

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

WORDCHECK TECH, LLC,

*Plaintiff,*

v.

ALT-N TECHNOLOGIES, LTD., *et al.*,

*Defendants.*

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Civil Action No. 6:10-CV-457-LED

JURY TRIAL DEMANDED

**THE EMC DEFENDANTS' ANSWER TO WORDCHECK TECH, LLC'S  
AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Defendants EMC Corp. and RSA Security LLC (collectively, "EMC") answer the Amended Complaint of WordCheck Tech LLC ("WordCheck") as follows:

**PARTIES**

1. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 1, and therefore denies them.
2. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 2, and therefore denies them.
3. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 3, and therefore denies them.
4. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 4, and therefore denies them.
5. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 5, and therefore denies them.

6. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 6, and therefore denies them.

7. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 7, and therefore denies them.

8. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 8, and therefore denies them.

9. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 9, and therefore denies them.

10. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 10, and therefore denies them.

11. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 11, and therefore denies them.

12. EMC admits the allegations of paragraph 12.

13. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 13, and therefore denies them.

14. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 14, and therefore denies them.

15. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 15, and therefore denies them.

16. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 16, and therefore denies them.

17. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 17, and therefore denies them.

18. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 18, and therefore denies them.

19. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 19, and therefore denies them.

20. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 20, and therefore denies them.

21. EMC admits the allegations of paragraph 21 to the extent they refer to RSA Security LLC.

22. EMC denies the allegations of paragraph 22. RSA Security Inc., a corporation established under the laws of Delaware, converted into RSA Security LLC effective on or about December 21, 2009.

23. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 23, and therefore denies them.

24. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 24, and therefore denies them.

25. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 25, and therefore denies them.

26. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 26, and therefore denies them.

27. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 27, and therefore denies them.

28. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 28, and therefore denies them.

29. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 28, and therefore denies them.

**JURISDICTION AND VENUE**

30. The allegations in this paragraph state a legal conclusion to which no response is required. To the extent a response is deemed to be required, EMC admits that WordCheck's Amended Complaint purports to be an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. EMC admits that this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1338(a) and 1331. EMC denies that it is subject to the personal jurisdiction of this Court. EMC does not waive any argument that this Court lacks jurisdiction over EMC by filing this answer. EMC denies that it has committed any act of infringement. EMC admits that it has websites which are generally accessible, but denies that those websites are relevant to jurisdiction or venue. Except as expressly admitted, EMC denies the remaining allegations of this paragraph that are directed to EMC. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 30 that are directed to other defendants, and therefore denies them.

31. The allegations in this paragraph state a legal conclusion to which no response is required. To the extent a response is deemed to be required, EMC denies that venue is proper in the Tyler Division of the Eastern District of Texas, and denies that this judicial district is the most convenient forum for the parties and witnesses or in the interests of justice. By filing this answer, EMC does not waive any argument that venue is not proper in this District as to EMC. EMC denies that it has committed any act of infringement. EMC admits that it has websites which are generally accessible, but denies that those websites are relevant to jurisdiction or venue. Except as expressly admitted, EMC denies the remaining allegations of this paragraph that are directed to EMC. EMC is without knowledge or information sufficient to form a belief

as to the truth of the allegations of paragraph 31 that are directed to other defendants, and therefore denies them.

**COUNT I**

**INFRINGEMENT OF U.S. PATENT NO. 6,782,510**

32. EMC admits that, on its face, U.S. Patent No. 6,782,510 (“the ’510 patent”) is titled “Word Checking Tool for Controlling the Language Content in Documents Using Dictionaries with Modifyable Status Fields” and states that it was filed on January 27, 1998 and issued on August 24, 2004. EMC denies the remainder of the allegations of paragraph 32.

33. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 33, and therefore denies them.

34. EMC denies the allegations of paragraph 34.

35. EMC denies the allegations of paragraph 35 that are directed to EMC. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 35 that are directed to other defendants, and therefore denies them.

36. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 36, and therefore denies them.

37. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 37, and therefore denies them.

38. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 38, and therefore denies them.

39. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 39, and therefore denies them.

40. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 40, and therefore denies them.

41. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 41, and therefore denies them.

42. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 42, and therefore denies them.

43. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 43, and therefore denies them.

44. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 44, and therefore denies them.

45. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 45, and therefore denies them.

46. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 46, and therefore denies them.

47. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 47, and therefore denies them.

48. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 48, and therefore denies them.

49. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 49, and therefore denies them.

50. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 50, and therefore denies them.

51. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 51, and therefore denies them.

52. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 52, and therefore denies them.

53. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 53, and therefore denies them.

54. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 54, and therefore denies them.

55. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 55, and therefore denies them.

56. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 56, and therefore denies them.

57. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 57, and therefore denies them.

58. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 58, and therefore denies them.

59. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 59, and therefore denies them.

60. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 60, and therefore denies them.

61. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 61, and therefore denies them.

62. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 62, and therefore denies them.

