

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

**WSOU INVESTMENTS, LLC d/b/a  
BRAZOS LICENSING AND  
DEVELOPMENT,**

*Plaintiff,*

**v.**

**SALESFORCE.COM, INC.,**

*Defendant.*

**Civil Action No.: 6:23-cv-00046**

**JURY TRIAL DEMANDED**

**SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff WSOU Investments, LLC d/b/a Brazos Licensing and Development (“Brazos” or “Plaintiff”), by and through its attorneys, filed this Second Amended Complaint (“Second Amended Complaint”) for Patent Infringement against salesforce.com, inc. (“Salesforce” or “Defendant”), and alleges the following:

**NOTICE OF RELATED CASES**

This case is related to *WSOU Investments LLC v. Salesforce.com, Inc.*, Case No. 6:20-cv-01163-ADA-DTG.

**THE PARTIES**

1. Plaintiff WSOU Investments, LLC d/b/a Brazos Licensing and Development is a limited liability company organized and existing under the laws of Delaware that maintains its principal place of business at 605 Austin Avenue, Suite 6, Waco, Texas 76701.

2. On information and belief, Defendant Salesforce is a corporation organized and existing under the laws of Delaware that maintains an established place of business at 415 Mission Street, 3rd Floor, San Francisco, California 94105.

### **JURISDICTION**

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 exclusive subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over Salesforce because it has engaged in systematic and continuous business activities in this District. As described below, Salesforce has committed acts of patent infringement giving rise to this action within this District.

### **VENUE**

6. Venue is proper in this District under 28 U.S.C. §§ 1391 and 1400(b). Salesforce has committed acts of patent infringement in this District, and has established places of business in this District and in Texas. As non-limiting examples, Defendant has an office in Austin that it lists on its website on the “Global Offices” page: 600 Congress Avenue, Austin, Texas, 78701. On information and belief, Salesforce has more than 600 employees that work in this judicial district, including employees working in the cities of Waco, Austin, and San Antonio. The titles of said employees include “Vice President,” “Principal Architect,” and “Senior Director.”

7. Salesforce has at least 16 community groups in this District through its Trailblazer Community platform, including groups in Austin, San Antonio, and El Paso. Salesforce promotes these groups on its Trailblazer Community website and describes them as “Powered by Salesforce Trailblazer Community.”

### **PATENT-IN-SUIT**

8. Plaintiff is the assignee of all right, title, and interest in United States Patent No. 7,551,731 (“the ’731 Patent” or “Patent-in-Suit”), including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the Patent-in-Suit. Accordingly, Plaintiff possesses the exclusive right and standing to prosecute the present action for infringement of the Patent-in-Suit by Defendant.

### **THE ’731 PATENT**

9. The ’731 Patent is entitled “Flexible caller ID and calling name information presentation,” and issued on June 23, 2009. The application leading to the ’731 Patent was filed on August 31, 2004. A true and correct copy of the ’731 Patent is attached hereto as Exhibit 1 and incorporated herein by reference.

10. The ’731 Patent is valid and enforceable.

### **COUNT 1: INFRINGEMENT OF THE ’731 PATENT**

11. Plaintiff incorporates the above paragraphs herein by reference.

12. **Direct and Joint Infringement.** Defendant and/or its customers have been and continue to directly and/or jointly infringe one or more claims of the ’731 Patent in at least this District by making, using, offering to sell, selling and/or importing, without limitation, at least the Defendant’s products identified in the chart incorporated into this Count below (among the “Accused Products”) that infringe at least the exemplary claims of the ’731 Patent also identified in the chart incorporated into this Count below (the “Exemplary ’731 Patent Claims”) literally and/or by the doctrine of equivalents.

13. On information and belief, Defendant conditions its customers’ use of the Accused Products by requiring a license to use the Accused Products, and further establishes the manner and timing in which Defendant’s customers use the Accused Products.

14. On information and belief, other products that infringe the claims of the '731 Patent have been made, used, sold, imported, and offered for sale by Defendant and/or its customers.

