

IN THE UNITED STATES DISTRICT COURT
FOR MIDDLE DISTRICT OF PENNSYLVANIA
HARRISBURG DIVISION

e-LYNXX CORPORATION,

Plaintiff,

vs.

ARIBA, INC.,

Defendant.

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CIVIL ACTION NO.

JURY TRIAL DEMANDED

PLAINTIFF’S ORIGINAL COMPLAINT

Plaintiff e-LYNXX CORPORATION (“Plaintiff”) files this Original Complaint against Defendant ARIBA, INC. (“Defendant”), and would respectfully show the Court as follows:

I. THE PARTIES

1. Plaintiff is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, with its principal offices in Chambersburg, Pennsylvania.

2. Upon information and belief, Defendant ARIBA, INC. is a Delaware software and information technology services company with a principle place of business at 210 6th Ave. Suite 2500; Pittsburgh, PA 15222-2602. Defendant Ariba may be served with process through registered agent, Corporation Service Company, 2595 Interstate Drive, Suite 103, Harrisburg, PA 17110.

II. JURISDICTION AND VENUE

3. This is an action for infringement of three United States patents under 35 U.S.C. § 271 and § 281. This Court has exclusive jurisdiction of such action under 28 U.S.C. § 1338(a).

4. Plaintiff is informed and believes, and thereon alleges, that Defendant has committed acts of patent infringement alleged herein within the Harrisburg Division of the Middle District of Pennsylvania.

5. Upon information and belief, Defendant has sufficient minimum contacts with the Commonwealth of Pennsylvania and the Harrisburg Division of the Middle District of Pennsylvania such that this Court has personal jurisdiction over the Defendant and this is a fair and reasonable venue for the litigation of this action. Defendant has committed such purposeful acts and/or transactions in Pennsylvania that it reasonably should know and expect that it could be sued in this Court as a consequence of such activity. Upon information and belief, Defendant has transacted business, and at the time of the filing of this Complaint is transacting business, within the Harrisburg Division of the Middle District of Pennsylvania. For these reasons, personal jurisdiction exists and venue is proper in this Court under 28 U.S.C. §§ 1391(b) and (c) and 28 U.S.C. § 1400(b).

III. PATENT BACKGROUND

6. On November 11, 2008, United States Patent No. 7,451,106 B1 (“the ‘106 Patent”) was duly and legally issued. The ‘106 Patent is titled “System and Method for Competitive Pricing and Procurement of Customized Goods and Services” and discloses a system and method for creating a database representing pools of vendors of customized goods and services for one or more subscribing buyers, and for selecting the lowest bidder from the database’s represented vendor pool on a per-job basis. A true and correct copy of the ‘106 Patent is attached hereto as Exhibit “A” and incorporated herein by reference.

7. Plaintiff is the owner of all right, title and interest in and to the ‘106 Patent, including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the ‘106 Patent. Accordingly, Plaintiff possesses the exclusive right and standing to prosecute the present action for infringement of the ‘106 Patent by these Defendants.

8. On August 31, 2010, United States Patent No. 7,788,143 B2 (“the ‘143 Patent”) was duly and legally issued. The ‘143 Patent is titled “System and Method for Competitive Pricing and Procurement of Customized Goods and Services” and discloses a system and method for creating a database representing pools of vendors of customized goods and services for one or more subscribing buyers and for selecting the lowest bidder from the database’s represented vendor pool on a per-job basis. A true and correct copy of the ‘143 Patent is attached hereto as Exhibit “B” and incorporated herein by reference.

9. Plaintiff is the owner of all right, title and interest in and to the ‘143 Patent, including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the ‘143 Patent. Accordingly, Plaintiff possesses the exclusive right and standing to prosecute the present action for infringement of the ‘143 Patent by these Defendants.

10. On June 26, 2012, United States Patent No. 8,209,227 B2 (“the ‘227 Patent”) was duly and legally issued. The ‘227 Patent is titled “System and Method for Competitive Pricing and Procurement of Customized Goods and Services” and discloses a system and method for creating a database representing pools of vendors of customized goods and services for one or more subscribing buyers and for selecting the lowest bidder from the database’s represented vendor pool on a per-job basis. A true and correct copy of the ‘227 Patent is attached hereto as Exhibit “C” and incorporated herein by reference.

11. Plaintiff is the owner of all right, title and interest in and to the ‘227 Patent, including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the ‘227 Patent. Accordingly, Plaintiff possesses the exclusive right and standing to prosecute the present action for infringement of the ‘227 Patent by these Defendants.

12. More particularly, the ‘106, ‘143, and ‘227 Patents disclose a system and method that: (i) creates and maintains a database of vendors for supplying customized goods and services, the database further representing capabilities of vendors, (ii) receives communications establishing a vendor base or pool for each subscribing buyer of customized goods and services, (iii) receives job data containing production specifications, related contracting terms and one or more vendor qualification criteria from buyers, (iv) compares the vendor records to at least one selection criteria chosen from the job data to identify qualified vendors, (v) transmits invitations to bid on the job data to the qualified vendors, and (vi) outputs at least one bid response to the buyer.

