

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

INGENIADOR, LLC

Plaintiff,

v.

**McKESSON CORPORATION and
McKESSON TECHNOLOGIES INC.**

Defendants.

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CIVIL ACTION NO. 2:12-cv-809

JURY TRIAL DEMANDED

SECOND AMENDED COMPLAINT FOR INFRINGEMENT OF PATENT

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 McKESSON CORPORATION (hereinafter “McKESSON Corporation”) and McKESSON TECHNOLOGIES INC. (hereinafter “McKESSON TECHNOLOGIES”) (hereinafter collectively referred to as “McKESSON” or “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, attorneys’ 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, McKESSON CORPORATION is a Delaware corporation with its principal place of business at One Post Street, San Francisco, California 94104. Upon information and belief, McKESSON maintains a registered agent at Prentice Hall Corporation System at 211 E. 7th Street Suite 620, Austin, Texas 78701.

4. Upon information and belief, McKESSON TECHNOLOGIES is a Delaware corporation and has a place of business in 5995 Windward Parkway Alpharetta, GA 30005. McKESSON TECHNOLOGIES is a wholly owned subsidiary of McKESSON CORPORATION. Upon information and belief, McKESSON TECHNOLOGIES maintains a registered agent at Prentice Hall Corporation System at 211 E. 7th Street Suite 620, Austin, Texas 78701.

5. Defendants are in the business of making and selling, among other things, healthcare information software products.

III. JURISDICTION AND VENUE

6. 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.

7. This Court has personal jurisdiction over Defendants by virtue of their 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.

8. Defendants are 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.

9. Defendants have conducted and 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 offers for sale, sells, advertises (including, but not limited to, the use of interactive web pages with promotional material) products or services, or uses or induces others to use services or products in Texas that infringe the '629 Patent, knowingly induces others to infringe and/or contribute to infringement of the '629 Patent occurring within Texas and elsewhere.

10. 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 products which include features that fall within the scope of at least one claim of the '629 Patent.

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

IV. FACTUAL ALLEGATIONS

12. 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.

13. 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.

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

15. 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.

16. 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.

17. 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.

V. McKESSON'S PRODUCTS

18. Defendants offer web-based electronic health record products and solutions.

19. 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. These various web-based products will be collectively referred to as "McKESSON's Products".

20. McKESSON's Products infringing the '629 Patent include, but are not limited to, the product called "McKESSON Study Share", a web-based application that facilitates sharing of medical information from a picture archiving and communication system (PACS).

21. McKESSON's 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 LDAP directory server. In particular, "McKESSON Study Share" connects its network file servers with a client's web-enabled computer.

22. McKESSON's 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, "McKESSON Study Share" provides LDAP user authentication to limit access to electronic health records.

23. McKESSON's 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, "McKESSON Study Share" resolves file pointers into requests for files, including requests for patient's case information, for example, from a PACS.

24. McKESSON's Products use a network file server that is adapted to retrieve from the LDAP directory server directory content. In particular, "McKESSON Study Share" resolves file pointers into requests for directory files for authentication when users log into Study Share with their user credentials.

25. McKESSON's 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, McKesson Study Share 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, by editing Case Properties, Case Text and the like).

VI. DIRECT INFRINGEMENT

26. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 1-25.

27. Taken together, either partially or entirely, the features included in McKESSON's Products, including but not limited to, the product called "McKESSON Study Share", perform the process recited in one or more of the claims of the '629 Patent.

28. Taken together, either partially or entirely, the features included in McKESSON's Products including, but not limited to, the product called "McKESSON Study Share", contain all the features recited in one or more of the claims of the '629 Patent.

29. 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 McKESSON's 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).

VII. INDIRECT INFRINGEMENT

INDUCING INFRINGEMENT

30. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 1-29.

31. 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.

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

33. Defendants have been and now is 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, one or more of the McKESSON's Products. For example, 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 the McKESSON's Products.

34. 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 of the claims of the '629 Patent due to their use of the McKESSON's Products.

CONTRIBUTORY INFRINGEMENT

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

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

37. 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 McKESSON's Products, as well as consumers, users, subscribers and licensees, by encouraging the class of actors to operate the McKESSON's Products, aware of the fact that such acts amount to infringement of one or more claims of the '629 Patent.

38. Products sold by Defendants for implementation of McKESSON's 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. The McKESSON's Products lack substantial noninfringing use and are for use in product configurations that infringe the '629 Patent.

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

VIII. DEMAND FOR JURY TRIAL

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

IX. 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, their 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: March 15, 2013

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

Of Counsel

Eugenio J. Torres-Oyola
USDC No. 215505
Ferraiuoli LLC
221 Plaza, 5th Floor
221 Ponce de León Avenue
San Juan, PR 00917
Telephone: (787) 766-7000
Facsimile: (787) 766-7001
Email: etorres@ferraiuoli.com

**ATTORNEYS FOR PLAINTIFF
INGENIADOR, LLC**

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A). Pursuant to Fed. R. Civ. P. 5(d) and Local Rule CV-5(d) and (e), all other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by email, on this the 15th day of March, 2013.

/s/ William E. Davis, III
William E. Davis, III