

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

IP INNOVATION L.L.C. and)	
TECHNOLOGY LICENSING CORP.,)	
)	
Plaintiffs/Counterclaim)	
Defendants,)	
)	
v.)	Civil Action No. 2:07-cv-447 (LED)
)	Jury Trial Demanded
RED HAT, INC. and NOVELL, INC.)	
)	
Defendants.)	
)	
)	
)	
)	
)	
)	

**PLAINTIFFS’ REPLY TO RED HAT, INC.’S
COUNTERCLAIMS TO COMPLAINT**

Plaintiffs’ reply to Red Hat, Inc.’s counterclaims as follows:

26. Counterclaim Plaintiff Red Hat, Inc. (“Red Hat”) is a North Carolina Corporation with its principal place of business at 1801 Varsity Drive, Raleigh, NC 27606.

ANSWER:

Admitted.

27. Counterclaim Defendant IP Innovation L.L.C. (“IPI”) claims to be a Texas limited liability company with a place of business of 707 Skokie Boulevard, Suite 600, Northbrook, IL 60062.

ANSWER:

Admitted.

28. Counterclaim Defendant Technology Licensing Corporation (“TLC”) claims to be a Nevada corporation with a principal place of business at 1000 E. William Street,

Suite 204, Carson City, Nevada 89701.

ANSWER:

Admitted.

29. This Court has subject matter jurisdiction over this Counterclaim arising under the Patent Act pursuant to 28 U.S.C. §§ 1331 and 1338 and the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2201 (sic).

ANSWER:

Admitted.

30. By virtue of having filed this action in this Court, Counterclaim Defendants IPI and TLC have consented to personal jurisdiction.

ANSWER:

Admitted.

31. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and (c).

ANSWER:

Admitted.

29. (sic) Red Hat incorporates by reference Paragraph 26 through 31 as though fully set forth herein.

ANSWER:

Plaintiffs incorporate their responses to paragraphs 26 through 31 as though fully set forth herein.

30. (sic) IPI and TLC claim to own the right, title, and interest in and have standing to sue for infringement of U.S. Patent Nos. 5,072,412; 5,533,183; and 5,394,521 (the "Patents-in-Suit").

ANSWER:

Admitted.

31. (sic) On October 9, 2007, IPI and TLC commenced this action by filing a complaint in this Court, seeking enforcement of the Patents-in-Suit against Novell, Inc. and Red Hat and alleging that various Red Hat offerings infringe the claims of the Patents-in-Suit.

ANSWER:

Admitted.

32. (sic) Red Hat has denied IPI's and TLC's claims of infringement for each of the Patents-in-Suit and asserts that the Patents-in-Suit are invalid and unenforceable.

ANSWER:

Admitted that Red Hat has denied IPI's and TLC's claims of infringement and that Red Hat purports to assert that the Patents-In-Suit are invalid and unenforceable. Otherwise, denied.

33. (sic) A substantial, actual, and continuing controversy now exists between IPI and TLC on the one hand, and Red Hat, on the other hand, regarding the alleged infringement, validity, and enforceability of the Patents-in-Suit by virtue of IPI's and TLC's allegations of infringement.

ANSWER:

Admitted that such a controversy exists between IPI and TLC, on the one hand, and Red Hat, on the other hand. Otherwise, denied.

34. (sic) Red Hat has not infringed and does not presently infringe, either willfully or otherwise, of any of the Patents-in-Suit either literally or by application of the doctrine-of-equivalents.

ANSWER:

Denied.

35. (sic) The Patents-in-Suit are invalid and/or unenforceable for failure to

meet requirements of Title 35 of the United States Code.

ANSWER:

Denied.

36. (sic) Red Hat is entitled to a declaration that the Patents-in-Suit are not infringed by Red Hat and are invalid and/or unenforceable.

ANSWER:

Denied.

37. (sic) This is an exceptional case pursuant to 35 U.S.C. § 285, entitling Red Hat to an award of its attorneys' fees.

ANSWER:

Denied.

PLAINTIFFS' AFFIRMATIVE DEFENSES TO RED HAT

1. Red Hat's purported counterclaims fail to state a basis upon which relief can be granted.
2. Plaintiffs reserve their rights to supplement their affirmative defenses as permitted by the Federal Rules of Civil Procedure.

JURY DEMAND

Plaintiffs demand a jury trial on all issues so triable.

Respectfully submitted,

/s/ Douglas M. Hall

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing PLAINTIFFS' REPLY TO RED HAT, INC.'S COUNTERCLAIMS TO COMPLAINT was filed with the Clerk of the Court on February 11, 2008 using the CM/ECF system, which will send notification of such filing to the following at their email address on file with the Court:

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