

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

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**SAMPO IP, LLC,**

**Plaintiff,**

**v.**

**TIBCO SOFTWARE INC.,**

**Defendant.**

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) **Civil Action No:**  
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) **JURY TRIAL DEMANDED**  
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**Complaint for Patent Infringement**

Plaintiff, Sampo IP, LLC (“Sampo”) alleges the following for its complaint of patent infringement against TIBCO Software Inc. (“Tibco” or “Defendant”), wherein, pursuant to 35 U.S.C. §§ 271 and 281, Plaintiff seeks a judgment of infringement by Defendant of United States Patent No. 6,161,149 (the “149 Patent”) and United States Patent No. 6,772,229 (the “229 Patent”) (collectively, the “Patents-in-Suit”) as well as a permanent injunction of the infringing activity pursuant to 35 U.S.C. § 283, and such other relief as the Court deems just and proper.

**The Parties**

1. Plaintiff Sampo is a Virginia limited liability company with its principal place of business located at 2331 Mill Road, Suite 100, Alexandria, Virginia 22314.

2. On information and belief, Defendant TIBCO Software, Inc. (“Tibco”) is a Delaware corporation with a principal place of business at 3303 Hillview Avenue, Palo Alto, California 94304. Tibco has appointed The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801 as its agent for service of process.

### **Jurisdiction and Venue**

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

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because the action concerns the infringement of United States patents.

5. Upon information and belief, Tibco conducts substantial business in Delaware, 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 Delaware. Further, this Court has personal jurisdiction over Tibco because it is incorporated in Delaware and has purposely availed itself of the privileges and benefits of the laws of the State of Delaware.

6. Venue is proper under 28 U.S.C. §§ 1391 and 1400.

### **The Patents-In-Suit**

7. Sampo is the owner by assignment of the '149 Patent, entitled "Centrifugal Communication and Collaboration Method," which the United States Patent & Trademark Office duly issued on December 12, 2000. A true and correct copy of the '149 Patent is attached hereto as Exhibit A.

8. Sampo is the owner by assignment of the '229 Patent, entitled "Centrifugal Communication and Collaboration Method," which the United States Patent & Trademark Office duly issued on August 3, 2004. A true and correct copy of the '229 Patent is attached hereto as Exhibit B.

### **Factual Background**

9. The inventions of the Patents-in-Suit are applicable to, among other things, transmitting, receiving and distributing information among peripheral computing devices using a central agent. The central agent selectively pushes notices to peripheral devices, allowing peripheral devices to access certain information. The inventions facilitate asynchronous collaboration among participants, and allow certain participants to receive certain information while preventing other participants from receiving the information.

10. For example, and without limitation, the inventions of the Patents-in-Suit are applicable to a central agent that receives information from and transmits information to the peripheral computing devices of members of a group. The central agent receives information from a computing device of a first member of a group, the information indicating to which other members certain information is relevant. The central agent then sends a notice to only the selected members, and allows access to information to only those selected members. Similarly, the central agent may receive additional information from another member of the group, the information indicating to which other members certain information is relevant. The central agent then sends a notice only to the selected members, and allows access to information to only those selected members.

11. For another example, without limitation, the inventions of the Patents-in-Suit are applicable to a central agent that receives information from and transmits information to the peripheral computing devices of participants in a distributed application. The central agent receives information from a computing device of a first participant, the information indicating to which other participants certain information is relevant. The central agent then sends a notice to only the selected participants, and allows access to information to only those selected

participants. Similarly, the central agent may receive additional information from another participant, the information indicating to which other participants certain information is relevant. The central agent then sends a notice only to the selected participants, and allows access to information to only those selected participants.

### **Tibco's Infringing Products and Methods**

12. Tibco provides its users with online collaboration products that are especially designed to allow its users to communicate with each other online. Tibco, through its tibbr application, provides services which infringe the Patents-in-Suit, such as (by way of example) group collaboration, notifications, multi-node networking, information sharing between group members, message threading, and selective communication.<sup>1</sup>

13. Upon information and belief, Defendant uses an online communication system which offers a distributed discussion group communication system whereby the users of such system, via a network of computing devices linked by a network, are able to communicate with one another using such computing devices. The computing devices include computers and cellular telephones and are capable of transmitting and receiving information.

14. The system has a central agent (e.g., Defendant's server system) that can receive information from, and transmit information to, the computing devices of the users. The central agent pushes notices to selected users. The users' computing devices are linked or networked to Defendant's central device.

