

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

CLOUDING IP, LLC,

Plaintiff,

v.

RACKSPACE HOSTING, INC.,

Defendant.

Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

This is an action for patent infringement arising under the Patent Laws of the United States of America, 35 U.S.C. § 1 *et seq.* in which Plaintiff Clouding IP, LLC makes the following allegations against Defendant Rackspace Hosting, Inc.:

PARTIES

1. Plaintiff Clouding IP, LLC (“Clouding”) is a Delaware limited liability company having a principal place of business at 2 Terrace Way, Suite C, Greensboro, North Carolina 27403.

2. On information and belief, Rackspace Hosting, Inc. (“Rackspace”) is a corporation organized under the laws of the State of Delaware, having its principal place of business at 5000 Walzem Road, San Antonio, Texas 78218. On information and belief, Rackspace can be served through its registered agent, Capitol Services, Inc., 1675 South State Street, Suite B, Dover, Delaware 19901.

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has original subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. On information and belief, Rackspace is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Delaware Long Arm Statute, due to having availed itself of the rights and benefits of Delaware by incorporating under Delaware law and due 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 Delaware and in this Judicial District.

5. Venue is proper in this district under 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b). Rackspace is incorporated in this district, and on information and belief, has transacted business in this district and has committed and/or induced acts of patent infringement in this district.

COUNT I **INFRINGEMENT OF U.S. PATENT NO. 7,596,784**

6. Plaintiff Clouding realleges and incorporates by reference paragraphs 1-5 above, as if fully set forth herein.

7. Plaintiff Clouding is the owner by assignment of United States Patent No. 7,596,784 (“the ’784 patent”) titled “Method System and Apparatus for Providing Pay-Per-Use Distributed Computing Resources.” The ’784 patent was duly and legally issued by the United States Patent and Trademark Office on September 29, 2009. Clouding is the owner by assignment from Symantec Corporation of the ’784 patent. A true and correct copy of the ’784 patent is included as Exhibit A.

8. Rackspace makes, uses, sells, and offers for sale in the United States products and/or services for cloud computing. On information and belief, at least some of Rackspace's cloud computing products and/or services provide or support pay-per-use cloud computing.

9. On information and belief, Rackspace has infringed and continues to infringe the '784 patent by, among other things, making, using, offering for sale, and/or selling pay-per-use cloud computing products and/or services patented under the '784 patent. Such pay-per-use cloud computing products and/or services include, by way of example and without limitation, use of Rackspace's Next Generation Cloud Platform, which is covered by one or more claims of the '784 patent, including but not limited to claim 1. By making, using, offering for sale, and/or selling pay-per-use cloud computing products and/or services patented under the '784 patent, Rackspace has injured Clouding and is liable to Clouding for infringement of the '784 patent pursuant to 35 U.S.C. § 271.

10. As a result of Rackspace's infringement of the '784 patent, Plaintiff Clouding has suffered monetary damages in an amount adequate to compensate for Rackspace's infringement, but in no event less than a reasonable royalty for the use made of the invention by Rackspace, together with interest and costs as fixed by the Court.

COUNT II
INFRINGEMENT OF U.S. PATENT NO. 7,065,637

11. Plaintiff Clouding realleges and incorporates by reference paragraphs 1-10 above, as if fully set forth herein.

12. Plaintiff Clouding is the owner by assignment of United States Patent No. 7,065,637 ("the '637 patent") titled "System for Configuration of Dynamic Computing Environments Using a Visual Interface." The '637 patent was duly and legally issued by the United States Patent and Trademark Office on June 20, 2006. Clouding is the owner by

assignment from Symantec Corporation of the '637 patent. A true and correct copy of the '637 patent is included as Exhibit B.

13. Rackspace makes, uses, sells, and offers for sale in the United States products and/or services for cloud computing. On information and belief, at least some of Rackspace's cloud computing products and/or services provide or support use of a visual interface to configure cloud computing resources.

14. On information and belief, Rackspace has infringed and continues to infringe the '637 patent by, among other things, making, using, offering for sale, and/or selling cloud computing products and/or services covered by one or more claims of the '637 patent. Such cloud computing products and/or services include, by way of example and without limitation, cloud computing products and/or services configurable through Rackspace Cloud Servers, which are covered by one or more claims of the '637 patent, including but not limited to claim 1. By making, using, offering for sale, and/or selling such products and services covered by one or more claims of the '637 patent, Rackspace has injured Clouding and is liable to Clouding for infringement of the '637 patent pursuant to 35 U.S.C. § 271.

