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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

LUTHER D. THOMAS, Clerk
By *[Signature]* Deputy Clerk

CATCH CURVE, INC.,

Plaintiff,

v.

OPEN TEXT CORPORATION,

Defendant.

Civil Action

File No. **1:05-CV-3167**

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Catch Curve, Inc. ("Catch Curve") states its Complaint against Defendant Open Text Corporation ("Open Text" or "Defendant") as follows:

JURISDICTION AND VENUE

1. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code.
2. This Court has subject matter jurisdiction over all causes of action set forth herein pursuant to 28 U.S.C. §§ 1331 and 1338(a).
3. Venue is proper in this judicial district and division pursuant to 28 U.S.C. §§1391(b) and (c).

FORMS RECEIVED

Consent To US Mag. ☒

Pretrial Instructions ☐

Title VII NTC ☐

[Signature]

PARTIES

4. Plaintiff Catch Curve is a Delaware corporation with its principal place of business in Atlanta, Georgia.

5. Catch Curve is the owner, by assignment, of all right, title, and interest in and to the following United States Patents, including the right to bring suit for patent infringement: United States Patent No. 4,994,926 (“the ‘926 patent”); United States Patent No. 5,291,302 (“the ‘302 patent”); United States Patent No. 5,459,584 (“the ‘584 patent”); United States Patent No. 6,643,034 (“the ‘034 patent”); and United States Patent No. 6,785,021 (“the ‘021 patent”). True and correct copies of the ‘926 patent, the ‘302 patent, the ‘584 patent, the ‘034 patent, and the ‘021 patent are appended hereto as Exhibits A, B, C, D, and E, respectively.

6. Upon information and belief, Defendant Open Text is a Canadian corporation with its corporate headquarters in Waterloo, Ontario, Canada. Upon information and belief, Defendant Open Text maintains an office referred to as its “global headquarters” in the United States in Lincolnshire, Illinois, and a registered agent for service of process in Chicago, Illinois.

7. Upon information and belief, Defendant Open Text regularly and continuously conducts business within the State of Georgia and within this judicial

district and division directly through sales of its products and/or through provision of services to customers from its www.opentext.com web site. This site allows direct sales and downloads of products within this judicial district and division.

8. Upon information and belief, this Court has personal jurisdiction over Defendant for at least the reasons that Defendant has offered for sale and sold infringing products, services, and/or processes in Georgia and in this district and division directly from its aforementioned web site, including, but not necessarily limited to, Defendant's First Class product line; and Defendant maintains a website that is accessible in Georgia and in this district and division for the purpose of facilitating such transactions with and providing such services and products to customers/subscribers in this judicial district.

THE CONTROVERSY

9. Catch Curve is the owner of the '926 patent, the '302 patent, the '584 patent, the '034 patent, and the '021 patent.

10. Defendant has in the past and continues to make, have made, offer for sale, sell, and/or use one or more products, services, and/or processes that constitute direct infringement, contributory infringement, and/or inducement to infringe one or more claims of Catch Curve's '926 patent in violation of 35 U.S.C.

§ 271, including, but not necessarily limited to, Defendant's First Class product line.

11. Defendant has in the past and continues to make, have made, offer for sale, sell, and/or use one or more products, services, and/or processes that constitute direct infringement, contributory infringement, and/or inducement to infringe one or more claims of Catch Curve's '302 patent in violation of 35 U.S.C. § 271, including, but not necessarily limited to, Defendant's First Class product line.

12. Defendant has in the past and continues to make, have made, offer for sale, sell, and/or use one or more products, services, and/or processes that constitute direct infringement, contributory infringement, and/or inducement to infringe one or more claims of Catch Curve's '584 patent in violation of 35 U.S.C. § 271, including, but not necessarily limited to, Defendant's First Class product line.

13. Defendant has in the past and continues to make, have made, offer for sale, sell, and/or use one or more products, services, and/or processes that constitute direct infringement, contributory infringement, and/or inducement to infringe one or more claims of Catch Curve's '034 patent in violation of 35 U.S.C.

§ 271, including, but not necessarily limited to, Defendant's First Class product line.

