

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

MICROSOFT CORPORATION,

Plaintiff,

v.

SYNKLOUD TECHNOLOGIES, INC.,

Defendant.

C.A. No: 1:20-cv-00007-RGA

**SYNKLOUD TECHNOLOGIES, LLC'S ANSWER AND COUNTERCLAIMS TO
MICROSOFT CORPORATION'S COMPLAINT FOR DECLARATORY JUDGMENT**

Defendant SynKloud Technologies, LLC ("SynKloud") hereby files its Answer to Plaintiff Microsoft Corporation's ("Microsoft") Complaint for Declaratory Judgment and asserts Counterclaims against Microsoft, as follows:

The Complaint (D.I. 1) has been partially dismissed. (D.I. 31-32, Sept. 8, 2020). SynKloud's response herein is applicable only with respect to the claims that remain in this action. SynKloud has no response for the claims and allegations that have already been dismissed in this action.

I. ANSWER TO COMPLAINT FOR DECLARATORY JUDGMENT

Response to "NATURE OF THE ACTION"

This Court has dismissed any claims asserted from United States Patent Nos. 8,606,880 ("the '6880 Patent"), 8,856,195 ("the '195 Patent"), 8,868,690 ("the '690 Patent"), 9,219,780 ("the '780 Patent"), 9,239,686 ("the '686 Patent"), 7,792,923 ("the '923 Patent"), 7,849,153 ("the '153 Patent") and 7,457,880 ("the '7880 Patent") (collectively, "dismissed Patents-in-Suit") against Microsoft's products and services. (D.I. 31-32.) The patents that remain in this action are the United States Patent Nos. 9,098,526 ("the '526 Patent"), 10,015,254 ("the '254 Patent"), and

7,870,225 (“the ’225 Patent”), (collectively, “the Patents-in-Suit”) against Microsoft’s OneDrive, cloud storage technology. SynKloud’s response herein is applicable only with respect to the claims that remain in this action.

1. SynKloud admits that Plaintiff purports to bring an action for declaratory judgment as described in Paragraph 1.

2. SynKloud denies the allegations in Paragraph 2.

3. SynKloud admits that SynKloud has alleged in this district that HP Inc. infringes the ’225, ’526 and ’254 Patents in accused HP products. *SynKloud Techs., LLC v. HP Inc.*, 1:19-cv-1360-RGA, First Amended Complaint, D.I. 15 (D. Del. Nov. 12, 2019.). SynKloud denies the remaining allegations in Paragraph 3.

4. SynKloud denies the allegations in Paragraph 4.

Response to “PARTIES”

5. On information and belief, SynKloud admits that Plaintiff Microsoft is a corporation with its principal place of business located at One Microsoft Way, Redmond, Washington 98052.

6. SynKloud admits it is a Delaware limited liability company with its principal place of business at 124 Broadkill Road, Suite 415, Milton, DE 19968.

Response to “JURISDICTION AND VENUE”

7. SynKloud admits that Plaintiff alleges that this action arises under the United States patent laws and includes a request for declaratory relief under 28 U.S.C. §§ 2201 and 2202. SynKloud denies that Plaintiff has demonstrated the presence of jurisdiction under the Act.

8. SynKloud denies that this Court has subject matter jurisdiction under 28 U.S.C. §§ 1331, 1338, and 2201, and 35 U.S.C. § 1, et seq.

9. SynKloud admits that this Court has personal jurisdiction over it because SynKloud is a limited liability company under the laws of the State of Delaware. SynKloud denies the remaining allegations of Paragraph 9.

10. SynKloud admits that venue is proper.

Response to “EXISTENCE OF AN ACTUAL CONTROVERSY

11. SynKloud incorporates herein by reference its response to Paragraphs 1 through 10.

12. SynKloud denies the allegations of Paragraph 12.

13. SynKloud admits that it is the current owner of the '526 Patent, entitled “System and Method for Wireless Device Access to External Storage.” SynKloud admits that the '526 Patent has been asserted by SynKloud against HP. SynKloud admits that a true copy of the '526 Patent appears to be attached to the Complaint as Exhibit A.

14. SynKloud admits that it is the current owner of the '254 Patent, entitled “System and Method for Wireless Device Access to External Storage.” SynKloud admits that the '254 Patent is in the same family as the '526 Patent and has been asserted by SynKloud against HP. SynKloud admits that a true copy of the '254 Patent appears to be attached to the Complaint as Exhibit B.

15. The allegation in paragraph 15 has been dismissed and as such no response is required.

16. The allegation in paragraph 16 has been dismissed and as such no response is required.

17. The allegation in paragraph 17 has been dismissed and as such no response is required.

18. The allegation in paragraph 18 has been dismissed and as such no response is required.

19. The allegation in paragraph 19 has been dismissed and as such no response is required.

20. SynKloud admits that it is the current owner of the '225 Patent, entitled "Disk System Adapted to be Directly Attached to network." SynKloud admits that a true copy of the '225 Patent appears to be attached to the Complaint as Exhibit H.

21. The allegation in paragraph 21 has been dismissed and as such no response is required.

22. The allegation in paragraph 22 has been dismissed and as such no response is required.

23. The allegation in paragraph 23 has been dismissed and as such no response is required.

24. SynKloud has insufficient information to confirm or deny the allegations in paragraph 24 and on that basis denies them.

25. SynKloud admits that on July 22, 2019, SynKloud filed an action against HP in the District of Delaware alleging infringement of the '526 and '254 Patents. *See SynKloud Techs., LLC v. HP Inc.*, No. 1:19-cv-01360-RGA (D. Del.). SynKloud admits that on November 12, 2019, SynKloud amended its Complaint to also include allegations regarding the '225 Patent as well as a fourth patent not asserted in this action. SynKloud admits that SynKloud's Amended Complaint further identified the '923 Patent as issued patent of the parent application to the '225, identified the '6880 Patent as issued patent of the parent application to the '526 and '254 Patents, identified the '690 Patent as issued patent of the parent application to the '526 Patent and identified the '686 Patent as issued patent of the parent application of the '254 Patent respectively.

26. SynKloud admits that in its Amended Complaint against HP, SynKloud included claim charts to support its infringement theories. SynKloud admits that these claim charts for the

'225, '526 and '254 Patents include citations to Microsoft OneDrive. SynKloud admits that copies of these claim charts appear to be attached as Exhibits L, M, and N to the Complaint in this action.

27. The allegation in paragraph 23 has been dismissed and as such no response is required.

28. The allegation in paragraph 23 has been dismissed and as such no response is required.

29. SynKloud has no response for the allegations that have been dismissed in this action. SynKloud denies that Microsoft OneDrive does not indirectly infringe the claims of the Patents-in-Suit. SynKloud denies the remaining allegations in paragraph 29.

30. SynKloud denies the allegations in paragraph 30.

Response to "COUNT I"
NONINFRINGEMENT OF U.S. PATENT NO. 9,098,526

31. SynKloud incorporates herein by reference its responses to Paragraphs 1 through 30.

32. SynKloud has no response for the allegations that have been dismissed in this action. SynKloud denies that Microsoft does not indirectly infringe any claim of the '526 Patent. SynKloud denies that Microsoft OneDrive does not contain a "storage space of a predefined capacity assigned exclusively to a user of the wireless device by a storage server." which is required by all the claims of the '526 Patent.

33. SynKloud denies the allegations in paragraph 33.

34. SynKloud denies the allegations in paragraph 34.

Response to "COUNT II"
NONINFRINGEMENT OF U.S. PATENT NO. 10,015,254

35. SynKloud incorporates herein by reference its responses to Paragraphs 1 through 34.

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