15. On information and belief, Defendant also has and continues to directly infringe, literally and/or under the doctrine of equivalents, the Exemplary '731 Patent Claims, by having its employees internally test and use these Accused Products.

16. **Actual Knowledge of Infringement.** Defendant has had actual knowledge of the '731 Patent since at least the service of an original complaint in Related Case 6:20-cv-01163-ADA-DTG on February 27, 2021. *See* 6:20-cv-01163-ADA-DTG, D.I. 14 (Return of Service of Summons and Complaint); *BillJCo, LLC v. Apple Inc.*, Case No. 6:21-cv-00528-ADA, D.I. 44 at 11 n.4 (W.D. Tex. Feb. 1, 2022) (filing of original complaint provides notice for purposes of post-suit willful infringement). Thus, Defendant has had actual knowledge of its infringement of the '731 Patent since before the filing of this Second Amended Complaint. Moreover, since February 27, 2021, the parties have had numerous discussions regarding the '731 Patent and Defendant's infringement of the same.

17. Despite such actual knowledge of the '731 Patent since at least February 27, 2021, Defendant continues to make, use, test, sell, offer for sale, market, and/or import into the United States, products that infringe the '731 Patent. On information and belief, and as described further below, Defendant has also continued to sell the Accused Products and advertised and promoted the use of the Accused Products on various websites, including providing instructions on how to implement and configure the Accused Products, inducing end users and others to use its products in the customary and intended manner that infringes the '731 Patent. *See* Exhibit 2 (described below). By the time of trial, Defendant will have known and intended (since receiving actual notice at least as of February 27, 2021) that its continued actions would infringe and actively induce and contribute to the infringement of one or more claims of the '731 Patent, and Defendant

will have known long before the filing of this Second Amended Complaint that its continued actions would infringe and actively induce and contribute to the infringement of one or more claims of the '731 Patent.

18. **Willful Infringement.** Defendant's infringement of the '731 Patent, since at least February 27, 2021, has been willful and merits increased damages. Defendant undertook and continues its infringing actions despite that it knows and/or should have known that its actions constituted an unjustifiably high risk that its activities infringed the '731 Patent, which was duly issued by the USPTO, and is presumed valid. For example, since at least February 27, 2021, Defendant has been aware of the unjustifiably high risk that its actions constituted and continue to constitute infringement of the '731 Patent, and that the claims of the '731 Patent are valid. On information and belief, Defendant could not reasonably or subjectively believe that its actions do not constitute infringement of the '731 Patent, and it could not reasonably or subjectively believe that the '731 Patent is invalid. Despite this knowledge and subjective belief, and the unjustifiably high risk that its actions constitute infringement, Defendant has continued its infringing activities. As such, Defendant willfully infringes the '731 Patent.

19. **Induced Infringement.** Since at least February 27, 2021, Defendant actively, knowingly, and intentionally has committed, and continues to commit, affirmative acts that induce infringement, literally and/or by the doctrine of equivalents, of one or more claims of the '731 Patent with knowledge of the '731 Patent and knowledge that the induced acts constitute infringement of one or more claims of the '731 Patent. Defendant has actively induced others, including, but not limited to, customers, purchasers, developers, and/or end users of the Accused Products, to directly infringe the '731 Patent, literally and/or by the doctrine of equivalents, throughout the United States, including within this judicial district, by, among other things, advertising, promoting, and instructing the use of the Accused Products via various websites,

including providing and disseminating product descriptions, operating manuals, how-to videos and guides, and other instructions on how to implement and configure the Accused Products, and selling the Accused Products to its customers, including for use in end-user products, in a manner that infringes one or more claims of the '731 Patent.

