

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

Civil Action No. _____

SIRSI CORPORATION d/b/a)
SIRSIDYNIX,)
)
Plaintiff,)
)
v.)
)
CRAVEN-PAMLICO-CARTERET)
REGIONAL LIBRARY SYSTEM,)
)
Defendant.)

COMPLAINT

Sirsi Corporation d/b/a SirsiDynix (“SirsiDynix”), complaining about Defendant Craven-Pamlico-Carteret Regional Library System (“CPC Regional”) states as follows:

PARTIES

1. SirsiDynix is a corporation organized under the laws of Delaware and having its principal place of business in the State of Utah.

2. Upon information and belief, CPC Regional is a regional public library system in the State of North Carolina composed of nine member libraries. CPC Regional’s administrative offices are located at the New Bern-Craven County Public Library in New Bern, North Carolina.

JURISDICTION AND VENUE

3. The Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1332 because the parties are citizens of different states and the amount in controversy is in excess of \$75,000.

4. Venue is appropriate in this judicial district pursuant to 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to the claim occurred in the Eastern District of North Carolina.

FACTUAL ALLEGATIONS

5. On or about February 3, 2009, representatives from SirsiDynix and CPC Regional discussed CPC Regional's needs with respect to library management tools. During the course of this conversation, the representative from CPC Regional requested a quote related to the cost of transitioning from their existing library management system, also a SirsiDynix product, to SirsiDynix's Symphony system.

6. On February 5, 2009, SirsiDynix sent CPC Regional a quote that outlined the costs related with the migration to the Symphony System.

7. On April 29, 2009, SirsiDynix and CPC Regional entered into a Master Software License and Services Agreement ("Master Agreement"). Under the terms of the Master Agreement, SirsiDynix granted CPC Regional a limited, non-exclusive, personal, non-transferable license to utilize SirsiDynix software in the operations of the CPC Regional libraries. SirsiDynix also agreed to provide various services related to the implementation, maintenance, and upgrading of the licensed software.

8. In return for the license and services provided by SirsiDynix, CPC Regional was to pay SirsiDynix a total of \$146,844.80 over the three year term of the Master Agreement.

9. After entering into the Master Agreement with SirsiDynix, CPC Regional asked to delay implementation of the Symphony system due to funding issues. SirsiDynix agreed to these delays.

10. However, when SirsiDynix attempted to follow up with CPC Regional regarding implementation, CPC Regional refused to respond or proceed with the implementation. In addition to failing to respond to communications from SirsiDynix, CPC Regional failed to pay the amounts due under the Master Agreement.

11. During this time, although CPC Regional already had a binding contract with SirsiDynix for library management software, CPC Regional was engaged in negotiations with the Online Computer Library Center, Inc. (“OCLC”) to license a competing library management system.

12. In late 2009, CPC Regional entered into an agreement to utilize OCLC’s Web-scale management services as their library management system.

13. In November, 2010, Jackie Beach, Director of CPC Regional, informed SirsiDynix that, due to its contract with OCLC, CPC Regional would no longer be working with SirsiDynix.

14. On February 14, 2011, SirsiDynix informed CPC Regional that they had breached the terms of the Master Agreement and requested that CPC Regional cure the breach.

15. As of the date of this filing, CPC Regional has refused to cure the breach or pay the amounts due under the Master Agreement.

16. By entering into a valid contract with SirsiDynix, CPC Regional has waived any sovereign or governmental immunity that may have otherwise barred SirsiDynix’s claims.

**FIRST CAUSE OF ACTION
BREACH OF CONTRACT**

17. SirsiDynix incorporates the allegations of Paragraphs 1-16 as if set forth fully herein.

18. The Master Agreement was a valid and enforceable contract between SirsiDynix and CPC Regional that was supported by consideration.

19. The Master Agreement required CPC Regional to pay SirsiDynix a total of \$146,844.80 for a software license and various services.

20. CPC Regional has repudiated and breached the Master Agreement by failing to make these payments or participate in the software implementation process.

21. SirsiDynix has complied with all conditions precedent to this suit.

22. As a result of CPC Regional's breach of the Master Agreement, SirsiDynix has suffered damages in the amount of \$146,844.80.

**SECOND CAUSE OF ACTION
BREACH OF IMPLIED DUTY OF GOOD FAITH & FAIR DEALING**

23. SirsiDynix incorporates the allegations of Paragraphs 1-22 as if set forth fully herein.

24. SirsiDynix and CPC Regional entered into the Master Agreement.

25. Implied in such agreement is a covenant of good faith and fair dealing.

26. By its actions and failure to honor such agreement, as set forth above, CPC Regional has breached the covenant of good faith and fair dealing.

27. As a direct consequence of CPC Regional's breach of this covenant, SirsiDynix has suffered injuries and damages in the amount of \$146,844.80.

Wherefore, SirsiDynix requests that the Court:

1. Award SirsiDynix compensatory damages in the amount of \$146,844.80;
2. Award SirsiDynix pre and post-judgment interest as allowed by law;

3. Order CPC Regional to pay the reasonable costs of this action, including attorney's fees; and

4. Order a trial by jury of all issues so triable.

This 15th day of April, 2011.

WOMBLE CARLYLE SANDRIDGE & RICE
A Professional Limited Liability Company

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