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15 Attorneys for Plaintiff

16
17 **UNITED STATES DISTRICT COURT**
NORTHERN DISTRICT OF CALIFORNIA
18 **SAN FRANCISCO DIVISION**

19 VASUDEVAN SOFTWARE, INC.,

20 Plaintiff,

21 vs.

22 MICROSTRATEGY, INC.,

23 Defendant.

Case No. C11-6637-RS

**AMENDED COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

24 For its Complaint, Plaintiff Vasudevan Software, Inc. (VSi) alleges as follows:

25 1. This case is related to, and involves some of the same patents involved in the prior
26 action, *Vasudevan Software, Inc. v. International Business Machines Corporation, et al.*, Case
27

No. 5:09-CV-05897 (RS-PSG) which was litigated in the United States District Court for the Northern District of California, San Francisco Division.

THE PARTIES

2. Plaintiff VSi is a corporation duly organized under the laws of North Carolina with its principal place of business at 380-H Knollwood Street, Suite 193, Winston-Salem, North Carolina 27103.

3. Upon information and belief, Defendant MicroStrategy, Inc. (MicroStrategy) is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 1850 Towers Crescent Plaza, Tysons Corner, Virginia 22182.

JURISDICTION AND VENUE

4. This action arises under the United States Patent Laws, codified at 35 U.S.C. § 1, et seq.

5. This Court has exclusive subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

6. MicroStrategy has sufficient contacts with this judicial district and the state of California to subject it to the jurisdiction of this Court. Corporation Service Company is a registered MicroStrategy agent for service of process, located at 2730 Gateway Oaks Drive, Suite 100, Sacramento, California 95833. MicroStrategy maintains facilities and conducts business in California, including in the Northern District of California. MicroStrategy maintains an office at 101 Montgomery Street San Francisco, California 94104. MicroStrategy also advertises and sells its products to distributors and residents throughout California. In addition, MicroStrategy has committed acts of infringement in this District, and continues to commit acts of infringement in this District, entitling VSi to relief.

1 7. Venue is proper in the Northern District of California pursuant to 28 U.S.C. §§
2 1391(b), (c) and 1400(b), because MicroStrategy has committed acts of direct and indirect
3 infringement in the Northern District of California, has transacted business in the Northern
4 District of California, and has established minimum contacts with the Northern District of
5 California.

6
7 **COUNT ONE - INFRINGEMENT OF THE '006 PATENT**

8 8. On April 5, 2005, United States Patent No. 6,877,006 B1 (the '006 Patent) was
9 duly and legally issued for an invention entitled "Multimedia Inspection Database System
10 (MIDaS) For Dynamic Run-Time Evaluation." On January 6, 2009, an Ex Parte Reexamination
11 Certificate was duly and legally issued for the '006 Patent. The Reexamination Certificate
12 confirms the patentability of all claims. VSi was assigned the '006 Patent and continues to hold
13 all rights and interest in the '006 Patent. VSi has complied with the requirements of 35 U.S.C. §
14 287. A true and correct copy of the '006 Patent and the Reexamination Certificate is attached as
15 Exhibit A.

16
17 9. MicroStrategy has directly infringed and continues to directly infringe the '006
18 Patent by its manufacture, use, offer for sale, importation and/or sale of MicroStrategy 9 and
19 other products. Under 35 U.S.C. § 271(a), MicroStrategy is liable for its infringement of the '006
20 Patent.

21
22 10. MicroStrategy is also inducing its customers to directly infringe the '006 Patent by
23 providing its customers and others with detailed explanations, instructions, and information as to
24 arrangements, applications, and uses of its products that promote and demonstrate how to use its
25 products in an infringing manner. MicroStrategy also knows or reasonably should know that its
26 actions induce its customers to directly infringe the '006 Patent (*i.e.*, MicroStrategy intends for its
27 customers to directly infringe the '006 Patent). MicroStrategy has known of the '006 Patent at
28

1 least since December 23, 2011, when VSi filed its initial complaint. Under 35 U.S.C. § 271(b),
2 MicroStrategy is liable for its infringement of the '006 Patent.

3 11. MicroStrategy's acts of infringement have caused damage to VSi, and VSi is
4 entitled to recover from MicroStrategy the damages sustained by VSi as a result of
5 MicroStrategy's wrongful acts in an amount subject to proof at trial. MicroStrategy's
6 infringement of VSi's exclusive rights under the '006 Patent will continue to damage VSi,
7 causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this
8 Court.
9

10 12. VSi reserves the right to allege, after discovery, that MicroStrategy's infringement
11 of the '006 patent is willful and deliberate, entitling VSi to increased damages under 35 U.S.C. §
12 284 and to attorney's fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.
13

14 **COUNT TWO - INFRINGEMENT OF THE '864 PATENT**

15 13. On January 23, 2007, United States Patent No. 7,167,864 B1 (the '864 Patent) was
16 duly and legally issued for an invention entitled "Multimedia Inspection Database System
17 (MIDaS) For Dynamic Run-Time Evaluation." On January 6, 2009, an Ex Parte Reexamination
18 Certificate was duly and legally issued for the '864 Patent. The Reexamination Certificate
19 confirms the patentability of all claims. VSi was assigned the '864 Patent and continues to hold
20 all rights and interest in the '864 Patent. VSi has complied with the requirements of 35 U.S.C. §
21 287. A true and correct copy of the '864 Patent and the Reexamination Certificate are attached as
22 Exhibit B.
23

24 14. MicroStrategy has directly infringed and continues to directly infringe the '864
25 Patent by its manufacture, use, offer for sale, importation and/or sale of MicroStrategy 9 and
26 other products. Under 35 U.S.C. § 271(a), MicroStrategy is liable for its infringement of the
27 '864 Patent.
28

1 15. MicroStrategy is also inducing its customers to directly infringe the '864 Patent by
2 by providing its customers and others with detailed explanations, instructions, and information as
3 to arrangements, applications, and uses of its products that promote and demonstrate how to use
4 its products in an infringing manner. MicroStrategy also knows or reasonably should know that
5 its actions induce its customers to directly infringe the '864 Patent (*i.e.*, MicroStrategy intends for
6 its customers to directly infringe the '864 Patent). MicroStrategy has known of the '864 Patent at
7 least since December 23, 2011, when VSi filed its initial complaint. Under 35 U.S.C. § 271(b),
8 MicroStrategy is liable for its infringement of the '864 Patent.

