

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

ORG STRUCTURE INNOVATIONS, LLC,

Plaintiff,

v.

COURION CORPORATION,

Defendant.

Civil Action No. 12-1447 SLR

JURY TRIAL DEMANDED

**FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff ORG Structure Innovations, LLC (“ORG Structure” or “Plaintiff”) for its First Amended Complaint against Courion Corporation (“Courion” or “Defendant”) alleges the following:

**THE PARTIES**

1. ORG Structure is a limited liability company organized under the laws of the State of Texas with a place of business at 8416 Old McGregor Road, Woodway, Texas 76712.

2. On information and belief, Courion is a company organized and existing under the laws of the State of Delaware, with its principal place of business at 1900 West Park Drive, 1st Floor, Westborough, Massachusetts 01581.

**JURISDICTION AND VENUE**

3. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*

4. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338.

5. Jurisdiction and venue are proper because Defendant is incorporated in this judicial district. Further, jurisdiction and venue are proper because, upon information and belief,

Defendant conducts substantial business in this forum, directly or through intermediaries, 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 this judicial district.

6. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(c) and 1400(b).

### **THE PATENTS-IN-SUIT**

7. On March 23, 2010, United States Patent No. 7,685,156 (the "'156 Patent"), entitled "Systems and Methods for Rule Inheritance," was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the '156 Patent is attached as Exhibit A to the original Complaint (DI 1-1).

8. ORG Structure is the assignee and owner of the right, title, and interest in and to the '156 Patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

9. On October 26, 2010, United States Patent No. 7,822,777 (the "'777 Patent"), entitled "Systems and Methods for Rule Inheritance," was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the '777 Patent is attached as Exhibit B to the original Complaint (DI 1-2).

10. ORG Structure is the assignee and owner of the right, title, and interest in and to the '777 Patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

### **COUNT I – INFRINGEMENT OF U.S. PATENT NO. 7,685,156**

11. ORG Structure repeats and re-alleges the allegations of paragraphs 1 through 10 as if fully set forth herein.

12. Without license or authorization and in violation of 35 U.S.C. § 271(a), Defendant has infringed and continues to infringe at least claim 1 of the '156 Patent by making, using, offering for sale, and/or selling within this district and elsewhere in the United States and/or importing into this district and elsewhere in the United States, certain computer program products, including, without limitation, the computer software RoleCourier, that embody subject matter claimed in the '156 Patent (the "Accused Products").

13. Defendant has had knowledge of and/or been aware of, or should have had knowledge or been aware of, the '156 Patent and its infringement thereof since its issuance on March 23, 2010. On June 5, 2007, the inventor sent two emails discussing his patent family to Christopher Zannetos and to Kurt Johnson. The emails identified patent numbered 7,185,010, titled, "Systems and Methods for Rule Inheritance" which is the same title as its child patents, the patents-in-suit, the '156 and '777 Patents.

14. In his email, the inventor also mentioned "pending patents pertaining to ... organizational discovery tools." The inventor had possession at that time of the claimed subject matter within the child applications, and, upon information and belief, Courion knew or should have known of the existence of the child patents-in-suit upon their issuance. Once made aware of the relatedness of the parent patent to their software product, Courion was under a duty to investigate for infringement, and reasonable diligence pursuant to that duty would have lead Courion to the patents-in-suit upon their issuance. Upon information and belief, it would have been reckless for Courion not to be aware of these patents upon their issuance, given that its website advertises its products as being in a technology so closely related to the patents-in-suit.

15. After acquiring knowledge of the '010 Patent and its family on June 5, 2007, and ORG Structure's claim of infringement of its child patent which is the '156 Patent which has an

identical name and disclosure to the '010 on November 14, 2012, Courion continued to operate its business in the infringing manner described in Paragraph 16 and 17 below. Upon information and belief, Courion has taken no actions to stop or in any fashion curb its infringement of the '156 Patent or to otherwise exercise reasonable care to avoid willful infringement. Therefore, upon information and belief, Courion's infringement of the '156 Patent since at least March 23, 2010, has been and continues to be willful and deliberate.

