

United States District Court
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

NUANCE COMMUNICATIONS INC.,

No. C 08-02912 JSW

Plaintiff,

**COURT’S FINAL VERDICT
FORM**

v.

ABBYY SOFTWARE HOUSE, INC. ET AL.,

Defendants.

_____ /

When answering the following questions and filling out this Verdict Form, please follow all of the instructions I have given you and the directions provided throughout the form. Your answer to each question must be a unanimous decision reached by all members of the jury. Some of the questions contain legal terms that are defined and explained in detail in the Jury Instructions. Please refer to the Jury Instructions if you are unsure about the meaning or usage of any legal term that appears in the questions below.

We the jury, unanimously agree to the answers to the following questions and return them under the instructions of this Court as our verdict in this case.

NUANCE’S PATENT INFRINGEMENT CLAIMS

U.S. Patent No. 6,038,342

Nuance has asserted infringement of claims 4, 6, 13, 14, and 18 of the '342 patent.

1. Did Nuance prove by a preponderance of the evidence that any of the Defendants directly infringed claims 4, 6, 13, 14, and 18 of the '342 patent?

Answer “Yes” or “No” _____

If you answered “Yes,” then separately for each Defendant, indicate which claims were directly infringed by which Defendant.

If you answered “No,” then proceed to Question 2.

	Claim 4	Claim 6	Claim 13	Claim 14	Claim 18
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9 2. Did Nuance prove by a preponderance of the evidence that any of the Defendants induced infringement of claims 4, 6, 13, 14, and 18 of the '342 patent?

10 Answer "Yes" or "No" _____

11 If you answered "Yes," then separately for each Defendant, indicate which Defendant induced infringement of which claims.

12 If you answered "No," then proceed to Question 3.

	Claim 4	Claim 6	Claim 13	Claim 14	Claim 18
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22 3. Did Nuance prove by a preponderance of the evidence that any of the Defendants contributed to infringement of claims 4, 6, 13, 14, and 18 of the '342 patent?

23 Answer "Yes" or "No" _____

24 If you answered "Yes," then separately for each Defendant, indicate which Defendant contributed to the infringement of which claims.

25 If you answered "No," then proceed to Question 4.

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1		Claim 4	Claim 6	Claim 13	Claim 14	Claim 18
2	ABBY Software	_____	_____	_____	_____	_____
3	ABBY Production	_____	_____	_____	_____	_____
4						
5	ABBY USA	_____	_____	_____	_____	_____
6						
7	Lexmark	_____	_____	_____	_____	_____

8 4. If you answered “Yes” to any part of Questions 1-3, did Nuance prove by clear and
 9 convincing evidence that Defendants’ infringement of the ’342 patent was willful?
 10 Answer “Yes” or “No” for each Defendant (ABBY Software, ABBY Production,
 11 ABBY USA, and Lexmark).

12	ABBY Software	_____
13	ABBY Production	_____
14		
15	ABBY USA	_____
16		
17	Lexmark	_____

18 **U.S. Patent No. 5,381,489**

19 Nuance has asserted infringement of claim 7 of the ’489 patent.

20 5. Did Nuance prove by a preponderance of the evidence that any of the Defendants
 21 directly infringed claim 7 of the ’489 patent?
 22 Answer “Yes” or “No” _____

23 If you answered “Yes,” then separately for each Defendant, indicate which Defendant
 24 directly infringed claim 7 of the ’489 patent.

25 If you answered “No,” then proceed to Question 6.

26		Claim 7
27	ABBY Software	_____
28	ABBY Production	_____

1 ABBYY
USA _____

2 Lexmark _____

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4 6. Did Nuance prove by a preponderance of the evidence that any of the Defendants
5 induced infringement of claim 7 of the '489 patent?

6 Answer "Yes" or "No" _____

7 If you answered "Yes," then separately for each Defendant, indicate which Defendant
8 induced infringement of claim 7 of the '489 patent.

9 If you answered "No," then proceed to Question 7.

10 Claim 7

11 ABBYY
Software _____

12 ABBYY
Production _____

13 ABBYY
USA _____

14 Lexmark _____

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16 7. Did Nuance prove by a preponderance of the evidence that any of the Defendants
17 contributed to infringement of claim 7 of the '489 patent?

