

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

Keith Raniere, an individual residing in the State of New York,)	
)	
Plaintiff,)	CIVIL ACTION NO. 3:15-cv-00540-M
)	
-against-)	SECOND AMENDED COMPLAINT
)	FOR PATENT INFRINGEMENT
Microsoft Corporation, a Washington corporation with headquarters in Redmond, Washington,)	<u>JURY TRIAL DEMANDED</u>
)	
Defendant.)	

SECOND AMENDED COMPLAINT

Plaintiff Keith Raniere, for his complaint against Defendant Microsoft Corporation, alleges as follows:

INTRODUCTION

1. Plaintiff brings this action for patent infringement against Defendant Microsoft Corporation for infringement of U.S. Patent Numbers: 7,215,752; and 7,844,041.

THE PARTIES

2. Plaintiff is an individual residing in the State of New York.
3. Defendant Microsoft Corporation (“Microsoft”) is a corporation organized under the laws of Washington, with a principal place of business at 1 Microsoft Way, Redmond, Washington 98052-6399. Microsoft is registered to conduct business in the State of Texas, Filing No. 10404606, and has designated Corporation Service Company, 211 E. 7th Street, Suite 620, Austin, Texas 78701, as its agent for service of process.

JURISDICTION AND VENUE

4. This is an action for infringement of United States patent arising under 35 U.S.C. §§ 271, 281, and 284-285, among others. This Court has subject matter jurisdiction of the action under 28 U.S.C. § 1331 and § 1338(a).

5. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400(b). Upon information and belief, Defendant has transacted business in this district, and has committed and/or induced acts of patent infringement in this district.

6. Defendant is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to Defendant's substantial business in this forum, including: (i) at least a portion of the infringing activity alleged herein; and/or (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 Texas and in this district.

PATENTS-IN-SUIT

7. On May 8, 2007, United States Patent No. 7,215,752 ("the '5752 patent") was duly and legally issued by the United States Patent and Trademark Office for an invention entitled "Intelligent Switching System for Voice and Data." A true and correct copy of the '5752 patent is attached hereto as Exhibit A.

8. Plaintiff is the owner of the '5752 patent with all substantial rights in and to that patent, including the sole and exclusive right to prosecute this action and enforce the '5752 patent against infringers, and to collect damages for all relevant times.

9. On November 30, 2010, United States Patent No. 7,844,041 (“the ’041 patent”) was duly and legally issued by the United States Patent and Trademark Office for an invention entitled “Intelligent Switching System for Voice and Data.” A true and correct copy of the ’041 patent is attached hereto as Exhibit B.

10. Plaintiff is the owner of the ’041 patent with all substantial rights in and to that patent, including the sole and exclusive right to prosecute this action and enforce the ’041 patent against infringers, and to collect damages for all relevant times.

FACTUAL ALLEGATIONS

11. Defendant Microsoft offers for sale, sells, and provides to third parties Lync 2010.

12. Third parties directly infringe the ’5752 and ’041 patents when they use Lync 2010.

13. Defendant Microsoft provides third parties with assistance with regard to the implementation and use of Lync 2010 in an infringing manner as evidenced by at least Microsoft Lync 2010 Conferencing and Collaboration Training, Give a PowerPoint presentation in Lync Web App, Office Web Apps Server, and Microsoft Lync Server 2010 Administration Guide, which are attached hereto as Exhibits C-F, respectively. Each of these documents is or was available to the general public on Microsoft’s website.

14. Plaintiff informed Microsoft that its Lync 2010 product infringed one or more of the above listed patents on or about July 8, 2014. A copy of this notice is included as Exhibit G. On or about August 19, 2014, Plaintiff provided Microsoft with claim charts demonstrating how Lync infringes one or more claims of each of the ’5752 and ’041 patents. A copy of this letter is included as Exhibit H.

15. Notwithstanding Plaintiff's July 8, 2014 and August 19, 2014 letters, Microsoft has continued to induce others to use Lync 2010 in an infringing manner whereby the users directly infringe one or more claims of each of the above listed patents.

16. Microsoft directly infringed one or more claims of each of the '5752 and '041 patents when it created the above mentioned documents.

17. Upon information and belief, Microsoft directly infringed the '5752 and '041 patents by using its Microsoft Lync 2010 conferencing software in 2010, 2011, 2012, and 2013.

COUNT I

18. Plaintiff repeats and realleges the statements and allegations set forth in paragraph 1- 17 above.

19. Microsoft knew that its Lync 2010 product infringed one or more claims of the '5752 patent at least as early as about July 8, 2014.

20. Despite this knowledge, Microsoft induced third parties to directly infringe one or more claims of the '5752 patent by, for example, providing Lync 2010 software and instructions as to how to install, configure, and use Lync 2010 in an infringing manner.

21. Microsoft directly or through intermediaries, made, had made, used, imported, provided, supplied, distributed, sold, and offered for sale products, systems, and methods (including at least the Lync 2010 product and service) that infringed one or more claims of the '5752 patent.

COUNT II

22. Plaintiff repeats and realleges the statements and allegations set forth in paragraph 1-21 above.

23. Microsoft knew that its Lync 2010 product infringed one or more claims of the '041 patent at least as early as about July 8, 2014.

24. Despite this knowledge, Microsoft induced third parties to directly infringe one or more claims of the '041 patent by, for example, providing Lync 2010 software and instructions as to how to install, configure, and use Lync 2010 in an infringing manner.

25. Microsoft directly or through intermediaries, made, had made, used, imported, provided, supplied, distributed, sold, and offered for sale products, systems, and methods (including at least the Lync 2010 product and service) that infringed one or more claims of the '041 patent.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Keith Ranieri prays for the entry of a judgment from this Court:

A. Declaring that Defendant Microsoft has directly infringed and/or induced infringement of one or more claims of the '5752 and '041 patents;

B. Awarding Plaintiff damages in accordance with 35 U.S.C. § 284;

C. Awarding Plaintiff its pre-judgment interest and post-judgment interest at the maximum rate allowed by law, including an award of prejudgment interest, pursuant to 35 U.S.C. § 284, from the date of each act of infringement of the '5752 and '041 patents by Defendant to the day a damages judgment is entered, and further an award of post-judgment interest, pursuant to 28 U.S.C. § 1961, continuing until such judgment is paid, at the maximum rate allowed by law;

D. Declaring this case to be an exceptional case pursuant to 35 U.S.C. § 285 and ordering Defendant to pay the costs of this action (including all disbursements) and attorneys' fees as provided by 35 U.S.C. § 285;

E. Awarding Plaintiff enhanced damages pursuant to 35 U.S.C. § 284;

F. Awarding Plaintiff such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury on all issues triable of right by a jury.

DATED: July 10, 2015

Keith Raniere

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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing instrument was filed electronically in compliance with Local Rule 5.1(d). As such, this document was served on all counsel who are registered users of ECF on this 10th day of July, 2015.

/s/ Bradley W. Caldwell
Bradley W. Caldwell