

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

**SECURITYPROFILING, LLC,**

**Plaintiff,**

**v.**

**ZOHO CORPORATION**

**Defendant.**

**Civil Action No. 6:24-cv-96**

**JURY TRIAL DEMANDED**

**COMPLAINT FOR PATENT INFRINGEMENT**

This is an action for patent infringement in which Plaintiff SecurityProfiling, LLC complains against Defendant Zoho Corporation, all upon information and belief, as follows:

**THE PARTIES**

1. Plaintiff SecurityProfiling, LLC (“Plaintiff” or “SecurityProfiling”) is a limited liability company organized and existing under the laws of the State of Texas, having its principal office at 3105 Media Drive, Cedar Park, Texas 78641.
2. Defendant Zoho Corporation (“Zoho”) is a California Limited Liability Company, having its U.S. headquarters at 4708 Highway 71 E, Del Valle, Texas 78617-3216.
3. Zoho may be served with process through its registered agent for service in Texas: Incorporating Services, Ltd., 3610-2 North Josey, Suite 223, Carrollton, Texas 75007.

## **JURISDICTION AND VENUE**

4. 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., including 35 U.S.C. § 271. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has general and specific personal jurisdiction over Zoho by virtue of Zoho's regular and established places of business in this District, and continuous and systematic business activities in this State, directly or through intermediaries, which activities give rise to at least a portion of the infringements alleged herein and include: (i) making, using, offering for sale and/or selling the below identified infringing apparatus in this State, and/or importing the below identified infringing products into this State; (ii) purposefully and voluntarily placing the below identified infringing apparatus into the stream of commerce with the expectation that they will be purchased by consumers in this State; and/or (iii) deriving substantial revenue from the below identified infringing products provided to individuals in this State.

6. Venue is proper in this district and division under 28 U.S.C. §§ 1391(b)-(d) and 1400(b) because Zoho has committed acts of infringement in the Western District of Texas and Zoho is headquartered and has a regular and established places of business in this District.

## **GENERAL ALLEGATIONS**

7. SecurityProfiling is the successor in interest to SecurityProfiling Inc. of West Lafayette, Indiana. In around the years 2002 and 2003, SecurityProfiling Inc. had developed a series of novel enterprise Anti-Vulnerability™ security systems. It was in the forefront of anti-vulnerability technology that provided for multi-path remediation. The system was widely and favorably reported. The Anti-Vulnerability platform provided novel and best practice security policy compliance and enforcement capabilities to proactively and remotely manage and enforce

standardized templates or custom enterprise security compliance policies. The system's logic engine identified each client's vulnerabilities, exposures and out-of-compliance policy parameters upon each polling cycle. It then mitigated or remediated the vulnerabilities using the best-possible options, including patches, policy changes, disabling a service, modifying permissions or making registry changes, for example. Moreover, the network administrators had the choice to select among available remediation options. SecurityProfiling Inc.'s system included SysUpdate, Intelligent IDS v1.0, which was an Anti-Vulnerability plugin for Snort IDS that provides intelligence, accuracy, and remote patching functions; Intelligent IPS v1.0, which accurately identified and prevented malicious code from reaching their destination; and LogBoss v2.1, which was an easy to use network log manager that securely transfers and archives all network logs (security, application, & system) in real time into a single, centralized database.

8. On July 1, 2003, SecurityProfiling Inc. filed a patent application directed to the above inventions, Serial Number 60/484085. From that original application, the United States Patent and Trademark Office has issued a series of patents, including the patents here in suit.

## COUNT I

### **INFRINGEMENT OF U.S. PATENT NO. 10,873,595**

9. SecurityProfiling hereby restates and re-alleges the allegations set forth in the preceding paragraphs 1-8 and incorporates them by reference.

10. SecurityProfiling is the owner by assignment of United States Patent No. 10,873,595 entitled "Real-Time Vulnerability Monitoring" ("the '595 Patent"). The '595 Patent was duly and legally issued on December 22, 2020. A true and correct copy of the '595 Patent is attached as Exhibit 1.

