

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

Sky Technologies LLC

Plaintiff,

v.

Microsoft Corp., Emptoris, Inc., Manhattan
Associates, Inc., Perfect Commerce, Inc.
JDA Software Group, Inc., Siemens AG,
Siemens Corporation, Siemens USA Holdings,
Inc., Siemens Product Lifecycle Management
Software, Inc., Dassault Systèmes, S.A.,
Dassault Systèmes Corp., Dassault Systèmes
SolidWorks Corp., Dassault Systèmes
Enovia Corp.

Defendants

Civil Action No. _____

Jury Trial Demanded

PLAINTIFF'S ORIGINAL COMPLAINT

Sky Technologies LLC files this original Complaint against defendants and for cause of action would state the following.

RELATED CASE

1. This case is related to two actions previously filed in the District of Massachusetts, both assigned to Judge William G. Young. Those actions are captioned *SAP AG et al v. Ozro, Inc. et al*, 1:08-cv-10623-WGY, filed April 11, 2008, and *Sky Technologies LLC v. Ariba, Inc.*, 1:06-cv-11889-WGY, filed October 17, 2006.

PARTIES

2. Plaintiff Sky Technologies LLC ("Sky") is a Massachusetts corporation with its principal place of business at 2 Second Landing Way, Truro, Massachusetts, 02666.

3. Defendant Microsoft Corporation (“Microsoft”) is a Washington corporation with its principal place of business at One Microsoft Way, Redmond, Washington 98052. Microsoft may be served by serving its registered agent: Corporation Service Company, 84 State Street, Boston, MA 02109.

4. Upon information and belief, defendant Emptoris, Inc. (“Emptoris”) is a Delaware corporation with a principal place of business in Burlington, Massachusetts. Emptoris may be served by serving its registered agent: W. Robert Kellegrew, Jr., 200 Wheeler Road, Burlington, MA 01803.

5. Upon information and belief, Manhattan Associates, Inc. (“Manhattan Associates”) is a Georgia corporation with its principal office and place of business at Suite 700, 2300 Windy Ridge Parkway, Atlanta, Georgia 30339-5665. Manhattan Associates may be served by serving its registered agent: National Registered Agents, Inc., 303 Congress Street, 2nd Floor, Boston, MA 02110.

6. Upon information and belief, defendant Perfect Commerce, Inc. (“Perfect Commerce”) is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business at 2713 Magruder Blvd., Suite A, Hampton, Virginia 23666. Perfect Commerce may be served by serving its registered agent: Capitol Services, Inc., 615 South Dupont Highway, Dover, DE 19901.

7. Upon information and belief, defendant JDA Software Group, Inc. (“JDA”) is a Delaware corporation with a principal place of business at 14400 North 87th Street Scottsdale, Arizona 85260. JDA may be served by serving its registered agent: The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801.

8. Upon information and belief, defendant Siemens AG (“Siemens”), is a corporation organized and existing under the laws of Germany at Wittelsbacherplatz 2 80333 Munich, Germany. Siemens may be served pursuant to Rules 4(e) thru (h) of the Federal Rules of Civil Procedure and Articles 2, 3, 5 and 10 of the Hague Convention on Service Abroad.

9. Upon information and belief, defendant Siemens Corporation (“Siemens Corp.”), is a Delaware corporation with a principal place of business at 527 Madison Avenue, 8th Floor, New York, NY. Siemens Corp. may be served by serving its registered agent: The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801.

10. Upon information and belief, defendant Siemens USA Holdings, Inc. (“Siemens USA”), is a Delaware corporation with a principal place of business at 601 Lexington Avenue Floor 56; New York, NY 10022. Siemens USA may be served by serving its registered agent: The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801.

11. Upon information and belief, defendant Siemens Product Lifecycle Management Software, Inc. (“Siemens PLM”) is a corporation organized and existing under the laws of the State of Delaware, having its principal place of business at 5800 Granite Pkwy, Ste. 600, Plano, TX 75024. Siemens PLM may be served by serving its registered agent: The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801.

12. Siemens, Siemens Corp., Siemens USA, and Siemens PLM are collectively referred to herein as “the Siemens defendants.”

13. Upon information and belief, defendant Dassault Systèmes, S.A. (“Dassault”), is a Corporation of France having a place of business at 10, rue Marcel Dassault, 78 140 Vélizy –

Villacoublay, France. Dassault may be served pursuant to Rules 4(e) thru (h) of the Federal Rules of Civil Procedure and Articles 2, 3, 5 and 10 of the Hague Convention on Service Abroad.

