

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

**DATA ENGINE TECHNOLOGIES  
LLC**

**Plaintiff,**

**v.**

**SAS INSTITUTE, INC.**

**Defendant.**

§ **Civil Action No.: 6:13-cv-00579**

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§ **JURY TRIAL DEMANDED**

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**PLAINTIFF'S ORIGINAL COMPLAINT**

Plaintiff Data Engine Technologies LLC (“Data Engine”) files this Original Complaint for patent infringement against Defendant SAS Institute, Inc. (“SAS”).

**PARTIES**

1. Plaintiff Data Engine Technologies LLC is a limited liability company existing under the laws of Texas with its principal place of business at 6136 Frisco Square Blvd., Suite 385, Frisco, Texas 75034.

2. Defendant SAS Institute, Inc. is a corporation existing under the laws of North Carolina with its principal place of business located at 100 SAS Campus Drive, Cary, North Carolina, 27513. It can be served through its agent for service: CT Corporation System, 350 N. St. Paul Street, Suite 2900, Dallas, Texas 75201.

**JURISDICTION AND VENUE**

3. This is an action for patent infringement under the Patent Laws of the United States, Title 35 of the United States Code.

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and 1400(b). Upon information and belief, SAS has transacted business in this district, has a regular and established place of business in this district, has committed and/or induced acts of patent infringement in this district, and resides in this district.

### **FACTS**

6. On May 22, 2001, the United States Patent and Trademark Office (“USPTO”) duly and legally issued United States Patent No. 6,237,135 (“the ’135 patent”), entitled “Development System with Visual Design Tools for Creating and Maintaining Java Beans Components.” Data Engine holds all right, title, and interest in and to the ’135 patent.

7. Upon information and belief, SAS makes, uses, sells, offers for sale, and/or imports into the State of Texas, in this judicial district, and elsewhere within the United States, software that infringes the ’135 patent.

8. On October 24, 1995, the USPTO duly and legally issued United States Patent No. 5,461,708 (“the ’708 patent”), entitled “Systems and Methods for Automated Graphing of Spreadsheet Information.” Data Engine holds all right, title, and interest in and to the ’708 patent.

9. Upon information and belief, SAS makes, uses, sells, offers for sale, and/or imports into the State of Texas, in this judicial district, and elsewhere within the United States, software that infringes the ’708 patent.

### **COUNT I: INFRINGEMENT OF THE ’135 PATENT**

10. Data Engine incorporates the foregoing paragraphs as if fully set forth here.

11. SAS has been and is now directly infringing the method claims of the '135 patent in the State of Texas, in this judicial district, and elsewhere within the United States by, among other things, making, using, licensing, selling, offering for sale, and/or importing software, including the software application SAS AppDev Studio, covered by one or more method claims of the '135 patent, all to the injury of Data Engine.

12. In addition and/or in the alternative, SAS has been and is now indirectly infringing by way of inducing infringement and/or contributing to the infringement of the method claims of the '135 patent in the State of Texas, in this judicial district, and elsewhere within the United States by, among other things, making, using, licensing, selling, offering for sale, and/or importing software, including the software application SAS AppDev Studio, covered by one or more method claims of the '135 patent, all to the injury of Data Engine. In the case of such infringement, the users of the software are the direct infringers of the '135 patent.

13. Data Engine intends to seek discovery on the issue of willfulness and reserves the right to seek a willfulness finding relative to pre-suit infringement and/or post-suit infringement of the '135 patent.

14. Data Engine has been damaged by SAS's infringement of the method claims of the '135 patent in an amount to be determined at trial, and has suffered and will continue to suffer irreparable loss and injury unless SAS is permanently enjoined from infringing the method claims of the '135 patent.

15. At least as early as its receipt of this Original Complaint, SAS has had knowledge of the '135 patent and written notice of the infringement.

**COUNT II: INFRINGEMENT OF THE '708 PATENT**

16. Data Engine incorporates the foregoing paragraphs as if fully set forth here.

17. SAS has been and is now directly infringing the method claims of the '708 patent in the State of Texas, in this judicial district, and elsewhere within the United States by, among other things, making, using, licensing, selling, offering for sale, and/or importing software, including the software applications SAS Enterprise Guide, SAS Visual Analytics, and ODS Graphics, covered by one or more method claims of the '708 patent, all to the injury of Data Engine.

18. In addition and/or in the alternative, SAS has been and is now indirectly infringing by way of inducing infringement and/or contributing to the infringement of the method claims of the '708 patent in the State of Texas, in this judicial district, and elsewhere within the United States by, among other things, making, using, licensing, selling, offering for sale, and/or importing software, including the software applications SAS Enterprise Guide, SAS Visual Analytics, and ODS Graphics, covered by one or more method claims of the '708 patent, all to the injury of Data Engine. In the case of such infringement, the users of the software are the direct infringers of the '708 patent.

19. Data Engine intends to seek discovery on the issue of willfulness and reserves the right to seek a willfulness finding relative to pre-suit infringement and/or post-suit infringement of the '708 patent.

20. Data Engine has been damaged by SAS's infringement of the method claims of the '708 patent in an amount to be determined at trial, and has suffered and will continue to suffer irreparable loss and injury unless SAS is permanently enjoined from infringing the method claims of the '708 patent.

21. At least as early as its receipt of this Original Complaint, SAS has had knowledge of the '708 patent and written notice of the infringement.

22.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Data Engine Technologies LLC prays for the following relief against Defendant SAS Institute Inc.

A. A judgment in favor of Data Engine that SAS has infringed, directly and/or indirectly by way of inducing infringement and/or contributing to the infringement of the method claims of Data Engine's '135 and '708 patents;

B. A permanent injunction, enjoining SAS along with its officers, directors, agents, servants, employees, affiliates, divisions, branches, subsidiaries, and parents from infringing, inducing the infringement of, or contributing to the infringement of the method claims of Data Engine's '135 and '708 patents;

C. A judgment and order requiring SAS to pay Data Engine damage for SAS's infringement of the method claims of Data Engine's '135 and '708 patents, together with interest (both pre- and post-judgment), costs and disbursements as fixed by this Court under 35 U.S.C. § 284;

D. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Data Engine its reasonable attorneys' fees; and

E. Such other and further relief in law or in equity to which Data Engine may be justly entitled.

**DEMAND FOR JURY TRIAL**

Plaintiff demands a trial by jury of any and all issues triable of right before a jury.

Dated: August 5, 2013

Respectfully submitted,

**AHMAD, ZAVITSANOS, ANAIPAKOS, ALAVI & MENSING, P.C.**

*/s/ Amir H. Alavi*

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