

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

<b>INGENIADOR, LLC</b>	§	
	§	
<b>Plaintiff,</b>	§	<b>CIVIL ACTION NO. 2:12-cv-806</b>
	§	
<b>v.</b>	§	<b>JURY TRIAL DEMANDED</b>
	§	
<b>AGFA GEVAERT NV;</b>	§	
<b>AGFA HEALTHCARE CORPORATION;</b>	§	
<b>and AGFA CORPORATION</b>	§	
	§	
<b>Defendants.</b>	§	

**COMPLAINT FOR PATENT INFRINGEMENT**

TO THE HONORABLE COURT:

COMES NOW, Plaintiff Ingeniador, LLC (“Ingeniador”), through the undersigned attorneys, and respectfully alleges, states, and prays as follows:

**I. NATURE OF THE ACTION**

1. This is an action for patent infringement under the Patent Laws of the United States, Title 35 of the United States Code (“U.S.C.”) to prevent and enjoin Defendants AGFA Gevaert NV (hereinafter “AGFA Gevaert”), AGFA Healthcare Corporation (hereinafter “AGFA Healthcare”), and AGFA Corporation (hereinafter, “AGFA”) (hereinafter, collectively “Defendants”) from infringing and profiting, in an illegal and unauthorized manner and without authorization and/or consent from Ingeniador, from U.S. Patent No. 6,990,629 (the “‘629 patent”, attached hereto as Exhibit “A”) pursuant to 35 U.S.C. §271, and to recover damages, attorney’s fees, and costs.

## **II. THE PARTIES**

2. Plaintiff Ingeniador is a Puerto Rico limited liability company with its principal place of business at 1607 Colón St. #101, San Juan, Puerto Rico 00911.

3. Upon information and belief, AGFA Gevaert is a Belgium public limited company with a principal place of business at Septestraat 27, Mortsel, Antwerpen, 2640 Belgium.

4. Defendant AGFA Healthcare is a Delaware corporation and wholly-owned subsidiary of AGFA Gevaert with its principal place of business at 10 South Academy Street, Greenville, South Carolina 29601. AGFA Healthcare's registered agent is CT Corporation System at 111 Eight Avenue, New York, New York 10011.

5. Defendant AGFA is a Delaware corporation and wholly-owned subsidiary of AGFA Gevaert NV with its principal place of business at 100 Challenger Road, Ridgefield Park, New Jersey 07660. AGFA's resident agent is The Corporation Trust Company at Corporation Trust Center 1209, Orange St., Wilmington, Delaware 19801.

6. Defendants are in the business of manufacturing, distributing, and selling web-based electronic health record products and/or services throughout the United States, including in this judicial jurisdiction.

## **III. JURISDICTION AND VENUE**

7. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§1331 and 1338(a) because the action arises under the Patent Laws of the United States, 35 U.S.C. §§ 1 et seq.

8. This Court has personal jurisdiction over Defendants by virtue of Defendants' systematic and continuous contacts with this jurisdiction, as alleged herein, as well as because of the injury to Ingeniador and the cause of action Ingeniador has raised, as alleged herein.

9. Each of the Defendants is 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 its 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 Texas and in this Judicial District.

10. Defendants have conducted and do conduct business within the state of Texas, including the geographic region within the Eastern District of Texas, directly or through intermediaries, resellers or agents, or offer for sale, sell, advertise (including, but not limited to, the use of interactive web pages with promotional material) products or services, or use or induce others to use services or products in Texas that infringe the '629 Patent, knowingly induce others to infringe and/or contribute to infringement of the '629 Patent occurring within Texas and elsewhere.

11. In addition to Defendants' continuously and systematically conducting business in Texas, the causes of action against Defendants are connected (but not limited) to Defendants' purposeful acts committed in the state of Texas, including the geographic region within the Eastern District of Texas, including Defendants' making, using, offering for sale, or selling a computer network for web-based editing and publishing system which include features that fall within the scope of at least one claim of the '629 Patent.

12. Venue lies in this judicial district pursuant to 28 U.S.C. §§1391 and 1400(b).

#### **IV. JOINDER**

13. Defendants are properly joined under 35 U.S.C. §299(a)(1) because a right to relief is asserted against the parties jointly, severally, and in the alternative with respect to the same transactions, occurrences, or series of transactions or occurrences relating to the making, using, importing into the United States, offering for sale, and/or selling the same accused products. Specifically, as alleged in detail below, Defendants are alleged to infringe the ‘629 Patent with respect to a web-based editing and publishing system.