14. Upon information and belief, defendant Dassault Systèmes Americas Corporation (“Dassault Corp.”) is a corporation incorporated under the laws of Delaware with its principal place of business at 2 MacArthur Place, Santa Ana, California 92707. Dassault Corp. may be served by serving its registered agent: The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801.

15. Upon information and belief, defendant Dassault Systèmes SolidWorks Corporation (“SolidWorks”), is a corporation organized under the laws of Delaware with its principal place of business at 300 Baker Avenue, Concord, MA 01742. SolidWorks may be served by serving its registered agent: CT Corporation System, 155 Federal Street, Suite 700, Boston, MA 02110.

16. Upon information and belief, defendant Dassault Systèmes Enovia Corp. (“Enovia”) is a subsidiary of Dassault Systèmes Corporation, and is organized under the laws of Delaware with its principal place of business at 900 Chelmsford Street, Lowell, MA 01851. Enovia may be served by serving its registered agent: CT Corporation System, 155 Federal Street, Suite 700, Boston, MA 02110.

17. Dassault, Dassault Corp., SolidWorks, and Enovia are collectively referred to herein as “the Dassault defendants.”

JURISDICTION AND VENUE

18. This is an action for violation of the patent laws of the United States, Title 35, United States Code, more particularly, 35 U.S.C. §§ 271 *et seq.* This Court has jurisdiction under 28 U.S.C. § 1338, 28 U.S.C. § 1331, and 28 U.S.C. § 1332. The amount in controversy exceeds \$75,000.00.

19. Venue is proper in this district based on 28 U.S.C. § 1391 and 1400. Upon information and belief, defendants have done business in this district, have committed acts of infringement in this district, and continue to commit acts of infringement in this district, entitling Sky to relief.

20. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b) because several defendants reside in this district, defendants are subject to personal jurisdiction in this district, and defendants have committed acts of infringement in this district.

BACKGROUND

21. Jeffrey Conklin founded TradeAccess, Inc., also known as Ozro, Inc. and later founded Sky Technologies LLC (“Sky”). Sky owns all of the intellectual property at issue here. *See Sky Technologies LLC v. SAP AG*, 576 F.3d 1374 (Fed. Cir. 2009).

22. Specifically, Sky owns U.S. Patent No. 6,141,653 (“the ‘653 patent”), U.S. Patent No. 6,336,105 (“the ‘105 patent”), U.S. Patent No. 6,338,050 (“the ‘050 patent”), as well as U.S. Patents Nos. 7,162,458 (“the ‘458 patent”); 7,149,724 (“the ‘724 patent”); 6,332,135 (“the ‘135 patent”); 7,194,442 (“the ‘442 patent”); and 7,222,109 (“the ‘109 patent”). These eight patents are collectively referred to herein as “the Sky patents” and are attached hereto as Exhibits A – H.

23. Many of the claims of the Sky patents relate to enterprise systems that operate to facilitate, enhance, improve or relate to multivariate negotiations among two or more parties or businesses.

24. Defendants make, use, offer to sell, import and sell systems that infringe the Sky patents, including but not limited to systems incorporating or capable of integration with negotiation software however branded.

25. Defendants have been and continue to infringe the claims of the Sky patents both directly and indirectly.

26. Defendants' infringement is and has been willful, warranting enhanced damages.

27. Defendants' conduct makes this an exceptional case pursuant to 35 U.S.C. § 285, entitling Sky to recover its reasonable and necessary attorneys' fees incurred in bringing this action.

28. Sky is entitled to a permanent injunction and damages, including enhanced damages and attorneys' fees, as a result of defendants' willful patent infringement, as further described below.

DEFENDANT'S INFRINGEMENT OF THE SKY PATENTS

PATENT INFRINGEMENT BY MICROSOFT

29. Defendant Microsoft is in the business of, among other things, making and selling products and services that infringe the Sky patents.

30. Microsoft makes, uses, offers to sell, sells or imports systems that infringe the Sky patents when it manufactures, installs, implements, configures, demonstrates, hosts, supplies training and support and provides a host of additional services and/or products or solutions related to the infringing Microsoft systems, which are described in further detail below.

31. Microsoft has been and still is infringing the Sky patents by making, using, importing, offering to sell and by selling systems embodying the patented inventions, and will continue to do so unless enjoined.

32. Microsoft's infringing systems include, but are not limited to, systems incorporating or capable of integration with multivariate negotiation software however branded. Microsoft's infringing systems include its multivariate negotiation system for iterative interaction over a network, such as the systems manufactured by Microsoft under the brand name "Microsoft

Dynamics,” as well as any preceding or succeeding or like versions of the same or similar technology however named, and any software, hardware or other technology capable of integration with Microsoft Dynamics, any services related to Microsoft Dynamics, any software for sending and receiving terms and technology for storing terms, as well as other infringing negotiation systems, services and custom infringing solutions offered by Microsoft (hereafter collectively referred to as “the Microsoft systems”).