16. Upon information and belief, since at least March 23, 2010, Defendant has induced and continues to induce others to infringe the '156 Patent under 35 U.S.C. § 271(b) by, among other things, actively and knowingly aiding and abetting others to infringe, including but not limited to its customers, whose use of Defendants' computer program products, including, without limitation, Courion's RoleCourier computer software, constitutes direct infringement of the '156 Patent. For example, after March 23, 2010, and after service of the Original Complaint, Defendant has intentionally and knowingly encouraged others to infringe by using Defendant's infringing software, including Defendant's selling, licensing and otherwise providing its infringing software to its customers and potential customers, and by advertising its computer software RoleCourier, as well as by providing support and maintenance to its customers with respect to its computer programs products, including Courion's RoleCourier computer software. See <http://www.courion.com/products/access-risk-management-suite.html>. Also, Courion has encouraged others to use the infringing software by providing opportunities for training through a website, <http://www.courion.com/services/training.html>. For example, a training for Administering the Access Assurance Suite includes "administration courses for Automated Password Management, Policy-based End-user Provisioning, ARM, and Access Certification." In addition, Courion instructs users how to perform infringing tasks in its data sheets provided on

its website. Such advertising, support, training, instruction and maintenance intentionally and knowingly induces Defendants' customers to infringe the '156 Patent, as such customers use Defendants' computer program products, including Courion's RoleCourier computer software, in an infringing manner. Such acts by Defendant constitute infringement under at least 35 U.S.C. § 271(b).

17. Upon information and belief, since at least March 23, 2010, Defendant has committed and continues to commit acts of contributory infringement of at least claim 1 of the '156 Patent under 35 U.S.C. § 271(c) in that Defendant has intentionally and knowingly made, sold, or offered to sell, and continues to intentionally and knowingly make, sell, or offer to sell computer programs products, including, but not limited to, Courion's RoleCourier computer software. These computer program products constitute a material part of the '156 invention, are not a staple article and have no substantial non-infringing uses and are especially adapted to work in a system or carry out a method claimed in the '156 Patent, for example, by claim 1. Defendant intentionally and knowingly sells, licenses and otherwise provides such computer program products to its customers so that its customers will use them in a combination, where defendant knows that its customers' use of such products in combination with at least one other product constitutes direct infringement of at least claim 1 of the '156 Patent.

18. ORG Structure has been damaged by Defendant's activities infringing the '156 Patent.

**COUNT II – INFRINGEMENT OF U.S. PATENT NO. 7,822,777**

19. ORG Structure repeats and re-alleges the allegations of paragraphs 1 through 16 as if fully set forth herein.

20. Without license or authorization and in violation of 35 U.S.C. § 271(a), Defendant has infringed and continues to infringe at least claim 1 of the '777 Patent by making, using,

offering for sale, and/or selling within this district and elsewhere in the United States and/or importing into this district and elsewhere in the United States, certain computer program products, including, without limitation, the Accused Products.

21. Defendant has had knowledge of and/or been aware of, or should have had knowledge or been aware of, the '777 Patent and its infringement thereof since its issuance on October 26, 2010. On June 5, 2007, the inventor sent two emails discussing his patent family to Christopher Zannetos and to Kurt Johnson. The emails identified patent numbered 7,185,010, titled, "Systems and Methods for Rule Inheritance" which is the same title as its child patents, the patents-in-suit, the '156 and '777 Patents.

22. In his email, the inventor also mentioned "pending patents pertaining to ... organizational discovery tools." The inventor had possession at that time of the claimed subject matter within the child applications, and, upon information and belief, Courion knew or should have known of the existence of the child patents-in-suit upon their issuance. Once made aware of the relatedness of the parent patent to their software product, Courion was under a duty to investigate for infringement, and reasonable diligence pursuant to that duty would have lead Courion to the patents-in-suit upon their issuance. Upon information and belief, it would have been reckless for Courion not to be aware of these patents upon their issuance, given that its website advertises its products as being in a technology so closely related to the patents-in-suit.

