

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

CLOUDING CORP.,

Plaintiff,

v.

CITRIX SYSTEMS, INC.,

Defendant.

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 Corp. (“Clouding” or “Plaintiff”) makes the following allegations against Defendant Citrix Systems, Inc. (“Citrix” or “Defendant”).

BACKGROUND

This instant Complaint alleges Citrix infringed and continues to infringe the same patents at issue in *Clouding IP, LLC v. Citrix Systems, Inc.*, 13-cv-01453-LPS (D. Del) (“Clouding IP Litigation”) filed on August 17, 2013. The patents asserted here, and in the Clouding IP Litigation were assigned by Symantec Corporation to Clouding IP, LLC. On July 28, 2014, the District Court dismissed the Clouding IP Litigation finding that a lack of prudential standing deprived the District Court of subject matter jurisdiction. On August 10, 2014, Clouding IP, LLC, and Symantec Corporation entered into an amended and restated Patent Purchase Agreement resolving all of the issues identified by the District Court in its July 28, 2014 Order. On August 11, 2014, Clouding IP, LLC moved for reconsideration of the District Court’s dismissal for failing to grant leave for Clouding IP, LLC to amend its pleadings to cure the alleged defect regarding prudential standing. While the motion for reconsideration was pending

and prior to the filing of the instant Complaint, Clouding IP, LLC transferred the patents asserted here and in the Clouding IP Litigation to Clouding Corp.

PARTIES

1. Plaintiff Clouding Corp. is a Delaware corporation with its principal place of business at 11100 Santa Monica Blvd., Ste. 380, Los Angeles, California 90025.

2. On information and belief, Defendant Citrix is a Delaware corporation with its principal place of business at 851 West Cypress Creek Road, Fort Lauderdale, Florida 33309. On information and belief, Citrix may be served via its registered agent, the Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, DE 19808.

JURISDICTION AND VENUE

3. 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).

4. On information and belief, Defendant Citrix is 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 itself of the rights and benefits of Delaware by incorporating under Delaware law and conducting substantial business in this forum, 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 and in this Judicial District.

5. Venue is proper in this district under 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b). Defendant Citrix is incorporated in this district, and on information and belief, Citrix is subject to personal jurisdiction in this district, has transacted business in this district and has committed acts of patent infringement in this district.

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

6. Plaintiff Clouding realleges and incorporates by reference paragraphs 1-5 above, as if fully set forth herein.

7. 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 Clouding IP, LLC of the '891 patent. A true and correct copy of the '891 patent is included as Exhibit A.

8. Defendant Citrix 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 Citrix's cloud computing products and/or services provide or support use of a method for updating a tunnel record.

9. On information and belief, Defendant Citrix 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, Cloud Bridge, 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, Citrix has injured Clouding and is liable to Clouding for infringement of the '891 patent pursuant to 35 U.S.C. § 271.

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

COUNT II
INFRINGEMENT OF U.S. PATENT NO. 6,631,449

11. Plaintiff Clouding realleges and incorporates by reference paragraphs 1-10 above, as if fully set forth herein.

12. Plaintiff Clouding is the owner by assignment of United States Patent No. 6,631,449 (the '449 patent') titled "Dynamic Distributed Data System and Method." The '449 patent was duly and legally issued by the United States Patent and Trademark Office on October 7, 2003. Clouding is the owner by assignment from Clouding IP, LLC of the '449 patent. A true and correct copy of the '449 patent is included as Exhibit B.

13. On information and belief, at least some of Citrix's cloud computing products and/or services, such as Citrix ShareFile, are provided by servers that maintain storage object consistency across nodes.

14. On information and belief, Citrix has infringed and continues to infringe the '449 patent by, among other things, making, using, offering for sale, and/or selling cloud computing products and/or services patented under the '449 patent. Such cloud computing products and/or services include, by way of example and without limitation, Citrix ShareFile, which is covered by one or more claims of the '449 patent, including but not limited to claim 1. By making, using, offering for sale, and/or selling cloud computing products and/or services patented under the '449 patent, Citrix has injured Clouding and is liable to Clouding for infringement of the '449 patent pursuant to 35 U.S.C. § 271.

15. As a result of Defendant Citrix's infringement of the '449 patent, Plaintiff Clouding has suffered monetary damages and is entitled to a money judgment in an amount

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

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

16. Plaintiff Clouding realleges and incorporates by reference paragraphs 1-15 above, as if fully set forth herein.

17. 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 Clouding IP, LLC of the '481 patent. A true and correct copy of the '481 patent is included as Exhibit C.

18. Defendant Citrix 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 Citrix's cloud computing products and/or services provide or support use of a method for data access and manipulation from a pervasive device.

19. On information and belief, Defendant Citrix 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, Citrix XenApp, 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, Citrix has injured

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

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

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

21. Plaintiff Clouding realleges and incorporates by reference paragraphs 1-20 above, as if fully set forth herein.

22. 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 Clouding IP, LLC of the '621 patent. A true and correct copy of the '621 patent is included as Exhibit D.

