

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

CLOUDING IP, LLC,
Plaintiff,

v.

SIEMENS ENTERPRISE
COMMUNICATIONS GMBH & CO. KG
and SIEMENS ENTERPRISE
COMMUNICATIONS, INC.,
Defendants.

C.A. No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

This is an action for patent infringement arising under the Patent Laws of the United States of America, 35 U.S.C. § 1 *et seq.* in which Plaintiff Clouding IP, LLC (“Clouding” or “Plaintiff”) makes the following allegations against Defendants Siemens Enterprise Communications GmbH & Co. KG and Siemens Enterprise Communications, Inc. (collectively, “Siemens” or “Defendant”).

PARTIES

1. Plaintiff Clouding IP, LLC is a Delaware limited liability company having a principal place of business at 2 Terrace Way, Suite C, Greensboro, North Carolina 27403.
2. On information and belief, Defendant Siemens Enterprise Communications GmbH & Co. KG is a private company with its principal place of business at Hofmannstrasse 51, Munich D-81379.
3. On information and belief, Defendant Siemens Communications, Inc. is a Delaware corporation with its principal place of business at 900 Broken Sound Parkway, Boca Raton, Florida 33487-3527. On information and belief Defendant Siemens Communications, Inc. has

appointed Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808, as its agent for service of process.

JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has original subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. On information and belief, Defendants are subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Delaware Long Arm Statute, due to having availed themselves of the rights and benefits of Delaware by engaging in activities, including: (i) incorporating under Delaware law; (ii) conducting substantial business in this forum; and (iii) engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Delaware and in this Judicial District.

6. Venue is proper in this district under 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b). On information and belief, Defendants have engaged in activities including: transacting business in this district and incorporating in this district.

COUNT I **INFRINGEMENT OF U.S. PATENT NO. 5,495,607**

7. Plaintiff Clouding realleges and incorporates by reference paragraphs 1-6 above, as if fully set forth herein.

8. Plaintiff Clouding is the owner by assignment of United States Patent No. 5,495,607 (“the ‘607 patent”) titled “Network Management System Having Virtual Catalog Overview of Files Distributively Stored Across Network Domain.” The ‘607 patent was duly and legally issued by the United States Patent and Trademark Office on February 27, 1996. Clouding is the

owner by assignment from Symantec Corporation of the '607 patent. A true and correct copy of the '607 patent is included as Exhibit A.

9. Defendant Siemens operates one or more server farms (comprising, *inter alia*, servers and computers on a network) that are located in its data centers in the United States. On information and belief, Siemens's one or more server farms provide and support cloud computing products and/or services. On information and belief, Siemens makes and/or uses a system for monitoring the health of at least some of Siemens's servers and computers over a network in its data centers.

10. On information and belief, Defendant Siemens has infringed and continues to infringe the '607 patent by, among other things, making, using, offering for sale, and/or selling systems, and products and/or services related thereto, covered by one or more claims of the '607 patent. Such systems include, by way of example and without limitation, a system made and/or used by Siemens to monitor the health of servers and computers located in its data centers that support Siemens's OpenScape services, which is covered by one or more claims of the '607 patent, including but not limited to claim 9. By making, using, offering for sale, and/or selling such systems, and products and/or services related thereto, covered by one or more claims of the '607 patent, Siemens has injured Clouding and is liable to Clouding for infringement of the '607 patent pursuant to 35 U.S.C. § 271.

11. As a result of Defendant Siemens's infringement of the '607 patent, Plaintiff Clouding has suffered monetary damages and is entitled to a money judgment in an amount adequate to compensate for Siemens's infringement, but in no event less than a reasonable royalty for the use made of the invention by Siemens, together with interest and costs as fixed by the Court.

COUNT II
INFRINGEMENT OF U.S. PATENT NO. 5,825,891

12. Plaintiff Clouding realleges and incorporates by reference paragraphs 1-11 above, as if fully set forth herein.

13. Plaintiff Clouding is the owner by assignment of United States Patent No. 5,825,891 (the ‘891 patent”) titled “Key Management for Network Communication.” The ‘891 patent was duly and legally issued by the United States Patent and Trademark Office on October 20, 1998.

Clouding is the owner by assignment from Symantec Corporation of the ‘891 patent. A true and correct copy of the ‘891 patent is included as Exhibit B.

14. Defendant Siemens makes, uses, sells, and offers for sale in the United States products and/or services for cloud computing. On information and believe, at least some of Siemens’s cloud computing products and/or services provide or support use of a method for updating a tunnel record.

15. On information and belief, Defendant Siemens has infringed and continues to infringe the ‘891 patent by, among other things, making, using, offering for sale, and/or selling cloud computing products and/or services covered by one or more claims of the ‘891 patent. Such cloud computing products and/or services include, by way of example and without limitation, Siemens’s OpenScape Office MX, the use of which are covered by one or more claims of the ‘891 patent, including but not limited to claim 6. By making, using, offering for sale, and/or selling such products and services covered by one or more claims of the ‘891 patent, Siemens has injured Clouding and is liable to Clouding for infringement of the ‘891 patent pursuant to 35 U.S.C. § 271.

