

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

SAS INSTITUTE INC.,

Plaintiff,

vs.

WORLD PROGRAMMING LIMITED,
MINEQUEST BUSINESS ANALYTICS,
LLC, MINEQUEST LLC, ANGOSS
SOFTWARE CORPORATION, LUMINEX
SOFTWARE, INC., YUM! BRANDS, INC.,
PIZZA HUT, INC., SHAW INDUSTRIES
GROUP, INC., and HITACHI VANTARA
CORPORATION,

Defendants.

Civil Action No. _____

Jury Trial Demanded

ORIGINAL COMPLAINT

Plaintiff SAS Institute Inc. (“SAS”) makes the following allegations against Defendants World Programming Limited (“WPL”), MineQuest Business Analytics, LLC and MineQuest, LLC (collectively, “MineQuest”), Angoss Software Corporation (“Angoss”), Luminex Software, Inc. (“Luminex”), Yum! Brands, Inc. (“Yum”), Pizza Hut, Inc. (“Pizza Hut”), Shaw Industries Group, Inc. (“Shaw”), and Hitachi Vantara Corporation (“Hitachi”), (collectively “Defendants”). SAS alleges that all Defendants are liable to SAS for copyright infringement of the SAS System and SAS Manuals, described below. SAS alleges that WPL, MineQuest, Angoss, and Luminex are liable to SAS for contributory and vicarious copyright infringement of the SAS System and SAS Manuals. SAS alleges that Defendants WPL, Angoss, Yum, and Pizza Hut are liable for infringement of U.S. Patent Nos. 7,170,519 (“the ’519 Patent”), 7,447,686 (“the ’686 Patent”), and 8,498,996 (“the ’996 Patent”) (collectively, the “Patents-in-Suit”).

THE NATURE OF THE ACTION

1. This is an action for (a) copyright infringement arising out of Defendants' willful infringement of various copyrighted SAS materials, and (b) the willful infringement of SAS's Patents-in-Suit by WPL, Angoss, Yum, and Pizza Hut.

2. Starting as early as 2003, WPL commenced a plan to create a clone of SAS's industry-leading business analytics software, including without limitation SAS's SAS System, Release 8.2, and SAS Learning Edition versions 1.0, 2.0, and 4.1 (collectively, including all other releases of SAS's business analytics software, the "SAS System"). Through a series of illegal activities, including fraud and unfair and deceptive trade practices, WPL copied the design output and structure, sequence, and organization ("SSO") of the SAS System as well as substantial other non-literal creative input and output elements of the SAS System. WPL also wrongfully copied the manuals that SAS created for the SAS System (the "SAS Manuals") by taking portions of the SAS Manuals showing specific creative aspects of the SAS System and incorporating them in WPL's clone of the SAS System.

3. From the beginning of its development, the entire purpose of WPL's World Programming System ("WPS") software was to be a clone of the SAS System. The primary customer market for the WPS software is current and former SAS customers. In WPS, WPL intended to develop, and ultimately has developed, through making copies and derivative works of the SAS System and SAS Manuals, a clone of the proprietary SAS software, which WPL markets to SAS customers for less than the cost of a SAS license.

4. To develop WPS, WPL engaged in a series of illegal activities and illicit behaviors to procure the information it needed to create the cloned software. Among other things, through fraudulent actions, WPL improperly acquired SAS Learning Edition software not otherwise available to it and used that software in ways that violated and were outside the scope of the license agreement that WPL knowingly executed after obtaining the improper copy of SAS Learning Edition. Also, WPL attempted to fraudulently obtain a copy of and a license to the full version of the SAS System, including by lying to SAS representatives with regard to the purpose of WPL's

intended use of the SAS software. SAS refused to provide a copy.

5. When WPL was rebuffed from obtaining the full version of SAS's software, WPL then wrongfully convinced a SAS customer to let WPL use the customer's licensed version of the SAS software so that WPL could further develop WPS as a clone of SAS's software.

6. In addition to infringing SAS's copyrights relating to the SAS System and Manuals, WPS incorporates technology covered by SAS's Patents-in-Suit.

PARTIES

7. Plaintiff SAS is a corporation organized under the laws of the State of North Carolina with its principal place of business at 100 SAS Campus Drive, Cary, North Carolina 27513. SAS has been in business for over 40 years. SAS software is used by most of the Fortune 500 companies. SAS is considered the world leader in business intelligence software and service, which SAS offers primarily through an integrated range of software products in the SAS System.