14. Defendants are properly joined under 35 U.S.C. §299(a)(2). Questions of fact will arise that are common to all defendants, including for example, whether the overlapping web-based electronic health record products alleged to infringe have features that meet the features of one or more claims of the ‘629 Patent, and what reasonable royalty will be adequate to compensate the owner of the ‘629 Patent for its infringement.

15. AGFA and AGFA Healthcare are wholly-owned subsidiaries of AGFA Gevaert (collectively, the “AGFA Group”). Each member of the AGFA Group offers the same web-based electronic health record products that infringe on the ‘629 Patent by virtue of AGFA Gevaert’s ownership of the aforementioned related subsidiary entities.

16. The AGFA Group offers web-based editing and publishing systems which infringe on the ‘629 Patent. For example, the AGFA Group offers web-based electronic health record products that allow users to edit and publish files.

17. At least one right to relief is asserted against these parties jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences relating to the making, importing into the United States, offering for sale, or selling, of the same accused products, and/or process.

## V. FACTUAL ALLEGATIONS

18. On January 24, 2006, the United States Patent and Trademark Office (“USPTO”) duly and legally issued the ‘629 Patent, entitled “Publishing System for Intranet” after a full and fair examination. A true and correct copy of the ‘629 Patent is attached hereto as Exhibit “A”. Ingeniador is presently the owner of the Patent, having received all right, title and interest in and to the ‘629 Patent from the previous assignee of record. Ingeniador possesses all rights of recovery under the ‘629 Patent, including the exclusive right to recover for past infringement. The ‘629 Patent is valid and enforceable.

19. The ‘629 Patent contains two independent claims and twenty-three dependent claims. Defendants use methods that perform one or more steps of the claims, and also make, use and sell or offer for sale products that encompass one or more of the claims.

20. The invention claimed in the ‘629 patent includes a system and process for web-based editing and publishing files using a network of client computers, network file server and a Light Weight Directory Access Protocol (LDAP) directory server.

21. The LDAP directory server is adapted to store information defining and limiting the rights of authors and readers in the system. For example, electronic health record products use this feature to restrain access or editing privileges to selected personnel.

22. The network file server is adapted to resolve file server pointers to one or more files on the file server and directory files on the LDAP directory server transmitted from client computer into requests for files and directory files. For example, electronic health record products use file servers to store patient information. The LDAP directory server stores information on the identity and privileges of users of the network. Therefore, when a user

requests patient information on a client computer, the file server and the LDAP directory server interact to identify if the user's identity is associated with the required access privileges in order to allow or deny access to the patient's information.

23. The network file server is adapted to retrieve from the LDAP directory server directory content. The network file server is also adapted to convert the directory content into web publishable information and including web publishable information as part of the requested files displayed on the client computer for editing further parts of the files. For example, electronic health record products display on client computers the name of a user or users and allow editing of the requested file.

## **VI. DEFENDANTS' PRODUCTS**

24. Defendants are providers of healthcare information technology solutions.

25. Defendants' products allow users on a client computer to access and edit through the web health records stored in file servers, depending on the user's privileges identified through the use of an LDAP directory server.

26. Defendants' Products include a system and process for publishing information on a network-based computer system using a network of client computers, network file server and a Light Weight Directory Access Protocol (LDAP) directory server. In particular, Defendants' IMPAX Enterprise is a network system that provides authorized users with web-enabled access to patient images, studies and reports. IMPAX is a web-based solution that connects its network Picture Archiving and Communication System (PACS) server with client computers. These various web-based products can be collectively referred to as "Defendants' Products".

27. Defendants' Products use an LDAP directory server that is adapted to store information defining and limiting the rights of authors and readers in the system. In particular, Defendants' IMPAX Enterprise provides LDAP user authentication to limit access to electronic health information.

28. Defendants' Products use a network file server that is adapted to resolve file server pointers to one or more files on the file server and directory files on the LDAP directory server transmitted from client computer into requests for files and directory files. In particular, Defendants' IMPAX Enterprise resolves file pointers into requests for files, such as a request for a specific study or selecting study attachments or images.

29. Defendants' Products use a network file server that is adapted to retrieve from the LDAP directory server directory content. In particular, Defendants' IMPAX Enterprise resolves file pointers into requests for directory files for authentication when users log into IMPAX with their user credentials.

30. Defendants' Products use a network file server that is also adapted to convert the directory content into web publishable information and including web publishable information as part of the requested files displayed on the client computer for editing further parts of the files. In particular, Defendants' IMPAX Enterprise retrieves directory content (user names), which is then converted into web publishable information that is published on the website where users can further edit and manage content. For example, IMPAX allows study result image editing with a variety of markup tools.

## **VII. DIRECT INFRINGEMENT**

31. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 1-30.