10 16. Defendants' acts of infringement have caused damage to VSi, and VSi is entitled
11 to recover from Defendants the damages sustained by VSi as a result of Defendants' wrongful
12 acts in an amount subject to proof at trial. Defendants' infringement of VSi's exclusive rights
13 under the '864 Patent will continue to damage VSi, causing irreparable harm for which there is no
14 adequate remedy at law, unless enjoined by this Court.

16 17. VSi reserves the right to allege, after discovery, that MicroStrategy's infringement
17 of the '864 patent is willful and deliberate, entitling VSi to increased damages under 35 U.S.C. §
18 284 and to attorney's fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

19 **COUNT THREE - INFRINGEMENT OF THE '861 PATENT**

20 18. On May 18, 2010, United States Patent No. 7,720,861 B1 (the '861 Patent) was
21 duly and legally issued for an invention entitled "Multimedia Inspection Database System
22 (MIDaS) For Dynamic Run-Time Evaluation." VSi was assigned the '861 Patent and continues
23 to hold all rights and interest in the '861 Patent. VSi has complied with the requirements of 35
24 U.S.C. § 287. A true and correct copy of the '861 Patent is attached as Exhibit C.

26 19. MicroStrategy has directly infringed and continues to directly infringe the '861
27 Patent by its manufacture, use, offer for sale, importation and/or sale of MicroStrategy 9 and
28

1 other products. Under 35 U.S.C. § 271(a), MicroStrategy is liable for its infringement of the ‘861
2 Patent.

3 20. MicroStrategy is also inducing its customers to directly infringe the ‘861 Patent by
4 providing its customers and others with detailed explanations, instructions, and information as to
5 arrangements, applications, and uses of its products that promote and demonstrate how to use its
6 products in an infringing manner. MicroStrategy also knows or reasonably should know that its
7 actions induce its customers to directly infringe the ‘861 Patent (*i.e.*, MicroStrategy intends for its
8 customers to directly infringe the ‘861 Patent). MicroStrategy has known of the ‘861 Patent at
9 least since December 23, 2011, when VSi filed its initial complaint. Under 35 U.S.C. § 271(b),
10 MicroStrategy is liable for its infringement of the ‘861 Patent.
11

12 21. Defendants’ acts of infringement have caused damage to VSi, and VSi is entitled
13 to recover from Defendants the damages sustained by VSi as a result of Defendants’ wrongful
14 acts in an amount subject to proof at trial. Defendants’ infringement of VSi’s exclusive rights
15 under the ‘861 Patent will continue to damage VSi, causing irreparable harm for which there is no
16 adequate remedy at law, unless enjoined by this Court.
17

18 22. VSi reserves the right to allege, after discovery, that MicroStrategy’s infringement
19 of the ‘861 patent is willful and deliberate, entitling VSi to increased damages under 35 U.S.C. §
20 284 and to attorney’s fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.
21

22 **COUNT FOUR - INFRINGEMENT OF THE ‘268 PATENT**

23 23. On December 20, 2011, United States Patent No. 8,082,268 B2 (the ‘268 Patent)
24 was duly and legally issued for an invention entitled “Multimedia Inspection Database System
25 (MIDaS) For Dynamic Run-Time Evaluation.” VSi was assigned the ‘268 Patent and continues
26 to hold all rights and interest in the ‘268 Patent. VSi has complied with the requirements of 35
27 U.S.C. § 287. A true and correct copy of the ‘268 Patent is attached as Exhibit D.
28

26. Defendants' acts of infringement have caused damage to VSi, and VSi is entitled to recover from Defendants the damages sustained by VSi as a result of Defendants' wrongful acts in an amount subject to proof at trial. Defendants' infringement of VSi's exclusive rights under the '268 Patent will continue to damage VSi, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

JURY DEMAND

PRAYER FOR RELIEF

2197468v1/012934

1 a. Judgment that MicroStrategy has infringed and induced others to infringe the claims
2 of the '006, '864, '861 and '268 Patents;

3 b. Judgment that the '006, '864, '861 and '268 Patents are valid and enforceable;

4 c. A permanent injunction enjoining MicroStrategy, its respective officers, agents,
5 servants, employees, and those acting in privity with it, from further infringement and/or inducing
6 infringement of the '006, '864, '861 and '268 Patents;

7
8 d. Requiring MicroStrategy to file with this Court, within thirty (30) days after entry of
9 final judgment, a written statement under oath setting forth in detail the manner in which it has
10 complied with the injunction;

11 e. Awarding VSi damages adequate to compensate for the infringement by
12 MicroStrategy, but in no event less than a reasonable royalty for the use made of the inventions
13 by MicroStrategy, together with pre-judgment and post-judgment interest and costs under 35
14 U.S.C. § 284;

15
16 f. Declaring this case exceptional pursuant to 35 U.S.C. § 285, and awarding VSi its
17 attorney fees;

18 g. Costs of court; and

19 h. Awarding to VSi such other and further relief, in law or equity, as the Court deems
20 just.

21
22 Dated: March 6, 2012

By: /s/ Brooke A.M. Taylor
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