15. By way of example, to facilitate communication within a group, information communicated between users can be used to send messages either to all members of the group or to a set of members within the group. A first user is able to input information into the first user's computing device, e.g., a message, invite, or post. Tibco's system will, based upon the

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<sup>1</sup> [http://info.tibbr.com/rs/tibcotibbr/images/tibbr\\_integration.pdf](http://info.tibbr.com/rs/tibcotibbr/images/tibbr_integration.pdf)

information provided by the first user, generate a notice to a second user, e.g., member of a group, contact, etc., and allow the second user to access the message, invite, or post from the first user. A second user is able to input information, e.g., a response or comment, intended for a third user, e.g., another contact or group member, into the second user's computing device. Defendant's system will, based upon the information provided by the second user, generate a notice to a third user and allow the third user to access to the information from the second user. By way of another example, Defendant's system stores first and second information. Defendant's system pushes notices to group participants, (i) allowing a first group participant to access the first information, while suppressing access to the first information to a second group participant, and (ii) allowing the second group participant to access the second information while suppressing access to the second information to the first group participant.<sup>2</sup>

16. By way of another example, Defendant's system stores first and second information, including without limitation, e-mails, messaging, links, through its notification system. For example and without limitation, Defendant's system pushes notices to group participants, (i) allowing a first group participant to access the first information, e.g., message/post, while suppressing access to the first information to a second group participant, and (ii) allowing the second group participant to access the second information, e.g., message/post, while suppressing access to the second information to the first group participant.<sup>3</sup>

#### **COUNT I: INFRINGEMENT OF THE '149 PATENT**

17. Plaintiff incorporates paragraphs 1-16 herein by reference as if set forth here in full.

18. Upon information and belief, Tibco has been and is currently directly infringing

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<sup>2</sup> See, e.g., <http://www.tibbr.com/what-is-tibbr/overview/microblogging.php>; <http://www.tibbr.com/what-is-tibbr/overview/notifications.php>.

<sup>3</sup> See *id.*

one or more claims of the '149 Patent by making, using, offering to sell, and/or selling within the United States, and/or importing into the United States, without authority, the aforementioned online communication system. Without limitation, and by example only, Tibco directly infringes and continues to directly infringe at least claim 1 of the '149 Patent by making, selling, using and offering for sale at least the aforementioned online communication system. Additionally, Tibco directly infringes and continues to directly infringe at least claim 14 of the '149 Patent by making, using, selling, and offering for sale at least the aforementioned online communication services.

19. Tibco also directly infringes one or more claims of the '149 Patent by directing and/or controlling its employees, executives, users, agents, affiliates, suppliers and customers to use the aforementioned online communication system within the United States.

20. Tibco also directly infringes one or more claims of the '149 Patent by providing a website for users and/or providing applications that are downloadable on peripheral computing devices, thus putting the aforementioned online communication system into use.

21. By using the methods claimed in the '149 Patent and by making and/or using the aforementioned online communication system, Tibco has been and is now directly infringing under 35 U.S.C. § 271 one or more claims of the '149 Patent, either literally or under the doctrine of equivalents.

22. Upon information and belief, upon knowledge of the '149 Patent (at least since the filing date of this Complaint), Tibco is contributing to the infringement of the '149 Patent by, among other things, knowingly and with intent, actively encouraging its customers, suppliers, agents, users and affiliates to make, use, sell and/or offer for sale Tibco's aforementioned online communication system and services that constitutes infringement of at least claims 1 and 14 of

the '149 Patent. For example, to the extent that any claim is construed to require a system, Defendant provides components, including downloadable software applications, for use in networked systems, which facilitate online notifications and communications. Tibco knows that such products constitute a material part of the inventions of the '149 Patent, knows those products to be especially made or adapted to infringe the '149 Patent, and knows that those products are not staple articles or commodities of commerce suitable for substantial non-infringing use. Tibco knows that by providing such components to its customers, its customers will infringe at least one claim of the '149 Patent, and Tibco knows that its customers do infringe the '149 Patent.

23. By contributing to its customers', suppliers', agents', users' and affiliates' use of the methods claimed in the '149 Patent and their making and/or using the aforementioned online communication system, Tibco has been and is now indirectly infringing under 35 U.S.C. § 271(c) one or more claims of the '149 Patent, either literally or under the doctrine of equivalents.

