MongoDB.

FerretDB Inc.
Limestone Rd, Suite 200C
Wilmington, DE 19808

Re: *Cease and Desist Notice for FerretDB*

Peter:

MongoDB, Inc. ("MongoDB") is the creator of the well-known MongoDB document database and the MongoDB Query Language. MongoDB combines the best aspects of relational and non-relational databases to achieve superior performance, scalability, flexibility, and reliability. FerretDB itself recognized that "MongoDB is the most easy to use, well supported database, enabling developers to build applications faster than using relational databases."[1] In fact, it has called MongoDB a "game-changer for many developers."[2]

In April 2023 – after "several months of development" – FerretDB announced FerretDB 1.0 GA, which FerretDB claims to be "a drop-in replacement for MongoDB."[3] FerretDB alleges that it is "creating a new standard for document databases with MongoDB compatibility."[4] But FerretDB has not created anything new. It has instead helped itself to 15 years worth of MongoDB research and development in an effort to unfairly capitalize on MongoDB's intellectual property. By FerretDB's own admission, FerretDB has failed in its efforts to emulate MongoDB, instead creating a product that introduces compatibility and performance issues.

FerretDB infringes MongoDB's copyrights and trademarks and violates MongoDB's licensing scheme. It also relies on unfair and misleading advertising to promote itself. And by supplying the FerretDB proxy layer to partners – including SAP, Vultr, Scaleway and others[5] – with instructions for those vendors to use it to add MongoDB compatibility to their own database or service offerings, FerretDB is contributing to infringement of MongoDB's patents.

FerretDB must either cease and desist offering FerretDB, or work with us to obtain a valid license to use our specifications, documentation and other intellectual property.

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[1] https://docs.ferretdb.io/ (accessed October 13, 2023).
[2] *Id.*
[3] *Announcing FerretDB 1.0 GA - a truly Open Source MongoDB alternative*, https://blog.ferretdb.io/ferretdb-1-0-ga-opensource-mongodb-alternative/ (April 11, 2023).
[4] *Id.*
[5] https://www.ferretdb.com/partners (accessed on October 19, 2023).

MongoDB's Licensing Scheme

Since its founding, MongoDB has been committed to producing open-source technology. To that end, MongoDB makes its database and related works available under several different licenses, including:

1. the Apache License v.2.0 ("Apache License") for MongoDB-supported drivers;
2. the GNU Affero General Public License v.3.0 ("AGPL") for all versions of MongoDB Community Edition released prior to October 16, 2018;
3. MongoDB's Server Side Public License ("SSPL") for all versions of MongoDB Community Edition released after October 16, 2018, including patch fixes for prior versions; and
4. the Creative Commons Attribution-NonCommercial-ShareAlike License v. 3.0 ("CCL") for MongoDB Documentation and Wire Protocol Specification.

The AGPL requires a company that modifies an AGPL-covered program and offers it as a service to make available the source code for the modified program. The SSPL requires a company that offers an SSPL-covered work (or modification thereto) to third parties as a service to make available the source code for all of the programs that it uses to make the work available as a service. And the CCL prohibits commercial use of the licensed materials.

We chose to use the CCL for our Documentation and Wire Protocol Specification to encourage cooperation that fosters an exceptional developer and customer experience. We have always encouraged a community to build with and around MongoDB, which is one key reason we license our drivers under the Apache License, making it easier for others to write new drivers for programming languages that lacked one. It's why we've encouraged projects like Mongoose – an Object Data Modeling (ODM) library that makes it easier to connect applications to MongoDB – and other partners' use of our Wire Protocol Specification to connect their services to MongoDB to enhance observability or other services for developers. Our licensing scheme is designed to promote the open source model by encouraging open collaboration, while stopping vendors from exploiting MongoDB's software and IP for their own gain and giving nothing back to the community. But FerretDB is free-riding on MongoDB's open-source technology in violation of one or more of these licenses.

At a minimum, FerretDB copied, adapted, and distributed MongoDB's Documentation – including our Wire Protocol Specification – in violation of the CCL. The CCL prohibits the distribution of copies or adaptations of the MongoDB Documentation "in any manner that is primarily intended for or directed toward commercial advantage or private monetary compensation." CCL § 4(c). And we specifically state on the website for the Wire Protocol Specification that "You may not use or adapt this material for any commercial purpose, such as to create a commercial database or database-as-a-service offering."[6]

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[6] https://www.mongodb.com/docs/manual/reference/mongodb-wire-protocol/.