63. EMC denies the allegations of paragraph 63.

64. EMC denies the allegations of paragraph 64.

65. EMC admits that WordCheck has served on EMC a document titled “Disclosure of Asserted Claims and Infringement Contentions” as well as a document titled “RSA Exhibit to WordCheck’s Patent Rule 3-1 Disclosures Infringement Chart for RSA Accused Instrumentality: DLP,” but denies the remaining allegations of paragraph 65.

66. EMC denies the allegations of paragraph 66.

67. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 67, and therefore denies them.

68. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 68, and therefore denies them.

69. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 69, and therefore denies them.

70. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 70, and therefore denies them.

71. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 71, and therefore denies them.

72. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 72, and therefore denies them.

73. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 73, and therefore denies them.

74. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 74, and therefore denies them.



75. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 75, and therefore denies them.

76. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 76, and therefore denies them.

77. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 77, and therefore denies them.

78. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 78, and therefore denies them.

79. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 79, and therefore denies them.

80. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 80, and therefore denies them.

81. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 81, and therefore denies them.

82. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 82, and therefore denies them.

83. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 83, and therefore denies them.

84. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 84, and therefore denies them.

85. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 85, and therefore denies them.

86. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 86, and therefore denies them.

87. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 87, and therefore denies them.

88. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 88, and therefore denies them.

89. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 89, and therefore denies them.

90. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 90, and therefore denies them.

91. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 91, and therefore denies them.

92. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 92, and therefore denies them.

93. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 93, and therefore denies them.

94. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 94, and therefore denies them.

95. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 95, and therefore denies them.

96. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 96, and therefore denies them.

97. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 97, and therefore denies them.

98. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 98, and therefore denies them.

99. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 99, and therefore denies them.

100. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 100, and therefore denies them.

101. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 101, and therefore denies them.

102. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 102, and therefore denies them.

103. EMC denies the allegations of paragraph 103.

104. EMC denies the allegations of paragraph 104.

105. EMC admits that WordCheck has served on EMC a document titled “Disclosure of Asserted Claims and Infringement Contentions” as well as a document titled “RSA Exhibit to WordCheck’s Patent Rule 3-1 Disclosures Infringement Chart for RSA Accused Instrumentality: DLP,” but denies the remaining allegations of paragraph 105.

106. EMC denies the allegations of paragraph 106.

107. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 107, and therefore denies them.

108. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 108, and therefore denies them.

109. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 109, and therefore denies them.

110. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 110, and therefore denies them.

111. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 111, and therefore denies them.

112. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 112, and therefore denies them.

113. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 113, and therefore denies them.

114. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 114, and therefore denies them.

115. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 115, and therefore denies them.

116. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 116, and therefore denies them.

117. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 117, and therefore denies them.

118. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 118, and therefore denies them.

119. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 119, and therefore denies them.

120. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 120, and therefore denies them.

121. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 121, and therefore denies them.

122. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 122, and therefore denies them.

123. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 123, and therefore denies them.

124. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 124, and therefore denies them.

125. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 125, and therefore denies them.

126. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 126, and therefore denies them.

127. EMC denies the allegations of paragraph 127 that are directed to EMC. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 127 that are directed to other defendants, and therefore denies them.

128. EMC denies the allegations of paragraph 128 that are directed to EMC. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 128 that are directed to other defendants, and therefore denies them.

129. EMC denies the allegations of paragraph 129 that are directed to EMC. EMC is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 129 that are directed to other defendants, and therefore denies them.

**PRAYER FOR RELIEF**

EMC denies that WordCheck is entitled to any relief whatsoever against EMC in this action, either as prayed for in the First Amended Complaint or otherwise.

**AFFIRMATIVE DEFENSES**

**FIRST AFFIRMATIVE DEFENSE**

**(Forum Non Conveniens)**

1. The Eastern District of Texas is an inconvenient forum in which to litigate this action against EMC under 28 U.S.C. § 1404(a).

**SECOND AFFIRMATIVE DEFENSE**

**(Failure to State a Claim)**

2. The Amended Complaint for Patent Infringement fails to state a claim on which relief can be granted.

**THIRD AFFIRMATIVE DEFENSE**

**(Non-infringement)**

3. EMC has not and does not willfully or otherwise infringe, contribute to the infringement of, or actively induce others to infringe, any claim of the '510 patent.

**FOURTH AFFIRMATIVE DEFENSE**

**(Invalidity)**

4. The '510 patent, including all of the claims, is invalid for failure to comply with the requirements of patentability specified in Title 35 of the United States Code, including Sections 101, 102, 103, and 112. EMC incorporates herein by reference Defendants Invalidity Contentions Under Patent Rules 3-3 & 3-4 and the request for *Ex Parte* Reexamination of U.S. Patent No. 6,782,510 pending before the United States Patent and Trademark Office.

**FIFTH AFFIRMATIVE DEFENSE**

**(Failure to Mark)**

5. Prior to receiving a copy of the complaint in this action, EMC did not have notice of WordCheck's allegations of infringement. Upon information and belief, neither WordCheck nor WordCheck's licensees have marked instrumentalities that embody any of the claims of the '510 patent with proper notice of the patent in compliance with 35 U.S.C. § 287. WordCheck is not entitled to any pre-filing damages pursuant to 35 U.S.C. § 287 for any claims to which 35 U.S.C. § 287 applies.

