby seeks entry of a declaratory judgment that it has not infringed and is not infringing, directly or indirectly, any valid or enforceable claim of the '231 patent.

COUNT II

(DECLARATORY JUDGMENT OF NONINFRINGEMENT OF THE '286 PATENT)

25. eGain realleges and incorporates by reference the allegations contained in paragraphs 1-20 of this Complaint as though set forth in full herein.

26. eGain does not infringe, has not infringed, and does not and has not induced infringement or contributed to infringement of any valid and enforceable claim of the '286 patent, either literally or under the doctrine of equivalents.

27. Accordingly, there exists an actual and justiciable controversy between eGain and Defendant with respect to infringement of the '286 patent.

28. eGain hereby seeks entry of a declaratory judgment that it has not infringed and is not infringing, directly or indirectly, any valid or enforceable claim of the '286 patent.

COUNT III

(DECLARATORY JUDGMENT OF NONINFRINGEMENT OF THE '043 PATENT)

29. eGain realleges and incorporates by reference the allegations contained in paragraphs 1-20 of this Complaint as though set forth in full herein.

30. eGain does not infringe, has not infringed, and does not and has not induced infringement or contributed to infringement of any valid and enforceable claim of the '043 patent, either literally or under the doctrine of equivalents.

31. Accordingly, there exists an actual and justiciable controversy between eGain and Defendant with respect to infringement of the '043 patent.

32. eGain hereby seeks entry of a declaratory judgment that it has not infringed and is not infringing, directly or indirectly, any valid or enforceable claim of the '043 patent.

COUNT IV

(DECLARATORY JUDGMENT OF INVALIDITY OF THE '231 PATENT)

33. eGain realleges and incorporates by reference the allegations contained in paragraphs 1-20 of this Complaint as though set forth in full herein.

34. The claims of the '231 patent are invalid for failure to meet the requirements of Title 35, United States Code, including but not limited to, Section 101, 102, 103, and 112 and the rules, regulations and laws pertaining thereto.

35. Accordingly, there exists an actual and justiciable controversy between eGain and Defendant with respect to the validity of the '231 patent.

36. eGain hereby seeks entry of a declaratory judgment that the claims of the '231 patent are invalid.

COUNT V

(DECLARATORY JUDGMENT OF INVALIDITY OF THE '286 PATENT)

37. eGain realleges and incorporates by reference the allegations contained in paragraphs 1-20 of this Complaint as though set forth in full herein.

38. The claims of the '286 patent are invalid for failure to meet the requirements of Title 35, United States Code, including but not limited to, Section 101, 102, 103, and 112 and the rules, regulations and laws pertaining thereto.

39. Accordingly, there exists an actual and justiciable controversy between eGain and Defendant with respect to the validity of the '286 patent.

40. eGain hereby seeks entry of a declaratory judgment that the claims of the '286 patent are invalid.

COUNT VI

(DECLARATORY JUDGMENT OF INVALIDITY OF THE '043 PATENT)

41. eGain realleges and incorporates by reference the allegations contained in paragraphs 1-20 of this Complaint as though set forth in full herein.

42. The claims of the '043 patent are invalid for failure to meet the requirements of Title 35, United States Code, including but not limited to, Section 101, 102, 103, and 112 and the rules, regulations and laws pertaining thereto.

43. Accordingly, there exists an actual and justiciable controversy between eGain and Defendant with respect to the validity of the '043 patent.

44. eGain hereby seeks entry of a declaratory judgment that the claims of the '043 patent are invalid.

PRAYER FOR RELIEF

Wherefore, eGain prays that this Court enter judgment in its favor and against Defendant as follows:

- (a) Judgment that the claims of the '231, '286, and '043 patents are invalid;
- (b) Judgment that eGain has not infringed and is not infringing the '231, '286, or '043 patents either directly or indirectly;
- (c) Declaration that this is an exceptional case, and an award to eGain of their reasonable attorneys' fees under 35 U.S.C. §285;
- (d) An award of all costs of suit by eGain in this action; and
- (e) All such other and further relief as this Court deems just and equitable.

JURY DEMAND

eGain requests a jury trial of any issues triable of right by a jury.

Respectfully submitted,

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Dated: May 20, 2013
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