

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

**AKOLOUTHEO, LLC,**

**Plaintiff,**

**v.**

**INT’L BUSINESS MACHINES CORP.,**

**Defendant.**

**CIVIL ACTION NO.: 4:19-cv-551**

**JURY TRIAL DEMANDED**

**COMPLAINT FOR PATENT INFRINGEMENT**

1. This is an action under the patent laws of the United States, Title 35 of the United States Code, for patent infringement in which Akoloutheo, LLC (“Akoloutheo” or “Plaintiff”), makes the following allegations against Int’l Business Machines Corp. (“IBM” or “Defendant”).

**PARTIES**

2. Akoloutheo is a Texas limited liability company, having its primary office at 15139 Woodbluff Dr., Frisco, Texas 75035. Plaintiff’s owner and sole operator is Rochelle T. Burns.

3. IBM is a New York corporation with its principal place of business in Armonk, New York 10504. IBM also maintains a regional office in the Eastern District of Texas – located at 3010 Gaylord Pkwy, Suite 300, Frisco, TX 75034. IBM’s Registered Agent for service of process in Texas is CT Corp. System, 1999 Bryan St., Suite 900, Dallas, Texas 75201.

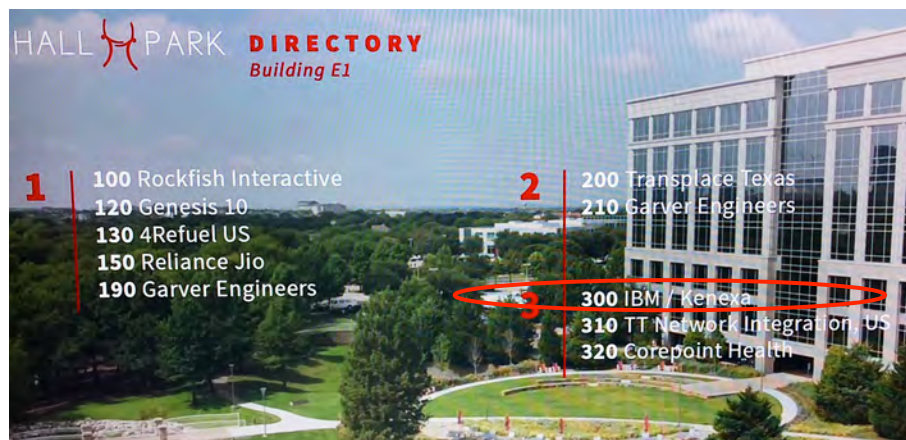
**JURISDICTION AND VENUE**

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

5. Venue is proper in this district under 28 U.S.C. §§ 1391(c), generally, and under 1400(b), specifically. Defendant has a regular and established place of business in this Judicial District, and Defendant has also committed acts of patent infringement in this Judicial 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 its 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 Texas and in this Judicial District.

7. Defendant has an established office located at 3010 Gaylord Pkwy, Suite 300 in Frisco, Texas – well within the Eastern District of Texas:



8. Defendant has infringed, and does infringe, by transacting and conducting business within the Eastern District of Texas. Upon information and belief, operations at Defendant's Frisco location include sales, marketing, product development, and/or product support for Defendant's infringing instrumentalities.

9. Defendant's office in Frisco, Texas is a regular and established place of business in this Judicial District, and Defendant has committed acts of infringement (as described in

detail, hereinafter) at the Defendant's office within this District. Venue is therefore proper in this District under 28 U.S.C. § 1400(b).

**COUNT I**  
**INFRINGEMENT OF U.S. PATENT NO. 7,426,730**

10. Plaintiff is the owner by assignment of the valid and enforceable United States Patent No. 7,426,730 ("the '730 Patent") entitled "Method and System for Generalized and Adaptive Transaction Processing Between Uniform Information Services and Applications" – including all rights to recover for past, present and future acts of infringement. The '730 Patent issued on September 16, 2008, and has a priority date of April 19, 2001. A true and correct copy of the '730 Patent is attached as Exhibit A.

