

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ANACONDA, INC.,)
Plaintiff,)
v.) C.A. No. 24-925-MN
INTEL CORPORATION,)
Defendant.)

**DEFENDANT INTEL CORPORATION'S
ANSWER AND DEFENSES**

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Attorneys for Defendant

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Defendant Intel Corporation (“Intel”) answers the Complaint as follows and provides separate and affirmative defenses to the allegations in the Complaint. Unless specifically admitted, Intel denies all allegations and claims contained in the Complaint.

Anaconda built its business on distributing primarily open-source and freely available software. Users like Intel relied on Anaconda’s representation that certain offerings were “always free.” With new ownership and management, Anaconda’s business model has changed and become a trap for the unwary. On information and belief, Anaconda’s evolving business model is an attempt to aggressively monetize its offerings. Indeed, Anaconda recently sought a thirty-fold increase in Intel’s annual license fee. Changes have been made without clear or public notice. For example, Anaconda previously allowed universities, non-profits, and research institutions to use Anaconda without charge. Now, it appears that nearly any organization with over 200 employees is required to purchase a license to use certain Anaconda offerings.

Intel has been diligent in its dealings with Anaconda. Intel has negotiated and purchased appropriate rights for distribution. Intel has also purchased licenses to ensure its right to ongoing access to Anaconda’s commercial repository for those Intel employees who need such access. Despite Intel’s careful compliance efforts, Anaconda disabled Intel’s channel and cut off Intel’s access to Anaconda’s commercial repository. Anaconda’s actions disrupted Intel’s business and were not taken in good faith. This action by Anaconda followed.

I. NATURE OF THE ACTION

1. Intel admits that Plaintiff purports to assert claims for infringement of U.S. Copyright Registration No. TX 9-407-381. The remaining allegations in this paragraph of the Complaint constitute legal conclusions to which no response is required. To the extent a response is required, denied.

2. Intel admits that it has previously entered various licensing agreements with Anaconda, including as identified above. Intel denies the remaining allegations of this paragraph of the Complaint and denies that Intel is infringing any legal rights of Anaconda.

II. SUMMARY OF THE DISPUTE

3. Denied.

4. Intel is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, and therefore denies the same.

5. Intel lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph, and on that basis denies the same.

6. Intel admits that Anaconda states that it provides a free license to and excludes from its Terms of Service access to certain materials by anyone other than entities with 200 or more employees, and that Anaconda states that other resources, including most public repositories on anaconda.org and the conda-forge channel on anconda.org, are “always free.” The term “Anaconda Distribution” is not clearly defined in the Complaint or elsewhere, and Intel thus denies based on lack of knowledge and information that the “Anaconda Distribution” is protected by the Asserted Copyright. Except as specifically admitted above, Intel lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph, and on that basis denies the same.

7. Intel admits that it previously entered into several types of license agreements with Anaconda as the licensor. The term “Anaconda Distribution” is not clearly defined in the Complaint or elsewhere, and Intel thus denies based on lack of knowledge and information that the “Anaconda Distribution” is protected by the Asserted Copyright. Intel denies the remaining allegations of this paragraph.

8. Intel admits that it has entered into several types of license agreements with Anaconda as the licensor, including business tier license agreements that Intel entered into at Anaconda's suggestion and that remain in effect. Other license agreements have terminated by their terms, though certain rights continue to flow to Intel under at least one of the terminated license arrangements. Intel denies all remaining allegations of this paragraph of the Complaint.

9. Denied.

III. PARTIES

10. Admitted.

11. Admitted.

IV. JURISDICTION AND VENUE

12. Intel admits that Plaintiff purports to assert claims for infringement of a U.S. Copyright Registration and that this Court has subject matter jurisdiction over those claims. The remaining allegations in this paragraph of the Complaint constitute legal conclusions to which no response is required. To the extent a response is required, denied.

13. Admitted.

14. Admitted.

V. FACTUAL BACKGROUND

Conda Packages and the Conda Ecosystem

15. Intel lacks knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph, and on that basis denies the same.

16. Admitted.

17. Admitted.

18. Intel lacks knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph, and on that basis denies the same.

19. Intel denies that “there is much more to using conda than just installing the software itself.” Intel lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph, and on that basis denies the same.