24. Upon information and belief, upon knowledge of the '149 Patent (at least since the filing date of this Complaint), Tibco is inducing infringement of the '149 Patent by, among other things, knowingly and with intent, actively encouraging its customers, suppliers, users, agents and affiliates to make, use, sell and/or offer for sale Tibco's aforementioned online communication system and services in a manner that constitutes infringement of one or more claims of the '149 Patent, knowing that such activities infringe at least one claim of the '149 Patent, and with the knowledge and specific intent to encourage, direct and facilitate those infringing activities, including through the creation and dissemination of promotional and marketing materials, instructional materials, product materials and technical materials. For example, Tibco provides users with applications and instructions as to how to operate Tibco's

products and how to send and receive online communications.<sup>4</sup>

25. To the extent that Tibco's customers can be considered to put the aforementioned online communication system into use, then Tibco would also be inducing infringement of the '149 Patent by, among other things, knowingly and with intent (at least since the filing date of this Complaint), actively encouraging its customers to make and use Tibco's aforementioned online communication system in a manner that constitutes infringement of one or more claims of the '149 Patent, knowing that such activities infringe at least one claim of the '149 Patent, and with the knowledge and specific intent to encourage, direct and facilitate those infringing activities, including through the creation and dissemination of promotional and marketing materials, instructional materials, product materials and technical materials. For example, Tibco provides users with applications and instructions as to how to operate Tibco's products and how to send and receive online communications.

26. By inducing its customers', suppliers', users', agents' and affiliates' use of the methods claimed in the '149 Patent and their making and/or using the aforementioned online communication system, Tibco has been and is now indirectly infringing under 35 U.S.C. § 271(b) one or more claims of the '149 Patent, either literally or under the doctrine of equivalents.

27. As a result of Tibco's unlawful infringement of the '149 Patent, Sampo has suffered and will continue to suffer damages. Sampo is entitled to recover from Tibco the damages adequate to compensate for such infringement, which have yet to be determined.

28. Tibco will continue to infringe the '149 Patent unless and until it is enjoined by this Court.

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<sup>4</sup> See, for example, <http://www.tibbr.com/what-is-tibbr/overview/microblogging.php>; <http://www.tibbr.com/what-is-tibbr/overview/notifications.php>; [http://info.tibbr.com/rs/tibcotibbr/images/tibbr\\_integration.pdf](http://info.tibbr.com/rs/tibcotibbr/images/tibbr_integration.pdf).



29. Tibco, by way of its infringing activities, has caused and continues to cause Sampo to suffer damages in an amount to be determined at trial. Sampo has no adequate remedy at law against Tibco's acts of infringement and, unless Tibco is enjoined from its infringement of the '149 Patent, Sampo will suffer irreparable harm.

**COUNT II: INFRINGEMENT OF THE '229 PATENT**

30. Plaintiff incorporates paragraphs 1-29 herein by reference as if set forth here in full.

31. Upon information and belief, Tibco has been and is currently directly infringing one or more claims of the '229 Patent by making, using, offering to sell, and/or selling within the United States, and/or importing into the United States, without authority, the aforementioned online communication system. Without limitation, and by example only, Tibco directly infringes and continues to directly infringe at least claim 1 of the '229 Patent by making, selling, using and offering for sale at least the aforementioned online communication system. Additionally, Tibco directly infringes and continues to directly infringe at least claim 22 of the '229 Patent by making, using, selling, and offering for sale at least the aforementioned online communication services.

32. Tibco also directly infringes one or more claims of the '229 Patent by directing and/or controlling its employees, executives, users, agents, affiliates, suppliers and customers to use the aforementioned online communication system within the United States.

33. Tibco also directly infringes one or more claims of the '229 Patent by providing a website for users and/or providing applications that are downloadable on peripheral computing devices, thus putting the aforementioned online communication system into use.

34. By using the methods claimed in the '229 Patent and by making and/or using the

aforementioned online communication system, Tibco has been and is now directly infringing under 35 U.S.C. § 271 one or more claims of the '229 Patent, either literally or under the doctrine of equivalents.

35. Upon information and belief, upon knowledge of the '229 Patent (at least since the filing date of this Complaint), Tibco is contributing to the infringement of the '229 Patent by, among other things, knowingly and with intent, actively encouraging its customers, suppliers, agents, users and affiliates to make, use, sell and/or offer for sale Tibco's aforementioned online communication system and services that constitutes infringement of at least claims 1 and 22 of the '229 Patent. For example, to the extent that any claim is construed to require a system, Defendant provides components, including downloadable software applications, for use in networked systems, which facilitate online notifications and communications. Tibco knows that such products constitute a material part of the inventions of the '229 Patent, knows those products to be especially made or adapted to infringe the '229 Patent, and knows that those products are not staple articles or commodities of commerce suitable for substantial non-infringing use. Tibco knows that by providing such components to its customers, its customers will infringe at least one claim of the '229 Patent, and Tibco knows that its customers do infringe the '229 Patent.

