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

COMMWORKS SOLUTIONS, LLC,
 	
   Plaintiff
 	
v.
 	
OPEN TEXT CORPORATION and OPEN TEXT INC.,
 	
   Defendants.
	Civil Action No.: 2:23-cv-00533
	
	Jury Trial Demanded

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff CommWorks Solutions, LLC ("CommWorks" or "Plaintiff"), by way of this Complaint against Defendants Open Text Corporation and Open Text Inc., (collectively, "OpenText" or "Defendants"), alleges as follows:

PARTIES

1. Plaintiff CommWorks Solutions, LLC is a limited liability company organized and existing under the laws of the State of Georgia, having its principal place of business at 44 Milton Avenue, Suite 254, Alpharetta, GA 30009.

2. On information and belief, Defendant Open Text Corporation is a corporation organized and existing under the laws of Canada, having its principal place of business at 275 Frank Tompa Drive, Waterloo ON N2L 0A1, Canada.

3. On information and belief, Defendant Open Text Inc. is a corporation organized and existing under the laws of Delaware, having its principal place of business at 2440 Sand Hill Road, Suite 302, Menlo Park CA 94025. On information and belief, Open Text Inc. is registered to do

business in Texas and has been since at least June 2, 2010. Open Text Inc. may be served through

its registered agent, Corporation Service Company d/b/a CSC-Lawyers Incorporating Service

Company, 211 E. 7th Street, Suite 620, Austin, TX, 78701. On information and belief, Open Text

Inc. is a wholly-owned subsidiary of Open Text Corporation.

4.   On information and belief, OpenText, either itself and/or through the activities of its

intermediaries, subsidiaries, and/or affiliates, makes, uses, offers to sell, sells, and/or imports

throughout the United States, including within this District, products and/or services that infringe

the Patents-in-Suit, defined below. *See*, *e.g.*, *Open Text Inc. et al. v. AO Kaspersky Lab*, No. 6:22-

CV-00243-ADA-DTG (W. D. Tex.), Second Amended Complaint (Dkt. 121, filed December 9,

2022), at ¶ 22 ("[Open Text Inc.] sells and services software in the United States.").

JURISDICTION AND VENUE

5.   This is an action under the patent laws of the United States, 35 U.S.C. §§ 1, *et seq.*, for

infringement by OpenText of claims of U.S. Patent No. 8,224,909 and U.S. Patent No. 8,533,278.

(collectively "the Patents-in-Suit").

6.   This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7.   Open Text Corporation is subject to personal jurisdiction of this Court because, *inter alia*,

on information and belief, (i) Open Text Corporation has committed and continues to commit acts

of patent infringement in the State of Texas; (ii) Open Text Corporation purposefully supplies and

directs the accused products and services for sales by itself, affiliates, and/or subsidiaries in the

State of Texas; and (iii) Open Text Corporation delivers its products and services into the stream

of commerce with the expectation that they will be purchased by consumers in the State of Texas.

For example, Open Text Corporation advertises, offers to sell, and sells their infringing products

and services to customers in this State and this District through the opentext.com website.

Furthermore, Open Text Corporation has initiated several actions for patent infringement in the State of Texas. *See Open Text Corp. v. Alfresco Software, Ltd. et al.*, Case No. 6:20-cv-920 (W.D. Tex. Oct. 5, 2020); *Open Text Corp. et al. v. Alfresco Software, Ltd. et al.*, Case No. 6:20-cv-928 (W.D. Tex. Oct. 7, 2020); *Open Text Corp. et al. v. Alfresco Software, Ltd. et al.*, Case No. 6:20-cv-941 (W.D. Tex. Oct. 9, 2020). In addition, or in the alternative, this Court has personal jurisdiction over Open Text Corporation pursuant to Fed. R. Civ. P. 4(k)(2).

8.   Venue is proper as to Open Text Corporation in this District under 28 U.S.C. § 1391(c) because, *inter alia*, Open Text Corporation is a foreign corporation.