11. Defendant directly – or through intermediaries including distributors, partners, contractors, employees, divisions, branches, subsidiaries, or parents – made, had made, used, operated, imported, provided, supplied, distributed, offered for sale, sold, and/or provided access to software systems, cloud-based software, and/or software as a service (SaaS) (collectively, "software") for analyzing, accessing, and processing networked resources – including, but not limited to, IBM's Watson Explorer, Watson Content Analytics, and Watson Talent/Kenexa Talent Acquisition software systems ("IBM Systems").

12. IBM Systems operate upon a networked environment that may comprise any number of local and remote networked servers and systems, and accesses data resources across those networked servers and systems:

**IBM Kenexa Talent Acquisition**

This Service Description describes the Cloud Service IBM provides to Client. Client means the company and its authorized users and recipients of the Cloud Service. The applicable Quotation and Proof of Entitlement (PoE)

**IBM Kenexa BrassRing on Cloud**

IBM Kenexa BrassRing on Cloud is a scalable, online tool to help employers and recruiters centralize and manage the acquisition of talent across multiple company divisions and locations.

**Key Features:**

- Easily search for candidates across the internet via multiple external job boards simultaneously.

**IBM Kenexa BrassRing**

A market-leading, global ATS that helps you quickly and easily select and hire the best person for each position. BrassRing's powerful search technology helps recruiters find top candidates and can leverage social networks to continually broaden the talent pool. BrassRing's Rules Automation Manager is a powerful engine that automates complex and routine recruiting processes. With BrassRing's powerful metrics dashboard, go beyond standard reporting and provide users with the ability to create visualizations of data points that are of interest to them.

*Crawlers* extract content from the various enterprise data sources at intervals configured by the administrator. Crawlers are available for many different types of enterprise data sources. Content Analytics supports the following categories of crawlers:

- ▶ Web-based crawlers that support the HTTP/HTTPS and Network News Transfer Protocol (NNTP)
- ▶ Enterprise data source crawlers that support IBM Content Manager, IBM FileNet Content Manager, Microsoft SharePoint, and IBM Lotus® Web Content Management

13. End users of the IBM Systems access network resources through a browser-based user interface provided by IBM:

The content analytics miner is what you use to perform content analysis. Its user interface is browser-based and communicates with the content analytics miner

installation. The Content Analytics Miner web application issues REST client requests to the search run time associated with a given content analytics collection. The search runtime server component can either be installed locally or remotely from the analytics miner application.

The search runtime component is a server-based component that is responsible for servicing user search and analytic requests. Client service requests are made by using the REST API. The REST APIs are a programming interface based on Java that operates remotely by using the HTTP/HTTPS protocol. The enterprise search application and content analytics miner are example REST APIs client applications that make service requests to a search runtime component.

14. As end users of the IBM Systems initiate requests for network resources across an enterprise, those requests are processed by an enterprise search application – which sends and receives requests from a search server. The search server processes the requests against an index of available data resources, the index having been built by analyzing and contextualizing content from the available data resources:

- ▶ Enterprise search application: Handles the search queries from users and sends them to the search server.



search configuration). The controller server runs the crawler, document processing, and builds the index. The search server accesses the index to process search queries. The enterprise search application sends and receives requests from the search server. The enterprise search application can be

**Search server:** Processes user queries against the collection index at run time and returns the results to the enterprise search application.

Different content sources are first crawled, then parsed and indexed before they are available for search. Figure 12-3 shows the document index preparation and

**Facet Tree:** Provides a list of elements that are derived from document metadata values, or text analytics annotators.

**Category Tree:** Displays categories that are defined by configurable rules.

15. The IBM Systems process the request based upon various context elements, and provide a series of operations that generate a resultant resource, responsive to the initial request:

search results are displayed (see Figure 12-1 on page 449). Once a user with little experience or knowledge of the content submits a simple search, consisting even of a single word, these widgets display a detailed view of different features represented within the results set: Distribution by date, category, and any other defined facets.

These components not only display a meaningful overview of the set, they are also interactive devices for drilling down and up into the set, refining or generalizing the results according to the properties chosen by the user. Each component lists the document count per element and allows you to add terms to the drill-down search.

By exposing to the user lists and trees of existing facets and values, it allows users who are not familiar with the content or defined fields, to access the content according to the facet design and available content.