33. The Microsoft systems infringe at least system claim 1 of the ‘653 patent. Microsoft makes, uses, sells, offers for sale, exports, imports, supplies and/or distributes within and from the United States these products and services and thus directly infringes at least claim 1 of the ‘653 patent. To the extent that Microsoft does not do so within and from the United States, upon information and belief Microsoft’s activities would subject it to liability as an infringer under 35 U.S.C. § 271(f).

34. The use of the Microsoft systems as intended by Microsoft infringes at least method claim 20 of the ‘653 patent. Microsoft uses the Microsoft systems and thus directly infringes at least method claim 20 of the ‘653 patent.

35. In addition, Microsoft provides the Microsoft systems to resellers, consultants, and end-user customers in the United States who, in turn, use the Microsoft systems to infringe at least method claim 20 of the ‘653 patent.

36. Microsoft has been and still is infringing the Sky patents by actively inducing others to infringe and contributing to the infringement by others of the Sky patents. Microsoft has induced and contributed to the infringement by their clients and other end-users of systems they make and support, as well as by their resellers, partners, consultants and distributors who, upon information and belief, make, use, offer to sell, import or sell systems that infringe the Sky patents.

37. Microsoft indirectly infringes by inducing infringement by resellers, consultants, and end-user customers, in accordance with 35 U.S.C. § 271(b), because Microsoft actively induces infringement of the '653 patent by resellers, consultants, and end-user customers.

38. Microsoft indirectly infringes the '653 patent by contributing to infringement by resellers, consultants, and end-user customers, in accordance with 35 U.S.C. § 271(c), because Microsoft offers to sell or sells within the United States a component of a patented machine, manufacture, combination, or composition, or a material or apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

39. Upon information and belief, the Microsoft systems infringe the remaining system and method claims of the Sky patents, and Microsoft infringes those patent claims both directly and indirectly.

40. Microsoft has infringed and/or continues to infringe one or more claims of the Sky patents as set forth above. Microsoft is liable for direct infringement, as well as indirect infringement by way of inducement and/or contributory infringement, for the '653 and remaining Sky patents pursuant to 35 U.S.C. § 271(a), (b), (c), and/or (f) as set forth above.

PATENT INFRINGEMENT BY EMPTORIS

41. Defendant Emptoris is in the business of, among other things, making and selling products and services that infringe the Sky patents.

42. Emptoris makes, uses, offers to sell, sells or imports systems that infringe the Sky patents when it manufactures, installs, implements, configures, demonstrates, hosts, supplies

training and support and provides a host of additional services and/or products or solutions related to the infringing Emptoris systems, which are described in further detail below.

43. Emptoris has been and still is infringing the Sky patents by making, using, importing, offering to sell and by selling systems embodying the patented inventions, and will continue to do so unless enjoined.

44. Emptoris's infringing systems include, but are not limited to, systems incorporating or capable of integration with multivariate negotiation software however branded. Emptoris's infringing systems include its multivariate negotiation system for iterative interaction over a network, such as the systems manufactured by Emptoris under the brand name "Emptoris Suite," as well as any preceding or succeeding or like versions of the same or similar technology however named, and any software, hardware or other technology capable of integration with Emptoris Suite, any services related to Emptoris Suite, any software for sending and receiving terms and technology for storing terms, as well as other infringing negotiation systems, services and custom infringing solutions offered by Emptoris (hereafter collectively referred to as "the Emptoris systems").

45. The Emptoris systems infringe at least system claim 1 of the '653 patent. Emptoris makes, uses, sells, offers for sale, exports, imports, supplies and/or distributes within and from the United States these products and services and thus directly infringes at least claim 1 of the '653 patent. To the extent that Emptoris does not do so within and from the United States, upon information and belief Emptoris's activities would subject it to liability as an infringer under 35 U.S.C. § 271(f).

46. The use of the Emptoris systems as intended by Emptoris infringes at least method claim 20 of the '653 patent. Emptoris uses the Emptoris systems and thus directly infringes at least method claim 20 of the '653 patent.

47. In addition, Emptoris provides the Emptoris systems to resellers, consultants, and end-user customers in the United States who, in turn, use the Emptoris systems to infringe at least method claim 20 of the '653 patent.

48. Emptoris has been and still is infringing the Sky patents by actively inducing others to infringe and contributing to the infringement by others of the Sky patents. Emptoris has induced and contributed to the infringement by their clients and other end-users of systems they make and support, as well as by their resellers, partners, consultants and distributors who, upon information and belief, make, use, offer to sell, import or sell systems that infringe the Sky patents.