18 Answer "Yes" or "No" _____

19 If you answered "Yes," then separately for each Defendant, indicate which Defendant
20 contributed to the infringement of claim 7 of the '489 patent.

21 If you answered "No," then proceed to Question 8.

22 Claim 7

23 ABBYY
Software _____

24 ABBYY
Production _____

25 ABBYY
USA _____

26 Lexmark _____

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1 8. If you answered “Yes” to Question 5, 6 or 7, did Nuance prove by clear and convincing
2 evidence that any of Defendants’ infringement of the ’489 patent was willful?

3 Answer “Yes” or “No” for each Defendant (ABBYY Software, ABBYY Production,
4 ABBYY USA, and Lexmark).

5 ABBYY
Software _____

6 ABBYY
Production _____

7 ABBYY
8 USA _____

9 Lexmark _____

10 **U.S. Patent No. 6,742,161**

11 Nuance has asserted infringement of claim 62 of the ’161 patent against the ABBYY
12 Defendants.

13 9. Did Nuance prove by a preponderance of the evidence that any of the ABBYY
14 Defendants directly infringed claim 62 of the ’161 patent?

15 Answer “Yes” or “No” _____

16 If you answered “Yes,” then separately for each of the ABBYY Defendants, indicate
17 which Defendant directly infringed claim 62 of the ’161 patent.

18 If you answered “No,” then proceed to Question 10.

19 Claim 62

20 ABBYY
Software _____

21 ABBYY
Production _____

22 ABBYY
23 USA _____

24 10. Did Nuance prove by a preponderance of the evidence that any of the ABBYY
25 Defendants induced infringement of claim 62 of the ’161 patent?

26 Answer “Yes” or “No” _____

27 If you answered “Yes,” then separately for each of the ABBYY Defendants, indicate
28 which Defendant induced infringement of claim 62 of the ’161 patent.

If you answered “No,” then proceed to Question 11.

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Claim 62

ABBYY
Software _____

ABBYY
Production _____

ABBYY
USA _____

11. Did Nuance prove by a preponderance of the evidence that any of the ABBYY Defendants contributed to infringement of claim 62 of the '161 patent?

Answer "Yes" or "No" _____

If you answered "Yes," then separately for each of the ABBYY Defendants, indicate which Defendant contributed to the infringement of claim 62 of the '161 patent.

If you answered "No," then proceed to Question 12.

Claim 62

ABBYY
Software _____

ABBYY
Production _____

ABBYY
USA _____

12. If you answered "Yes" to Questions 9, 10 or 11, did Nuance prove by clear and convincing evidence that any of the ABBYY Defendants' infringement of the '161 patent was willful?

Answer "Yes" or "No" for each ABBYY Defendant (ABBYY Software, ABBYY Production, ABBYY USA).

ABBYY
Software _____

ABBYY
Production _____

ABBYY
USA _____

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DAMAGES FOR PATENT INFRINGEMENT

13. If you found that neither the ABBYY entities nor Lexmark infringed any claim of the '342 and '489 patents, do not answer this Question and proceed to Question 14.

If you found that any of the ABBYY entities or Lexmark infringed at least one claim of either the '342 or '489 patent, what amount of damages, if any, did Nuance prove by a preponderance of the evidence for infringement of the '342 and/or '489 patents?

The ABBYY entities \$ _____

Lexmark \$ _____

14. If you found that the ABBYY entities did not infringe claim 62 of the '161 patent, do not answer this Question and proceed to Question 15.

If you found that any of the ABBYY entities infringed claim 62 of the '161 patent, what amount of damages, if any, did Nuance prove by a preponderance of the evidence for infringement of the '161 patent?

The ABBYY entities \$ _____

NUANCE'S TRADE DRESS CLAIMS AGAINST ABBYY

15. Did Nuance prove by a preponderance of the evidence that its asserted packaging trade dress is protectable?

Answer "Yes" or "No" _____

If you answered "No," then skip the rest of the Questions.

16. Did Nuance prove by a preponderance of the evidence that ABBYY infringed Nuance's trade dress?

Answer "Yes" or "No" _____

If you answered "No," then skip the rest of the Questions.

DAMAGES FOR TRADE DRESS INFRINGEMENT

17. What amount of damages, if any, has Nuance proven by a preponderance of the evidence for infringement of its trade dress?

Amount \$ _____

Please date and sign the Verdict Form and return it to the Court.

Dated: _____

Foreperson