The widgets that we configure in this chapter are:

- ▶ **Facet Tree:** Provides a list of elements that are derived from document metadata values, or text analytics annotators.
- ▶ **Category Tree:** Displays categories that are defined by configurable rules.

16. IBM Systems thus process the requests utilizing information stored in a registry of available resources.

17. IBM Systems thus initiate and process transaction requests for access to particular network resources with reference to a variety of contextual elements, select one or more responsive resources, and deliver access to a responsive resource.

18. IBM Systems thus provide an end user with access to a resultant resource after dynamically processing a request.

19. Plaintiff herein restates and incorporates by reference paragraphs 11 – 18, above.

20. All recited elements of – at least – claims 1, 15, and 17 of the ‘730 Patent are present within IBM Systems.

21. IBM Systems comprise a networked computer system that provides a resultant resource according to a transaction request.

22. IBM Systems comprise transaction processing module(s).

23. IBM Systems comprise a plurality of networked resources communicatively coupled to provide specific data responsive to a transaction processed by an IBM System.

24. IBM Systems maintain registries of networked data resources and data characteristics for use in responding to transactions requests.

25. IBM Systems process a transaction request utilizing contextual elements related to the request and/or the user entering the request.

26. IBM Systems select one or more data resources, and perform one or more operations on those data resources to satisfy the transaction request.

27. IBM Systems generate a resultant data resource responsive to the transaction request, and delivers that resultant data resource to the user.

28. IBM Systems infringe – at least – claims 1, 15, and 17 of the ‘730 Patent.

29. IBM Systems literally and directly infringe – at least – claims 1, 15, and 17 of the ‘730 Patent.

30. IBM Systems perform or comprise all required elements of – at least – claims 1, 15, and 17 of the ‘730 Patent.

31. In the alternative, IBM Systems infringe – at least – claims 1, 15, and 17 of the ‘730 Patent under the doctrine of equivalents. IBM Systems perform substantially the same functions in substantially the same manner with substantially the same structures, obtaining substantially the same results, as the required elements of – at least – claims 1, 15, and 17 of the ‘730 Patent. Any differences between the IBM Systems and the claims of the ‘730 Patent are insubstantial.

32. IBM Systems require end users to operate in a manner prescribed and controlled by IBM. End users must process transaction requests through IBM servers, operating according

to predetermined operations and algorithms residing in IBM Systems. IBM therefore exercises control and/or direction over the performance of every action performed on or by an IBM System, including those that are initiated by an end user.

33. All recited elements of – at least – claims 1, 15, and 17 of the ‘730 Patent are present within, or performed by, IBM Systems or, in the alternative, performed by end users of IBM Systems under the direction and control of IBM – and are therefore attributable to IBM.

34. In the alternative, therefore, IBM Systems infringe – indirectly – claims 1, 15, and 17 of the ‘730 Patent, by virtue of IBM’s exclusive control and direction of the infringing instrumentalities and/or operations.

35. IBM Systems, when used and/or operated in their intended manner or as designed, infringe – at least – claims 1, 15, and 17 of the ‘730 Patent, and IBM is therefore liable for infringement of the ‘730 Patent.

#### **DEMAND FOR JURY TRIAL**

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

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests that this Court enter:

- a. A judgment in favor of Plaintiff that Defendant has infringed the ‘730 Patent;
- b. A permanent injunction enjoining Defendant and its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert therewith, from infringement of the ‘730 Patent;
- c. A judgment and order requiring Defendant to pay Plaintiff its damages, costs, expenses, and pre-judgment and post-judgment interest for Defendant’s infringement of the ‘730 Patent as provided under 35 U.S.C. § 284;
- d. An award to Plaintiff for enhanced damages resulting from the knowing and deliberate nature of Defendant’s prohibited conduct with notice being made at least as early as the service date of this complaint, as provided under 35 U.S.C. § 284;
- e. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Plaintiff its reasonable attorneys’ fees; and

f. Any and all other relief to which Plaintiff may show itself to be entitled.

July 24, 2019

Respectfully Submitted,

By: /s/ Ronald W. Burns

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AKOLOURTHEO, LLC**