

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

Voice Tech Corporation,
a Texas Corporation,
1431 Hawthorne Avenue
Tyler, Texas 75702

Plaintiff,

vs.

Mycroft AI Inc.,
a Delaware Corporation
300 E. 39th Street
Kansas City, Missouri 64111

Defendant.

Case No. 4:20-cv-00111

Jury Trial Demanded

COMPLAINT

Plaintiff Voice Tech Corporation brings the following complaint for patent infringement against Defendant Mycroft AI Inc.

NATURE OF THIS ACTION

1. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

THE PARTIES

2. Plaintiff Voice Tech Corporation (“Plaintiff”) is a Texas corporation with an address at 1431 Hawthorne Avenue, Tyler, Texas 75702.

3. Defendant Mycroft AI Inc. (“Defendant”) is a corporation organized and existing under the laws of the State of Delaware with a place of business at 300 E. 39th Street, Kansas City, Missouri 64111. Defendant may be served through its registered agent, National Registered Agents, Inc., at 120 South Central Avenue, Clayton, Missouri 63105.

JURISDICTION AND VENUE

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

5. This Court has personal jurisdiction over Defendant because Defendant maintains its principal place of business in this judicial district and has committed acts of patent infringement within this judicial district.

6. Based on information and belief, venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 1400(b) because Defendant maintains its principal place of business in this judicial district and has committed acts of patent infringement within this judicial district.

OPERATIVE FACTS

7. On October 17, 2017, United States Patent No. 9,794,348 (“the ‘348 patent”), entitled “Using Voice Commands from a Mobile Device to Remotely Access and Control a Computer,” was duly and legally issued by the United States Patent and Trademark Office to Todd R. Smith. A true and correct copy of the ‘348 patent is attached hereto as **Exhibit 1**.

8. On November 26, 2019, United States Patent No. 10,491,679 (“the ‘679 patent”), entitled “Using Voice Commands from a Mobile Device to Remotely Access and Control a Computer,” was duly and legally issued by the United States Patent and Trademark Office to Todd R. Smith. The ‘679 patent is a continuation of the ‘348 patent. A true and correct copy of the ‘679 patent is attached hereto as **Exhibit 2**.

9. Plaintiff is the owner of the ‘348 and the ‘679 patents with all substantive rights thereto, including the sole and exclusive right to enforce the ‘348 and the ‘679 patents against infringers, and to collect damages for all relevant times, including past damages.

10. After Defendant failed to respond to Plaintiff's pre-suit overtures, Plaintiff originally sued Defendant for patent infringement in the Eastern District of Texas. Plaintiff voluntarily dismissed that suit so that it could move venue to this District.

11. Shortly after suit was filed in the Eastern District of Texas, on February 5, 2020, Defendant's CEO, Joshua Montgomery, posted an article on Defendant's website, a true and correct copy of which is attached as **Exhibit 3** and may be accessed online at <https://mycroft.ai/blog/troll-hunter-mycrofts-position-on-patent-trolls/> (last accessed 2/18/2020). After providing his views on the U.S. patent system, Montgomery proceeded to personally threaten one of Plaintiff's attorneys, Tod Tumey, with physical violence and a gruesome death. **Exhibit 3**.

12. Montgomery stated that "it's better to be aggressive and 'stab, shoot and hang' them, then dissolve them in acid." *Id.*

13. Further, Montgomery widely and maliciously published Mr. Tumey's name and contact information by linking his "'confidential' correspondence and a copy of the [E.D.Tex.] suit" within Montgomery's article with Montgomery's threats against Mr. Tumey (*i.e.*, Exhibit 3), and asked others to "re-post, link, tweet and share this post." *Id.* (also asking others to: "Please help us get the word out by sharing this post on: Facebook, LinkedIn, Twitter Or email." and providing direct, embedded links to facilitate the requested re-distribution through all four media).

14. Montgomery's efforts to incite others have worked. Since Montgomery's post, and as an apparent result of it, Mr. Tumey has received multiple death threats from anonymous sources by email, Plaintiff's counsel has received numerous harassing phone calls and emails, and security precautions have been taken for the employees of Plaintiff's counsel and Mr. Tumey personally, as well as for Mr. Tumey's family. A true and correct copy of one such threatening email to Mr. Tumey, sent by an unknown user via the email account "TodTumey@gmx.com" (which is not Mr.

Tumey's account nor an account used by his firm) is attached hereto as **Exhibit 4**. Plaintiff submits this information and material to the Court because Plaintiff believes that the Court should be aware of these types of dangerous actions by Defendant and its CEO, and those acting at their direction, including without limitation because they are evidence of Defendant's willful intent.