9.   Open Text Inc. is subject to personal jurisdiction of this Court because, *inter alia*, on information and belief, (i) Open Text Inc. maintains a regular and established place of business in Texas at 5340 Legacy Drive, Plano, TX 75024; 900 Guardians Way, Allen, TX 75013; 15725 Dallas Parkway, Two Addison Circle, Dallas, TX 75001; 2711 N Haskell Avenue, Ste 2300, Dallas, TX 75204; 1301 S Mopac Expressway, Suite LL1, Austin, TX 78746; 4210 IH35 Frontage Road, Suite 224, Building 2, San Antonio, TX 78218; and 515 Post Oak Boulevard, Suite 1100, Houston, TX 77027; (ii) Open Text Inc. has committed acts of patent infringement in the State of Texas and/or has contributed to or induced acts of patent infringement by others in the State of Texas; and (iii) the patent infringement claims arise directly from Open Text Inc.'s continuous and systematic activity in the State of Texas. *See*, *e.g.*, *UnoWeb Virtual, LLC v. Open Text Inc.*, No. 2:19-CV-00008-JRG (E. D. Tex.), Answer to First Amended Complaint (Dkt. 19, filed April 5, 2019), at p. 8 ("[Open Text Inc.] does not dispute that this Court has personal jurisdiction over [Open Text Inc.] …."). Furthermore, Open Text Inc. has initiated several actions for patent infringement in the State of Texas. *See Open Text Inc. et al. v. AO Kaspersky Labs*, Case No. 6:22-cv-00243 (W.D. Tex. Mar. 4, 2022*); Open Text Inc. et al. v. CrowdStrike Holdings, Inc. et*

al., Case No. 6:22-cv-241 (W.D. Tex. Mar. 4, 2022); *Open Text Inc. et al. v. Sophos Ltd.*, Case No. 6:22-cv-240 (W.D. Tex. Mar. 4, 2022); *Open Text Inc. et al. v. Trend Micro, Inc.*, Case No. 6:22-cv-239 (W.D. Tex. Mar. 4, 2022); *Open Text Inc. et al. v. Forcepoint LLC*, Case No. 6:22-cv-342 (W.D. Tex. Mar. 31, 2022).

10.   Venue is proper as to Open Text Inc. in this Judicial District under 28 U.S.C. § 1400(b) because, *inter alia*, on information and belief, Open Text Inc. has a regular and established place located at 5340 Legacy Drive, Plano, TX 75024 and 900 Guardians Way, Allen, TX 75013, and has committed acts of patent infringement in this Judicial District and/or has contributed to or induced acts of patent infringement by others in this Judicial District. *See*, *e.g.*, *UnoWeb Virtual, LLC v. Open Text Inc.*, No. 2:19-CV-00008-JRG (E. D. Tex.), Answer to First Amended Complaint (Dkt. 19, filed April 5, 2019), at p. 8 ("[Open Text Inc.] does not dispute that venue is proper [in this Judicial District] ….").

BACKGROUND

11.   On July 17, 2012, the United States Patent and Trademark Office duly and lawfully issued U.S. Patent No. 8,224,909 ("the '909 Patent"), entitled "Mobile Computing Device Facilitated Communication System."

12.   The invention of the '909 Patent enhances conventional communication systems by using a bifurcated interface to enhance the convenience, flexibility, and functionality of faxing-related tasks. '909 Patent at col. 4:1-39. The bifurcated interface of the '909 Patent accomplishes enhanced functionality by transmitting documents via a facsimile protocol and seamlessly delivering the document as an electronic file or an attachment to an email address. *Id.*, at col. 4:20-35. The bifurcated interface of the '909 Patent further accomplishes convenient and enhanced entry of data associated with fax-to-email tasks, such as entry of an email address and custom text

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at a portable device unconstrained by location or time. *Id.*, at col. 4:5-9, 4:36-39. The bifurcated interface of the '909 Patent further accomplishes the flexibility of communicating fax-to-email tasks and/or fax-to-fax tasks from multiple, separate interfaces and multiple users to a single interface host or one of multiple interfaces hosts. *Id.*, at col. 4:10-19.

13.   On September 10, 2013, the United States Patent and Trademark Office duly and lawfully issued U.S. Patent No. 8,533,278 ("the '278 Patent"), entitled "Time Based Wireless Access Provisioning."

