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20 UNITED STATES DISTRICT COURT

21 NORTHERN DISTRICT OF CALIFORNIA

22 EMC CORPORATION

23 Plaintiff,

24 vs.

25 BRIGHT RESPONSE, LLC,

26 Defendant.

E-filing

CV 12 2841

CASE NO.

**COMPLAINT FOR DECLARATORY
JUDGMENT OF PATENT NON-
INFRINGEMENT AND/OR PATENT
INVALIDITY**

DEMAND FOR JURY TRIAL

1 Plaintiff EMC Corporation ("EMC") brings this action against Defendant Bright Response,
2 LLC ("Bright Response") and complains as follows:

3 **THE NATURE OF THE ACTION**

4 1. This is an action for declaratory judgment of non-infringement and/or invalidity of
5 U.S. Patent No. 6,278,996 ("the '996 patent"), entitled "System and Method for Message Process
6 and Response."

7 **THE PARTIES**

8 2. EMC is a Massachusetts corporation having its principal place of business in
9 Hopkinton, MA. In 2003, EMC acquired Documentum, Inc. ("Documentum"), a leading provider
10 of enterprise content management products and services, headquartered in Pleasanton, CA.
11 Documentum was merged into EMC and EMC continues to maintain a place of business at 6801
12 Koll Center Parkway, Pleasanton, CA. EMC conducts the vast majority of business regarding
13 EMC's Documentum products at this Pleasanton, CA location, including sales, marketing,
14 customer support, data center operations, and engineering.

15 3. On information and belief, Bright Response is a Texas limited liability company
16 having a principal place of business at 207C North Washington Ave., Marshall, TX 75670.

17 **JURISDICTION AND VENUE**

18 4. This action arises under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.*,
19 and under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.* This Court has subject matter
20 jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1338(a), 2201, and 2202, and 35
21 U.S.C. §§ 271 *et seq.*

22 5. An actual case and controversy exists between the parties within the scope of this
23 Court's jurisdiction pursuant to 28 U.S.C. § 2201 at least because, on or about May 8, 2012 Bright
24 Response filed a Complaint for Patent Infringement against EMC in the Eastern District of Texas,
25 Case No. 2:12-cv-00279 alleging infringement of the '996 patent by EMC's "message
26 understanding and response systems that recognize and answer messages based on the message
27 writer's intent in unconstrained natural language text messages," including "the EMC Content
28 Intelligence Services & Integration with EMC Documentum."

1 6. This Court has personal jurisdiction over Bright Response. On information and
2 belief, Bright Response has systematic and substantial contacts within the State of California and
3 has purposefully directed activities in this district that relate to the '996 patent. For example, on
4 information and belief, Bright Response established a place of business in California at 74785
5 Highway, 111 Indian Wells, California 92210. On information and belief, Bright Response uses
6 this California place of business in connection with the '996 patent, as shown by the United States
7 Patent and Trademark Office's assignment records for the '996 patent. Moreover, on information
8 and belief, Bright Response and its agents have undertaken enforcement and licensing activities in
9 this district relating to the '996 patent, including pursuing, negotiating and entering into
10 agreements with companies located in the Northern District of California.¹ On information and
11 belief, Bright Response, by and through its agents, continues to purposefully direct activities in
12 this district, including efforts to enter patent licensing agreements with companies located in this
13 district. Additionally, on information and belief, Bright Response employs agents to assist in
14 patent enforcement and licensing efforts, including efforts directed at the '996 patent, and these
15 agents are located in and/or frequently conduct business in California.

16 7. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c) and
17 § 1400(b) because a substantial part of the events giving rise to the claims at issue occurred in this
18 District.
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21

22 ¹ For example, on information and belief, on April 27, 2006, Bright Response (f/k/a Polaris
23 IP LLC) filed suit against Oracle Corporation alleging, *inter alia*, infringement of the '996 patent.
24 (*Polaris IP LLC v. Oracle Corp. et al.*, Case No. 2:06-cv-00179-TJW (E.D. Tex.)). On
25 information and belief, Oracle's headquarters and principal place of business are in Redwood
26 Shores, California. On information and belief, on September 13, 2006, only several months after
27 Bright Response filed its suit, Bright Response stipulated to the dismissal of all of its claims with
28 prejudice. Based on this sequence of events, on information and belief Bright Response attempted
to enter into and/or did enter into licensing agreements with Oracle, a California company, relating
to the '996 patent, and Bright Response attempted to receive and/or did receive benefits in the
form of monies and/or other business consideration from enforcement and licensing efforts
directed to this California company.