49. Emptoris indirectly infringes by inducing infringement by resellers, consultants, and end-user customers, in accordance with 35 U.S.C. § 271(b), because Emptoris actively induces infringement of the '653 patent by resellers, consultants, and end-user customers.

50. Emptoris indirectly infringes the '653 patent by contributing to infringement by resellers, consultants, and end-user customers, in accordance with 35 U.S.C. § 271(c), because Emptoris offers to sell or sells within the United States a component of a patented machine, manufacture, combination, or composition, or a material or apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

51. Upon information and belief, the Emptoris systems infringe the remaining system and method claims of the Sky patents, and Emptoris infringes those patent claims both directly and indirectly.

52. Emptoris has infringed and/or continues to infringe one or more claims of the Sky patents as set forth above. Emptoris is liable for direct infringement, as well as indirect

infringement by way of inducement and/or contributory infringement, for the '653 and remaining Sky patents pursuant to 35 U.S.C. § 271(a), (b), (c), and/or (f) as set forth above.

PATENT INFRINGEMENT BY MANHATTAN ASSOCIATES

53. Defendant Manhattan Associates is in the business of, among other things, making and selling products and services that infringe the Sky patents.

54. Manhattan Associates makes, uses, offers to sell, sells or imports systems that infringe the Sky patents when it manufactures, installs, implements, configures, demonstrates, hosts, supplies training and support and provides a host of additional services and/or products or solutions related to the infringing Manhattan Associates systems, which are described in further detail below.

55. Manhattan Associates has been and still is infringing the Sky patents by making, using, importing, offering to sell and by selling systems embodying the patented inventions, and will continue to do so unless enjoined.

56. Manhattan Associates' infringing systems include, but are not limited to, systems incorporating or capable of integration with multivariate negotiation software however branded. Manhattan Associates' infringing systems include its multivariate negotiation system for iterative interaction over a network, such as the systems manufactured by Manhattan Associates under the brand names Manhattan "SCOPE" and Manhattan "SCALE," as well as any preceding or succeeding or like versions of the same or similar technology however named, and any software, hardware or other technology capable of integration with SCOPE or SCALE, any services related to SCOPE or SCALE, any software for sending and receiving terms and technology for storing terms, as well as other infringing negotiation systems, services and custom infringing solutions offered by Manhattan Associates (hereafter collectively referred to as "the Manhattan Associates systems").

57. The Manhattan Associates systems infringe at least system claim 1 of the '653 patent. Manhattan Associates makes, uses, sells, offers for sale, exports, imports, supplies and/or distributes within and from the United States these products and services and thus directly infringes at least claim 1 of the '653 patent. To the extent that Manhattan Associates does not do so within and from the United States, upon information and belief Manhattan Associates' activities would subject it to liability as an infringer under 35 U.S.C. § 271(f).

58. The use of the Manhattan Associates systems as intended by Manhattan Associates infringes at least method claim 20 of the '653 patent. Manhattan Associates uses the Manhattan Associates systems and thus directly infringes at least method claim 20 of the '653 patent.

59. In addition, upon information and belief, Manhattan Associates provides the Manhattan Associates systems to resellers, consultants, and end-user customers in the United States who, in turn, use the Manhattan Associates systems to infringe at least method claim 20 of the '653 patent.

60. Manhattan Associates has been and still is infringing the Sky patents by actively inducing others to infringe and contributing to the infringement by others of the Sky patents. Manhattan Associates has induced and contributed to the infringement by their clients and other end-users of systems they make and support, as well as by their resellers, partners, consultants and distributors who, upon information and belief, make, use, offer to sell, import or sell systems that infringe the Sky patents.

61. Manhattan Associates indirectly infringes by inducing infringement by resellers, consultants, and end-user customers, in accordance with 35 U.S.C. § 271(b), because Manhattan Associates actively induces infringement of the '653 patent by resellers, consultants, and end-user customers.

62. Manhattan Associates indirectly infringes the '653 patent by contributing to infringement by resellers, consultants, and end-user customers, in accordance with 35 U.S.C. § 271(c), because Manhattan Associates offers to sell or sells within the United States a component of a patented machine, manufacture, combination, or composition, or a material or apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

63. Upon information and belief, the Manhattan Associates systems infringe the remaining system and method claims of the Sky patents, and Manhattan Associates infringes those patent claims both directly and indirectly.

64. Manhattan Associates has infringed and/or continues to infringe one or more claims of the Sky patents as set forth above. Manhattan Associates is liable for direct infringement, as well as indirect infringement by way of inducement and/or contributory infringement, for the '653 and remaining Sky patents pursuant to 35 U.S.C. § 271(a), (b), (c), and/or (f) as set forth above.