11. Pursuant to 35 U.S.C. § 282, the '595 Patent is presumed valid.

12. A predecessor of the '595 Patent, Pat. 8,984,644, was involved in a proceeding before the Patent and Trial Appeal Board ("PTAB") of United States Patent and Trademark Office ("USPTO"), IPR2017-02192 ("IPR Proceeding"). In a Final Written Decision dated April 8, 2019, the PTAB held that claims 1, 7, and 14 of the '644 patent were unpatentable. SecurityProfiling appealed the decision to the Federal Circuit Court of Appeals. The Court upheld the PTAB decision without any opinion under Rule 36 of the Federal Circuit Rules of Procedures.

13. SecurityProfiling disclosed the IPR Proceeding to the USPTO during the prosecution of the '595 Patent, and specifically disclosed that an adverse Final Written Decision had been entered, which the Federal Circuit affirmed.

14. The asserted claims of the '595 Patent are materially different from the claims that had been considered in the IPR Proceeding. As one critical example, the PTAB's decision rested entirely on its determination that the "user option" limitation found in the prior '644 Patent claims was not supported by any prior application leading to the '644 Patent. The asserted claims of the '595 Patent do not include a "user option" limitation. Thus, the Final Written Decision in the IPR Proceeding is irrelevant to the asserted claims of the '595 Patent.

15. The claims of the '595 Patent are not abstract and are patent-eligible under 35 U.S.C. §101. During the prosecution of the '595 Patent, the USPTO itself raised the issue as to whether the '595 Patent claims were patent eligible under 35 U.S.C. § 101, and determined that the claims were patentable. The discussions regarding patent eligibility during the prosecution of the '595 Patent are here incorporated by reference. In addition, the eligibility of the '595 Patent claims is further supported by the prosecution history of the '066 Patent recited above with respect to Count I, and here incorporated by reference.

16. In violation of 35 U.S.C. § 271(a), Zoho has practiced and continues to practice a

method of at least claim 1 of the '595 Patent by practicing the steps of the claimed method when operating Zoho's ManageEngine.

17. A comparison of claim 1 of the '595 Patent to Zoho's ManageEngine methods is attached as Exhibit 5, which is incorporated herein by reference. The normal use of Zoho's ManageEngine systems necessarily and inherently required practicing the steps of at least Claim 1 of the '595 Patent.

18. Zoho is also continuing to violate 35 U.S.C. § 271(b) ("Whoever actively induces infringement of a patent shall be liable as an infringer"). Zoho will have had knowledge of the '595 Patent since at least the service of the instant complaint. With knowledge of the '595 Patent, Zoho will have induced its customers to acquire Zoho's ManageEngine systems in this country and to practice in this country the methods of at least claim 1. The inducement is apparent in the instructions that Zoho has provided and continues to provide to its customers, such as the instructions on how to use Zoho's ManageEngine systems that include the steps of the claimed methods.

19. Zoho was and/or is on notice of the '595 patent and its infringement thereof at least as early as the filing of this Complaint.

20. Zoho's acts of infringement have caused and continue to cause damage to SecurityProfiling. SecurityProfiling is entitled to recover from Zoho the damages sustained by SecurityProfiling as a result of Zoho's wrongful acts.

## **COUNT II**

### **DIRECT INFRINGEMENT OF U.S. PATENT NO. 10,609,063**

21. SecurityProfiling hereby restates and re-alleges the allegations set forth in the

preceding paragraphs 1-20 and incorporates them by reference.

22. SecurityProfiling is the owner by assignment of United States Patent No. 10,609,063 entitled “Computer Program Product And Apparatus For Multi-Path Remediation” (“the ‘063 Patent”). The ‘063 Patent was duly and legally issued on March 31, 2020. A true and correct copy of the ‘063 Patent is attached as Exhibit 2.

