

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

E-NUMERATE SOLUTIONS, INC. and
E-NUMERATE, LLC,

Plaintiffs,

v.

THE UNITED STATES,

Defendant.

No. 19-859 C

Judge Ryan T. Holte

DEFENDANT’S ANSWER TO PLAINTIFFS’ AMENDED COMPLAINT

Pursuant to Rules 8 and 12 of the Rules of the United States Court of Federal Claims, the United States (“Defendant”) hereby answers the allegations made in each of the numbered paragraphs of Plaintiffs’ Amended Complaint filed on August 26, 2020. Each numbered paragraph 1 to 124 below responds to the corresponding numbered paragraph of the Amended Complaint. Upon current information and belief, all allegations of the Amended Complaint are denied except to the extent expressly admitted below.

THE PARTIES

1. The allegations in paragraph 1 are a plaintiff’s characterizations of itself, to which no response is required. To the extent required, Defendant admits that Plaintiff e-Numerate Solutions, Inc. (“ESI”) is named as a plaintiff in this action, and that the online business entity database of the State of Delaware identifies “E-NUMERATE SOLUTIONS INCORPORATED” as a corporation. Defendant denies the remainder of the allegations for lack of knowledge or information sufficient to form a belief as to their truth.

2. The allegations in paragraph 2 are a plaintiff’s characterizations of itself, to which no response is required. To the extent required, Defendant admits that Plaintiff e-Numerate,

LLC is named as a plaintiff in this action, and that the online business entity database of the State of Delaware identifies “ENUMERATE, LLC” as a limited liability company. Defendant denies the remainder of the allegations for lack of knowledge or information sufficient to form a belief as to their truth.

3. The allegations contained in paragraph 3 constitute conclusions of law to which no answer is required. To the extent required, Defendant admits that the first page of each of the “Asserted Patents” identifies “e-Numerate Solutions, Inc.” as “Assignee.” Defendant denies the remainder of the allegations for lack of knowledge or information sufficient to form a belief as to their truth.

4. With respect to paragraph 4 of the Amended Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations and on that basis denies the same.

5. With respect to paragraph 5 of the Amended Complaint, Defendant admits that Plaintiffs have identified the United States as the Defendant, and that the U.S. Securities and Exchange Commission (“SEC”) is an independent federal agency of the United States. Defendant denies any remaining allegations.

ALLEGED JURISDICTION AND VENUE

6. The allegations contained in paragraph 6 constitute conclusions of law to which no answer is required. To the extent required, Defendant admits that 35 U.S.C. § 271 provides a cause of action for patent infringement against private parties, but denies that it provides a cause of action against the United States. Defendant denies any remaining allegations.

7. The allegations contained in paragraph 7 constitute conclusions of law to which no answer is required. To the extent required, Defendant admits that 28 U.S.C. § 1498(a)

confers jurisdiction with the United States Court of Federal Claims. Defendant denies any remaining allegations.

ALLEGED PRIOR LITIGATION INVOLVING THE '355, '816, '383 AND '748 PATENTS

8. Defendant admits the allegations in paragraph 8 of the Amended Complaint.

9. Defendant admits the allegations in paragraph 9 of the Amended Complaint.

10. Defendant admits the allegations in paragraph 10 of the Amended Complaint.

11. The allegations contained in paragraph 11 constitute conclusions of law to which no answer is required. To the extent required, Defendant admits the allegations to the extent supported by the document cited, which is the best evidence of its contents; otherwise denies the allegations.

12. The allegations contained in paragraph 12 constitute conclusions of law to which no answer is required. To the extent required, Defendant admits the allegations to the extent supported by the document cited, which is the best evidence of its contents; otherwise denies the allegations.

ALLEGED BACKGROUND OF THE TECHNOLOGY

13. With respect to paragraph 13 of the Amended Complaint, Defendant admits that Russell T. Davis is identified as an inventor on the Asserted Patents. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations and on that basis denies the same.

14. With respect to paragraph 14 of the Amended Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations and on that basis denies the same.

15. With respect to paragraph 15 of the Amended Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations and on that basis denies the same.

a. With respect to paragraph 15.a of the Amended Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations and on that basis denies the same.

b. With respect to paragraph 15.b of the Amended Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations and on that basis denies the same.

c. With respect to paragraph 15.c of the Amended Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations and on that basis denies the same.

d. With respect to paragraph 15.d of the Amended Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations and on that basis denies the same.

16. With respect to paragraph 16 of the Amended Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations and on that basis denies the same.

a. With respect to paragraph 16.a of the Amended Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations and on that basis denies the same.

b. With respect to paragraph 16.b of the Amended Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations and on that basis denies the same.

c. With respect to paragraph 16.c of the Amended Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations and on that basis denies the same.

i. With respect to paragraph 16.c.i of the Amended Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations and on that basis denies the same.

ii. With respect to paragraph 16.c.ii of the Amended Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations and on that basis denies the same.

iii. With respect to paragraph 16.c.iii of the Amended Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations and on that basis denies the same.

iv. With respect to paragraph 16.c.iv of the Amended Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations and on that basis denies the same.

17. With respect to paragraph 17 of the Amended Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations and on that basis denies the same.

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