8. On information and belief, Defendant WPL is a private limited company incorporated under the laws of England and Wales with its registered office address listed as Worsley Lodge, Common Hill, Braishfield, Romsey SO51 0QF. On information and belief, WPL was incorporated in 1998 under the name Management Technologies Limited and thereafter changed its name on at least two occasions, adopting its current name in 2006.

9. On information and belief, Defendant MineQuest Business Analytics, LLC is a limited liability company organized under the laws of the State of Arizona with its principal place of business at 6890 E. Sunrise Drive #120-154, Tucson, Arizona 85750. On information and belief, MineQuest Business Analytics, LLC regularly provides, sells, or offers to sell infringing WPS software to customers in the State of Texas and this judicial district.

10. On information and belief, Defendant MineQuest, LLC is a domestic limited liability company organized under the laws of Ohio with its principal place of business at 6890 E. Sunrise Drive #120-154, Tucson, Arizona 85750. On information and belief, MineQuest, LLC regularly provides, sells, or offers to sell infringing WPS software to customers in the State of Texas and this judicial district.

11. On information and belief, Defendant Angoss is a corporation organized under the laws of Ontario, Canada with its principal place of business at headquarters at 330 Bay Street, Suite 200, Toronto, ON M5H 2S8, Canada. On information and belief, Angoss regularly provides, sells, or offers to sell infringing WPS software (incorporated in its KnowledgeCORE add-on) to customers in the State of Texas and this judicial district.

12. On information and belief, Defendant Luminex is a corporation organized under the laws of California with its principal place of business at 871 Marlborough Ave., Suite 100, Riverside, California. On information and belief, Luminex regularly provides, sells or offers to sell infringing WPS software to customers in the State of Texas and this judicial district.

13. On information and belief, Defendant Yum is a corporation organized under the laws of the State of North Carolina, with its principal place of business at 1441 Gardiner Lane, Louisville, Kentucky 40213. On information and belief, Yum maintains a corporate office within this judicial district at 7100 Corporate Drive, Plano, Texas 75024.

14. On information and belief, Defendant Pizza Hut is a corporation organized under the laws of the State of Delaware, with its principal place of business within this judicial district at 7100 Corporate Drive, Plano, Texas 75024.

15. On information and belief, Defendant Shaw is a corporation organized under the laws of the State of Georgia, with its principal place of business at 616 East Walnut Avenue, Dalton, GA 30721. On information and belief, Shaw regularly transacts business in the State of Texas and this judicial district and generally has minimum contacts in the State of Texas

16. On information and belief, Defendant Hitachi is a corporation organized under the laws of Delaware with its principal place of business at 2845 Lafayette St., Santa Clara, California. On information and belief, Hitachi regularly transacts business in the State of Texas and this judicial district and generally has minimum contacts in the State of Texas.

JURISDICTION, VENUE, AND JOINDER

17. This is an action for copyright infringement and patent infringement arising under the Copyright Laws of the United States, Title 17 of the United States Code and the Patent Laws

of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to at least 28 U.S.C. §§ 1331 and 1338.

18. This Court has personal jurisdiction over Defendants because they have at least minimum contacts within the State of Texas; they have purposefully availed themselves of the privileges of conducting business in the State of Texas; they regularly conduct business within the State of Texas; and SAS's causes of action arise directly from their business and other activities in the State of Texas, including at least by virtue of their copying, making, using, selling, offering for sale, or importing of WPL's WPS software in the State of Texas. Further, this Court has general jurisdiction over Defendants, including due to their continuous and systematic contacts with the State of Texas.

19. Venue is proper in this district in relation to Defendant WPL under 28 U.S.C. § 1391 because it is a foreign corporation not resident in the United States.

20. Venue is proper in this district in relation to Defendant MineQuest Business Analytics, LLC under 28 U.S.C. § 1400(a) because it is subject to personal jurisdiction in this district and can be found in this district.

21. Venue is proper in this district in relation to Defendant MineQuest, LLC under 28 U.S.C. § 1400(a) because it is subject to personal jurisdiction in this District and can be found in this District.

22. Venue is proper in this district in relation to Defendant Angoss under 28 U.S.C. § 1391 because it is a foreign corporation not resident in the United States.

23. Venue is proper in this district in relation to Defendant Luminex under 28 U.S.C. § 1400(a) because it is subject to personal jurisdiction in this district and can be found in this district.

24. Venue is proper in this district in relation to Defendant Yum under 28 U.S.C. § 1400(a) because it is subject to personal jurisdiction in this district and can be found in this district. Further, venue is proper in this district as to Yum under 28 U.S.C. § 1400(b) because, on information and belief, it has a regular and established place of business in this district and has committed acts of infringement within this district.

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