Nevertheless, FerretDB copied MongoDB's specification and other documentation and adapted it to create the code for its MongoDB emulation layer. In addition, FerretDB has verbatim copied dozens of MongoDB commands (*see* https://docs.ferretdb.io/reference/supported-commands/) and admits that "FerretDB uses the same protocol error names and codes" as MongoDB. FerretDB is monetizing its MongoDB emulation layer both by partnering with other vendors[7] and by offering paid product support, product development and training and consulting services to its customers.[8] FerretDB's use of our copyrighted materials is neither transformative nor 'fair use' of our IP – you are using it to directly compete against us in the database market.

FerretDB's copying, adaptation, and distribution of MongoDB's Documentation and specifications to create and commercialize FerretDB violates the CCL. Moreover, any unlicensed use of MongoDB Community Edition to build FerretDB would violate the AGPL and/or SSPL. Absent a valid license to MongoDB's intellectual property, FerretDB is infringing MongoDB's copyrights.

Patent Infringement

MongoDB has an active and growing patent portfolio directed to various aspects of our database and cloud offerings. For example, our US patents cover the MongoDB aggregation framework[9] and reading and writing data in a non-relational database.[10] Other patents are directed to our cloud distributed database.[11] And another patent family covers aspects of our MongoDB GUI: Compass.[12]

We are formally putting you on notice of these patents because: (a) your offering of FerretDB directly infringes some of our patents, and (b) your supply of the FerretDB proxy layer to SAP, Vultr, Scaleway and others clearly contributes to those partner's infringement of our patents.

Unfair Competition

The statements included in FerretDB's website and documentation rely on unfair, deceptive, untrue, or misleading advertising. For example, FerretDB states:
1. "...it mimics the behavior of MongoDB in every possible way."[13]
2. "We are creating a new standard for document databases with MongoDB compatibility."[14]

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[7] *See* https://www.ferretdb.com/partners.
[8] *See* https://www.ferretdb.com/services.
[9] *See, e.g.*, U.S. Patent Nos. 8,996,463; 9,792,322; 9,262,462; 10,031,956; and 10,366,100 (directed to aggregation framework, optimizing aggregation operations in a non-relational database, and aggregation operations in a non-relational database).
[10] *See, e.g.*, U.S. Patent Nos. 10,671,496 and 10,698,775 (directed to reading and writing committed data in a database that redundantly stores data).
[11] *See, e.g.*, U.S. Patent Nos. 10,740,353 and 10,713,280.
[12] *See, e.g.*, U.S. Patent Nos. 10,891,270; 11,157,465; and 11,537,667.
[13] https://www.ferretdb.io/ (accessed October 13, 2023).
[14] https://blog.ferretdb.io/ferretdb-1-0-ga-opensource-mongodb-alternative.

3. "FerretDB is a drop-in replacement for MongoDB."[15]
4. "MongoDB is no longer open source."[16]
5. "FerretDB was founded to become the true open-source alternative to MongoDB, making it the go-to choice for most MongoDB users looking for an open-source alternative to MongoDB."[17]
6. "FerretDB is compatible with MongoDB drivers and can be used as a direct replacement for MongoDB 6.0+."[18]

These statements range from misleading – by suggesting MongoDB is not as free to use and source available – to completely false – because FerretDB does not, in fact, mimic MongoDB in every way. FerretDB is not a drop-in or a direct replacement for the real MongoDB. It is simply a shim layer that translates our wire protocol to Postgres.

FerretDB's representations constitute unfair business practices. Even if they were true – and they are not – these statements are likely to deceive end users in violation of federal law. *Enigma Software Group USA, LLC v. Malwarebytes, Inc.*, 69 F.4th 665, 671-72 (9th Cir. 2023). In particular, the Lanham Act prohibits "commercial advertising or promotion" that "misrepresents the nature, characteristics, [or] qualities" of a product. 15 U.S.C. § 1125(a)(1)(B). *See also Oracle International Corporation v. Rimini Street, Inc.*, 2023 WL 4706127 at *84-*85 (D. Nev. 2023) (finding competitor violated Lanham Act through false statements intended "to persuade prospective customers to switch to [competitor's enterprise software]"). Moreover, FerretDB's false statements do a grave disservice to the developers who might be duped into using an inferior imitation.

FerretDB's conduct also amounts to violations of state law, including California's False Advertising Law ("FAL"), under Business & Professions Code § 17500. *See LeGrand v. Abbott Laboratories*, 2023 WL 1819159 at *9-*11 (N.D. Cal. 2023). A violation of the FAL is also a violation of California's Business & Professions Code § 17200. *Id.* at *5. *See also Morgan v. AT&T Wireless Services, Inc.*, 177 Cal. App. 4th 1235, 1254 (2009). Finally, through its false and deceptive statements, FerretDB intentionally interferes with MongoDB's contractual relations with its customers – such as our existing contract with SAP. *See Epicor Software Corp. v. Alternative Technology Solutions, Inc.*, 2013 WL 2382262 at *4 (C.D. Cal. 2013).