15. As a result of Rackspace's infringement of the '637 patent, Plaintiff Clouding has suffered monetary damages in an amount adequate to compensate for Rackspace's infringement, but in no event less than a reasonable royalty for the use made of the invention by Rackspace, together with interest and costs as fixed by the Court.

COUNT III
INFRINGEMENT OF U.S. PATENT NO. 6,738,799

16. Plaintiff Clouding realleges and incorporates by reference paragraphs 1-15 above, as if fully set forth herein.

17. Plaintiff Clouding is the owner by assignment of United States Patent

No. 6,738,799 (“the ’799 patent”) titled “Methods and Apparatuses for File Synchronization and Updating Using a Signature List.” The ’799 patent was duly and legally issued by the United States Patent and Trademark Office on May 18, 2004. Clouding is the owner by assignment from Symantec Corporation of the ’799 patent. A true and correct copy of the ’799 patent is included as Exhibit C.

18. Rackspace makes, uses, sells, offers for sale, and/or imports into the United States products and/or services that provide or support synchronization of files. On information and belief, at least some of such products and/or services perform synchronization of files between networked computers by providing updates.

19. On information and belief, Rackspace has infringed and continues to infringe the ’799 patent by, among other things, making, using, offering for sale, selling and/or importing products and/or services into the United States that are covered by one or more claims of the ’799 patent. Such products and/or services include, by way of example and without limitation, Rackspace Hosted SharePoint, the use of which is covered by one or more claims of the ’799 patent, including but not limited to claim 37. By making, using, offering for sale, selling and/or importing into the United States such products and/or service that are covered by one or more claims of the ’799 patent, Rackspace has injured Clouding and is liable to Clouding for infringement of the ’799 patent pursuant to 35 U.S.C. § 271.

20. As a result of Rackspace’s infringement of the ’799 patent, Plaintiff Clouding has suffered monetary damages in an amount adequate to compensate for Rackspace’s infringement, but in no event less than a reasonable royalty for the use made of the invention by Rackspace, together with interest and costs as fixed by the Court.

COUNT IV
INFRINGEMENT OF U.S. PATENT NO. 5,495,607

21. Plaintiff Clouding realleges and incorporates by reference paragraphs 1-20 above, as if fully set forth herein.

22. Plaintiff Clouding is the owner by assignment of United States Patent No. 5,495,607 (“the ’607 patent”) titled “Network Management System Having Virtual Catalog Overview of Files Disruptively Stored Across Network Domain.” The ’607 patent was duly and legally issued by the United States Patent and Trademark Office on February 27, 1996. Clouding is the owner by assignment from Symantec Corporation of the ’607 patent. A true and correct copy of the ’607 patent is included as Exhibit D.

23. Rackspace operates one or more server farms (comprising, *inter alia*, servers and computers on a network) that are located in data centers in the United States. Rackspace’s server farms provide and support cloud computing services, including at least Rackspace Cloud Servers. On information and belief, Rackspace makes and/or uses a system for monitoring the health of at least some of Rackspace’s servers and computers over a network in its data centers.

24. On information and belief, Rackspace has infringed and continues to infringe the ’607 patent by, among other things, making, using, offering for sale, and/or selling systems, and products and/or services related thereto, covered by one or more claims of the ’607 patent. Such systems include, by way of example and without limitation, a system made and/or used by Rackspace to monitor the health of servers and computers running Rackspace Cloud Servers, which is covered by one or more claims of the ’607 patent, including but not limited to claim 9. By making, using, offering for sale, and/or selling such systems, and products and/or services related thereto, covered by one or more claims of the ’607 patent, Rackspace has injured

Clouding and is liable to Clouding for infringement of the '607 patent pursuant to 35 U.S.C. § 271.

25. As a result of Rackspace's infringement of the '607 patent, Plaintiff Clouding has suffered monetary damages in an amount adequate to compensate for Rackspace's infringement, but in no event less than a reasonable royalty for the use made of the invention by Rackspace, together with interest and costs as fixed by the Court.

