

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

SEQUOIA TECHNOLOGY, LLC,

Plaintiff,

v.

DELL, INC., DELL TECHNOLOGIES, INC.
and its subsidiary EMC CORPORATION
(AKA DELL EMC),

Defendants.

C.A. No: 18-1127-LPS-CJB
LEAD CASE

RED HAT, INC.,

Plaintiff,

v.

SEQUOIA TECHNOLOGY, LLC and
ELECTRONICS AND
TELECOMMUNICATIONS RESEARCH
INSTITUTE,

Defendants.

C.A. No: 18-2027-LPS-CJB

SEQUOIA TECHNOLOGY, LLC

Counterclaim Plaintiff,

v.

RED HAT, INC. and INTERNATIONAL
BUSINESS MACHINES CORPORATION,

Counterclaim Defendants.

C.A. No: 18-2027-LPS-CJB

**DEFENDANT ELECTRONICS AND TELECOMMUNICATIONS
RESEARCH INSTITUTE'S ANSWER TO FIRST AMENDED
COMPLAINT FOR DECLARATORY JUDGMENT**

Defendant Electronics and Telecommunications Research Institute ("ETRI") hereby files its Answer to Plaintiff Red Hat, Inc's ("Red Hat") First Amended Complaint for Declaratory Judgment, as follows:

I. ANSWER TO FIRST AMENDED COMPLAINT

Response to "NATURE OF THE ACTION"

1. ETRI admits that Plaintiff purports to bring an action for declaratory judgment as described in Paragraph 1, and purports to assert the claims described in that paragraph. ETRI admits that a copy of U.S. Patent No. 6,718,436 was attached to Plaintiff's Complaint for Declaratory Judgment as Exhibit A. ETRI denies the alleged claims.

2. ETRI admits that Plaintiff purports to bring an action for declaratory relief, damages, and specific performance as described in Paragraph 2, and purports to assert the claims described in that paragraph. ETRI denies the remaining allegations in Paragraph 2.

3. ETRI denies the allegations in Paragraph 3.

4. ETRI admits that it is the record owner of the '436 Patent. ETRI denies the remaining allegations in Paragraph 4.

5. ETRI denies the allegations in Paragraph 5.

Response to "PARTIES"

6. On information and belief, ETRI admits that Plaintiff Red Hat, Inc. is a corporation organized and existing under the laws of the State of Delaware and maintains its principal place of business at 101 East Davie Street, Raleigh, North Carolina 27601.

7. ETRI has insufficient information to confirm or deny and on that basis denies the allegations in paragraph 7.

8. ETRI admits that ETRI is a Korean research institute with its principal place of business in the Republic of South Korea at 218 Gajeong-ro, Yuseong-gu, Daejeon, 34129.

Response to “JURISDICTION AND VENUE”

9. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, ETRI denies that this Court has subject matter jurisdiction under 28 U.S.C. §§ 2201, 1331, 1338(a) and the Federal Declaratory Judgment Act 28 U.S.C. § 2201. ETRI denies the remaining allegations in this paragraph 9.

10. ETRI has insufficient information to confirm or deny the allegations of Paragraph 10 and on that basis denies them.

11. ETRI denies the allegations of Paragraph 11.

12. ETRI has insufficient information to confirm or deny the allegations of Paragraph 12 and on that basis denies them.

13. ETRI denies the allegations of Paragraph 13.

Response to “BACKGROUND”

14. ETRI has insufficient information to confirm or deny the allegations in Paragraph 14 and on that basis denies them.

15. ETRI has insufficient information to confirm or deny the allegations in Paragraph 15 and on that basis denies them.

16. ETRI has insufficient information to confirm or deny the allegations in Paragraph 16 and on that basis denies them.

17. ETRI has insufficient information to confirm or deny the allegations in Paragraph 17 and on that basis denies them.

18. ETRI has insufficient information to confirm or deny the allegations in Paragraph 18 and on that basis denies them.

19. ETRI has insufficient information to confirm or deny the allegations in Paragraph 19 and on that basis denies them.

20. ETRI admits the allegations in Paragraph 20 of Plaintiff's First Amended Complaint for Declaratory Judgment.

21. ETRI admits the allegations in Paragraph 21 of Plaintiff's First Amended Complaint for Declaratory Judgment.

22. ETRI admits that ETRI was one of the developers of a Linux-based operating system titled QPlus. ETRI denies the remaining allegations in Paragraph 22.

23. ETRI admits that ETRI is a silver member of the Linux Foundation. ETRI has insufficient information to confirm or deny the remaining allegations in Paragraph 23 and on that basis denies them.

24. ETRI admits that it has exclusively licensed the '436 Patent to Sequoia and Sequoia has filed lawsuits against four companies. ETRI has insufficient information to confirm or deny the remaining allegations in Paragraph 24 and on that basis denies them.

25. ETRI admits that Sequoia has alleged infringement of the '436 Patent in litigation styled *Sequoia Tech., LLC v. Dell, Inc.*, No. 1-18-cv-01127-LPS-CJB (D. Del.), filed on July 31, 2018; *Sequoia Tech., LLC v. Hitachi, Ltd.*, No: 1-18-cv-01129-LPS-CJB (D. Del.), filed on July 31, 2018; *Sequoia Tech., LLC v. Super Micro Computer, Inc.*, No: 1-18-cv-01307-LPSCJB (D. Del.), filed on August 23, 2018; *Sequoia Tech., LLC v. Hewlett Packard Enterprise Co.*, No: 1-18-cv-01128-LPS-CJB (D. Del.), filed on July 31, 2018 and the copies of the complaints are attached respectively as Exhibits B - E to Plaintiff's Complaints. ETRI admits that each Defendant

has moved to dismiss their respective case. ETRI denies the remaining allegations of Paragraph 25.

26. ETRI admits that Sequoia has alleged *inter alia* that the defendants in those cases infringe at least method claims 1 through 3 of the '436 Patent by manufacturing, providing, using, selling, offering for sale, importing, and/or distributing certain accused products, which include products (e.g., computers) with RHEL versions 4 and later. ETRI denies the remaining allegations of Paragraph 26.

27. ETRI admits that Sequoia has alleged *inter alia* that Red Hat also infringes at least method claims 1 through 3 of the '436 Patent by manufacturing, providing, using, selling, offering for sale, importing, and/or distributing certain accused products, which include products (e.g., computers) with RHEL versions 4 and later. ETRI denies the remaining allegations of Paragraph 27.

28. ETRI has insufficient information to confirm or deny the allegations in Paragraph 28 and on that basis denies them.

29. ETRI has insufficient information to confirm or deny the allegations in Paragraph 29 and on that basis denies them.

30. ETRI has insufficient information to confirm or deny the allegations in Paragraph 30 and on that basis denies them.

31. ETRI has insufficient information to confirm or deny the allegations in Paragraph 31 and on that basis denies them.

32. ETRI admits that Sequoia's complaints have included a "description of infringement of exemplary claim 1 of the '436 Patent," which supports Sequoia's infringement theories under the '436 Patent. ETRI admits that Sequoia's complaints in these cases reference

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