The Anaconda Distribution

20. Intel denies that the term “Anaconda Distribution” is clearly defined in the Complaint or elsewhere, and Intel thus denies based on lack of knowledge and information that the “Anaconda Distribution” is protected by the Asserted Copyright. Intel lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph, and on that basis denies the same.

21. Intel denies that the term “Anaconda Distribution” is clearly defined in the Complaint or elsewhere, and Intel thus denies based on lack of knowledge and information that the “Anaconda Distribution” is protected by the Asserted Copyright. Intel lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph, and on that basis denies the same.

22. Intel denies that the term “Anaconda Distribution” is clearly defined in the Complaint or elsewhere, and Intel thus denies based on lack of knowledge and information that the “Anaconda Distribution” is protected by the Asserted Copyright. Intel lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph, and on that basis denies the same.

23. Intel denies that its licenses to Anaconda software or distribution channels, other than the recent business tier licenses, were governed by Anaconda’s Terms of Service. The term

“Anaconda Distribution” is not clearly defined in the Complaint or elsewhere, and Intel thus denies based on lack of knowledge and information that the “Anaconda Distribution” is protected by the Asserted Copyright. The remaining allegations of this paragraph constitute quotations out of context of portions of a document that create a misleading impression, to which no response is required, and/or legal conclusions to which no response is required. To the extent any further response is required, denied.

The Asserted Copyright and Protected Work

24. The term “Anaconda Distribution” is not clearly defined in the Complaint or elsewhere, and Intel thus denies based on lack of knowledge and information that the “Anaconda Distribution” is protected by the Asserted Copyright. Intel lacks knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph, and on that basis denies the same.

25. Denied.

26. Intel admits that the copyright registration certificate attached to the Complaint states that the title of the copyrighted work is “Anaconda Distribution and Associated Packages Release 2024.02-01.” The term “Anaconda Distribution” is not clearly defined in the Complaint or elsewhere, and Intel thus denies based on lack of knowledge and information that the “Anaconda Distribution” is protected by the Asserted Copyright. Intel lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph, and on that basis denies the same.

27. Denied.

28. Denied.

29. Denied.

Intel's Infringement of the Anaconda Distribution and Associated Packages

30. Denied.

31. Denied.

32. To the extent this paragraph of the Complaint purports to quote out of context portions of marketing statements Intel has made for Intel's freely distributed AI Analytics Toolkit software, the underlying documents speak for themselves and no response is required. The term "Anaconda Distribution" is not clearly defined in the Complaint or elsewhere, and Intel thus denies based on lack of knowledge and information that the "Anaconda Distribution" is protected by the Asserted Copyright. Intel denies the remaining allegations of this paragraph. To the extent any further response is required, denied.

33. To the extent this paragraph of the Complaint purports to quote out of context portions of marketing statements Intel has made for Intel's freely distributed AI Analytics Toolkit software, the underlying documents speak for themselves and no response is required. The term "Anaconda Distribution" is not clearly defined in the Complaint or elsewhere, and Intel thus denies based on lack of knowledge and information that the "Anaconda Distribution" is protected by the Asserted Copyright. Intel denies the remaining allegations of this paragraph. To the extent any further response is required, denied.

34. Intel admits that until access was disabled by Anaconda, Intel hosted a public repository on anaconda.org, a location that Anaconda describes as "always free." Intel denies that Intel's software available on the Intel public repository on anaconda.org contained any proprietary components or other elements protected by any copyright belonging to Anaconda without Anaconda's permission. Intel further denies Intel directed any users to download and install any

proprietary components or other elements protected by any copyright belonging to Anaconda without Anaconda's permission. Intel denies the remaining allegations of this paragraph.

35. Intel denies that Intel's software available on the Intel public repository on anaconda.org contained any proprietary components or other elements protected by any copyright belonging to Anaconda without Anaconda's permission. The term "Anaconda Distribution" is not clearly defined in the Complaint or elsewhere, and Intel thus denies based on lack of knowledge and information that the "Anaconda Distribution" is protected by the Asserted Copyright. The remaining allegations of this paragraph constitute legal conclusions to which no response is required. To the extent any further response is required, denied.

36. Intel admits that since Anaconda disabled access to the Intel public channel on Anaconda.org, Intel has provided both copies of certain versions of Intel's freely distributed AI Analytics Toolkit and instructions for downloading the AI Analytics Toolkit (including for copying dependencies from conda-forge or other resources that Anaconda states are "always free") on an Intel-hosted repository. The term "Anaconda Distribution" is not clearly defined in the Complaint or elsewhere, and Intel thus denies based on lack of knowledge and information that the "Anaconda Distribution" is protected by the Asserted Copyright. Intel denies all remaining allegations of this paragraph of the Complaint except as expressly admitted, and denies that Intel's actions were not permitted by Anaconda or infringed any copyright belonging to Anaconda.