14.   The invention of the '278 Patent enhances conventional communication systems by using a bifurcated interface to enhance the convenience, flexibility, and functionality of faxing-related tasks. '278 Patent at col. 4:4-42. The bifurcated interface of the '278 Patent accomplishes enhanced functionality by transmitting documents via a facsimile protocol and seamlessly delivering the document as an electronic file or an attachment to an email address. *Id.*, at col. 4:23-38. The bifurcated interface of the '278 Patent further accomplishes convenient and enhanced entry of data associated with fax-to-email tasks, such as entry of an email address and custom text at a portable device unconstrained by location or time. *Id.*, at col. 4:8-12, 4:39-42. The bifurcated interface of the '278 Patent further accomplishes the flexibility of communicating fax-to-email tasks and/or fax-to-fax tasks from multiple, separate interfaces and multiple users to a single interface host or one of multiple interfaces hosts. *Id.*, at col. 4:13-22.

15.   CommWorks is the assignee and owner of the right, title, and interest in and to the Patents-in-Suit, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

16.   OpenText has infringed the Patents-in-Suit by making, using, offering to sell, or selling in the United States, or importing into the United States facsimile-to-email (FEM) systems covered

by the Patents-in-Suit ("Accused Products and Services").

NOTICE

17.   By letter dated March 20, 2020, CommWorks via its legal counsel notified OpenText that

it infringes the Patents-in-Suit, identified exemplary infringed claims and infringing OpenText

products and services, and invited OpenText to hold a licensing discussion with CommWorks.

18.   By letter and email dated April 24, 2020, CommWorks via its licensing agent again notified

OpenText of the Patents-in-Suit and invited OpenText to hold a licensing discussion with

CommWorks.

19.   By email dated May 21, 2020, CommWorks via its licensing agent followed up with

OpenText to initiate a licensing discussion.

20.   By email dated June 17, 2020, CommWorks via its licensing agent again followed up with

OpenText to initiate a licensing discussion.

21.   By email dated September 20, 2021, CommWorks via its licensing agent again followed

up with OpenText to initiate a licensing discussion.

22.   To date, CommWorks has not received any response from OpenText.

COUNT I: INFRINGEMENT OF THE '909 PATENT BY OPENTEXT

23.   Plaintiff incorporates the preceding paragraphs as if fully set forth herein.

24.   On information and belief, OpenText has infringed the '909 Patent, pursuant to 35 U.S.C.

§ 271(a), literally or under the doctrine of equivalents, by making, using, offering to sell, selling

in the United States and/or importing into the United States facsimile-to-email systems such as,

for example, OpenText's RightFax system (included in "Accused Products and Services").

25.   For example, on information and belief, OpenText has infringed at least claim 1 of the '909

Patent by making, using, offering to sell, selling, and/or importing the Accused Products and

Services including a facsimile-to-email system. *See* Ex. 1 at 1, 3, Ex. 2 at 14 (showing that

OpenText hosts RightFax software on a RightFax server that provides faxing services to its customers).   The facsimile-to-email system comprises a facsimile-to-email (FEM) server in communication with at least one communications network, a first mobile computing device, and a plurality of second mobile computing devices. *See* Ex. 1 at 3, Ex. 2 at 14, Ex. 3, Ex. 4 at 1, Ex. 5 at 18-19 (showing that RightFax comprises a facsimile-to-email (FEM) server, e.g., an OpenText RightFax Server managed and hosted by OpenText at OpenText data centers, that communicates with at least one communications network, such as Internet/IP/FOIP/VOIP and/or PTSN/ISDN networks; and that the RightFax FEM server communicates, e.g., via the Internet, with mobile computing devices, such as smart phones, tablets, and/or laptops, via a mobile friendly browser-based client and/or Windows-based client to enable users to send and receive faxes/emails and manage settings). The FEM server is configured to receive first facsimile information from a first facsimile device and receive second facsimile information from a second facsimile device, wherein the first facsimile information is different than the second facsimile information. *See* Ex. 3, Ex. 6 at 1, Ex. 7 at 44, 50, 168, 176, Ex. 8 at 98-100, 105 (showing that, for example, the RightFax FEM server receives facsimile information, such as signaling, routing information, fax control, and/or fax image data, from facsimile devices, i.e., devices capable of sending ITU-I T.30/T.38 facsimile transmissions; and that the RightFax FEM server is configured to receive multiple facsimile transmissions from multiple devices and/or users, i.e., a first facsimile transmission with first facsimile information from a first facsimile device is different than a second facsimile transmission with second facsimile information from a second facsimile device). The FEM server is configured to receive a first destination address for the first facsimile information from the first mobile computing device, wherein the destination address comprises at least one of an e-mail address or a telephone number. *See* Ex. 1 at 3, Ex. 5 at 18-19, 109-111, 216, 272, 274, 281 (showing that the

