

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

CDD TECHNOLOGIES, LLC,)
)
 Plaintiff,)
) Civil Action No. 6:13-cv-00337-MHS
 v.)
) **JURY TRIAL DEMANDED**
 ASUS COMPUTER INTERNATIONAL)
 and ASUS CLOUD CORPORATION,)
)
 Defendants.)
 _____)

FIRST AMENDED COMPLAINT

For its Complaint, Plaintiff CDD Technologies, LLC ("CDD Technologies"), by and through the undersigned counsel, alleges as follows:

THE PARTIES

1. CDD Technologies is a Texas limited liability company with a place of business located at 719 West Front Street, Suite 242, Tyler, Texas 75702.
2. Defendant ASUS Computer International is a California corporation with, upon information and belief, a place of business located at 800 Corporate Way, Fremont, California 94539.
3. Defendant ASUS Cloud Corporation is a Taiwanese company with, upon information and belief, a place of business located at Rm. 817, 8F, No. 53, Minquan Rd., Yonghe Dist., New Taipei City, Taiwan.
4. Upon information and belief, ASUS Computer International and ASUS Cloud Corporation (collectively, "Defendants") are subsidiaries of ASUSTek Computer Inc.

5. Upon information and belief, Defendants collaborate on the sales and marketing of certain products, including those accused of infringement herein.

JURISDICTION AND VENUE

6. This action arises under the Patent Act, 35 U.S.C. § 1 *et seq.*

7. Subject matter jurisdiction is proper in this Court under 28 U.S.C. §§ 1331 and 1338.

8. Upon information and belief, Defendants conduct substantial business in this forum, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in this district.

9. Venue is proper in this district pursuant to §§ 1391(b), (c) and 1400(b).

THE PATENT-IN-SUIT

10. On March 14, 2000, United States Patent No. 6,038,379 (the "'379 patent"), entitled "Data Backup and Restore System for a Computer Network Having Generic Remote File System Agents for Providing Backup and Restore Operations," was duly and lawfully issued by the U.S. Patent and Trademark Office ("USPTO"). A true and correct copy of the '379 patent is attached hereto as Exhibit A.

11. CDD Technologies is the assignee and owner of the right, title and interest in and to the '379 patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 6,038,379

12. CDD Technologies repeats and realleges the allegations of paragraphs 1 through 11 as if fully set forth herein.

13. Without license or authorization and in violation of 35 U.S.C. § 271(a), upon information and belief, Defendants have infringed and continues to infringe at least claims 1 and 11 of the '379 patent by making, using, offering for sale, and/or selling within this district and elsewhere in the United States and/or importing into this district and elsewhere in the United States, computer-implemented methods for retrieving data in a computer system and computer systems that facilitate backup of remote offices, servers and desktops/laptops connected over a network, including but not limited to, ASUS WebStorage and ASUS Cloud.

14. CDD Technologies is entitled to recover from Defendants the damages sustained by CDD Technologies as a result of Defendants' infringement of the '379 patent in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

JURY DEMAND

CDD Technologies hereby demands a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, CDD Technologies requests that this Court enter judgment against Defendants as follows:

- A. An adjudication that Defendants have infringed the '379 patent;
- B. An award of damages to be paid by Defendants adequate to compensate CDD Technologies for their past infringement of the '379 patent and any continuing or future infringement through the date such judgment is entered, including interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;

C. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of CDD Technologies' reasonable attorneys' fees; and

D. An award to CDD Technologies of such further relief at law or in equity as the Court deems just and proper.

Dated: June 10, 2013

/s/ Andrew W. Spangler

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Attorneys for Plaintiff

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CERTIFICATE OF SERVICE

I hereby certify that on June 10, 2013, I electronically filed the above document(s) with the Clerk of Court using CM/ECF which will send electronic notification of such filing(s) to all registered counsel.

/s/ Andrew W. Spangler

Andrew W. Spangler