

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION**

RLIS, INC.,)	
)	
Plaintiff,)	Civil Action No. 3:12-CV-00209
v.)	
)	JUDGE GREGG COSTA
CERNER CORPORATION,)	
)	
Defendant.)	JURY TRIAL DEMANDED
)	

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff RLIS, Inc. ("RLIS") files this First Amended Complaint for patent infringement against Defendant Cerner Corporation ("Cerner"). Plaintiff alleges the following:

PARTIES

1. Plaintiff RLIS is a Texas corporation with its principal place of business at 86 S. Copper Sage Circle, The Woodlands, Texas 77381.
2. Defendant Cerner Corporation is a Delaware corporation with its principal place of business at 2800 Rockcreek Parkway, North Kansas City, Missouri 64117. Cerner may be served with process by serving its registered agent, CT Corporation System, at 350 N. St. Paul St., Ste. 2900, Dallas, Texas 75201. Cerner has been served and does not challenge service.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the patent laws of the United States of America, Title 35 of the United States Code. This Court has original and

exclusive jurisdiction over the subject matter of this Complaint under 28 U.S.C. §§ 1331 and 1338. Cerner does not challenge this Court's jurisdiction.

4. Cerner admits that venue is proper in this District under 28 U.S.C. §§ 1391 and 1400. Defendant Cerner admits that it has transacted and continues to transact business in this District. Cerner has committed acts of direct and indirect infringement in this District, and continues to commit acts of direct and indirect infringement in this District.

5. Cerner admits that this Court has personal jurisdiction over defendant Cerner because it has sufficient contacts with the state of Texas and this District to permit exercise of personal jurisdiction.

BACKGROUND

6. RLIS is the owner of United States Patent No. 7,076,436 ("the '436 patent") entitled MEDICAL RECORDS, DOCUMENTATION, TRACKING AND ORDER ENTRY SYSTEM. The '436 patent was issued by the United States Patent and Trademark Office ("USPTO") on July 11, 2006. A true and correct copy of the '436 patent is attached as Exhibit A.

7. RLIS is the owner of United States Patent No. 5,823,948 ("the '948 patent") entitled MEDICAL RECORDS, DOCUMENTATION, TRACKING AND ORDER ENTRY SYSTEM. The '948 was issued by the USPTO on October 20, 1998. A true and correct copy of the '948 patent is attached as Exhibit B.

8. The '436 and '948 patents list as named inventors Dr. James E. Ross, Jr. and William J. Lynch. Dr. Ross is presently the majority shareholder of RLIS. Dr. Ross and Mr. Lynch have assigned all rights in the '436 and '948 patents to RLIS.

9. Dr. Ross is a licensed medical physician with over 30 years of experience in the fields of emergency medical treatment and preventative medicine. He has worked in several hospitals and medical facilities. During the course of his career, Dr. Ross became familiar with the need for doctors, medical personnel, and hospital staff to create, maintain, and reference medical records reflecting personal information, diagnosis, and treatment of a patient for medical evaluation.

10. RLIS filed an application for the '948 patent with the USPTO on July 8, 1996, and that application was assigned serial number 08/676,458 ("the '458 application"). On June 19, 1998, RLIS filed a divisional application of the '458 application. The divisional application was assigned serial number 09/100,100 ("the '100 application"), and issued as the '436 patent.

INFRINGEMENT OF U.S. PATENTS 5,823,948 & 7,076,436

11. RLIS incorporates and realleges the proceeding paragraphs as if fully set forth herein.

12. Cerner has made, manufactured, used, offered to sell, sold, licensed, distributed, and/or imported into the United States electronic medical record ("EMR") products including, but not limited to, Cerner Powerworks EHR and Cerner Powerchart EHR that infringe, and Cerner continues to infringe one or more claims of the '436 and '948 patents ("patents-in-suit") under 35 U.S.C. § 271(a).

13. Cerner also has indirectly infringed and continues to indirectly infringe one of more claims of the patents-in-suit by contributing to and actively inducing others to use, sell, import, and/or offer for sale infringing products and/or services. Cerner is liable for its infringement of the patents-in-suit pursuant to 35 U.S.C. §§ 271(b) & (c).

14. Cerner has knowingly and actively induced and continues to induce to its customers, licensees, end users and others to infringe one or more claims of the patents-in-suit under 35 U.S.C. § 271(b) by making, using, offering to sell, selling, and/or importing into the United States EMR products including Cerner Powerworks EHR and Cerner Powerchart EHR.

15. Cerner has committed and continues to commit acts of contributory infringement of one or more claims of the patents-in-suit in violation of 35 U.S.C. § 271(c) by contributing to the making, using, selling, offering for sale, distributing, and/or importing into the United States EMR products including, but not limited to, Cerner Powerworks EHR and Cerner Powerchart EHR. Cerner's customers incorporate those products with other software, information, patient data and text in a manner that infringes the patents-in-suit. Cerner's EMR products are not a staple article and do not have a substantial non-infringing use. Because the accused products have no substantial non-infringing uses, and because Cerner has contributed to the sale of infringing products with knowledge of the patents-in-suit, Cerner is liable for contributory infringement.