36. By contributing to its customers', suppliers', agents', users' and affiliates' use of the methods claimed in the '229 Patent and their making and/or using the aforementioned online communication system, Tibco has been and is now indirectly infringing under 35 U.S.C. § 271(c) one or more claims of the '229 Patent, either literally or under the doctrine of equivalents.

37. Upon information and belief, upon knowledge of the '229 Patent (at least since the filing date of this Complaint), Tibco is inducing infringement of the '229 Patent by, among

other things, knowingly and with intent, actively encouraging its customers, suppliers, users, agents and affiliates to make, use, sell and/or offer for sale Tibco's aforementioned online communication system and services in a manner that constitutes infringement of one or more claims of the '229 Patent, knowing that such activities infringe at least one claim of the '229 Patent, and with the knowledge and specific intent to encourage, direct and facilitate those infringing activities, including through the creation and dissemination of promotional and marketing materials, instructional materials, product materials and technical materials. For example, Tibco provides users with applications and instructions as to how to operate Tibco's products and how to send and receive online communications.<sup>5</sup>

38. To the extent that Tibco's customers can be considered to put the aforementioned online communication system into use, then Tibco would also be inducing infringement of the '229 Patent by, among other things, knowingly and with intent (at least since the filing date of this Complaint), actively encouraging its customers to make and use Tibco's aforementioned online communication system in a manner that constitutes infringement of one or more claims of the '229 Patent, knowing that such activities infringe at least one claim of the '229 Patent, and with the knowledge and specific intent to encourage, direct and facilitate those infringing activities, including through the creation and dissemination of promotional and marketing materials, instructional materials, product materials and technical materials. For example, Tibco provides users with applications and instructions as to how to operate Tibco's products and how to send and receive online communications.

39. By inducing its customers', suppliers', users', agents' and affiliates' use of the methods claimed in the '229 Patent and their making and/or using the aforementioned online

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<sup>5</sup> See, for example, <http://www.tibbr.com/what-is-tibbr/overview/microblogging.php>; <http://www.tibbr.com/what-is-tibbr/overview/notifications.php>; [http://info.tibbr.com/rs/tibcotibbr/images/tibbr\\_integration.pdf](http://info.tibbr.com/rs/tibcotibbr/images/tibbr_integration.pdf).

communication system, Tibco has been and is now indirectly infringing under 35 U.S.C. § 271(b) one or more claims of the '229 Patent, either literally or under the doctrine of equivalents.

40. As a result of Tibco's unlawful infringement of the '229 Patent, Sampo has suffered and will continue to suffer damages. Sampo is entitled to recover from Tibco the damages adequate to compensate for such infringement, which have yet to be determined.

41. Tibco will continue to infringe the '229 Patent unless and until it is enjoined by this Court.

42. Tibco, by way of its infringing activities, has caused and continues to cause Sampo to suffer damages in an amount to be determined at trial. Sampo has no adequate remedy at law against Tibco's acts of infringement and, unless Tibco is enjoined from its infringement of the '229 Patent, Sampo will suffer irreparable harm.

#### **PRAYER FOR RELIEF**

WHEREFORE, Sampo respectfully requests that this Court enter judgment in its favor as follows:

A. Holding that Defendant has directly infringed, literally and/or under the doctrine of equivalents, the claims of the Patents-in-Suit;

B. Holding that Defendant has indirectly infringed, literally and/or under the doctrine of equivalents, the claims of the Patents-in-Suit;

C. Permanently enjoining Defendant and its officers, directors, agents, servants, employees, affiliates, divisions, branches, subsidiaries, parents and all others acting in concert or privity with any of them from infringing, inducing the infringement of, or contributing to the infringement of the Patents-in-Suit;

D. Permanently enjoining the use of the online communication system created using the patented methods of the Patents-in-Suit;

E. Awarding to Sampo the damages to which it is entitled under 35 U.S.C. § 284 for Defendant's past infringement and any continuing or future infringement up until the date Defendant is finally and permanently enjoined from further infringement, including both compensatory;

F. Declaring this to be an exceptional case and awarding Sampo's attorneys' fees under 35 U.S.C. § 285;

G. Awarding Sampo costs and expenses in this action;

H. Awarding Sampo pre- and post-judgment interest on its damages; and

I. Awarding Sampo such other and further relief in law or in equity as this Court deems just and proper.

### **JURY DEMAND**

Sampo, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any and all issues so triable by right.

Dated: April 7, 2014

Respectfully submitted,

FARNAN LLP

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