**SIXTH AFFIRMATIVE DEFENSE**

**(Prosecution History Estoppel)**

6. Based on proceedings before the United States Patent and Trademark Office ("PTO") during the prosecution of the application that ultimately issued as the '510 patent, WordCheck is precluded or otherwise estopped from asserting any construction of the claims of the '510 patent that is inconsistent with its or its predecessor(s)-in-interest's representations before the PTO. On information and belief, WordCheck is estopped from asserting any construction of the claims sufficiently broad to cover or include any product made, used, sold, offered for sale within the United States, or imported into the United States, by EMC.

**SEVENTH AFFIRMATIVE DEFENSE**

**(Laches, Waiver, Acquiescence, Estoppel, and Unclean Hands)**

7. WordCheck's claims are barred, in whole or in part, by the equitable doctrines of laches, waiver, acquiescence, estoppel, and/or unclean hands.

**EIGHTH AFFIRMATIVE DEFENSE**

**(Limitation on Damages and Remedies)**

8. WordCheck's claims and prayer for relief are barred in whole or in part by 35 U.S.C. §§ 286, 287, and/or 288.

**NINTH AFFIRMATIVE DEFENSE**

**(Unavailability of Injunctive Relief)**

9. WordCheck is not entitled to injunctive relief or any other equitable relief because any alleged injury to WordCheck is not irreparable and because – had WordCheck been injured – it would have an adequate remedy at law.

**TENTH AFFIRMATIVE DEFENSE**

**(Improper Joinder)**

10. EMC is not a party permitted to be joined to this action under Fed. R. Civ. P. 20. EMC incorporates herein by reference EMC's Renewed Motion to Dismiss for Misjoinder Or, In the Alternative, To Sever and Transfer Claims to the United States District Court for the District of Massachusetts [Dkt. No. 675] and supporting papers.

**ELEVENTH AFFIRMATIVE DEFENSE**

**(Lack of Standing/Failure to Join Necessary Party)**

11. WordCheck lacks standing to bring a patent infringement action based on the '510 patent and/or has failed to join a necessary party under Fed. R. Civ. P. 19.

**COUNTERCLAIMS**

For its counterclaims against WordCheck, EMC alleges as follows:

1. EMC incorporates what is set out in the preceding paragraphs as if fully set forth herein.



2. WordCheck's complaint has established an actual and justiciable controversy between WordCheck and EMC with respect to validity and infringement of the '510 patent.

3. EMC brings these counterclaims without waiving its right to argue that EMC is misjoined in the case, that EMC should be severed from the other defendants, and that venue in the Eastern District of Texas is improper and inconvenient.

**COUNT ONE**

**(Declaratory Judgment of Non-Infringement of the '510 Patent)**

4. EMC incorporates paragraphs 1-3 of these counterclaims as if fully set forth herein.

5. WordCheck alleges that EMC has infringed the '510 patent, contributed to the infringement of and/or actively induced others to literally and/or under the doctrine of equivalents infringe one or more claims of the '510 patent by having made, made on its behalf, offered for sale, sold, provided, used, maintained and supported infringing methods, products and/or systems listed in WordCheck's Patent Rule 3-1 Infringement Contentions.

6. EMC does not and has not infringed, contributed to the infringement of, or induced others to literally and/or under the doctrine of equivalents infringe any claim of the '510 patent.

7. EMC is entitled to a declaratory judgment that it has not infringed and is not infringing the '510 patent.

**COUNT TWO**

**(Declaratory Judgment of Invalidity of the '510 Patent)**

8. EMC incorporates paragraphs 1-7 of these counterclaims as if fully set forth herein.

9. One or more claims of the '510 patent are invalid for failure to comply with the requirements of patentability specified in Title 35 of the United States Code, including Sections 101, 102, 103 and 112.

10. EMC is entitled to a declaratory judgment that one or more claims of the '510 patent are invalid.

**EMC'S PRAYER FOR RELIEF**

EMC prays for relief as follows:

- A. That the Court enter judgment in favor of EMC, and against WordCheck;
- B. That the Court find the '510 patent not infringed by EMC;
- C. That the Court find the '510 patent invalid;
- D. That WordCheck take nothing by its Amended Complaint for Patent Infringement against EMC;
- E. That the Court find this action exceptional under 35 U.S.C. § 285, and award EMC its costs and fees in this action, including reasonable attorneys' fees;
- F. That the Court grant EMC such other and further relief as it deems just and proper.

**DEMAND FOR JURY TRIAL**

EMC demands a trial by jury on all issues so triable.

Dated: July 31, 2012

By:           /s/ Chris R. Ottenweller          

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Hopkinton, MA 01748

Attorneys for Defendants  
EMC CORP. and RSA SECURITY, LLC

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was served electronically on opposing counsel pursuant to Local Rule CV-5(a)(7)(C) on July 31, 2012.

/s/ *Helena Bursik*

Helena Bursik