16. The following are just some of the facts that support the indirect infringement allegations against Cerner. Cerner's website states that its solutions, including Cerner Powerworks EHR and Cerner Powerchart EHR, are used in over 9000 facilities. At least some of these customers have used and continue to use Cerner's EMR products in a manner that directly infringes one or more claims of the patents-in-suit. Cerner also offers education and training services to its customers on using its EMR products, including on-line training and academic training. This education and training also actively induces and contributes to Cerner's customers practicing one or more claims of the patents-in-suit.

17. As described in greater detail below, Cerner's actions have been and continue to be undertaken with knowledge of the patents-in-suit, and with the intent that Cerner's actions would induce its customers to directly infringe the patents-in-suit. Cerner's actions have at the very least been undertaken in willful blindness to the patents-in-suit.

18. Cerner's unlawful infringement of the patents-in-suit has injured RLIS, and RLIS is entitled to recover damages adequate to compensate it for its injuries.

19. Cerner will unlawfully continue to infringe the patents-in-suit and will continue to cause irreparable injury to RLIS unless and until it is enjoined by the Court.

KNOWLEDGE OF THE PATENTS-IN-SUIT AND WILLFUL INFRINGEMENT

20. In September 1997, William J. Lynch, who was then Vice President of RLIS, which was doing business as TeleMed, met with high-ranking Cerner executives in their corporate headquarters located at 2800 Rockcreek Parkway in North Kansas City. Mr. Lynch explained to these Cerner executives that TeleMed had applied for a patent. The Cerner executives showed great interest in the TeleMed product and pending patent application. The Cerner executives asked Mr. Lynch to explain in detail what the TeleMed product did, and the subject matter of the pending and anticipated patent applications.

21. The Cerner executives requested documentation from Mr. Lynch, and he provided the requested documentation, which was clearly marked with a "Patent Pending" notice. The Cerner executives expressed dismay at how much better the TeleMed system was than the system then under development at Cerner. The Cerner executives expressed concerns that TeleMed would obtain patent protection covering functionality that Cerner was just then developing to add to Cerner's products in the future.

22. On April 9, 2001, Cerner Innovation, Inc., a subsidiary of Cerner, filed an application with the USPTO, which issued as U.S. Patent No. 7,464,021. This patent cites to RLIS's '948 patent as prior art.

23. On October 29, 2004, Cerner Innovation, Inc. filed an application with the USPTO, which issued as U.S. Patent No. 8,082,280. This patent cites to RLIS's '948 patent as prior art.

24. On August 13, 2004, Cerner Innovation, Inc. filed an application with the USPTO, which issued as U.S. Patent No. 8,000,978. This patent cites to RLIS's '436 patent as prior art.

25. On December 15, 2005, Cerner Innovation, Inc. filed an application with the USPTO, which issued as U.S. Patent No. 7,711,579. This patent cites to RLIS's '436 patent as prior art.

26. On December 16, 2005, Cerner Innovation, Inc. filed an application with the USPTO, which issued as U.S. Patent No. 8,190,447. This patent cites to RLIS's '436 patent as prior art.

27. Cerner has knowingly made, used, offered to sell, sold, and/or imported into the United States EMR products including, but not limited to, Cerner Powerworks EHR and Cerner Powerchart EHR that infringe and continue to infringe one or more claims of the patents-in-suit under 35 U.S.C. § 271(a). Because Cerner sold products that infringe the patents-in-suit and did so with knowledge that RLIS/TeleMed had applied for and had been granted the patents-in-suit, Cerner is liable for willful infringement.

28. Cerner's willful infringement entitles RLIS to receive increased damages under 35 U.S.C. § 284 and to attorney's fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

JURY DEMAND

29. Plaintiff RLIS demands a trial by jury for all issues so triable.

PRAAYER FOR RELIEF

WHEREFORE, Plaintiff RLIS, Inc. prays that the Court enter judgment against Defendant Cerner Corporation as follows:

- (1) Entry of judgment holding Cerner liable for infringement of the '436 and '948 patents;
- (2) An award to RLIS of damages against Cerner for infringement of the '436 and '948 patents together with prejudgment and post-judgment interest;
- (3) An award to RLIS of increased damages for Cerner's willful infringement of the '436 and '948 patents;
- (4) An order enjoining Cerner, its officers, agents, and employees, and those in active concert or participation with them, from continued acts of infringement of the '436 and '948 patents;
- (5) A determination that this case is exceptional and an award to RLIS of its costs and attorney's fees pursuant to 35 U.S.C. § 285; and
- (6) Such other and further relief available to RLIS at law or in equity which the Court may deem proper.

DATED: September 21, 2012

Respectfully submitted,

By: /s/Brian D. Melton
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Attorneys for Plaintiff RLIS, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on September 21, 2012, I electronically filed the foregoing document with the clerk of the court for the U.S. District Court, Southern District of Texas, using the electronic filing system of the court. The electronic case filing system sent a “Notice of Electronic Filing” to the attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means.

/s/Brian D. Melton _____

Brian D. Melton