37. Intel denies that the term "Anaconda Distribution" is clearly defined in the Complaint or elsewhere, and Intel thus denies based on lack of knowledge and information that the "Anaconda Distribution" is protected by the Asserted Copyright. Intel admits that since Anaconda disabled access to the Intel public channel on Anaconda.org, Intel has provided permitted copies of Intel's freely distributed AI Analytics Toolkit and instructions for downloading

the AI Analytics Toolkit (including for copying dependencies from conda-forge or other resources that Anaconda states are “always free”) on an Intel-hosted repository. Intel denies that the software available on the Intel-hosted repository contained any proprietary components or other elements protected by any copyright belonging to Anaconda without Anaconda’s permission. Except as expressly admitted above, Intel denies the remaining allegations of this paragraph.

VI. COUNT I

Direct Copyright Infringement

38. Intel incorporates by reference its responses in the preceding paragraphs of this Answer.

39. Denied.

40. Denied.

41. Denied.

42. Intel admits that Anaconda sent a letter dated June 6, 2024 stating certain factual and legal positions, with which Intel disagrees. The letter speaks for itself as to its contents. The term “Anaconda Distribution” is not clearly defined in the Complaint or elsewhere, and Intel thus denies based on lack of knowledge and information that the “Anaconda Distribution” is protected by the Asserted Copyright. Intel denies the remaining allegations of this paragraph and specifically denies that it has copied, used, or distributed any legally protected or protectable software code from Anaconda without authorization, or did so willfully or intentionally.

VII. COUNT II

Secondary Liability for Copyright Infringement

43. Intel incorporates by reference its responses in the preceding paragraphs of this Answer.

44. Denied.

45. The term “Anaconda Distribution” is not clearly defined in the Complaint or elsewhere, and Intel thus denies based on lack of knowledge and information that the “Anaconda Distribution” is protected by the Asserted Copyright. Intel lacks knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph, and on that basis denies the same.

46. Denied.

47. Denied.

VIII. DEFENSES AND AFFIRMATIVE DEFENSES

Intel’s defenses and affirmative defenses to the claims alleged in the Complaint are set forth below. By setting forth the following allegations and defenses, however, Intel does not assume the burden of proof on matters and issues other than those for which Intel has the burden of proof as a matter of law.

1. The Complaint fails, in whole or in part, to state a claim upon which relief may be granted as a matter of law.

2. Anaconda’s claim for recovery of statutory damages and attorneys’ fees is barred as a matter of law.

3. Anaconda’s claims are not ripe for consideration because Anaconda failed to first engage in the dispute resolution process under the Intel Services Agreement.

4. Upon information and belief, Anaconda does not own valid and protectable rights in the Asserted Copyright.

5. Anaconda cannot state a claim for copyright infringement where, as here, Intel's use of the Asserted Copyright, if any, was made pursuant to a valid license. Among other rights, Intel at all relevant times has had a license to distribute the permitted versions of its AI Kit.

6. Anaconda is barred by the doctrine of equitable estoppel from asserting that Intel cannot continue distributing permitted versions of the AI Kit or otherwise using resources Anaconda has promoted as freely available to everyone, including those resources Anaconda described and describes as "always free."

7. Anaconda's claims are barred by the doctrine of acquiescence, including because Anaconda previously represented publicly that packets and/or other resources distributed on channels such as conda-forge and third-party anaconda.org channels were "always free," Intel relied on Anaconda's representations, and Anaconda's change in position has been detrimental to Intel.

8. Anaconda's claims are barred by the doctrines of waiver and abandonment from asserting copyright protection for use of packets and/or other resources that were distributed on channels that Anaconda promoted as "always free."

WHEREFORE, having fully answered the Complaint, Intel prays as follows:

- A. That the Complaint be dismissed with prejudice;
- B. That Plaintiff take nothing by way of relief requested in the Complaint;
- C. That Intel be awarded its costs and reasonable attorneys' fees as may be authorized by law; and
- D. That the Court award such other relief to Intel as may be just and equitable under the circumstances.

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