PATENT INFRINGEMENT BY PERFECT COMMERCE

65. Defendant Perfect Commerce is in the business of, among other things, making and selling products and services that infringe the Sky patents.

66. Perfect Commerce makes, uses, offers to sell, sells or imports systems that infringe the Sky patents when it manufactures, installs, implements, configures, demonstrates, hosts, supplies training and support and provides a host of additional services and/or products or solutions related to the infringing Perfect Commerce systems, which are described in further detail below.

67. Perfect Commerce has been and still is infringing the Sky patents by making, using, importing, offering to sell and by selling systems embodying the patented inventions, and will continue to do so unless enjoined.

68. Perfect Commerce's infringing systems include, but are not limited to, systems incorporating or capable of integration with multivariate negotiation software however branded. Perfect Commerce's infringing systems include its multivariate negotiation system for iterative interaction over a network, such as the systems manufactured by Perfect Commerce under the brands "Sourcing" (including PerfectSource, PerfectContract, and PerfectAnalyze) and "Procure to Pay" (including PerfectProcure, PerfectShop, Open Supplier Network, and Perfect Group Purchasing), as well as any preceding or succeeding or like versions of the same or similar technology however named, and any software, hardware or other technology capable of integration with such products, any services related to such products, any software for sending and receiving terms and technology for storing terms, as well as other infringing negotiation systems, services and custom infringing solutions offered by Perfect Commerce (hereafter collectively referred to as "the Perfect Commerce systems").

69. The Perfect Commerce systems infringe at least system claim 1 of the '653 patent. Perfect Commerce makes, uses, sells, offers for sale, exports, imports, supplies and/or distributes within and from the United States these products and services and thus directly infringes at least claim 1 of the '653 patent. To the extent that Perfect Commerce does not do so within and from the United States, upon information and belief Perfect Commerce's activities would subject it to liability as an infringer under 35 U.S.C. § 271(f).

70. The use of the Perfect Commerce systems as intended by Perfect Commerce infringes at least method claim 20 of the '653 patent. Perfect Commerce uses the Perfect Commerce systems and thus directly infringes at least method claim 20 of the '653 patent.

71. In addition, Perfect Commerce provides the Perfect Commerce systems to resellers, consultants, and end-user customers in the United States who, in turn, use the Perfect Commerce systems to infringe at least method claim 20 of the '653 patent.

72. Perfect Commerce has been and still is infringing the Sky patents by actively inducing others to infringe and contributing to the infringement by others of the Sky patents. Perfect Commerce has induced and contributed to the infringement by their clients and other end-users of systems they make and support, as well as by their resellers, partners, consultants and distributors who, upon information and belief, make, use, offer to sell, import or sell systems that infringe the Sky patents.

73. Perfect Commerce indirectly infringes by inducing infringement by resellers, consultants, and end-user customers, in accordance with 35 U.S.C. § 271(b), because Perfect Commerce actively induces infringement of the '653 patent by resellers, consultants, and end-user customers.

74. Perfect Commerce indirectly infringes the '653 patent by contributing to infringement by resellers, consultants, and end-user customers, in accordance with 35 U.S.C. § 271(c), because Perfect Commerce offers to sell or sells within the United States a component of a patented machine, manufacture, combination, or composition, or a material or apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

75. Upon information and belief, the Perfect Commerce systems infringe the remaining system and method claims of the Sky patents, and Perfect Commerce infringes those patent claims both directly and indirectly.

76. Perfect Commerce has infringed and/or continues to infringe one or more claims of the Sky patents as set forth above. Perfect Commerce is liable for direct infringement, as well as indirect infringement by way of inducement and/or contributory infringement, for the '653 and remaining Sky patents pursuant to 35 U.S.C. § 271(a), (b), (c), and/or (f) as set forth above.

PATENT INFRINGEMENT BY JDA

77. Defendant JDA is in the business of, among other things, making and selling products and services that infringe the Sky patents.

78. JDA makes, uses, offers to sell, sells or imports systems that infringe the Sky patents when it manufactures, installs, implements, configures, demonstrates, hosts, supplies training and support and provides a host of additional services and/or products or solutions related to the infringing JDA systems, which are described in further detail below.

79. JDA has been and still is infringing the Sky patents by making, using, importing, offering to sell and by selling systems embodying the patented inventions, and will continue to do so unless enjoined.