Trademark Infringement

FerretDB also infringes MongoDB's trademarks. MongoDB owns a number of federal registrations for its MONGODB and MONGO trademarks, including the following:

- Reg. No. 3,930,955 for MONGODB;

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[15] *Id.*

[16] *Id.; see also* https://blog.ferretdb.io/5-database-alternatives-mongodb-2023/.

[17] https://www.ferretdb.io/ (accessed October 13, 2023).

[18] *Id.*

- Reg. No. 3,930,956 for ;
- Reg. No. 3,930,957 for MONGO;

- Reg. No. 4,364,481 for ;
- Reg. No. 4,523,518 for MONGODB;
- Reg. No. 4,598,374 for MONGODB CERTIFIED DBA;
- Reg. No. 4,538,483 for MONGODB CERTIFIED DEVELOPER;

- Reg. No. 4,598,736 for ; and

- Reg. No. 4,314,744 for .

MongoDB also owns MONGODB and MONGO trademark registrations in Australia, Brazil, Canada, China, the EU, India, Japan, Mexico, Russia, and Turkey.

MongoDB's Trademark Standards for Use clearly state that "you may not use any MongoDB trademark in a way that disparages or harms MongoDB or our products or services."[19] FerretDB violates those Standards by making statements such as "MongoDB abandoned its Open-Source roots, changing the license to SSPL making it unusable for many Open Source and Commercial Projects,"[20] and "MongoDB is no longer open source."[21]

Further, FerretDB's repeated references to 'MongoDB' throughout FerretDB's website and documentation misleadingly conflate FerretDB and MongoDB. For example, you inaccurately claim that "FerretDB is compatible with MongoDB drivers and can be used as a direct replacement for MongoDB 6.0+"[22] and claim that FerretDB is "a drop-in replacement for MongoDB."[23] Your improper use of MongoDB's registered trademarks has and will continue to dilute the distinctiveness of our marks, cause confusion in the marketplace, and lead consumers to believe that MongoDB is not an open source offering – when that is not the case. That conduct violates both federal and state trademark laws. *See, e.g.*, 15 U.S.C. § 1114(1)(a) (prohibiting, absent the consent of a trademark holder, "use in commerce" of "any reproduction…copy, or colorable imitation of a registered mark in connection with the…advertising of any goods or services on or in connection with which such use is likely to cause confusion, or to cause mistake, or to deceive"). Not only does this negatively impact the brand and reputation of MongoDB, it increases the work and cost for developers to then figure out how to migrate from FerretDB to the real product. Developers are critically important to us; we want to ensure the best possible experience for them.

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[19] https://www.mongodb.com/legal/trademark-usage-guidelines.

[20] https://www.ferretdb.io/ (accessed October 13, 2023).

[21] *Announcing FerretDB 1.0 GA - a truly Open Source MongoDB alternative*, https://blog.ferretdb.io/ferretdb-1-0-ga-opensource-mongodb-alternative/ (April 11, 2023).

[22] https://docs.ferretdb.io/ (accessed October 13, 2023).

[23] *Announcing FerretDB 1.0 GA - a truly Open Source MongoDB alternative*, https://blog.ferretdb.io/ferretdb-1-0-ga-opensource-mongodb-alternative/ (April 11, 2023).

Demand

In light of the conduct described above, we ask that FerretDB stop making false claims about MongoDB and either:

1. Immediately cease and desist its offering of FerretDB and unlawful use of MongoDB's intellectual property, and require its partners to do the same; or

2. Work with us to obtain an appropriate license that allows FerretDB to use our intellectual property to offer the FerretDB proxy layer.

As we communicated when we alerted you of this issue earlier in the week, we are open to finding ways to work together that are consistent with the values of the open source community. However, if you continue to refuse our attempts to engage in a partnership, MongoDB will be left with no choice but to take action to protect its interests.

Because FerretDB is on notice of potential legal action, it must immediately act to retain all potentially relevant information, documents, and/or communications related to this matter, including your current and historical web pages and other materials of any kind related to FerretDB and/or MongoDB.

I look forward to your prompt attention to these matters, and request that FerretDB respond in writing within 14 days from the date of this letter. MongoDB reserves all of its rights and remedies.

Regards,

Andrew Stephens (Nov 3, 2023 09:02 PDT)
Andrew Stephens
General Counsel
MongoDB, Inc.