

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

MACROSOLVE, INC.,

Plaintiff,

v.

WHOOOP, INC., and WHOOOP PARTNERS,
LLC,

Defendants.

CIVIL ACTION NO. 6:11-cv-523

AMENDED COMPLAINT FOR
PATENT INFRINGEMENT

JURY TRIAL DEMANDED

Plaintiff MacroSolve, Inc. (“MacroSolve”) files this amended complaint against the above-named defendants, alleging, based on its own knowledge with respect to itself and its own actions, and based on information and belief as to all other matters, as follows:

PARTIES

1. MacroSolve is a corporation formed under the laws of the State of Oklahoma, with a principal place of business in Tulsa, Oklahoma.
2. Defendant WHOOOP, INC. (“Whoop”) is a corporation organized under the laws of Delaware, with a principal place of business in Atlanta, Georgia. Whoop is doing business in the state of Texas but has failed to appoint an agent for service of process in Texas. Accordingly, Whoop can be served under the Texas Long Arm Statute, as well as the Texas Business Corporations Act, by serving the Texas Secretary of State. Whoop’s home, home office, and principal office address is 3495 Piedmont Road NE, Building 11, Suite 905, Atlanta, GA 30305.
3. Defendant WHOOOP PARTNERS, LLC (“Whoop Partners”) is a limited liability company organized under the laws of Georgia, with a principal place of business in Atlanta, Georgia. Whoop Partners is doing business in the state of Texas but has failed to appoint an agent for service of process in Texas. Accordingly, Whoop Partners can be served under the Texas Long Arm Statute, as well as the Texas Business Corporations Act,

by serving the Texas Secretary of State. Whoop Partners' home, home office, and principal office address is 4234 Glen Devon Drive, Atlanta, GA 30327. Whoop Partners is the successor-in-interest to Whoop.

JURISDICTION AND VENUE

4. This is an action for infringement of a United States patent arising under 35 U.S.C. §§ 271, 281, and 284-285, among others. This Court has subject matter jurisdiction of the action under 28 U.S.C. §1331 and §1338(a).

5. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400(b). Upon information and belief, defendants have transacted business in this district, and have committed and/or induced acts of patent infringement in this district.

6. Defendants are subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to the defendants' substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; and/or (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this district.

COUNT I

INFRINGEMENT OF U.S. PATENT NO. 7,822,816

7. On October 26, 2010, United States Patent No. 7,822,816 ("the 816 patent") was duly and legally issued by the United States Patent and Trademark Office for an invention entitled "System and Method for Data Management." A true and correct copy of the 816 patent is attached hereto as Exhibit A.

8. MacroSolve is the owner of the 816 patent with all substantive rights in and to that patent, including the sole and exclusive right to prosecute this action and enforce the 816 patent against infringers, and to collect damages for all relevant times.

9. Whoop, directly or through intermediaries, made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale products and/or

systems (including its Whoop platform products) that infringed one or more claims of the 816 patent, and/or induced infringement and/or contributed to the infringement of one or more of the claims of the 816 patent by its customers.

10. Whoop Partners, directly or through intermediaries, made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale products and/or systems (including its Whoop platform products) that infringed one or more claims of the 816 patent, and/or induced infringement and/or contributed to the infringement of one or more of the claims of the 816 patent by its customers.

11. Additionally, as Whoop's successor-in-interest, Whoop Partners is liable for Whoop's infringing acts.

JURY DEMAND

MacroSolve hereby requests a trial by jury on all issues so triable by right.

PRAYER FOR RELIEF

MacroSolve requests that the Court find in its favor and against defendants, and that the Court grant MacroSolve the following relief:

a. Judgment that one or more claims of the 816 patent have been infringed, either literally and/or under the doctrine of equivalents, by defendants and/or by others to whose infringement defendants have contributed and/or by others whose infringement have been induced by defendants;

b. A permanent injunction enjoining defendants and their officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert therewith from infringement, inducing infringement of, or contributing to infringement of the 816 patent;

c. Judgment that defendants account for and pay to MacroSolve all damages to and costs incurred by MacroSolve because of defendants' infringing activities and other conduct complained of herein;

d. That MacroSolve be granted pre-judgment and post-judgment interest on

the damages caused by defendants' infringing activities and other conduct complained of herein;

e. That this Court declare this an exceptional case and award MacroSolve its reasonable attorney's fees and costs in accordance with 35 U.S.C. § 285; and

f. That MacroSolve be granted such other and further relief as the Court may deem just and proper under the circumstances.

Dated: December 12, 2011

Respectfully submitted,

/s/ Larry D. Thompson, Jr.
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