COUNT V
INFRINGEMENT OF U.S. PATENT NO. 6,925,481

26. Plaintiff Clouding realleges and incorporates by reference paragraphs 1-25 above, as if fully set forth herein.

27. Plaintiff Clouding is the owner by assignment of United States Patent No. 6,925,481 ("the '481 patent") titled "Technique for Enabling Remote Data Access and Manipulation from a Pervasive Device." The '481 patent was duly and legally issued by the United States Patent and Trademark Office on August 2, 2005. Clouding is the owner by assignment from Symantec Corporation of the '481 patent. A true and correct copy of the '481 patent is included as Exhibit E.

28. Rackspace makes, uses, sells, offers for sale, and/or imports products and/or services in the United States that provide or support remote data access by a mobile device, such as Rackspace Cloud Mobile.

29. On information and belief, Rackspace has infringed and continues to infringe the '481 patent by, among other things, making, using, offering for sale, selling and/or importing products and/or services that are covered by one or more claims of the '481 patent. Such products and/or services include, by way of example and without limitation, Rackspace Cloud Mobile, which is covered by one or more claims of the '481 patent, including but not limited to

claim 1. By making, using, offering for sale, and/or selling such products and/or services covered by one or more claims of the '481 patent, Rackspace has injured Clouding and is liable to Clouding for infringement of the '481 patent pursuant to 35 U.S.C. § 271.

30. As a result of Rackspace's infringement of the '481 patent, Plaintiff Clouding has suffered monetary damages in an amount adequate to compensate for Rackspace's infringement, but in no event less than a reasonable royalty for the use made of the invention by Rackspace, together with interest and costs as fixed by the Court.

COUNT VI
INFRINGEMENT OF U.S. PATENT NO. 7,254,621

31. Plaintiff Clouding realleges and incorporates by reference paragraphs 1-30 above, as if fully set forth herein.

32. Plaintiff Clouding is the owner by assignment of United States Patent No. 7,254,621 ("the '621 patent") titled "Technique for Enabling Remote Data Access and Manipulation from a Pervasive Device." The '621 patent was duly and legally issued by the United States Patent and Trademark Office on August 7, 2007. Clouding is the owner by assignment from Symantec Corporation of the '621 patent. A true and correct copy of the '621 patent is included as Exhibit F.

33. Rackspace makes, uses, sells, offers for sale, and/or imports products and/or services in the United States that provide or support remote data access by a mobile device, such as Rackspace Cloud Mobile.

34. On information and belief, Rackspace has infringed and continues to infringe the '621 patent by, among other things, making, using, offering for sale, selling and/or importing products and/or services that are covered by one or more claims of the '621 patent. Such products and/or services include, by way of example and without limitation, Rackspace Cloud

Mobile, which is covered by one or more claims of the '621 patent, including but not limited to claim 1. By making, using, offering for sale, and/or selling such products and/or services covered by one or more claims of the '621 patent, Rackspace has injured Clouding and is liable to Clouding for infringement of the '621 patent pursuant to 35 U.S.C. § 271.

35. As a result of Rackspace's infringement of the '621 patent, Plaintiff Clouding has suffered monetary damages in an amount adequate to compensate for Rackspace's infringement, but in no event less than a reasonable royalty for the use made of the invention by Rackspace, together with interest and costs as fixed by the Court.

COUNT VII
INFRINGEMENT OF U.S. PATENT NO. 6,963,908

36. Plaintiff Clouding realleges and incorporates by reference paragraphs 1-35 above, as if fully set forth herein.

37. Plaintiff Clouding is the owner by assignment of United States Patent No. 6,963,908 ("the '908 patent") titled "System for Transferring Customized Hardware and Software Settings from One Computer to Another Computer to Provide Personalized Operating Environments." The '908 patent was duly and legally issued by the United States Patent and Trademark Office on November 8, 2005. Clouding is the owner by assignment from Symantec Corporation of the '908 patent. A true and correct copy of the '908 patent is included as Exhibit G.

38. Rackspace makes, uses, sells, offers for sale, and/or imports products and/or services in the United States that provide or support remote data access by a mobile device, such as Rackspace Cloud Drive.

39. On information and belief, Rackspace has infringed and continues to infringe the '908 patent by, among other things, making, using, offering for sale, selling and/or importing

products and/or services that are covered by one or more claims of the '908 patent. Such products and/or services include, by way of example and without limitation, Rackspace Cloud Drive, the use of which is covered by one or more claims of the '908 patent, including but not limited to claim 1. By making, using, offering for sale, and/or selling such products and/or services covered by one or more claims of the '908 patent, Rackspace has injured Clouding and is liable to Clouding for infringement of the '908 patent pursuant to 35 U.S.C. § 271.