32. Taken together, either partially or entirely, the features included in Defendants' Products, including but not limited to, the product called "IMPAX Enterprise", perform the process recited in one or more of the claims of the '629 Patent.

33. Taken together, either partially or entirely, the features included in Defendants' Products including, but not limited to, the product called "IMPAX Enterprise", contain all the features recited in one or more of the claims of the '629 Patent.

34. Upon information and belief Defendants directly infringe one or more of the claims of the '629 Patent by making, using, selling, offering to sell and/or importing products for web-based editing and publishing, such as Defendants' Products, which illegally perform and use the process and system defined by the claims of the '629 Patent, in violation of 35 USC 271(a).

## **VIII. INDIRECT INFRINGEMENT**

### **INDUCING INFRINGEMENT**

35. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 1-34.

36. Defendants have had knowledge of the '629 Patent for at least ten years because public records show that the '629 Patent has been cited as "Prior Art" by at least fourteen patents issued by the United States Patent and Trademark Office during that period.

37. Defendants have had knowledge of its infringement at least as of service of the present complaint.



38. Defendants have been and now are indirectly infringing by way of inducing infringement by others of the '629 Patent in the State of Texas, in this judicial district, and elsewhere in the United States, by, among other things, illegally making, using, importing, offering for sale, and/or selling, products for performing processes and using systems that fall within the scope of one or more claims of the '629 Patent, in violation of 35 USC § 271(b). Such products include, without limitation, Defendants' Products.

39. Defendants indirectly infringe one or more claims of the '629 Patent by actively inducing their customers, users, subscribers and licensees who directly infringe due to their use of Defendants' Products.

40. Furthermore, Defendants indirectly infringe one or more claims of the '629 Patent by actively inducing third-party developers to create applications enabling functionality including, without limitation, the function to make use of the services offered and sold by Defendants, who directly infringe one or more claims of the '629 Patent due to their use of the Defendants' Products.

### **CONTRIBUTORY INFRINGEMENT**

41. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 1-40.

42. Defendants contribute to the infringement of one or more of the claims of the '629 Patent in violation of 35 USC 271(c).

43. With knowledge of the patent in suit, Defendants indirectly infringe the '629 Patent by contributing to the direct infringement of a class of actors which includes the end-users of the Defendants' Products, as well as consumers, users, subscribers and licensees, by

encouraging the class of actors to operate the Defendants' Products, aware of the fact that such acts amount to infringement of one or more claims of the '629 Patent.

44. Products sold by Defendants for implementation of the Defendants' Products are components of a patented device covered by one or more of the claims of the '629 Patent, which constitute a material part of the invention and are not a staple article or commodity of commerce suitable for substantial noninfringing use.

45. Defendants have known that devices that implement Defendants' Products are especially made or especially adapted for use in infringement of the '629 Patent at least as of service of the present complaint.

#### **IX. DEMAND FOR JURY TRIAL**

Ingeniador demands a trial by jury of any and all causes of action.

#### **X. PRAYER FOR RELIEF**

WHEREFORE, Ingeniador prays for the following relief:

1. That Defendants be adjudged to have infringed the '629 Patent, directly and/or indirectly, by way of inducement and/or contributory infringement, literally and/or under the doctrine of equivalents;
2. That Defendants, its officers, directors, agents, servants, employees, attorneys, affiliates, divisions, branches, parents, and those persons in active concert or participation with any of them, be preliminarily and permanently restrained and enjoined from directly and/or indirectly infringing the '629 Patent;
3. An award of damages pursuant to 35 U.S.C. §284 sufficient to compensate Ingeniador for the Defendants' past infringement and any continuing or future

- infringement up until the date that Defendants are finally and permanently enjoined from further infringement, including compensatory damages;
4. An assessment of pre-judgment and post-judgment interest and costs against Defendants, together with an award of such interest and costs, in accordance with 35 U.S.C. §284;
  5. That Defendants be directed to pay enhanced damages, including Ingeniador's attorneys' fees incurred in connection with this lawsuit pursuant to 35 U.S.C. §285; and
  6. That Ingeniador have such other and further relief as this Court may deem just and proper.

Dated: December 19, 2012

Respectfully Submitted,

By: /s/ William E. Davis, III  
William E. Davis, III  
Texas State Bar No. 24047416  
**The Davis Firm, PC**  
111 West Tyler Street  
Longview, Texas 75601  
Telephone: (903) 230-9090  
Facsimile: (903) 230-9661  
Email: [bdavis@bdavisfirm.com](mailto:bdavis@bdavisfirm.com)

**ATTORNEY FOR PLAINTIFF  
INGENIADOR, LLC**