23. Defendant Citrix 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 Citrix's cloud computing products and/or services provide or support use of a method for enabling data access and manipulation from a pervasive device.

24. On information and belief, Defendant Citrix 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, Citrix XenApp, 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, Citrix has injured Clouding and is liable to Clouding for infringement of the '621 patent pursuant to 35 U.S.C. § 271.

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

COUNT V
INFRINGEMENT OF U.S. PATENT NO. 6,963,908

26. Plaintiff Clouding realleges and incorporates by reference paragraphs 1-25 above, as if fully set forth herein.

27. Plaintiff Clouding is the owner by assignment of United States Patent No. 6,963,908 (the '908 patent') titled "System for Transferring Customized Hardware and Software Settings from One Computer To Another Computer to Provide Personalized Operating Environments." The '908 patent was duly and legally issued by the United States Patent and Trademark Office on November 8, 2005. Clouding is the owner by assignment from Clouding IP, LLC of the '908 patent. A true and correct copy of the '908 patent is included as Exhibit E.

28. Defendant Citrix 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 Citrix's cloud computing products and/or services provide or support use of a method for transporting computer-based settings, files and/or other data from one computer to another.

29. On information and belief, Defendant Citrix has infringed and continues to infringe the '908 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 '908 patent. Such cloud computing products and/or services include, by way of example and without limitation, Citrix ShareFile, the use of which are covered by one or more claims of the '908 patent, including but not limited to claim 48. By making, using, offering for sale, and/or selling such products and services covered by one or more claims of the '908 patent, Citrix has injured Clouding and is liable to Clouding for infringement of the '908 patent pursuant to 35 U.S.C. § 271.

30. As a result of Defendant Citrix's infringement of the '908 patent, Plaintiff Clouding has suffered monetary damages and is entitled to a money judgment in an amount adequate to compensate for Citrix's infringement, but in no event less than a reasonable royalty for the use made of the invention by Citrix, together with interest and costs as fixed by the Court.

COUNT VII
INFRINGEMENT OF U.S. PATENT NO. 6,918,014

31. Plaintiff Clouding realleges and incorporates by reference paragraphs 1-30 above, as if fully set forth herein.

32. Plaintiff Clouding is the owner by assignment of United States Patent No. 6,918,014 ("the '014 patent") titled "Dynamic Distributed Data System and Method." The '014 patent was duly and legally issued by the United States Patent and Trademark Office on July 12, 2005. Clouding is the owner by assignment from Clouding IP, LLC of the '014 patent. A true and correct copy of the '014 patent is included as Exhibit F.

33. Defendant Citrix makes, uses, sells, and offers for sale in the United States products and/or services for cloud computing. On information and belief, at least some of

Citrix's cloud computing products and/or services provide maintaining storage object consistency across a distributed storage network.

34. On information and belief, Defendant Citrix has infringed and continues to infringe the '014 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 '014 patent. Such cloud computing products and/or services include, by way of example and without limitation, Citrix ShareFile, the use of which are covered by one or more claims of the '014 patent, including but not limited to claim 18. By making, using, offering for sale, and/or selling such products and services covered by one or more claims of the '014 patent, Citrix has injured Clouding and is liable to Clouding for infringement of the '014 patent pursuant to 35 U.S.C. § 271.

35. As a result of Defendant Citrix's infringement of the '014 patent, Plaintiff Clouding has suffered monetary damages and is entitled to a money judgment in an amount adequate to compensate for Citrix's infringement, but in no event less than a reasonable royalty for the use made of the invention by Citrix, 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 Citrix has infringed, either literally and/or under the doctrine of equivalents, the '891 patent, '449 patent, '481 patent, '621 patent, '908 patent, and '014 patent;

2. A judgment and order requiring Defendant Citrix to pay Plaintiff Clouding its damages, costs, expenses, and pre-judgment and post-judgment interest as provided under 35 U.S.C. § 284 for Citrix's infringement of the '891 patent, '449 patent, '481 patent, '621 patent, '908 patent, and '014 patent;

3. A judgment and order that this case is exceptional and requiring Citrix 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.

September 10, 2014

BAYARD, P.A.

OF COUNSEL:

Marc A. Fenster
Brian D. Ledahl
Dorian S. Berger
RUSS AUGUST & KABAT
12424 Wilshire Boulevard, 12th Floor
Los Angeles, CA 90025
(310) 826-7474
mfenster@raklaw.com
bledahl@raklaw.com
dberger@raklaw.com

/s/ Vanessa R. Tiradentes
Richard D. Kirk (rk0922)
Stephen B. Brauerman (sb4952)
Vanessa R. Tiradentes (vt5398)
Sara E. Bussiere (sb5725)
222 Delaware Avenue, Suite 900
P.O. Box 25130
Wilmington, DE 19899
(302) 655-5000
rkirk@bayardlaw.com
sbraerman@bayardlaw.com
vtiradentes@bayardlaw.com
sbussiere@bayardlaw.com

Attorneys for Plaintiff Clouding Corp.