20. For example, Defendant induces such acts of infringement by its affirmative actions of intentionally providing the Accused Products that, when used in their normal and customary way as desired and intended by Defendant, infringe one or more claims of the '731 Patent and/or by directly or indirectly providing instructions on how to use the Accused Products in a manner or configuration that infringes the one or more claims of the '731 Patent. Defendant encourages and induces customers to use the Accused Products in a manner that infringes the '731 Patent by its activities relating to selling, marketing, advertising, promoting, installing, and supporting its Accused Products, as described in this Second Amended Complaint and in Exhibit 2 (described below). On information and belief, Defendant provides customer service or technical support to purchasers of the Accused Products, which directs and encourages customers to perform certain actions as a condition to use the Accused Products in an infringing manner. See for example:

- “Configure Caller ID for Your Contact Center,” [https://help.salesforce.com/s/articleView?id=sf.voice\\_setup\\_identify\\_callers.htm&type=5](https://help.salesforce.com/s/articleView?id=sf.voice_setup_identify_callers.htm&type=5) (last visited April 5, 2023).
- “Configure Your Service Cloud Voice Contact Center,” [https://help.salesforce.com/s/articleView?id=sf.voice\\_pt\\_manual\\_config.htm&type=5](https://help.salesforce.com/s/articleView?id=sf.voice_pt_manual_config.htm&type=5) (last visited April 5, 2023).
- “Lightning Dialer: Use a Custom Caller ID,” [https://help.salesforce.com/s/articleView?id=release-notes.rn\\_sales\\_dialer\\_top.htm&release=222&type=5](https://help.salesforce.com/s/articleView?id=release-notes.rn_sales_dialer_top.htm&release=222&type=5) (last visited April 5, 2023).
- “Add Contact Center Channels to Enable Routing,” [https://developer.salesforce.com/docs/atlas.en-us.voice\\_pt\\_developer\\_guide.meta/voice\\_pt\\_developer\\_guide/voice\\_pt\\_automated\\_phone\\_list.htm](https://developer.salesforce.com/docs/atlas.en-us.voice_pt_developer_guide.meta/voice_pt_developer_guide/voice_pt_automated_phone_list.htm) (last accessed April 5, 2023).

21. Defendant therefore actively, knowingly, and intentionally has been inducing and continues to induce infringement of the '731 Patent, literally and/or by the doctrine of equivalents, by instructing and encouraging its customers, purchasers, developers, and/or end users to use the Accused Products in a manner that infringes one or more claims of the '731 Patent.

22. **Contributory Infringement.** Since at least February 27, 2021, Defendant has committed, and continues to commit, contributory infringement, literally and/or by the doctrine of equivalents, by, *inter alia*, knowingly selling the Accused Products that when used cause the direct infringement of one or more claims of the '731 Patent by a third party, and which have no substantial non-infringing uses, or include a separate and distinct component that is especially made or especially adapted for use in infringement of the '731 Patent, and is not a staple article or commodity of commerce suitable for substantial non-infringing use.

23. Defendant therefore actively, knowingly, and intentionally has been and continues to materially contribute to its customers' infringement of the '731 Patent, literally and/or by the doctrine of equivalents, by selling the Accused Products to them for use in end user products in a manner that infringes one or more claims of the '731 Patent. The Accused Products are especially made or adapted for infringing the '731 Patent and have no substantial non-infringing use. For example, in view of the preceding paragraphs and Exhibit 2, the Accused Products contain functionality which is material to at least one claim of the '731 Patent.

24. Exhibit 2 is a claim chart comparing the Exemplary '731 Patent Claims to the Accused Products. As set forth in that chart, the Accused Products practice the technology claimed by the '731 Patent. Accordingly, the Accused Products incorporated in this chart satisfy all elements of the Exemplary '731 Patent Claims.

25. Plaintiff therefore incorporates by reference in its allegations herein the claim chart of Exhibit 2.

26. Defendant's acts of infringement have caused and continue to cause damages to Plaintiff. Plaintiff is entitled to recover damages adequate to compensate for Defendant's infringement.

27. Defendant has been aware of the '731 Patent since at least the service of an original complaint in Related Case 6:20-cv-01163-ADA-DTG on February 27, 2021. *See* 6:20-cv-01163-ADA-DTG, D.I. 14 (Return of Service of Summons and Complaint); *BillJCo, LLC v. Apple Inc.*, Case No. 6:21-cv-00528-ADA, D.I. 44 at 11 n.4 (W.D. Tex. Feb. 1, 2022) (filing of original complaint provides notice for purposes of post-suit willful infringement). Consequently, Defendant's infringement of the '731 Patent has been and continues to be willful and deliberate, and therefore, this is an exceptional case entitling Plaintiff to enhanced damages for up to three times the actual damages awarded and attorneys' fees pursuant to 35 U.S.C. §§ 284-285.

