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U.S. DISTRICT COURT  
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TX EASTERN-MARSHALL

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

Information Technology Innovation LLC

Plaintiff,

vs.

International Business Machines Corporation

Defendant.

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BY \_\_\_\_\_

CIVIL ACTION NO.

2-05-CV-422 *Tom*

**JURY TRIAL DEMANDED**

**ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff, INFORMATION TECHNOLOGY INNOVATION, LLC ("ITI") files this Original Complaint for Patent Infringement against Defendant INTERNATIONAL BUSINESS MACHINES CORPORATION ("IBM") and alleges as follows:

**THE PARTIES**

1. ITI is a limited liability company organized and existing under the laws of the State of Illinois with its principal place of business at 500 Newport Center Drive, 7<sup>th</sup> Floor, Newport Beach, CA 92660

2. IBM is a corporation organized and existing under the laws of the State of New York, with a principle place of business at 1 New Orchard Road, Armonk, NY 10504. IBM may be served with process through its registered agent, CT Corporation System located at 350 N. St. Paul, Dallas, Texas 75201.

**JURISDICTION AND VENUE**

3. This is an action for infringement of a United States patent. This Court has exclusive jurisdiction of this cause of action under 28 U.S.C. § 1338(a)

4. IBM has transacted, and at the time of the filing of this Complaint is transacting, business within this District. Venue is proper in this Court under 28 U.S.C. § 1391(b) and (c) and under 28 U.S.C. § 1400(b).

**CAUSE OF ACTION FOR PATENT INFRINGEMENT**

5. ITI is the exclusive licensee of United States Patent No. 5,892,908 ("the '908 patent"), which is entitled "Method of Extracting Network Information." The '908 patent was duly and legally issued on April 6, 1999. A true and correct copy of the '908 patent is attached hereto as Exhibit A.

6. ITI has the exclusive right to enforce the '908 patent and collect damages for all relevant times.

7. IBM manufactures, makes, has made, uses, sells and/or offers to sell products and/or software, including but not limited to Lotus Notes products, that infringe one or more claims of the '908 patent; and/or induces or contributes to the infringement of one or more claims of the '908 patent by others.

8. IBM has committed infringing acts within this District and IBM will continue to infringe one or more claims of the '908 patent unless enjoined by this Court.

9. IBM's infringing acts have been and continue to be willful.

10. As a result of IBM's infringing conduct, ITI has been irreparably damaged to an extent not yet determined, but in no event less than a reasonable royalty, and will continue to be

irreparably damaged by such acts in the future unless IBM is enjoined by this Court from committing further acts of infringement.

**JURY DEMAND**

11. In accordance with Fed. R. Civ. P. 38(b), ITI demands a trial by jury on all issues so triable.

**PRAYER FOR RELIEF**

WHEREFORE, ITI respectfully requests that the Court enter final judgment in favor of ITI and against IBM, awarding ITI the following relief:

- a. that one or more claims of United States Patent No. 5,892,908 have been infringed, either literally and/or under the doctrine of equivalents, by IBM and/or by others to which IBM has contributed to and/or induced infringement;
- b. that IBM account for and pay to ITI all damages incurred by ITI as a result of IBM's activities in an amount no less than a reasonable royalty;
- c. that such damages be trebled for the willful acts of infringement complained of herein.
- d. that the Court declare this an exceptional case and award ITI its reasonable attorneys' fees incurred in bringing this action;
- e. that ITI be awarded its costs in bringing this action;
- f. that ITI be granted pre-judgment and post-judgment interest on the damages caused to it by reason of IBM's infringing activities;
- g. that a permanent injunction be issued enjoining IBM from any further activity that infringes on one or more claims of United States Patent No. 5,892,908; and

- h. that ITI be granted such other and further relief as the Court may deem just and proper.

Respectfully submitted,

*Jonathan T Suder (by permission)*

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