80. JDA's infringing systems include, but are not limited to, systems incorporating or capable of integration with multivariate negotiation software however branded. JDA's infringing systems include its multivariate negotiation system for iterative interaction over a network, such as the systems manufactured by JDA under the brand name "JDA Supplier Relationship Management," as well as any preceding or succeeding or like versions of the same or similar technology however named, and any software, hardware or other technology capable of integration

with such products, any services related to such products, any software for sending and receiving terms and technology for storing terms, as well as other infringing negotiation systems, services and custom infringing solutions offered by JDA, including but not limited to demand and supply chain solutions or technology JDA acquired as part of its 2006 acquisition of Manugistics, Inc. (hereafter collectively referred to as “the JDA systems”).

81. The JDA systems infringe at least system claim 1 of the ‘653 patent. JDA makes, uses, sells, offers for sale, exports, imports, supplies and/or distributes within and from the United States these products and services and thus directly infringes at least claim 1 of the ‘653 patent. To the extent that JDA does not do so within and from the United States, upon information and belief JDA’s activities would subject it to liability as an infringer under 35 U.S.C. § 271(f).

82. The use of the JDA systems as intended by JDA infringes at least method claim 20 of the ‘653 patent. JDA uses the JDA systems and thus directly infringes at least method claim 20 of the ‘653 patent.

83. In addition, JDA provides the JDA systems to resellers, consultants, and end-user customers in the United States who, in turn, use the JDA systems to infringe at least method claim 20 of the ‘653 patent.

84. JDA has been and still is infringing the Sky patents by actively inducing others to infringe and contributing to the infringement by others of the Sky patents. JDA has induced and contributed to the infringement by their clients and other end-users of systems they make and support, as well as by their resellers, partners, consultants and distributors who, upon information and belief, make, use, offer to sell, import or sell systems that infringe the Sky patents.

85. JDA indirectly infringes by inducing infringement by resellers, consultants, and end-user customers, in accordance with 35 U.S.C. § 271(b), because JDA actively induces infringement of the '653 patent by resellers, consultants, and end-user customers.

86. JDA indirectly infringes the '653 patent by contributing to infringement by resellers, consultants, and end-user customers, in accordance with 35 U.S.C. § 271(c), because JDA offers to sell or sells within the United States a component of a patented machine, manufacture, combination, or composition, or a material or apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

87. Upon information and belief, the JDA systems infringe the remaining system and method claims of the Sky patents, and JDA infringes those patent claims both directly and indirectly.

88. JDA has infringed and/or continues to infringe one or more claims of the Sky patents as set forth above. JDA is liable for direct infringement, as well as indirect infringement by way of inducement and/or contributory infringement, for the '653 and remaining Sky patents pursuant to 35 U.S.C. § 271(a), (b), (c), and/or (f) as set forth above.

PATENT INFRINGEMENT BY THE SIEMENS DEFENDANTS

89. The Siemens defendants are in the business of, among other things, making and selling products and services that infringe the Sky patents.

90. The Siemens defendants make, use, offer to sell, sell or import systems that infringe the Sky patents when they manufacture, install, implement, configure, demonstrate, host, supply

training and support for and provide a host of additional services and/or products or solutions related to the infringing Siemens systems, which are described in further detail below.

91. The Siemens defendants have been and still are infringing the Sky patents by making, using, importing, offering to sell and by selling systems embodying the patented inventions, and will continue to do so unless enjoined.

92. The Siemens defendants' infringing systems include, but are not limited to, systems incorporating or capable of integration with multivariate negotiation software however branded. The Siemens defendants' infringing systems include their multivariate negotiation systems for iterative interaction over a network, such as the systems manufactured by the Siemens defendants under the brand names "Teamcenter," "Product Lifecycle Management" and "Strategic Decision Guidance," as well as any preceding or succeeding or like versions of the same or similar technology however named, and any software, hardware or other technology capable of integration with such products, any services related to such products, any software for sending and receiving terms and technology for storing terms, as well as other infringing negotiation systems, services and custom infringing solutions offered by the Siemens defendants (hereafter collectively referred to as "the Siemens systems").

93. The Siemens systems infringe at least system claim 1 of the '653 patent. The Siemens defendants make, use, sell, offer for sale, export, import, supply and/or distribute within and from the United States these products and services and thus directly infringes at least claim 1 of the '653 patent. To the extent that the Siemens defendants do not do so within and from the United States, upon information and belief the Siemens defendants' activities would subject them to liability as an infringer under 35 U.S.C. § 271(f).

94. The use of the Siemens systems as intended by the Siemens defendants infringes at least method claim 20 of the '653 patent. The Siemens defendants use the Siemens systems and thus directly infringe at least method claim 20 of the '653 patent.

95. In addition, the Siemens defendants provide the Siemens systems to resellers, consultants, and end-user customers in the United States who, in turn, use the Siemens systems to infringe at least method claim 20 of the '653 patent.