28. The accused products for Related Case 6:20-cv-01163-ADA-DTG ("-1163 Case") are different than the Accused Products for the present case ("-0046 Case"). For example, the -1163 Case relates to a case escalation feature for Salesforce's Service Cloud. In contrast, the -0046 Case relates to a caller ID configuration feature for Salesforce's Sales Cloud and Service Cloud.

29. Exhibit 3 is Plaintiff's Disclosures of Preliminary Infringement Contentions for the -1163 Case, as served on June 23, 2021. Exhibit 3 includes a claim chart comparing claims 1, 2, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, and 17 of the '731 Patent to the accused product in the -1163 Case, a "case management feature" for enabling "service agents to resolve customer's issues," such that a "customer service agent [can] escalate [a] case." Exhibit 3 at 10. When "a customer service agent needs to escalate the case," the "agent can enter the escalation rules (i.e., entering the command) to escalate the case to a respective expert agent or a senior agent." Exhibit 3 at 10.



30. As described in Exhibit 2, the Accused Products for the -0046 Case include a caller ID configuration feature for Service Cloud Voice for Service Cloud and a custom caller ID feature for Lightning Experience and Lightning Dialer for Sales Cloud. *See* Exhibit 2 at 1, 3, 6. Service Cloud Voice is “designed to be integrated with a calling center infrastructure, providing network support for service calls that are integrated with their cloud-based platform.” Exhibit 2 at 2. This integration allows for a specific customer-relationship management (“CRM”) feature, “configuring caller ID.” This feature allows for entering a command “to match callers to End User Records, ensuring that when a customer calls a service agent, the agent can save the customer’s phone number and name to an End User Record ...” Exhibit 2 at 2. Lightning Experience and Lightning Dialer provides “support for a calling infrastructure for communicating between Sales reps and customers” and allows for entering a command “to add a custom phone number ... which is used as the caller ID for outbound calls to customers.” *Id.* at 5-6.

31. For the -1163 Case, there are no Sales Cloud related accused products.

32. A comparison of the exhibits cited in Exhibit 2 (*see* Exhibit 2 at 37 (identifying Exhibits A-F)) to the exhibits cited in Exhibit 3 (*see* Exhibit 3 at 1 (identifying Exhibits A-J)) confirms that the Accused Products for the -0046 Case are different, and not “essentially the same,” as the accused products for the -1163 Case. The only similar exhibits cited in both Exhibit 2 and Exhibit 3 are exhibits that provide an overview of Salesforce’s Service Cloud (*see* Ex. A in Exhibit 2 and Exhibit A in Exhibit 3). However, the -1163 Case accused products relate to case escalation for case management, while the -0046 Accused Products relate to custom caller ID configuration. *Cf.* Exhibit 2 at 1-6 to Exhibit 3 at 10.

33. Both Salesforce’s Sales Cloud and Service Cloud contain many features to Salesforce’s customers. Salesforce markets Sales Cloud as providing a “single platform to manage all your sales needs today and beyond” that includes 63 distinct categories of features such as Lead

Management, Account and Contact Management, Chatter, and Lightning App Builder. *See* Exhibit 4 (Salesforce Sales Cloud Comparison Sheet). Similarly, Salesforce markets Service Cloud as a “complete service platform that brings all your customer service needs together in one convenient place” that includes 76 distinct categories of features such as Slack, Case Escalation Rules and Queues, Opportunity Tracking, and Computer Telephony Integration. *See* Exhibit 5 (Salesforce Service Cloud Comparison Sheet). Exhibits 4 and 5 confirm that both Salesforce’s Sales Cloud and Service Cloud are platforms that offer many features to Salesforce’s customers, and further confirm that the -1163 Case accused products and -0046 Case Accused Products are different, and not “essentially the same.”