23. After acquiring knowledge of the '010 Patent and its family on June 5, 2007, and ORG Structure's claim of infringement of its grandchild patent which is the '777 Patent which has an identical name and disclosure to the '010 on November 14, 2012, Courion continued to operate its business in the infringing manner described in Paragraph 16 and 17 below. Upon information and belief, Courion has taken no actions to stop or in any fashion curb its

infringement of the '777 Patent or to otherwise exercise reasonable care to avoid willful infringement. Therefore, upon information and belief, Courion's infringement of the '777 Patent since at least October 26, 2010, has been and continues to be willful and deliberate.

24. Upon information and belief, since at least October 26, 2010, Defendant has induced and continues to induce others to infringe the '777 Patent under 35 U.S.C. § 271(b) by, among other things, actively and knowingly aiding and abetting others to infringe, including but not limited to its customers, whose use of Defendants' computer program products, including, without limitation, Courion's RoleCourier computer software, constitutes direct infringement of the '777 Patent. For example, after October 26, 2010, and after service of the Original Complaint, Defendant has intentionally and knowingly encouraged others to infringe by using Defendant's infringing software, including Defendant's selling, licensing and otherwise providing its infringing software to its customers and potential customers, and by advertising its computer software RoleCourier, as well as by providing support and maintenance to its customers with respect to its computer programs products, including Courion's RoleCourier computer software. *See* <http://www.courion.com/products/access-risk-management-suite.html>. Also, Courion has encouraged others to use the infringing software by providing opportunities for training through a website, <http://www.courion.com/services/training.html>. For example, a training for Administering the Access Assurance Suite includes "administration courses for Automated Password Management, Policy-based End-user Provisioning, ARM, and Access Certification." In addition, Courion instructs users how to perform infringing tasks in its data sheets provided on its website. Such advertising, support, training, instruction and maintenance intentionally and knowingly induces Defendants' customers to infringe the '777 Patent, as such customers use Defendants' computer program products, including Courion's RoleCourier

computer software, in an infringing manner. Such acts by Defendant constitute infringement under at least 35 U.S.C. § 271(b).

25. Upon information and belief, since at least October 26, 2010, Defendant has committed and continues to commit acts of contributory infringement of at least claim 1 of the '777 Patent under 35 U.S.C. § 271(c) in that Defendant has intentionally and knowingly made, sold, or offered to sell, and continues to intentionally and knowingly make, sell, or offer to sell computer programs products, including, but not limited to, Courion's RoleCourier computer software. These computer program products constitute a material part of the '777 invention, are not a staple article and have no substantial non-infringing uses and are especially adapted to work in a system or carry out a method claimed in the '777 Patent, for example, by claim 1. Defendant intentionally and knowingly sells, licenses and otherwise provides such computer program products to its customers so that its customers will use them in a combination, where defendant knows that its customers' use of such products in combination with at least one other product constitutes direct infringement of at least claim 1 of the '777 Patent.

26. ORG Structure has been damaged by Defendant's activities infringing the '777 Patent.

**JURY DEMAND**

ORG Structure demands a trial by jury on all issues triable as such.

**PRAYER FOR RELIEF**

WHEREFORE, ORG Structure requests that this Court enter judgment against Defendant as follows:

- A. An adjudication that Defendant has infringed the '156 and '777 Patents;
- B. An award of damages to be paid by Defendant, adequate to compensate ORG Structure for Defendant's past infringement of the '156 and '777 Patents, and any continuing or



future infringement through the date such judgment is entered, including interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;

C. An award of an ongoing royalty to be paid by Defendant in an amount to be determined for any continued infringement of the '156 and/or '777 Patents after the date judgment is entered;

E. A declaration that this case is exceptional under 35 U.S.C. § 285 and an award of ORG Structure's reasonable attorneys' fees; and

F. An award to ORG Structure of such further relief at law or in equity as the Court deems just and proper.

Dated: February 11, 2013

STAMOULIS & WEINBLATT LLC

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