96. The Siemens defendants have been and still are infringing the Sky patents by actively inducing others to infringe and contributing to the infringement by others of the Sky patents. The Siemens defendants have induced and contributed to the infringement by their clients and other end-users of systems they make and support, as well as by their resellers, partners, consultants and distributors who, upon information and belief, make, use, offer to sell, import or sell systems that infringe the Sky patents.

97. The Siemens defendants indirectly infringe by inducing infringement by resellers, consultants, and end-user customers, in accordance with 35 U.S.C. § 271(b), because the Siemens defendants actively induces infringement of the '653 patent by resellers, consultants, and end-user customers.

98. The Siemens defendants indirectly infringe the '653 patent by contributing to infringement by resellers, consultants, and end-user customers, in accordance with 35 U.S.C. § 271(c), because the Siemens defendants offer to sell or sell within the United States a component of a patented machine, manufacture, combination, or composition, or a material or apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

99. Upon information and belief, the Siemens systems infringe the remaining system and method claims of the Sky patents, and the Siemens defendants infringe those patent claims both directly and indirectly.

100. The Siemens defendants have infringed and/or continue to infringe one or more claims of the Sky patents as set forth above. The Siemens defendants are liable for direct infringement, as well as indirect infringement by way of inducement and/or contributory infringement, for the '653 and remaining Sky patents pursuant to 35 U.S.C. § 271(a), (b), (c), and/or (f) as set forth above.

PATENT INFRINGEMENT BY THE DASSAULT DEFENDANTS

101. The Dassault defendants are in the business of, among other things, making and selling products and services that infringe the Sky patents.

102. The Dassault defendants make, use, offer to sell, sell or import systems that infringe the Sky patents when they manufacture, install, implement, configure, demonstrate, host, supply training and support for and provide a host of additional services and/or products or solutions related to the infringing Dassault systems, which are described in further detail below.

103. The Dassault defendants have been and still are infringing the Sky patents by making, using, importing, offering to sell and by selling systems embodying the patented inventions, and will continue to do so unless enjoined.

104. The Dassault defendants' infringing systems include, but are not limited to, systems incorporating or capable of integration with multivariate negotiation software however branded. The Dassault defendants' infringing systems include their multivariate negotiation systems for iterative interaction over a network, such as the systems manufactured by the Dassault defendants under at least the brand names "Enovia," "Catia," "Product Lifecycle Management," and

“SolidWorks,” as well as any preceding or succeeding or like versions of the same or similar technology however named, and any software, hardware or other technology capable of integration with such products, any services related to such products, any software for sending and receiving terms and technology for storing terms, as well as other infringing negotiation systems, services and custom infringing solutions offered by the Dassault defendants (hereafter collectively referred to as “the Dassault systems”).

105. The Dassault systems infringe at least system claim 1 of the ‘653 patent. The Dassault defendants make, use, sell, offer for sale, export, import, supply and/or distribute within and from the United States these products and services and thus directly infringes at least claim 1 of the ‘653 patent. To the extent that the Dassault defendants do not do so within and from the United States, upon information and belief the Dassault defendants’ activities would subject them to liability as an infringer under 35 U.S.C. § 271(f).

106. The use of the Dassault systems as intended by the Dassault defendants infringes at least method claim 20 of the ‘653 patent. The Dassault defendants use the Dassault systems and thus directly infringe at least method claim 20 of the ‘653 patent.

107. In addition, the Dassault defendants provide the Dassault systems to resellers, consultants, and end-user customers in the United States who, in turn, use the Dassault systems to infringe at least method claim 20 of the ‘653 patent.

108. The Dassault defendants have been and still are infringing the Sky patents by actively inducing others to infringe and contributing to the infringement by others of the Sky patents. The Dassault defendants have induced and contributed to the infringement by their clients and other end-users of systems they make and support, as well as by their resellers, partners, consultants and

distributors who, upon information and belief, make, use, offer to sell, import or sell systems that infringe the Sky patents.

109. The Dassault defendants indirectly infringe by inducing infringement by resellers, consultants, and end-user customers, in accordance with 35 U.S.C. § 271(b), because the Dassault defendants actively induces infringement of the '653 patent by resellers, consultants, and end-user customers.

110. The Dassault defendants indirectly infringe the '653 patent by contributing to infringement by resellers, consultants, and end-user customers, in accordance with 35 U.S.C. § 271(c), because the Dassault defendants offer to sell or sell within the United States a component of a patented machine, manufacture, combination, or composition, or a material or apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

111. Upon information and belief, the Dassault systems infringe the remaining system and method claims of the Sky patents, and the Dassault defendants infringe those patent claims both directly and indirectly.