#### **COUNT TWO – DECLARATORY JUDGMENT**

34. Brazos repeats and realleges paragraphs 1 through 33 as if fully set forth herein.

35. Salesforce has asserted a defense arising out of a Confidential Settlement and Patent License Agreement (“License Agreement”) entered into by Uniloc Luxembourg S.A. and Uniloc USA, Inc. (the “Uniloc Entities”) and Salesforce in December 2016. A true and correct copy of the redacted version of the License Agreement filed by Salesforce as ECF No. 38-1 in *Salesforce, Inc. v. WSOU Holdings, LLC, et al.*, Misc. No. 23-27-CFC (D. Del.) is attached as Exhibit 6 to this Second Amended Complaint.

36. Contrary to Salesforce’s assertions, Salesforce has not licensed the ’731 Patent.

37. For example, Brazos is not named in the License Agreement, did not sign the License Agreement, is not a party to the License Agreement and did not even exist when the Uniloc Entities and Salesforce entered into the License Agreement.

38. In addition, while Craig Etchegoyen was formerly a director of Uniloc Luxembourg S.A. and signed the License Agreement, he did so solely in his representative capacity, on behalf of Uniloc Luxembourg S.A., not in his personal capacity.

39. Moreover, the '731 Patent does not fall within the definition of "Uniloc Patents", as defined by Section 1.7 of the License Agreement.

40. As a result of the acts described in the preceding paragraphs, there exists an actual controversy, within the meaning of 28 U.S.C. §§ 2201 and 2202, to warrant the issuance of a declaratory judgment that the License Agreement does not bind Brazos, and does not bar Brazos's claims against Salesforce under the '731 Patent.

Brazos therefore requests a declaration by this Court that the License Agreement does not bind Brazos and that Salesforce does not have a license to the '731 Patent pursuant to the License Agreement.

#### **JURY DEMAND**

41. Under Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff respectfully requests a trial by jury on all issues so triable.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests the following relief:

- A. A judgment that the '731 Patent is valid and enforceable;
- B. A judgment that Defendant has infringed directly, contributorily, and/or induced infringement of one or more claims of the '731 Patent, and that such infringement was willful;
- C. An accounting of all damages not presented at trial;
- D. A judgment that awards Plaintiff all appropriate damages under 35 U.S.C. § 284 for Defendant's past infringement with respect to the '731 Patent;
- E. A judgment that awards Plaintiff all appropriate damages under 35 U.S.C. § 284 for Defendant's continuing or future infringement, up until the date such judgment is entered with respect to the '731 Patent, including pre- or post-judgment interest,

costs, disbursements, and enhanced damages for Defendant's willful infringement of the '731 Patent, as justified under 35 U.S.C. § 284;

- F. A judgment that awards Plaintiff enhanced damages pursuant to 35 U.S.C. § 284, including for Defendant's willful infringement of the '731 Patent;
- G. A judgment that awards Plaintiff ongoing royalties for Defendant's continued direct and/or indirect infringement of the '731 Patent;
- H. A declaration that this case is exceptional within the meaning of 35 U.S.C. § 285 and a judgment that Plaintiff be awarded its reasonable attorneys' fees against Defendant that it incurs in prosecuting this action;
- I. A judgment declaring that the License Agreement does not bind Brazos and that Salesforce does not have a license to the '731 Patent pursuant to the License Agreement; and
- J. And, if necessary, to adequately compensate Plaintiff for Defendant's infringement, and accounting:
  - i. that this case be declared exceptional within the meaning of 35 U.S.C. § 285 and that Plaintiff be awarded its reasonable attorneys' fees against Defendant that it incurs in prosecuting this action;
  - ii. that Plaintiff be awarded costs and expenses that it incurs in prosecuting this action; and
  - iii. that Plaintiff be awarded such further relief at law or in equity as the Court deems just and proper.

Dated: June 12, 2023

RESPECTFULLY SUBMITTED,

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LICENSING AND DEVELOPMENT**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument was served or delivered electronically to all counsel of record on this 12th day of June, 2023, via the Court's CM/ECF System

/s/ Jonathan K. Waldrop  
Jonathan K. Waldrop