RightFax FEM server receives a first destination address, such as a destination email address the user intends to receive the first facsimile information at, from the first mobile computing device). The FEM server is configured to receive a second destination address from one of the plurality of second mobile computing devices. *See* Ex. 1 at 3, Ex. 5 at 18-19, 109-111, 216, 272, 274, 281 (showing that the RightFax FEM server receives a second destination address, such as a destination email address from a second mobile computing device associated with a RightFax account/user that is different than the first destination address and first mobile computing device). The FEM server is configured to transmit the first facsimile information to the first destination address via the communications network and transmit the second facsimile information to the second destination address via the communications network. *See* Ex. 5 at 109-111, 216, 272, 274, 281 (showing that the RightFax FEM server transmits the first facsimile information in the form of a TIFF and/or PDF to the first destination address, e.g., the recipient's destination email address, via the communications network, such as the Internet, and transmits the second facsimile information in the form of a TIFF and/or PDF to the second destination address, e.g., the recipient's destination email address that is different than the first destination address, via the communications network, such as the Internet).

26.   On information and belief, OpenText has induced infringement of the '909 Patent pursuant to 35 U.S.C. § 271(b), by actively and knowingly inducing, directing, causing, and encouraging others, including, but not limited to, its partners, customers, and end users, to use, sell, and/or offer to sell in the United States, and/or import into the United States, the Accused Products and Services by, among other things, providing the Accused Products and Services, software and/or firmware updates, specifications, instructions, manuals, advertisements, marketing materials, and technical assistance relating to the installation, set up, use, operation, and maintenance of said products. *See*

¶¶ 17-22 above (explaining OpenText's notice of infringement); Exs. 1-2 (marketing materials showing that OpenText's RightFax provides faxing services to its customers).

27.   On information and belief, OpenText has committed the foregoing infringing activities without a license.

28.   On information and belief, OpenText knew the '909 Patent existed and knew of exemplary infringing OpenText products and services while committing the foregoing infringing acts thereby willfully, wantonly and deliberately infringing the '909 Patent.

29.   CommWorks has complied with the statutory and judicial requirements for collecting past damages with respect to the '909 Patent.

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COUNT II: INFRINGEMENT OF THE '278 PATENT BY OPENTEXT

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30.   Plaintiff incorporates the preceding paragraphs as if fully set forth herein.

31.   On information and belief, OpenText has infringed the '278 Patent, pursuant to 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by making, using, offering to sell, selling in the United States and/or importing into the United States facsimile-to-email systems such as, for example, OpenText's RightFax system (included in "Accused Products and Services").

32.   For example, on information and belief, OpenText has infringed at least claim 1 of the '278 Patent by making, using, offering to sell, selling, and/or importing the Accused Products and Services including a system comprising a facsimile-to-email (FEM) server for communicating with at least one communications network and a mobile computing device. *See* Ex. 1 at 1, 3, Ex. 2 at 14 (showing that OpenText hosts RightFax software on a RightFax server that provides faxing services to its customers); Ex. 1 at 3, Ex. 2 at 14, Ex. 3, Ex. 4 at 1, Ex. 5 at 18-19 (showing that RightFax comprises a facsimile-to-email (FEM) server, e.g., an OpenText RightFax Server managed and hosted by OpenText at OpenText data centers, that communicates with at least one communications network, such as Internet/IP/FOIP/VOIP and/or PTSN/ISDN networks; and that

