

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

PACSEC₃, LLC,

Plaintiff,

v.

KNOWBE₄, INC.,

Defendant.

Civil Action No. 8:24-cv-00898

JURY TRIAL DEMANDED

PLAINTIFF'S ORIGINAL COMPLAINT

Plaintiff PacSec₃, LLC, ("PacSec₃") files this Original Complaint and demand for jury trial seeking relief from patent infringement of the claims of US Patent No. 7,523,497 ("the '497 Patent" or the "Patent-in-Suit") by KnowBe₄, Inc. ("KnowBe₄" or "Defendant").

I. THE PARTIES

1. Plaintiff PacSec₃, LLC is a Texas Limited Liability Company with its principal place of business located at 5900 Balcones Drive, Suite 100, Austin, Texas 78731-4298.

2. On information and belief, Defendant is a corporation organized and existing under the laws of the State of Delaware. Defendant has a place of business at 33 N. Garden Avenue, Suite 1200, Clearwater, Florida 33755. On information and belief, Defendant sells and offers to sell products and services throughout the United States, including in this judicial district, and introduces products and

services that perform infringing methods or processes into the stream of commerce knowing that they would be sold in this judicial district. Defendant can be served through its registered agent, CT Corporation System, 1200 South Pine Island Road, Plantation, FL 33324, at its place of business, or anywhere else it may be found.

II. JURISDICTION AND VENUE

3. This civil action arises under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*, including without limitation 35 U.S.C. §§ 271, 281, 283, 284, and 285 based on Defendant's unauthorized commercial manufacture, use, importation, offer for sale, and sale of the Accused Products in the United States. This is a patent infringement lawsuit over which this Court has subject matter jurisdiction under, *inter alia*, 28 U.S.C. §§ 1331, 1332, and 1338(a).

4. This United States District Court for the Middle District of Florida has general and specific personal jurisdiction over Defendant because, directly or through intermediaries, Defendant has committed acts within the District giving rise to this action and are present in and transact and conduct business in and with residents of this District and other Districts throughout the United States.

5. Plaintiff's causes of action arise, at least in part, from Defendant's contacts with, and activities in this District.

6. Defendant has committed acts of infringing the patents-in-suit within this District by making, using, selling, offering for sale, and/or importing in or into this District and elsewhere, products claimed by the patents-in-suit, including

without limitation products made by practicing the claimed methods of the patents-in-suit. Defendant, directly and through intermediaries, makes, uses, sells, offers for sale, imports, ships, distributes, advertises, promotes, and/or otherwise commercializes such infringing products into this District others. Defendant regularly conducts and solicits business in, engages in other persistent courses of conduct in, and/or derives substantial revenue from goods and services provided to residents of this District and others.

7. This Court has personal jurisdiction over Defendant, in part, because Defendant does continuous and systematic business in this District, as well as having a place of business in this District, by providing infringing products and services to the residents of this District that Defendant knew would be used within this District, and by soliciting business from the residents of this District. For example, Defendant is subject to personal jurisdiction in this Court because, *inter alia*, Defendant maintains an office at 33 N. Garden Avenue, Suite 1200, Clearwater, Florida 33755, and directly and through agents regularly does, solicits, and transacts business in this District. Also, Defendant has hired and is hiring within this District for positions that, on information and belief, relate to infringement of the patents-in-suit. Accordingly, this Court's jurisdiction over the Defendant comports with the constitutional standards of fair play and substantial justice and arises directly from the Defendant's purposeful minimum contacts with the State of Massachusetts.

8. Furthermore, this Court has personal jurisdiction over Defendant, because in addition to Defendant's online website and advertising within this District, Defendant has also made its products available within this judicial district and advertised to residents within the District to hire employees to be located in this District.

9. Venue is proper in this Court under 28 U.S.C. § 1400(b) based on information set forth herein, which is hereby repeated and incorporated by reference. Further, upon information and belief, Defendant has committed or induced acts of infringement, and/or advertise, market, sell, and/or offer to sell products, including infringing products, in this District. In addition, and without limitation, Defendant has regular and established places of business throughout this District, including at least at 33 N. Garden Avenue, Suite 1200, Clearwater, Florida 33755.

III. INFRINGEMENT

A. Infringement of the '497 Patent

10. Plaintiff incorporates by reference paragraphs 1-9 as if fully presented herein.

11. On 2009, U.S. Patent No. 7,523,497 ("the '497 patent", included as EXHIBIT A) entitled "PACKET FLOODING DEFENSE SYSTEM," was duly and legally issued by the U.S. Patent and Trademark Office. PacSec3, LLC owns the '497 Patent by assignment.