16. As a result of Defendant Siemens’s infringement of the ‘891 patent, Plaintiff Clouding has suffered monetary damages and is entitled to a money judgment in an amount adequate to

compensate for Siemens's infringement, but in no event less than a reasonable royalty for the use made of the invention by Siemens, together with interest and costs as fixed by the Court.

COUNT III
INFRINGEMENT OF U.S. PATENT NO. 6,925,481

17. Plaintiff Clouding realleges and incorporates by reference paragraphs 1-16 above, as if fully set forth herein.

18. Plaintiff Clouding is the owner by assignment of United States Patent No. 6,925,481 (the '481 patent") titled "Technique for Enabling Remote Data Access and Manipulation from a Pervasive Device." The '481 patent was duly and legally issued by the United States Patent and Trademark Office on August 2, 2005. Clouding is the owner by assignment from Symantec Corporation of the '481 patent. A true and correct copy of the '481 patent is included as Exhibit C.

19. Defendant Siemens makes, uses, sells, and offers for sale in the United States products and/or services for cloud computing. On information and believe, at least some of Siemens's cloud computing products and/or services provide or support use of a method for data access and manipulation from a pervasive device.

20. On information and belief, Defendant Siemens has infringed and continues to infringe the '481 patent by, among other things, making, using, offering for sale, and/or selling cloud computing products and/or services covered by one or more claims of the '481 patent. Such cloud computing products and/or services include, by way of example and without limitation, Siemens's OpenScape UC, the use of which are covered by one or more claims of the '481 patent, including but not limited to claim 1. By making, using, offering for sale, and/or selling such products and services covered by one or more claims of the '481 patent, Siemens has

injured Clouding and is liable to Clouding for infringement of the '481 patent pursuant to 35 U.S.C. § 271.

21. As a result of Defendant Siemens's infringement of the '481 patent, Plaintiff Clouding has suffered monetary damages and is entitled to a money judgment in an amount adequate to compensate for Siemens's infringement, but in no event less than a reasonable royalty for the use made of the invention by Siemens, together with interest and costs as fixed by the Court.

COUNT IV
INFRINGEMENT OF U.S. PATENT NO. 7,254,621

22. Plaintiff Clouding realleges and incorporates by reference paragraphs 1-21 above, as if fully set forth herein.

23. Plaintiff Clouding is the owner by assignment of United States Patent No. 7,254,621 (the '621 patent") titled "Technique for Enabling Remote Data Access and Manipulation from a Pervasive Device." The '621 patent was duly and legally issued by the United States Patent and Trademark Office on August 7, 2007. Clouding is the owner by assignment from Symantec Corporation of the '621 patent. A true and correct copy of the '621 patent is included as Exhibit D.

24. Defendant Siemens makes, uses, sells, and offers for sale in the United States products and/or services for cloud computing. On information and believe, at least some of Siemens's cloud computing products and/or services provide or support use of a method for enabling data access and manipulation from a pervasive device.

25. On information and belief, Defendant Siemens has infringed and continues to infringe the '621 patent by, among other things, making, using, offering for sale, and/or selling cloud computing products and/or services covered by one or more claims of the '621 patent. Such cloud computing products and/or services include, by way of example and without limitation,

Siemens's OpenScape UC, the use of which are covered by one or more claims of the '621 patent, including but not limited to claim 1. By making, using, offering for sale, and/or selling such products and services covered by one or more claims of the '621 patent, Siemens has injured Clouding and is liable to Clouding for infringement of the '621 patent pursuant to 35 U.S.C. § 271.

26. As a result of Defendant Siemens's infringement of the '621 patent, Plaintiff Clouding has suffered monetary damages and is entitled to a money judgment in an amount adequate to compensate for Siemens's infringement, but in no event less than a reasonable royalty for the use made of the invention by Siemens, together with interest and costs as fixed by the Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Clouding respectfully requests that this Court enter:

1. A judgment in favor of Plaintiff Clouding that Defendant Siemens has infringed, either literally and/or under the doctrine of equivalents, the '607 patent, the '891 patent, the '481 patent, and the '621 patent;

2. A judgment and order requiring Defendant Siemens to pay Plaintiff Clouding its damages, costs, expenses, and pre-judgment and post-judgment interest as provided under 35 U.S.C. § 284 for Siemens's infringement of the '607 patent, the '891 patent, the '481 patent, and the '621 patent;

3. A judgment and order that this case is exceptional and requiring Siemens to pay Plaintiff Clouding reasonable experts' fees and attorneys' fees pursuant to 35 U.S.C. § 285; and

4. Any and all other relief as the Court may deem appropriate and just under the circumstances.

DEMAND FOR JURY TRIAL

Plaintiff Clouding requests a trial by jury of any issues so triable.

August 16, 2013

BAYARD, P.A.

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