23. Pursuant to 35 U.S.C. § 282, the ‘063 Patent is presumed valid.

24. A predecessor of the ‘063 Patent, Pat. 8,984,644, was involved in a proceeding before the Patent and Trial Appeal Board (“PTAB”) of United States Patent and Trademark Office (“USPTO”), IPR2017-02192 (“IPR Proceeding”). In a Final Written Decision dated April 8, 2019, the PTAB held that claims 1, 7, and 14 of the ‘644 patent were unpatentable. SecurityProfiling appealed the decision to the Federal Circuit Court of Appeals. The Court upheld the PTAB decision without any opinion under Rule 36 of the Federal Circuit Rules of Procedures.

25. SecurityProfiling disclosed the IPR Proceeding to the USPTO during the prosecution of the ‘063 Patent, and specifically disclosed that an adverse Final Written Decision had been entered. In a subsequent disclosure, SecurityProfiling disclosed to the USPTO that the adverse Final Written Decision was the subject of an appeal to the Federal Circuit Court of Appeals.

26. The asserted claims of the ‘063 Patent are materially different from the claims that had been considered in the IPR Proceeding. As one critical example, the PTAB’s decision rested entirely on its determination that the “user option” limitation found in the prior ‘644 Patent claims was not supported by any prior application leading to the ‘644 Patent. The asserted claims of the ‘063 Patent do not include a “user option” limitation. Thus, the Final Written Decision in the IPR Proceeding is irrelevant to the asserted claims of the ‘063 Patent.

27. The claims of the '063 Patent are not abstract and are patent-eligible under 35 U.S.C. §101. During the prosecution of the '063 Patent, the USPTO itself raised the issue as to whether the '063 Patent claims were patent eligible under 35 U.S.C. § 101, and determined that the claims were patentable. The discussions regarding patent eligibility during the prosecution of the '063 Patent are here incorporated by reference. In addition, the eligibility of the '063 Patent claims is further supported by the prosecution history of the '066 Patent recited above with respect to Count I, and here incorporated by reference.

28. Zoho has directly infringed and continues to infringe under 35 U.S.C. §271(a) at least claim 10 of the '063 Patent by making, using and marketing Zoho's ManageEngine.

29. A comparison of claim 10 of the '063 Patent to Zoho's ManageEngine is attached as Exhibit 6, which is incorporated herein by reference.

30. Zoho was and/or is on notice of the '063 patent and its infringement thereof at least as early as the filing of this Complaint.

31. Zoho's acts of infringement have caused and continue to cause damage to SecurityProfiling. SecurityProfiling is entitled to recover from Zoho the damages sustained by SecurityProfiling as a result of Zoho's wrongful acts.

### **COUNT III**

#### **DIRECT INFRINGEMENT OF U.S. PATENT NO. 9,118,711**

32. SecurityProfiling hereby restates and re-alleges the allegations set forth in the preceding paragraphs 1-31 and incorporates them by reference.

33. SecurityProfiling is the owner by assignment of United States Patent No. 9,118,711 entitled "Anti-Vulnerability System, Method, and Computer Program Product" ("the '711 Patent"). The '711 Patent was duly and legally issued on August 25, 2015. A true and correct

copy of the '711 Patent is attached as Exhibit 3.

34. Pursuant to 35 U.S.C. § 282, the '711 Patent is presumed valid.

35. A predecessor of the '711 Patent, Pat. 8,984,644, was involved in a proceeding before the Patent and Trial Appeal Board ("PTAB") of United States Patent and Trademark Office ("USPTO"), IPR2017-02192 ("IPR Proceeding"). In a Final Written Decision dated April 8, 2019, the PTAB held that claims 1, 7, and 14 of the '644 patent were unpatentable. SecurityProfiling appealed the decision to the Federal Circuit Court of Appeals. The Court upheld the PTAB decision without any opinion under Rule 36 of the Federal Circuit Rules of Procedures.

36. The asserted claims of the '711 Patent are materially different from the claims that had been considered in the IPR Proceeding. As one critical example, the PTAB's decision rested entirely on its determination that the "user option" limitation found in the prior '644 Patent claims was not supported by any prior application leading to the '644 Patent. The asserted claims of the '711 Patent do not include a "user option" limitation. Thus, the Final Written Decision in the IPR Proceeding does not render invalid the asserted claims of the '711 Patent.