40. As a result of Rackspace's infringement of the '908 patent, Plaintiff Clouding has suffered monetary damages in an amount adequate to compensate for Rackspace's infringement, but in no event less than a reasonable royalty for the use made of the invention by Rackspace, together with interest and costs as fixed by the Court.

COUNT VIII
INFRINGEMENT OF U.S. PATENT NO. 6,631,449

41. Plaintiff STEC realleges and incorporates by reference paragraphs 1-40 above, as if fully set forth herein.

42. Plaintiff STEC is the owner by assignment of United States Patent No. 6,631,449 ("the '449 patent") titled "Dynamic Distributed Data System and Method." The '449 patent was duly and legally issued by the United States Patent and Trademark Office on October 7, 2003. STEC is the owner by assignment from Symantec Corporation of the '449 patent. A true and correct copy of the '449 patent is included as Exhibit H.

43. Rackspace makes, uses, sells, and offers for sale in the United States products and/or services for cloud computing. On information and belief, at least some of Rackspace's cloud computing products and/or services, such as Cloud Files, are provided by servers using peer-to-peer communication.

44. On information and belief, Rackspace has infringed and continues to infringe the '449 patent by, among other things, making, using, offering for sale, and/or selling cloud computing products and/or services patented under the '449 patent. Such cloud computing products and/or services include, by way of example and without limitation, use of Cloud Files, which is covered by one or more claims of the '449 patent, including but not limited to claim 1. By making, using, offering for sale, and/or selling cloud computing products and/or services patented under the '449 patent, Rackspace has injured STEC and is liable to STEC for infringement of the '449 patent pursuant to 35 U.S.C. § 271.

45. As a result of Rackspace's infringement of the '449 patent, Plaintiff STEC has suffered monetary damages in an amount adequate to compensate for Rackspace's infringement, but in no event less than a reasonable royalty for the use made of the invention by Rackspace, together with interest and costs as fixed by the Court.

COUNT IX
INFRINGEMENT OF U.S. PATENT NO. 6,918,014

46. Plaintiff STEC realleges and incorporates by reference paragraphs 1-45 above, as if fully set forth herein.

47. Plaintiff STEC is the owner by assignment of United States Patent No. 6,918,014 ("the '014 patent") titled "Dynamic Distributed Data System and Method." The '014 patent was duly and legally issued by the United States Patent and Trademark Office on July 12, 2005. STEC is the owner by assignment from Symantec Corporation of the '014 patent. A true and correct copy of the '014 patent is included as Exhibit I.

48. Rackspace makes, uses, sells, and offers for sale in the United States products and/or services for cloud computing. On information and belief, at least some of Rackspace's

cloud computing products and/or services, such as Cloud Files, are provided by servers using peer-to-peer communication.

49. On information and belief, Rackspace has infringed and continues to infringe the '014 patent by, among other things, making, using, offering for sale, and/or selling cloud computing products and/or services patented under the '014 patent. Such cloud computing products and/or services include, by way of example and without limitation, use of Cloud Files, which is covered by one or more claims of the '014 patent, including but not limited to claim 1. By making, using, offering for sale, and/or selling cloud computing products and/or services patented under the '014 patent, Rackspace has injured STEC and is liable to STEC for infringement of the '014 patent pursuant to 35 U.S.C. § 271.

50. As a result of Rackspace's infringement of the '014 patent, Plaintiff STEC has suffered monetary damages in an amount adequate to compensate for Rackspace's infringement, but in no event less than a reasonable royalty for the use made of the invention by Rackspace, together with interest and costs as fixed by the Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Clouding respectfully requests that this Court enter:

1. A judgment in favor of Plaintiff that Rackspace has infringed, either literally and/or under the doctrine of equivalents, the '784 patent, the '637 patent, the '799 patent, the '607 patent, the '481 patent, the '621 patent, the '908 patent, the '449 patent and the '014 patent;
2. A judgment and order requiring Rackspace to pay Plaintiff its damages, costs, expenses, and pre-judgment and post-judgment interest as provided under 35 U.S.C. § 284 for Rackspace's infringement of the '784 patent, the '637 patent, the '799 patent, the '607 patent, the '481 patent, the '621 patent, the '908 patent, the '449 patent and the '014 patent; and

3. Any and all other relief as the Court may deem appropriate and just under the circumstances.

DEMAND FOR JURY TRIAL

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

May 29, 2012

BAYARD, P.A.

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