14. Defendant has in the past and continues to make, have made, offer for sale, sell, and/or use one or more products, services, and/or processes that constitute direct infringement, contributory infringement, and/or inducement to infringe one or more claims of Catch Curve's '021 patent in violation of 35 U.S.C. § 271, including, but not necessarily limited to, Defendant's First Class product line.

COUNT ONE:
INFRINGEMENT OF U.S. PATENT NO. 4,994,926

15. Catch Curve realleges and incorporates herein the allegations of paragraphs 1 through 14 of this Complaint as if fully set forth herein.

16. Defendant has engaged in the manufacture, use, sale, and/or offer for sale of products, services, and/or processes that infringe, directly and/or indirectly, one or more of the claims of Catch Curve's '926 patent, in violation of 35 U.S.C. § 271. The infringing products, services, and/or processes manufactured, used, sold, and/or offered for sale by Defendant include, but are not necessarily limited to, Defendant's First Class product line.

17. Defendant was notified of its infringement of the '926 patent at least as early as July 12, 2002.

18. The Defendant's infringement of Catch Curve's '926 patent has been, and continues to be, willful.

19. Catch Curve has and continues to suffer damages as a direct and proximate result of Defendant's infringement of Catch Curve's '926 patent, and will suffer additional and irreparable damages unless Defendant is permanently enjoined by this Court from continuing its infringement. Catch Curve has no adequate remedy at law.

20. Catch Curve is entitled to: (1) damages adequate to compensate it for Defendant's infringement, which amounts to, at a minimum, a reasonable royalty; (2) treble damages; (3) its attorney fees and costs; and (4) a preliminary and permanent injunction.

COUNT TWO:
INFRINGEMENT OF U.S. PATENT NO. 5,291,302

21. Catch Curve realleges and incorporates herein the allegations of paragraphs 1 through 20 of this Complaint as if fully set forth herein.

22. Defendant has engaged in the manufacture, use, sale, and/or offer for sale of products, services, and/or processes that infringe, directly and/or indirectly,

one or more of the claims of Catch Curve's '302 patent, in violation of 35 U.S.C. § 271. The infringing products, services, and/or processes manufactured, used, sold, and/or offered for sale by Defendant include, but are not necessarily limited to, Defendant's First Class product line.

23. Defendant was notified of its infringement of the '302 patent at least as early as July 12, 2002.

24. The Defendant's infringement of Catch Curve's '302 patent has been, and continues to be, willful.

25. Catch Curve has and continues to suffer damages as a direct and proximate result of Defendant's infringement of Catch Curve's '302 patent, and will suffer additional and irreparable damages unless Defendant is permanently enjoined by this Court from continuing its infringement. Catch Curve has no adequate remedy at law.

26. Catch Curve is entitled to: (1) damages adequate to compensate it for Defendant's infringement, which amounts to, at a minimum, a reasonable royalty; (2) treble damages; (3) its attorney fees and costs; and (4) a preliminary and permanent injunction.

COUNT THREE:
INFRINGEMENT OF U.S. PATENT NO. 5,459,584

27. Catch Curve realleges and incorporates herein the allegations of paragraphs 1 through 26 of this Complaint as if fully set forth herein.

28. Defendant has engaged in the manufacture, use, sale, and/or offer for sale of products, services, and/or processes that infringe, directly and/or indirectly, one or more of the claims of Catch Curve's '584 patent, in violation of 35 U.S.C. § 271. The infringing products, services, and/or processes manufactured, used, sold, and/or offered for sale by Defendant include, but are not necessarily limited to, Defendant's First Class product line.

29. Defendant was notified of its infringement of the '584 patent at least as early as July 12, 2002.

30. The Defendant's infringement of Catch Curve's '584 patent has been, and continues to be, willful.

31. Catch Curve has and continues to suffer damages as a direct and proximate result of Defendant's infringement of Catch Curve's '584 patent, and will suffer additional and irreparable damages unless Defendant is permanently enjoined by this Court from continuing its infringement. Catch Curve has no adequate remedy at law.

32. Catch Curve is entitled to: (1) damages adequate to compensate it for Defendant's infringement, which amounts to, at a minimum, a reasonable royalty; (2) treble damages; (3) its attorney fees and costs; and (4) a preliminary and permanent injunction.