**COUNT I:
INFRINGEMENT OF THE '348 PATENT**

15. Plaintiff repeats and incorporates by reference the allegations contained in Paragraphs 1 through 14 as if set forth fully herein.

16. Upon information and belief, Defendant has been and currently is directly infringing, actively inducing others to infringe, and/or contributing to the infringement of the '348 patent in the United States in violation of 35 U.S.C. § 271 by making, using, offering for sale, selling, importing, providing, supplying, and/or distributing without limitation, the products Mark I and Mark II.

17. Upon information and belief, Defendant will continue to infringe the '348 patent unless and until it is enjoined by the Court.

18. Upon information and belief, Defendant has infringed and continues to infringe the '348 patent with full knowledge of the '348 patent, and its infringement is willful.

19. Defendant has caused and will continue to cause Plaintiff irreparable injury and damage by infringing the '348 patent. Plaintiff will suffer irreparable injury, for which it has no adequate remedy at law, unless and until Defendant is enjoined from infringing the '348 patent.

**COUNT II:
INFRINGEMENT OF THE '679 PATENT**

20. Plaintiff repeats and incorporates by reference the allegations contained in Paragraphs 1 through 19 as if set forth fully herein.

21. Upon information and belief, Defendant has been and currently is directly infringing, actively inducing others to infringe, and/or contributing to the infringement of the '679 patent in the United States in violation of 35 U.S.C. § 271 by making, using, offering for sale, selling, importing, providing, supplying, and/or distributing without limitation, the products Mark I and Mark II.

22. Upon information and belief, Defendant will continue to infringe the '679 patent unless and until it is enjoined by the Court.

23. Upon information and belief, Defendant has infringed and continues to infringe the '679 patent with full knowledge of the '679 patent, and its infringement is willful.

24. Defendant has caused and will continue to cause Plaintiff irreparable injury and damage by infringing the '679 patent. Plaintiff will suffer irreparable injury, for which it has no adequate remedy at law, unless and until Defendant is enjoined from infringing the '679 patent.

JURY TRIAL DEMAND

25. Pursuant to Federal Rule of Civil Procedure 38, Plaintiff hereby demands a jury trial on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that the Court find in its favor and against Defendant, and that the Court grant Plaintiff the following relief:

1. Judgment that one or more claims of the '348 patent have been infringed, either literally and/or under the doctrine of equivalents, by Defendant and/or by others to whose infringement Defendant has contributed and/or by others whose infringement has been induced by Defendant;

2. Judgment that one or more claims of the '679 patent have been infringed, either literally and/or under the doctrine of equivalents, by Defendant and/or by others to whose infringement Defendant has contributed and/or by others whose infringement has been induced by Defendant;

3. Judgment permanently enjoining Defendant and its officers, agents, servants, employees, attorneys, and all persons in active concert or participation with any of them, from infringing the '348 patent;

4. Judgment permanently enjoining Defendant and its officers, agents, servants, employees, attorneys, and all persons in active concert or participation with any of them, from infringing the '679 patent;

5. Judgment awarding Plaintiff its damages in amounts sufficient to compensate it for Defendant's infringement of the '348 patent, together with prejudgment and postjudgment interest and costs, pursuant to 35 U.S.C. § 284;

6. Judgment awarding Plaintiff its damages in amounts sufficient to compensate it for Defendant's infringement of the '679 patent, together with prejudgment and postjudgment interest and costs, pursuant to 35 U.S.C. § 284;

7. That Defendant's infringement be found willful from the time that Defendant became aware of the infringing nature of its activities, and that the Court award treble damages for the period of such willful infringement pursuant to 35 U.S.C. § 284;

8. That this Court declare this an exceptional case and award Plaintiff its reasonable attorney fees, expenses, and costs in accordance with 35 U.S.C. § 285; and

9. That Plaintiff be granted such other and further relief as the Court may deem just and proper under the circumstances.

DATED: February 18, 2020.

Respectfully submitted,

BERKOWITZ OLIVER LLP

By: /s/ Stacey R. Gilman

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-and-

TUMEY L.L.P.

By: /s/ Tod T. Tumey

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Attorneys for Plaintiff Voice Tech Corporation

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of February, 2020, the above and foregoing was filed on the Court's ECF system and will be provided to a certified Process Server with instructions to hand deliver copies to:

Mycroft AI Inc.
Registered Agent:
National Registered Agents, Inc.
120 South Central Avenue
Clayton, Missouri 63105

/s/ Stacey R. Gilman
Attorneys for Plaintiff Voice Tech Corporation