37. The claims of the '711 Patent are not abstract and are patent-eligible under 35 U.S.C. §101. The eligibility of the '711 Patent claims is further supported by the prosecution history of the '711 Patent recited above with respect to Count I, and here incorporated by reference.

38. Zoho has directly infringed and continues to infringe under 35 U.S.C. §271(a) at least claim 1 of the '711 Patent by making, using and marketing Zoho's ManageEngine.

39. A comparison of claim 1 of the '711 Patent to Zoho's ManageEngine is attached as Exhibit 7, which is incorporated herein by reference.

40. Zoho was and/or is on notice of the '711 patent and its infringement thereof at least as early as the filing of this Complaint.



41. Zoho's acts of infringement have caused and continue to cause damage to SecurityProfiling. SecurityProfiling is entitled to recover from Zoho the damages sustained by SecurityProfiling as a result of Zoho's wrongful acts.

#### **COUNT IV**

##### **DIRECT INFRINGEMENT OF U.S. PATENT NO. 9,100,431**

42. SecurityProfiling hereby restates and re-alleges the allegations set forth in the preceding paragraphs 1-41 and incorporates them by reference.

43. SecurityProfiling is the owner by assignment of United States Patent No. 9,100,431 entitled "Computer Program Product And Apparatus For Multi-Path Remediation" ("the '431 Patent"). The '431 Patent was duly and legally issued on August 4, 2015. A true and correct copy of the '431 Patent is attached as Exhibit 4.

44. Pursuant to 35 U.S.C. § 282, the '431 Patent is presumed valid.

45. A predecessor of the '431 Patent, Pat. 8,984,644, was involved in a proceeding before the Patent and Trial Appeal Board ("PTAB") of United States Patent and Trademark Office ("USPTO"), IPR2017-02192 ("IPR Proceeding"). In a Final Written Decision dated April 8, 2019, the PTAB held that claims 1, 7, and 14 of the '644 patent were unpatentable. SecurityProfiling appealed the decision to the Federal Circuit Court of Appeals. The Court upheld the PTAB decision without any opinion under Rule 36 of the Federal Circuit Rules of Procedures.

46. The asserted claims of the '431 Patent are materially different from the claims that had been considered in the IPR Proceeding. As one critical example, the PTAB's decision rested entirely on its determination that the "user option" limitation found in the prior '644 Patent claims was not supported by any prior application leading to the '644 Patent. The asserted claims of the '431 Patent do not include a "user option" limitation. Thus, the Final Written Decision in the IPR

Proceeding does not render invalid the asserted claims of the '431 Patent.

47. The claims of the '431 Patent are not abstract and are patent-eligible under 35 U.S.C. §101. The eligibility of the '431 Patent claims is further supported by the prosecution history of the '066 Patent recited above with respect to Count I, and here incorporated by reference.

48. Zoho has directly infringed and continues to infringe under 35 U.S.C. §271(a) at least claim 19 of the '431 Patent by making, using and marketing Zoho's ManageEngine.

49. A comparison of claim 19 of the '431 Patent to Zoho's ManageEngine is attached as Exhibit 8, which is incorporated herein by reference.

50. Zoho was and/or is on notice of the '431 patent and its infringement thereof at least as early as the filing of this Complaint.

51. Zoho's acts of infringement have caused and continue to cause damage to SecurityProfiling. SecurityProfiling is entitled to recover from Zoho the damages sustained by SecurityProfiling as a result of Zoho's wrongful acts.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff requests that this Court enter:

- a. A judgment in favor of Plaintiff that Zoho has infringed Patents 10,873,595, 10,609,063, 9,118,711, and 9,100,431; and
- b. A judgment and order requiring Zoho to pay Plaintiff its damages, costs, expenses, prejudgment and post-judgment interest, and post-judgment royalties for Zoho's infringement of Patents 10,873,595, 10,609,063, 9,118,711, and 9,100,431, as provided under 35 U.S.C. § 284;
- c. Judgment that this is an exceptional case, and, thus, awarding attorney fees and expenses to Plaintiff; and

d. Any and all other relief to which the Court may deem Plaintiff entitled.

**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.

Dated: February 19, 2024

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