112. The Dassault defendants have infringed and/or continue to infringe one or more claims of the Sky patents as set forth above. The Dassault defendants are liable for direct infringement, as well as indirect infringement by way of inducement and/or contributory infringement, for the '653 and remaining Sky patents pursuant to 35 U.S.C. § 271(a), (b), (c), and/or (f) as set forth above.

113. The foregoing defendants' acts of infringement have caused damage to Sky. Sky is entitled to recover from defendants the damages sustained by Sky as a result of defendants wrongful

acts in an amount subject to proof at trial. In addition, the infringing acts and practices of defendants have caused, are causing, and unless such acts and practices are enjoined by the Court, will continue to cause immediate and irreparable harm to Sky for which there is no adequate remedy at law, and for which Sky is entitled to injunctive relief under 35 U.S.C. § 283.

114. Defendants have received actual notice of infringement by virtue of their communications with Sky and/or its agents, and by virtue of the filing of this lawsuit. Defendants have also received constructive notice, as Sky and its predecessors complied with the requirements of 35 U.S.C. § 287.

DEMAND FOR TRIAL BY JURY

115. Sky demands a trial by jury.

CAUSES OF ACTION AGAINST DEFENDANTS

NO. 1 PATENT INFRINGEMENT – 35 U.S.C. §§ 271 AND 281.

116. Sky incorporates the preceding paragraphs as if fully set forth herein.

117. Defendants have violated and continue to violate 35 U.S.C. § 271. Specifically, defendants have in the past and continue to make, use, import, sell and offer to sell systems and services that infringe the claims of the Sky patents.

118. Defendants have also contributed to and induced the infringement by others, without a license under the patents.

119. Defendants' past and continued direct and indirect infringement of Sky's patents has damaged Sky, entitling Sky to no less than a reasonable royalty extending throughout the life of Sky's patents.

REMEDIES AND PRAYER

PERMANENT INJUNCTION

120. Sky incorporates the preceding paragraphs as if fully set forth herein.

121. Because of defendants' actions, Sky has suffered and will continue to suffer irreparable injury, for which the remedies available at law provide inadequate compensation. Defendants' infringement thus warrants a remedy in equity and such remedy will not disserve the public interest.

122. Accordingly, in addition to monetary damages, Sky also seeks a permanent injunction to prevent defendants' continued infringement of Sky's patents.

123. Unless enjoined, defendants will continue to directly and indirectly infringe the Sky patents as described herein.

WILLFULNESS – ENHANCED DAMAGES

124. Sky incorporates the preceding paragraphs as if fully set forth herein.

125. The foregoing defendants know and/or have known that the Sky patents were duly issued to Sky and proceeded with an objectively reckless disregard for Sky's patent rights, and without a sound or good faith basis to believe they had the right to continue their unlicensed use of the infringing systems.

126. Upon information and belief, the foregoing defendants and/or their predecessors learned of Sky's patent rights and the technology to which they applied from at least one of multiple sources, including upon information and belief, from persons associated or working on behalf of TradeAccess or Ozro, from persons working on behalf of the company formerly known as Anderson Consulting, Inc. (now "Accenture"), from media reports, or from persons working on behalf of Sky or one of its licensees.

127. As a result of defendants' willful and deliberate misconduct, Sky seeks an enhancement of its damages pursuant to 35 U.S.C. § 284.

ATTORNEYS' FEES

128. Sky incorporates the preceding paragraphs as if fully set forth herein.

129. Because of defendants' actions, Sky has been forced to retain counsel to enforce its rights.

130. Defendants' conduct makes this an exceptional case pursuant to 35 U.S.C. § 285.

131. Pursuant to 35 U.S.C. § 285, and to the maximum extent permitted by law, Sky seeks the recovery of its reasonable and necessary attorneys' fees incurred in bringing this action.

PRAYER

WHEREFORE, Sky prays:

- a. for a judgment that defendants have been and continue to be infringing United States Letter Patent No. 6,141,653;
- b. for a permanent injunction enjoining defendants and all in privity with them from further infringement of the claims of United States Letter Patent No. 6,141,653;
- c. for an award of damages from defendants in an amount no less than a reasonable royalty extending over the life of Sky's patents;
- d. for a threefold increase of the damages from defendants, or some lesser increase as the Court deems appropriate, based on defendants' willful infringement;
- e. for an award of the costs and expenses of this action and reasonable attorneys' fees herein incurred;
- f. for pre- and post-judgment interest at the maximum allowable rate under the law; and
- g. for such other and further relief as this Court may deem appropriate either at law or in equity.

DATED: May 11, 2011

Respectfully submitted,

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