

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

INTERNATIONAL BUSINESS)	
MACHINES CORPORATION,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. _____
)	
AIRBNB, INC.,)	JURY TRIAL DEMANDED
)	
Defendant.)	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff International Business Machines Corporation (“IBM”), for its Complaint for Patent Infringement against Airbnb, Inc. (“Airbnb”) demands a trial by jury on all issues so triable and alleges as follows:

INTRODUCTION

1. IBM is in the innovation business. Every year, IBM spends billions of dollars on research and development to invent, market, and sell new technology. For example, through its investments and innovations in the new frontier of quantum information science, IBM is the leader in commercializing quantum computing, once thought to be a purely academic exercise. IBM’s Q Network service—a community of Fortune 500 companies, academic institutions, research organizations, and startups working with IBM to advance quantum computing—now has over 100 members.

2. IBM obtains patents on the technology its inventors develop. The United States Patent Office awards thousands of patents to IBM each year. In fact, for each of the last 27 years, the Patent Office has awarded IBM more patents than any other company. Each of those patents grants IBM protection from those who would take its technology without permission. Those

patents are critical to IBM's business and its licensing philosophy.

3. For over twenty years, IBM has been a strong proponent of open source technologies. IBM was a founding member of Open Invention Network, the largest patent non-aggression community in history, which supports freedom of action in Linux, a key element of open source software. IBM has also pledged to provide open access to key innovations covered by hundreds of IBM software patents for those working on open source software. And early in 2020, IBM joined the License on Transfer Network ("LOT Network"), a non-profit community of companies that supports open innovation and responsible stewardship of technology. LOT Network affirms the traditional use of patents—safeguarding the innovations of companies who research, develop, and sell new technologies—while protecting its members against companies who purchase or acquire patents from others.

4. IBM also believes in the protection of its proprietary technologies, which result from IBM's extensive investments in research and development and the hard work of IBM's employees. IBM believes that companies who use IBM's patented technology should agree to a license and pay a fair royalty. When a company is using IBM's patents without authorization, IBM first seeks to negotiate an agreement whereby IBM and the other company each receive a license to the other's patent portfolio. That way, each company can avoid litigation, be fairly compensated for the use of all of their patents, and maintain freedom to operate in their respective markets.

5. IBM's research and development is currently focused on technology that includes quantum computing, big data analytics, artificial intelligence, and natural language processing. But IBM also has a long history of innovating and licensing its technology in the field of internet commerce. In fact, long before Airbnb existed, IBM partnered with other companies to launch

Prodigy, one of the very first e-commerce services. Airbnb, which was founded in 2008, long after e-commerce was already established, took those prior innovations made by IBM and others to create and run its new business.

6. For almost six years, IBM has tried to negotiate a cross license with Airbnb. Dozens of similar companies, including Amazon, Apple, Google, and Facebook, have agreed to cross licenses with IBM. Unfortunately, Airbnb is not among them. Instead, to this day, Airbnb has chosen to willfully infringe IBM's patents.

7. After six years, enough is enough. This lawsuit seeks to end Airbnb's unauthorized use of IBM's patented technology.

NATURE OF THE CASE

8. This action arises under 35 U.S.C. § 271 for Defendant's infringement of IBM's United States Patent Nos. 7,072,849 (the "849 patent"), 6,778,193 (the "193 patent"), 7,631,346 (the "346 patent"), and 6,966,038 (the "038 patent") (collectively the "Patents-In-Suit").

THE PARTIES

9. Plaintiff IBM is a New York corporation, with its principal place of business at 1 New Orchard Road, Armonk, New York 10504.

10. Defendant Airbnb is a Delaware corporation, with its principal place of business at 888 Brannan Street, San Francisco, California 94103.

JURISDICTION AND VENUE

11. IBM incorporates by reference paragraphs 1-10.

12. This action arises under the patent laws of the United States, including 35 U.S.C. § 271 *et seq.* The jurisdiction of this Court over the subject matter of this action is proper under 28 U.S.C. §§ 1331 and 1338(a).

13. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

Airbnb is an entity organized under the laws of Delaware and resides in Delaware for purposes of venue under 28 U.S.C. §1400(b). Airbnb conducts business in Delaware, at least by offering for sale and selling products and services through its websites and mobile applications, which are accessible in Delaware. Infringement has occurred and continues to occur in Delaware.

14. Personal jurisdiction exists over Airbnb because Airbnb conducts business in Delaware, at least by offering for sale and selling products and services through its websites and mobile applications, which are accessible in Delaware, and because infringement has occurred and continues to occur in Delaware. Personal jurisdiction also exists over Airbnb because it is an entity organized under the laws of Delaware.

FACTUAL BACKGROUND

A. IBM Is A Recognized Innovator.

15. IBM is recognized throughout the world as a pioneer in many aspects of science and technology. On ten occasions—more times than any other company or organization—IBM has been awarded the U.S. National Medal of Technology, the nation’s highest award for technological innovation. During IBM’s over 100-year history, IBM’s employees have included six Nobel laureates, five National Medal of Science recipients, and at least fourteen inventors in the National Inventors Hall of Fame.

16. These and other IBM employees have introduced the world to technology that the global community takes for granted today, including the dynamic random access memory (DRAMs) found in nearly all modern computers; magnetic disk storage (hard disk drives) found in computers and portable music players; and some of the world’s most powerful supercomputers, and including Deep Blue, the first computer to beat a reigning chess champion. IBM’s commitment to developing these types of advanced computing technologies has helped to usher in the information age.

B. IBM Is Committed To Protecting Its Innovations Through The Patent System.

17. IBM's research and development operations differentiate IBM from many other companies. IBM annually spends billions of dollars for research and development. In addition to yielding inventions that have literally changed the way in which the world works, IBM's research and development efforts have resulted in more than 60,000 patents worldwide.

18. Like the research upon which the patents are based, IBM's patents also benefit society. Indeed, the Supreme Court has recognized that the patent system encourages both the creation and the disclosure of new and useful advances in technology. Such disclosure, in turn, permits society to innovate further. And, as the Court has further recognized, as a reward for committing resources to innovation and for disclosing that innovation, the patent system provides patent owners with the exclusive right to prevent others from practicing the claimed invention for a limited period of time.

C. IBM Routinely Licenses Its Patents In Many Fields But Will Enforce Its Rights Against Those Who Use Its Intellectual Property Unlawfully.

19. IBM's commitment to creating a large patent portfolio underscores the value that IBM places in the exchange of innovation, and disclosure of that innovation, in return for limited exclusivity. Indeed, IBM has used its patent portfolio to generate revenue and other significant value for the company by executing patent cross-license agreements. The revenue generated through patent licensing enables IBM to continue to commit resources to innovation. Cross licensing, in turn, provides IBM with the freedom to innovate and operate in a manner that respects the technology of others.

20. Given the investment IBM makes in the development of new technologies and the management of its patent portfolio, IBM and its shareholders expect companies to act responsibly with respect to IBM's patents. IBM facilitates this by routinely licensing its patents in many fields

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