12. The '497 patent relates to a novel and improved manner and system of defense to a data packet flood attack.

13. Defendant offers for sale, sells and manufactures one or more firewall systems that infringes one or more claims of the '497 Patent, including one or more of claims 7 and 10, literally or under the doctrine of equivalents. Defendant put the inventions claimed by the '497 Patent into service, i.e., used them, and; but for Defendant's actions, the claimed-inventions embodiments involving Defendant's products and services would never have been put into service. Defendant's acts complained of herein caused those claimed-invention embodiments as a whole to perform, and Defendant's procurement of monetary and commercial benefit from it.

14. Support for the allegations of infringement may be found in Exhibit B, a claim chart for claim 10, provided herewith.

15. Defendant has and continues to induce infringement. Defendant has actively encouraged or instructed others, e.g., its customers and/or the customers of its related companies, and continues to do so, on how to use its products and services, e.g., KnowBe4, and related services that provide services across the Internet such as to cause infringement of one or more of claims 7 and 10 of the '497 patent, literally or under the doctrine of equivalents. Moreover, Defendant has known of the '497 patent and the technology underlying it from at least the filing

date of the lawsuit.¹ For clarity, direct infringement is previously alleged in this complaint.

16. Defendant has and continues to contributorily infringe. Defendant has actively encouraged or instructed others, e.g., its customers and/or the customers of its related companies, and continues to do so, on how to use its products and services, e.g., KnowBe4, and related services that provide question and answer services across the Internet such as to cause infringement of one or more of claims 7 and 10 of the '497 patent, literally or under the doctrine of equivalents. Further, there are no substantial noninfringing uses for Defendant's products and services. Moreover, Defendant has known of the '497 patent and the technology underlying it from at least the filing date of the lawsuit.² For clarity, direct infringement is previously alleged in this complaint.

17. On information and belief, Defendant's infringement of the '497 Patent has been willful and merits increased damages.

18. On information and belief, Defendant has made no attempt to design around the claims of the '497 Patent.

19. On information and belief, Defendant did not have a reasonable basis for believing that the claims of the '497 Patent were invalid.

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¹ Plaintiff reserves the right to amend if discovery reveals an earlier date of knowledge.

² Plaintiff reserves the right to amend if discovery reveals an earlier date of knowledge.

20. On information and belief, Defendant's Accused Products are available to businesses and individuals throughout the United States and including in this District.

21. Plaintiff has been damaged as the result of Defendant's infringement.

22. The claim chart attached hereto as Exhibit B describes how the elements of an exemplary claim from the '497 Patent are infringed by the Accused Products. This provides details regarding only one example of Defendant's infringement, and only as to a single patent claim. These allegations of infringement are preliminary and are therefore subject to change.

23. Defendant has caused and will continue to cause PacSec3 damage by direct and indirect infringement (including inducement and contributory) of the claims of the '497 Patent

IV. CONDITIONS PRECEDENT

24. Plaintiff is a non-practicing entity, with no products to mark. Plaintiff has pled all statutory requirements to obtain pre-suit damages. Further, all conditions precedent to recovery are met.

V. JURY DEMAND

25. Plaintiff hereby requests a trial by jury on issues so triable by right.

VI. PRAYER FOR RELIEF

WHEREFORE, PacSec3 prays for relief as follows:

- a. Enter judgment that Defendant has infringed the claims of the '497 patent through selling, offering for sale, manufacturing, and inducing others to infringe by using and instructing to use Defendant's products;
- b. Award PacSec3 damages in an amount sufficient to compensate it for Defendant's infringement of the Patent-in-Suit in an amount no less than a reasonable royalty or lost profits, together with pre-judgment and post-judgment interest and costs under 35 U.S.C. § 284;
- c. Award PacSec3 an accounting for acts of infringement not presented at trial and an award by the Court of additional damage for any such acts of infringement;
- d. Declare this case to be "exceptional" under 35 U.S.C. § 285 and award PacSec3 its attorneys' fees, expenses, and costs incurred in this action;
- e. Declare Defendant's infringement to be willful and treble the damages, including attorneys' fees, expenses, and costs incurred in this action and an increase in the damage award pursuant to 35 U.S.C. § 284; and
- f. Issue a decree addressing future infringement that either (i) awards a permanent injunction enjoining Defendant and its agents, servants, employees, affiliates, divisions, and subsidiaries, and those in association with Defendant from infringing the claims of the Patent-in-Suit, or (ii) awards damages for future infringement in lieu of an injunction in an amount consistent with the fact that for future infringement the Defendant

will be an adjudicated infringer of a valid patent, and trebles that amount in view of the fact that the future infringement will be willful as a matter of law; and

- g. award PacSec3 such other and further relief as this Court deems just and proper

Dated: April 12, 2024.

Respectfully submitted,

By: /s/ Victoria E. Brieant
Victoria E. Brieant (FBN 632961)
Law Office of Victoria E. Brieant, P.A.
4000 Ponce de Leon Boulevard, Suite 470
Coral Gables, FL 33146
Email: Victoria@brieantlaw.com
Telephone: (305) 421-7200

Attorneys for PacSec3, LLC