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the RightFax FEM server communicates, e.g., via the Internet, with mobile computing devices, such as smart phones, tablets, and/or laptops, via a mobile friendly browser-based client and/or Windows-based client to enable users to send and receive faxes/emails and manage settings). The FEM server is configured to receive information from a facsimile component with a first identifier. *See* Ex. 3, Ex. 6 at 1, Ex. 7 at 44, 50, 168, 176, Ex. 8 at 98-100, 105 (showing that, for example, the RightFax FEM server receives information, such as signaling, routing information, fax control, and/or fax image data, from a facsimile component, e.g., a device and/or component of a device capable of sending ITU-I T.30/T.38 facsimile transmissions); Ex. 7 at vii, Ex. 9 at 3-9, 79-81, Ex. 10 at 7, Ex. 11 at 103 (showing that, for example, the RightFax FEM server receives a first identifier, such as a called (recipient) fax number, in a fax transmission from the facsimile component over a PSTN/ISDN network in call set-up messages, such as an Initial Address Message (IAM)); Ex. 8 at 43, 46, 58, 105, 106, 110 (showing that, for example, the RightFax FEM server receives a first identifier, such as a called (recipient) fax number, in a fax transmission from the facsimile component over an IP/FOIP/VOIP network in call set-up messages, such as a SIP INVITE and/or SETUP message). The FEM server is configured to receive a destination address with a second identifier, wherein the destination address is associated with the information, and is from the mobile computing device, and wherein the destination address comprises at least one of an e-mail address or a telephone number. *See* Ex. 1 at 3, Ex. 5 at 18-19, 109-111, 185, 216, 272, 274, 281 (showing that the RightFax FEM server receives a destination address with a second identifier, such as a destination email address the user intends to receive the facsimile at; and that the destination email address is associated with the facsimile information discussed above including the first identifier discussed above, e.g., by linking the destination email address to the recipient's fax number in the RightFax server settings on the mobile computing device). The FEM

server is configured to determine that the destination address is an intended destination for the information based on at least one of the first and second identifiers. *See* Ex. 5 at 109-111, 216, 272, 274, 281 (showing that the RightFax FEM server determines that the destination email address is an intended destination address for the information discussed above based on the recipient's email address being linked to the recipient's fax number in the RightFax server settings). The FEM server is configured to transmit the information to the destination address by the FEM server via the at least one communications network. *See* Ex. 5 at 109-111, 216, 272, 274, 281 (showing that the RightFax FEM server transmits the information discussed above to the recipient's destination email address using the communication network, such the Internet).

33.   On information and belief, OpenText has induced infringement of the '278 Patent pursuant to 35 U.S.C. § 271(b), by actively and knowingly inducing, directing, causing, and encouraging others, including, but not limited to, its partners, customers, and end users, to use, sell, and/or offer to sell in the United States, and/or import into the United States, the Accused Products and Services by, among other things, providing the Accused Products and Services, software and/or firmware updates, specifications, instructions, manuals, advertisements, marketing materials, and technical assistance relating to the installation, set up, use, operation, and maintenance of said products. *See* ¶¶ 17-22 above (explaining OpenText's notice of infringement); Exs. 1-2 (marketing materials showing that OpenText's RightFax provides faxing services to its customers).

34.   On information and belief, OpenText has committed the foregoing infringing activities without a license.

35.   On information and belief, OpenText knew the '278 Patent existed and knew of exemplary infringing OpenText products and services while committing the foregoing infringing acts thereby willfully, wantonly and deliberately infringing the '278 Patent.

36.   CommWorks has complied with the statutory and judicial requirements for collecting past

damages with respect to the '278 Patent.

PRAYER FOR RELIEF

WHEREFORE, CommWorks prays for judgment in its favor against OpenText for the

following relief:

A.   Entry of judgment in favor of CommWorks against OpenText on all counts;

B.   Entry of judgment that OpenText has infringed the Patents-in-Suit;

C.   Entry of judgment that OpenText's infringement of the Patents-in-Suit has been

willful;

D.   Award of compensatory damages adequate to compensate CommWorks for

OpenText's infringement of the Patents-in-Suit in no event less than a reasonable royalty trebled

as provided by 35 U.S.C. § 284;

E.   CommWorks' costs;

F.   Pre-judgment and post-judgment interest on CommWorks' award; and

G.   All such other and further relief as the Court deems just or equitable.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Fed. R. Civ. Proc., Plaintiff hereby demands trial by jury in this

action of all claims so triable.

Dated: November 20, 2023   Respectfully submitted,

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