

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA
MINNEAPOLIS DIVISION**

PB&J SOFTWARE, LLC,

Plaintiff,

v.

**CODE 42 SOFTWARE, INC.; CUCKU,
INC.; Q POINT TECHNOLOGY, INC.;
UNIVERSE POINT, L.L.C. and
LOGMEIN, INC.**

Defendants.

Case No. 09-cv-206-JMR/JSM

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT

PB&J Software, LLC (“Plaintiff”) files this First Amended Complaint against Code 42 Software, Inc., Cucku, Inc., Q Point Technology, Inc., Universe Point, L.L.C. and LogMeIn, Inc. (“Defendants”) for infringement of United States Patent No. 7,310,736 (hereinafter “the ’736 Patent”).

JURISDICTION AND VENUE

1. This is an action for patent infringement under title 35 of the United States code. Plaintiff is seeking injunctive relief as well as damages.
2. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents) because this is a civil action for patent infringement arising under the United States patent statutes.
3. Venue is proper under 28 U.S.C. §§ 1391(d) and 1400(b).
4. Plaintiff is a Missouri limited liability company with its principle place of business at 11880 Conway Road, St. Louis, MO 63131.

5. Defendant Code 42 Software, Inc. (“Code 42”) is a Minnesota corporation with its principle place of business at 12 South 6th Street, #1242, Maples, Minnesota 55402. On information and belief, Code 42 does business throughout the United States, including within this judicial district.

6. Defendant Cucku, Inc. (“Cucku”) is a Delaware corporation with its principle place of business at 94 Elsie St., San Francisco, CA 94110. Cucku does business throughout the United States, including within this judicial district.

7. Q Point Technology, Inc. (“Q Point”) is a Delaware corporation with its principle place of business in Mountain View, California. Q Point does business throughout the United States, including within this judicial district.

8. Defendant Universe Point, L.L.C. (“Universe Point”) is a Pennsylvania limited liability company with its principle place of business at 130 South State Road, Upper Darby, Pennsylvania 19082. Universe Point does business throughout the United States, including within this judicial district.

9. Defendant LogMeIn, Inc. is a Delaware corporation with its principle place of business at 500 Unicorn Park Drive, Woburn, Massachusetts 01801. On information and belief, LogMeIn, Inc. does business throughout the United States, including within this judicial district.

10. On information and belief, Defendants’ products that are alleged herein to infringe are made, used, imported, offered for sale and/or sold in the District of Minnesota.

11. This Court has personal jurisdiction over Defendants because, on information and belief, Defendants have committed acts of direct infringement and indirect infringement in this district; do business in this district; and/or have systematic and continuous contacts in this district.

INFRINGEMENT OF U.S. PATENT 7,310,736

12. Plaintiff incorporates paragraphs 1 through 11 herein by reference.

13. This cause of action arises under the patent laws of the United States, and in particular Title 35 of the United States Code.

14. Plaintiff is the assignee of and owns all right, title and interest in and has standing to sue for infringement of United States Patent No. 7,310,736 entitled “Method and System for Sharing Storage Space on a Computer.”

15. The ‘736 Patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

16. On information and belief, Code 42 is infringing, inducing others to infringe and/or contributorily infringing, in the United States and this District, at least one claim of the ‘736 Patent. Such infringing activities by Code 42 include making, using, importing, selling and/or offering to sell products including, but not limited to, products that are sold under the name CrashPlan. These acts are without right, license or permission from Plaintiff.

17. Code 42’s actions as described herein constitute infringement of at least one claim of the ‘736 Patent in violation of 35 U.S.C. §§ 271, 281-285.

18. On information and belief, Cucku is infringing, inducing others to infringe and/or contributorily infringing, in the United States and this District, at least one claim of the ‘736 Patent. Such infringing activities by Cucku include making, using, importing, selling and/or offering to sell products including, but not limited to, products that sold under the name Cucku Backup. These acts are without right, license or permission from Plaintiff.

19. Cucku’s actions as described herein constitute infringement of at least one claim of the ‘736 Patent in violation of 35 U.S.C. §§ 271, 281-285.