INTRADISTRICT ASSIGNMENT

8. Because this action is an Intellectual Property Action within the meaning of Civil Local Rule 3-2(c), the action is to be assigned on a district-wide basis.

GENERAL ALLEGATIONS

9. The '996 patent issued on August 21, 2001 to named inventors Keith D. Richardson, Jeff Greif, Doug Buedel, and Boris Aleksandrovsky. It was originally assigned to Brightware, Inc. of Novato, CA. On information and belief, the document attached to this Complaint as Exhibit A is a true and correct copy of the '996 patent.

10. Bright Response contends that it is the present owner of the '996 patent.

11. On or about May 8, 2012, Bright Response communicated to EMC its intention to pursue claims of infringement of the '996 patent against EMC's Documentum product by filing a Complaint for Patent Infringement against EMC in the Eastern District of Texas, Case No. 2:12-cv-00279. Bright Response alleged, *inter alia*, infringement of the '996 patent by EMC's "message understanding and response systems that recognize and answer messages based on the message writer's intent in unconstrained natural language text messages," including "the EMC Content Intelligence Services & Integration with EMC Documentum."

12. EMC conducts the vast majority of business regarding EMC's Documentum products at EMC's facilities in Pleasanton, CA, including sales, marketing, customer support, data center operations, and engineering.

13. Bright Response's actions have caused EMC reasonably to apprehend litigation of the '996 patent.

FIRST CLAIM FOR RELIEF

(Declaratory Judgment of Invalidity of U.S. Patent No. 6,278,996)

14. EMC realleges and incorporates by reference paragraphs 1 through 12, inclusive, as though fully set forth in this paragraph.

15. The '996 patent is invalid for failure to meet the conditions of patentability and/or otherwise comply with one or more of 35 U.S.C. §§ 101, 102, 103 and 112.

16. There is an actual controversy, within the meaning of 28 U.S.C. §§ 2201 and 2202, between EMC and Bright Response concerning invalidity of the '996 patent.

17. EMC is entitled to a declaratory judgment that the claims of the '996 patent are invalid.

SECOND CLAIM FOR RELIEF

(Declaratory Judgment of Non-Infringement of U.S. Patent No. 6,278,996)

18. EMC realleges and incorporates by reference paragraphs 1 through 16, inclusive, as though fully set forth in this paragraph.

19. EMC contends that it does not infringe, either directly or indirectly, any valid claim of the '996 patent.

20. There is an actual controversy, within the meaning of 28 U.S.C. §§ 2201 and 2202, between EMC and Bright Response concerning whether the '996 patent is infringed by what Bright Response refers to as EMC's "message understanding and response systems that recognize and answer messages based on the message writer's intent in unconstrained natural language text messages," including "the EMC Content Intelligence Services & Integration with EMC Documentum."

21. EMC is entitled to a declaratory judgment that it has not infringed the claims of the '996 patent.

PRAYER FOR RELIEF

WHEREFORE, EMC prays for judgment against Bright Response as follows:

- A. For a declaration that the claims of the '996 patent are invalid;
- B. For a declaration that EMC does not infringe, either directly, contributorily, or by inducement, any valid and enforceable claim of the '996 patent, either literally or under the doctrine of equivalents;
- C. For an order awarding EMC its costs;
- D. For such other relief as this Court deems just and proper.

1 DATED: June 4, 2012

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3 By Charles Verhoeven /jjg
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DEMAND FOR JURY TRIAL

In accordance with Federal Rule of Civil Procedure 38(b), Plaintiff EMC Corporation
demands a trial by jury on all issues triable by jury.

1 DATED: June 4, 2012

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