

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

AFLUO, LLC,

Plaintiff,

v.

ADOBE SYSTEMS INC.; AKAMAI
TECHNOLOGIES, INC.; AND LEVEL 3
COMMUNICATIONS, INC.,

Defendants.

Case No.

JURY TRIAL DEMANDED



COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Afluo, LLC (“Afluo”) by and through its undersigned attorneys, for its complaint against Defendants Adobe Systems Inc., Akamai Technologies, Inc., and Level 3 Communications, Inc. (collectively “Defendants”), hereby alleges the following:

1. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.
2. Afluo is a limited liability company organized and existing under the laws of Delaware with its principal place of business located in Wilmington, Delaware.
3. Defendant Adobe Systems Inc. (“Adobe”) is a corporation organized and existing under the laws of Delaware with its headquarters in San Jose, California. Adobe transacts substantial business, either directly or through its agents, on an ongoing basis in this judicial district and elsewhere in the United States.
4. Defendant Akamai Technologies, Inc. (“Akamai”) is a corporation organized and existing under the laws of Delaware with its principal place of business in Cambridge, Massachusetts. Akamai transacts substantial business, either directly or through its agents, on an ongoing basis in this judicial district and elsewhere in the United States.

5. Defendant Level 3 Communications, Inc. (“Level 3”) is a corporation organized and existing under the laws of Delaware with its principal place of business in Broomfield, Colorado. Level 3 transacts substantial business, either directly or through its agents, on an ongoing basis in this judicial district and elsewhere in the United States.

6. Unless specifically stated otherwise, the acts complained of herein were committed by, on behalf of, or for the benefit of Adobe, Akamai, and Level 3.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

8. This Court has personal jurisdiction over Defendants because Defendants have committed acts of infringement in violation of 35 U.S.C. § 271 and have placed infringing products into the stream of commerce, through an established distribution channel, with the knowledge and/or understanding that such products are used and sold in this District. These acts cause injury to Afluo within the District. Defendants derive substantial revenue from the sale of infringing products distributed within the District, expect or should reasonably expect their actions to have consequences within the District, and derive substantial revenue from interstate and international commerce. Because Defendants are incorporated in Delaware, this Court has personal jurisdiction over Defendants.

9. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 1400(b).

COUNT 1 - INFRINGEMENT OF U.S. PATENT NO. 5,995,091

10. On November 30, 1999, the United States Patent and Trademark Office issued United States Patent No. 5,995,091 (“the ’091 patent”) for an invention entitled “System and method for streaming multimedia data.” Afluo is the owner of the ’091 patent and holds all rights and interests in the ’091 patent. A true and correct copy of the ’091 patent is attached as

Exhibit A.

11. Adobe has infringed and continues to infringe one or more claims of the '091 patent by its making, manufacture, use, sale, importation, or offer for sale of multimedia streaming products, including but not limited to the Adobe Flash Media Server products, such as Flash Media Server and Flash Media Streaming Server. Adobe is liable for its infringement of the '091 patent pursuant to 35 U.S.C. § 271.

12. Akamai has infringed and continues to infringe one or more claims of the '091 patent by its making, manufacture, use, sale, importation, or offer for sale of multimedia streaming products, including but not limited to the Adobe Flash Media Server products, such as Flash Media Server and Flash Media Streaming Server. Akamai is liable for its infringement of the '091 patent pursuant to 35 U.S.C. § 271.

13. Level 3 has infringed and continues to infringe one or more claims of the '091 patent by its making, manufacture, use, sale, importation, or offer for sale of multimedia streaming products, including but not limited to the Adobe Flash Media Server products, such as Flash Media Server and Flash Media Streaming Server. Level 3 is liable for its infringement of the '091 patent pursuant to 35 U.S.C. § 271.

14. Defendants' acts of infringement have damaged Afluo, and Afluo is entitled to recover from Defendants the damages it has sustained as a result of Defendants' wrongful acts in an amount subject to proof at trial. Defendants' infringement of Afluo's rights under the '091 patent will continue to damage Afluo, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

JURY DEMAND

15. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Afluo respectfully requests a trial by jury on all issues.

PRAYER FOR RELIEF

WHEREFORE, Afluo requests entry of judgment in its favor and against Adobe, Akamai, and Level 3 as follows:

- a. Declaring that Defendants have infringed the '091 patent;
- b. Awarding compensatory damages arising out of Defendants' infringement of the '091 patent to Afluo, together with prejudgment and post-judgment interest, in an amount according to proof;
- c. Permanently enjoining Defendants and their respective officers, agents, employees, and those acting in privity with them from further infringement, including contributory infringement or inducing infringement, of the '091 patent; and
- d. Awarding such other costs, attorney fees, and further relief as the Court may deem just and proper.

Dated: November 13, 2012

Respectfully submitted,

FARNAN LLP

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