20. On information and belief, Q Point is infringing, inducing others to infringe and/or contributorily infringing, in the United States and this District, at least one claim of the '736 Patent. Such infringing activities by Q Point include making, using, importing, selling and/or offering to sell products including, but not limited to, products that are sold under the name TruSafe. These acts are without right, license or permission from Plaintiff.

21. Q Point's actions as described herein constitute infringement of at least one claim of the '736 Patent in violation of 35 U.S.C. §§ 271, 281-285.

22. On information and belief, Universe Point is infringing, inducing others to infringe and/or contributorily infringing, in the United States and this District, at least one claim of the '736 Patent. Such infringing activities by Universe Point include making, using, importing, selling and/or offering to sell products including, but not limited to, products that are sold under the name ION. These acts are without right, license or permission from Plaintiff.

23. Universe Point's actions as described herein constitute infringement of at least one claim of the '736 Patent in violation of 35 U.S.C. §§ 271, 281-285.

24. On information and belief, LogMeIn, Inc. is infringing, inducing others to infringe and/or contributorily infringing, in the United States and this District, at least one claim of the '736 Patent. Such infringing activities by LogMeIn, Inc. include making, using, importing, selling and/or offering to sell products including, but not limited to, products that are sold under the name LogMeIn. These acts are without right, license or permission from Plaintiff.

25. LogMeIn, Inc.'s actions as described herein constitute infringement of at least one claim of the '736 Patent in violation of 36 U.S.C. §§271, 281-285.

26. On information and belief, Defendants contributorily infringed and continue to contributorily infringe one or more claims of the '736 Patent, pursuant to 35 U.S.C. § 271, in the United States, including in this judicial district.

27. On information and belief, Defendants have induced others to infringe and continue to induce others to infringe one or more claims of the '736 Patent, pursuant to 35 U.S.C. § 271, in the United States, including in this judicial district.

28. On information and belief, Defendants' infringement is willful because Defendants have in the past and/or presently continue to infringe the '736 Patent as alleged herein, with knowledge of the '736 Patent, including after this action was initiated.

29. This case is exceptional pursuant to the provisions of 35 U.S.C. § 285.

30. Plaintiff has complied with 35 U.S.C. § 287.

31. Defendants' actions complained of herein are causing irreparable harm and monetary damage to Plaintiff and will continue to do so unless and until Defendants are enjoined and restrained by this Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff asks the Court to:

- A. Enter judgment for Plaintiff on this First Amended Complaint;
- B. Enjoin Defendants, their agents, officers, servants, employees, attorneys and all persons in active concert or participation with Defendants who receive notice of the order from further infringement of United States Patent No. 7,310,736;
- C. Award Plaintiff damages resulting from Defendants' infringement in accordance with 35 U.S.C. § 284;
- D. Treble the damages in accordance with the provisions of 35 U.S.C. § 284;

- E. Find the case to be exceptional under the provisions of 35. U.S.C. § 285;
- F. Award Plaintiff reasonable attorney fees under 35 U.S.C. § 285;
- G. Order the impounding and destruction of all Defendants' products that infringe the '736 Patent;
- H. Award Plaintiff interest including, but not limited to, prejudgment and post judgment interest, and costs; and
- I. Award Plaintiff such further relief to which the Courts finds Plaintiff entitled under law or equity.

Respectfully submitted,

THE SIMON LAW FIRM, PC

By: /s/ Anthony G. Simon
Anthony G. Simon
701 Market Street, Suite 1450
Saint Louis, Missouri 63101
P. 314.241.2929
F. 314.241.2029
asimon@simonlawpc.com

and

SCHWEBEL, GOETZ & SIEBEN, P.A.

James R. Schwebel
James S. Ballentine, Bar No. 209739
51st Floor IDS Center
80 South 8th Street
Minneapolis, Minnesota 55402
P. 612.377.7777
jschwebel@schwebel.com

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served on all parties of record via the Court's CM/ECF system on July 10, 2009.

/s/Anthony G. Simon

Anthony G. Simon