IV. COUNT ONE – DIRECT PATENT INFRINGEMENT

A. DIRECT INFRINGEMENT

13. Upon information and belief, Defendant Ariba has manufactured, made, marketed, sold, and/or used computer networks, systems, products and/or services comprising all of the elements and limitations of at least claims 13, 14, 15, 16 and 18 of the ‘106 Patent, claims 1 and 2 of the ‘143 Patent, and claims 1, 2, 15, 16, 29, and 30 of the ‘227 Patent (collectively “Asserted Claims”), and therefore Defendant Ariba has directly infringed one or more claims of the ‘106, ‘143, and ‘227 Patents.

14. Defendant Ariba’s infringing conduct is based, at least in part, on its making, using, distributing, and/or selling or offering for sale, a system and/or method for competitive pricing and procurement of customized goods and services in a manner disclosed and protected against infringement by one or more claims of the ‘106, ‘143, and ‘227 Patents.

15. More specifically, on information and belief, Defendant Ariba, without authority, consent, right, or license, and in direct infringement of the ‘106, ‘143, and ‘227 Patents, manufactures, has manufactured, makes, has made, uses, has used, sells, has sold, offers for sale,

has offered for sale, distributes, and/or has distributed, systems, products, and/or services, directly infringing one or more claims of the '106 '143, and '227 Patents. By way of example only, the Ariba Commerce Cloud, Arbia Sourcing, Ariba Discovery, and Ariba Network web-based software platforms directly infringe the Asserted Claims.

B. INDIRECT INFRINGEMENT

16. Upon information and belief, Defendant Ariba has induced infringement by others of at least claims 13, 14, 15, 16 and 18 of the '106 Patent, claims 1 and 2 of the '143 Patent, and claims 1, 2, 15, 16, 29, and 30 of the '227 Patent (collectively "Asserted Claims").

17. More specifically, on information and belief, Defendant Ariba, without authority, consent, right, or license, and in direct infringement of the Asserted Claims, manufactures, has manufactured, makes, has made, sells, has sold, offers for sale, has offered for sale, distributes, and/or has distributed, the Ariba Commerce Cloud, Arbia Sourcing, Ariba Discovery, and Ariba Network web-based software platforms (the "Ariba Platforms"). Defendant Ariba, in conjunction with the sale and manufacture of the Ariba Platforms, has induced customers, purchasers and/or users of the Ariba Platforms to infringe at least the Asserted Claims.

18. Ariba knew of the existence of the '106 and '143 Patents by no later than late 2010, when Ariba was in the process of completing an acquisition of Quadrem Inc. On December 14, 2010, which was during the time between the announcement of the definitive agreement for Ariba to acquire Quadrem, Inc. on Nov. 10, 2010 and the completion of the acquisition on Jan. 27, 2011, Plaintiff filed suit against Quadrem U.S., Inc., a subsidiary of Quadrem Inc., for infringing the '106 and '143 Patents (Civil Action 1:10-cv-02535). Ariba should have knowledge of the earlier filed lawsuit and the '106 and '143 Patents from their due diligence that was completed during the acquisition of Quadrem Inc. At a minimum, Defendant Ariba was notified of the '106, '143, and '227 Patents via service of this Original Complaint.

19. On information and belief, Defendant Ariba has intentionally and actively induced purchasers and users of the Ariba Platforms to directly infringe by providing manuals, written instructions and procedures, and other printed materials, distributed in the United States, as well as providing training, instruction and various programs conducted in the United States in the use of the Ariba Platforms in a manner that infringes the Asserted Claims. Customers, of the Ariba Platforms directly infringe the Asserted Claims by using the Ariba Platforms to practice the system and method of the '106, '143, and '227 Patents, as articulated in paragraphs 13, 14, and 15 herein, which paragraphs are hereby incorporated by reference.

20. Plaintiff has been damaged as a result of Defendant Ariba's infringing conduct and Defendant is thus liable to Plaintiff for damages in an amount that adequately compensates for such Defendant's infringement, *i.e.*, in an amount that by law cannot be less than would constitute a reasonable royalty for the use of the patented technology, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

21. Upon information and belief, Defendant will continue its infringement of one or more claims of the '106, '143, and '227 Patents unless enjoined by the Court. Defendant's infringing conduct thus causes Plaintiff irreparable harm and will continue to cause such harm without the issuance of an injunction.

V. JURY DEMAND

Plaintiff hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court find in its favor and against the Defendant, and that the Court grant Plaintiff the following relief:

- a. Judgment that one or more claims of United States Patent Nos. 7,451,106, 7,788,143 and 8,209,227 have been infringed, either literally and/or under the doctrine of equivalents, by Defendant;
- b. Judgment that Defendant account for and pay to Plaintiff all damages to and costs incurred by Plaintiff because of Defendant's infringing activities and other conduct complained of herein;
- d. That Plaintiff be granted pre-judgment and post-judgment interest on the damages caused by Defendant's infringing activities and other conduct complained of herein;
- e. That the Court declare this an exceptional case and award Plaintiff its reasonable attorneys' fees and costs in accordance with 35 U.S.C. § 285;
- f. That Defendant be permanently enjoined from any further activity or conduct that infringes one or more claims of United States Patent Nos. 7,451,106, 7,788,143 and 8,209,227; and
- g. That Plaintiff be granted such other and further relief as the Court may deem just and proper under the circumstances.

Dated: September 5, 2012.

Respectfully Submitted,

By: s/ Scott T. Wyland

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**ATTORNEYS FOR PLAINTIFF
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** Pro hac vice to be filed*