COUNT FOUR:
INFRINGEMENT OF U.S. PATENT NO. 6,643,034

33. Catch Curve realleges and incorporates herein the allegations of paragraphs 1 through 32 of this Complaint as if fully set forth herein.

34. Defendant has engaged in the manufacture, use, sale, and/or offer for sale of products, services, and/or processes that infringe, directly and/or indirectly, one or more of the claims of Catch Curve's '034 patent, in violation of 35 U.S.C. § 271. The infringing products, services, and/or processes manufactured, used, sold, and/or offered for sale by Defendant include, but are not necessarily limited to, Defendant's First Class product line.

35. Defendant was notified of its infringement of the '034 patent at least as early as November 19, 2003.

36. The Defendant's infringement of Catch Curve's '034 patent has been, and continues to be, willful.

37. Catch Curve has and continues to suffer damages as a direct and proximate result of Defendant's infringement of Catch Curve's '034 patent, and will suffer additional and irreparable damages unless Defendant is permanently enjoined by this Court from continuing its infringement. Catch Curve has no adequate remedy at law.

38. Catch Curve is entitled to: (1) damages adequate to compensate it for Defendant's infringement, which amounts to, at a minimum, a reasonable royalty; (2) treble damages; (3) its attorney fees and costs; and (4) a preliminary and permanent injunction.

COUNT FIVE:
INFRINGEMENT OF U.S. PATENT NO. 6,785,021

39. Catch Curve realleges and incorporates herein the allegations of paragraphs 1 through 38 of this Complaint as if fully set forth herein.

40. Defendant has engaged in the manufacture, use, sale, and/or offer for sale of products, services, and/or processes that infringe, directly and/or indirectly, one or more of the claims of Catch Curve's '021 patent, in violation of 35 U.S.C. § 271. The infringing products, services, and/or processes manufactured, used, sold, and/or offered for sale by Defendant include, but are not necessarily limited to, Defendant's First Class product line.

41. Defendant was notified of its infringement of the '021 patent at least as early as June 20, 2005.

42. The Defendant's infringement of Catch Curve's '021 patent has been, and continues to be, willful.

43. Catch Curve has and continues to suffer damages as a direct and proximate result of Defendant's infringement of Catch Curve's '021 patent, and will suffer additional and irreparable damages unless Defendant is permanently enjoined by this Court from continuing its infringement. Catch Curve has no adequate remedy at law.

44. Catch Curve is entitled to: (1) damages adequate to compensate it for Defendant's infringement, which amounts to, at a minimum, a reasonable royalty; (2) treble damages; (3) its attorney fees and costs; and (4) a preliminary and permanent injunction.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Catch Curve, Inc. prays that the Court enter judgment in favor of Plaintiff and against Defendant Open Text Technologies, Inc., as follows:

A. That Defendant be ordered to pay damages adequate to compensate Catch Curve for Defendant's infringement of Catch Curve's United States Patent

No. 4,994,926; United States Patent No. 5,291,302; United States Patent No. 5,459,584; United States Patent No. 6,643,034; and United States Patent No. 6,785,021, pursuant to 35 U.S.C. § 284;

B. That Defendant be ordered to pay treble damages and attorney's fees pursuant to 35 U.S.C. §§ 284 and 285;

C. That Defendant be enjoined from further infringement of Catch Curve's United States Patent No. 4,994,926; United States Patent No. 5,291,302; United States Patent No. 5,459,584; United States Patent No. 6,643,034; and United States Patent No. 6,785,021, pursuant to 35 U.S.C. § 283;

D. That Defendant be ordered to pay prejudgment interest;

E. That Defendant be ordered to pay all costs associated with this action;
and

F. That Catch Curve be granted such other and additional relief as the Court deems just, equitable, and proper.

DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38(b), Plaintiff Catch Curve, Inc. demands a trial by jury of all issues triable of right by a jury.

This 15th day of December, 2005.

A handwritten signature in black ink, appearing to read "Dan. Meyer", written over a horizontal line.

Scott A. Horstemeyer

Georgia State Bar No. 367836

Dan R. Gresham

Georgia State Bar No. 310280

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