

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CLOUDING IP, LLC,

Plaintiff,

vs.

THE NEW YORK TIMES CO.

Defendant.

C.A. No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

This is an action for patent infringement arising under the Patent Laws of the United States of America, 35 U.S.C. § 1 *et seq.* in which Plaintiff Clouding IP, LLC makes the following allegations against Defendant The New York Times Company.

PARTIES

1. Plaintiff Clouding IP, LLC (“Clouding”) is a Delaware limited liability company having a principal place of business at 2 Terrace Way, Suite C, Greensboro, North Carolina 27403.

2. On information and belief, Defendant The New York Times Company (“New York Times”) is a New York Corporation with its principal place of business at 620 Eighth Avenue, New York, New York 10018.

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has original subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. On information and belief, New York Times is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Delaware Long Arm Statute, due to having availed itself of the rights and benefits of Delaware by conducting substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; and (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 Delaware and in this Judicial District.

5. Venue is proper in this district under 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b). On information and belief, New York Times is subject to personal jurisdiction in this district, has transacted business in this district and has committed acts of patent infringement in this district.

COUNT I
INFRINGEMENT OF U.S. PATENT NO. 6,925,481

6. Plaintiff Clouding realleges and incorporates by reference paragraphs 1-5 above, as if fully set forth herein.

7. Plaintiff Clouding is the owner by assignment of United States Patent No. 6,925,481 (“the ’481 patent”) titled “Technique for Enabling Remote Data Access and Manipulation from a Pervasive Device.” The ’481 patent was duly and legally issued by the United States Patent and Trademark Office on August 2, 2005. Clouding is the owner by assignment from Symantec Corporation of the ’481 patent. A true and correct copy of the ’481 patent is included as Exhibit A.

8. New York Times has infringed and continues to infringe the ’481 patent by, among other things, making, using, offering for sale, selling and/or importing products and/or services in the United States that enable access to and manipulation of data using a pervasive device, such as a mobile phone, by receiving a data request from a pervasive device, obtaining

the requested data, determining the available data manipulation operations and locations of such operations for the obtained data and returning the obtained data and the data manipulation operations and locations to the pervasive device. Such products and services include, but are not limited to, New York Times's websites, including nytimes.com, and New York Times's mobile applications, which are covered by one or more claims of the '481 patent, including but not limited to claim 1.

9. By making, using, offering for sale, selling, and/or importing such products and/or services covered by one or more claims of the '481 patent, New York Times has injured Clouding and is liable to Clouding for infringement of the '481 patent pursuant to 35 U.S.C. § 271.

10. As a result of New York Times's infringement of the '481 patent, Plaintiff Clouding has suffered monetary damages and is entitled to a money judgment in an amount adequate to compensate for New York Times's infringement, but in no event less than a reasonable royalty for the use made of the invention by New York Times, together with interest and costs as fixed by the Court.

COUNT II
INFRINGEMENT OF U.S. PATENT NO. 7,254,621

11. Plaintiff Clouding realleges and incorporates by reference paragraphs 1-10 above, as if fully set forth herein.

12. Plaintiff Clouding is the owner by assignment of United States Patent No. 7,254,621 ("the '621 patent") titled "Technique for Enabling Remote Data Access and Manipulation from a Pervasive Device." The '621 patent was duly and legally issued by the United States Patent and Trademark Office on August 7, 2007. Clouding is the owner by

assignment from Symantec Corporation of the '621 patent. A true and correct copy of the '621 patent is included as Exhibit B.

13. New York Times has infringed and continues to infringe the '621 patent by, among other things, making, using, offering for sale, selling and/or importing products and/or services that enable access to and manipulation of data from a pervasive device, such as a mobile phone, by receiving a data access request from a pervasive device, obtaining the requested data, determining what data manipulation operations are available for the obtained data and providing references to the determined manipulation operations to the pervasive device. Such products and services include, but are not limited to, New York Times's websites, including nytimes.com, and New York Times's mobile applications, which are covered by one or more claims of the '621 patent, including but not limited to claim 1.

14. By making, using, offering for sale, selling, and/or importing such products and/or services covered by one or more claims of the '621 patent, New York Times has injured Clouding and is liable to Clouding for infringement of the '621 patent pursuant to 35 U.S.C. § 271.

15. As a result of New York Times's infringement of the '621 patent, Plaintiff Clouding has suffered monetary damages and is entitled to a money judgment in an amount adequate to compensate for New York Times's infringement, but in no event less than a reasonable royalty for the use made of the invention by New York Times, together with interest and costs as fixed by the Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Clouding respectfully requests that this Court enter:

1. A judgment in favor of Plaintiff Clouding that New York Times has infringed, either literally and/or under the doctrine of equivalents, the '481 patent and the '621 patent;

2. A judgment and order requiring New York Times to pay Plaintiff Clouding its damages, costs, expenses, and pre-judgment and post-judgment interest as provided under 35 U.S.C. § 284 for New York Times's infringement of the '481 patent and the '621 patent; and

3. Any and all other relief as the Court may deem appropriate and just under the circumstances.

DEMAND FOR JURY TRIAL

Plaintiff Clouding requests a trial by jury of any issues so triable.

December 4, 2012

BAYARD, P.A.

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