

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

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<b>CRFD RESEARCH, INC.,</b>	:	<b>C.A. No. _____</b>
	:	
<b>Plaintiff,</b>	:	
	:	
<b>v.</b>	:	
	:	
<b>LEVEL 3 COMMUNICATIONS, LLC,</b>	:	<b>JURY TRIAL DEMANDED</b>
	:	
<b>Defendant.</b>	:	
	:	
	x	

**Complaint for Patent Infringement**

Plaintiff, CRFD Research, Inc. (“CRFD”) alleges the following for its complaint of patent infringement against Defendant, Level 3 Communications, LLC (“Defendant” or “Level 3”).

**Nature of the Action**

This is an action for patent infringement of United States Patent No. 7,574,486 (the “’486 Patent”) under the Patent Laws of the United States, 35 U.S.C. § 1, *et seq.*, and seeking damages and injunctive and other relief under 35 U.S.C. § 281, *et seq.*

**The Parties**

1. Plaintiff CRFD is a Delaware corporation with its principle place of business at 2331 Mill Road, Suite 100, Alexandria, Virginia 22314.

2. On information and belief, Defendant Level 3 Communications, LLC is a Delaware corporation with its principal place of principal place of business located at 1025 Eldorado Blvd., Broomfield, CO 80021. Level 3 has appointed The Corporation Trust Company, Corporation Trust Center 1209 Orange St., Wilmington, Delaware 19801 as its agent for service

of process.

### **Jurisdiction and Venue**

3. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code.

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because the action concerns the infringement of United States patents.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400(b) because, among other reasons, Defendant has transacted business in the State of Delaware and Defendant has committed and continues to commit acts of patent infringement in Delaware.

6. Upon information and belief, this Court has personal jurisdiction over Defendant at least because Defendant transacts substantial business in the State of Delaware, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein, and (ii) regularly doing or soliciting business in Delaware, engaging in other persistent courses of conduct, maintaining continuous and systematic contacts in Delaware, purposefully availing itself of the privileges of doing business in Delaware, and/or deriving substantial revenue from goods and services provided to individuals in Delaware. Further, this Court has personal jurisdiction over Defendant because it is a corporation organized under the laws of the State of Delaware and has purposely availed itself of the privileges and benefits of the laws of Delaware.

### **The Patent-In-Suit**

7. CRFD is the owner by assignment of the '486 Patent, entitled "Web Page Content Translator," which the United States Patent & Trademark Office duly issued on August 11, 2009. A true and correct copy of the '486 Patent is attached hereto as Exhibit A.

8. The inventions of the '486 Patent are applicable to, among other things,

reformatting of web content into a format for viewing on a mobile device.

### **Level 3's Infringing Products and Methods**

9. Level 3's Content Delivery Network purports to support "some of the world's largest video, software and web properties."<sup>1</sup> Level 3's "Website Acceleration" services purport to render webpages and applications on desktops, mobiles and other devices "up to 70 percent faster than traditional content delivery networks."<sup>2</sup>

10. Upon information and belief, Level 3 makes, uses, sells and offers for sale products that reformat web content into an optimized format readable by mobile devices, including but not limited to its Front End Optimization, Site Transformer and Mobile Website Acceleration products ("Level 3 Infringing Products"). For example, Level 3's product lines employ Front-End Optimization ("FEO"). Level 3 purports that, prior to delivery of web content to specific devices, FEO "improves web page speed by analyzing and rewriting code delivered over an IP network" and "simplifies code to optimize each page by browser type."<sup>3</sup> For example, Level 3's Site Transformer service applies FEO "treatments to analyze and transform web page code at the browser level, which enables peak performance across all browsers and mobile platforms."<sup>4</sup> Level 3's FEO services also purport to track web-site visitor behavior to predict which pages they are most likely to want to see and "pushes those pages' resources – images, JavaScript, CSS, etc. – to the visitor's browser on standby for instantaneous page loads."<sup>5</sup> Level 3 claims that with its Mobile Website Acceleration tool, "websites can be dynamically encoded to display content optimally on different devices... help[ing] realize 1.5x to 2.5x improvement[s]

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<sup>1</sup> <http://www.level3.com/en/products-and-services/data-and-internet/cdn-content-delivery-network/>

<sup>2</sup> <http://www.level3.com/en/products-and-services/data-and-internet/cdn-content-delivery-network/website-speed/>

<sup>3</sup> [http://www.level3.com/~media/Assets/fact\\_sheets/cdn\\_front\\_end\\_optimization\\_factsheet.ashx](http://www.level3.com/~media/Assets/fact_sheets/cdn_front_end_optimization_factsheet.ashx)

<sup>4</sup> [http://www.level3.com/~media/Assets/brochures/brochure\\_site\\_transformer.ashx](http://www.level3.com/~media/Assets/brochures/brochure_site_transformer.ashx)

<sup>5</sup> [http://www.level3.com/~media/Assets/fact\\_sheets/cdn\\_front\\_end\\_optimization\\_factsheet.ashx](http://www.level3.com/~media/Assets/fact_sheets/cdn_front_end_optimization_factsheet.ashx)

in performance.”<sup>6</sup>

**COUNT I: INFRINGEMENT OF THE '486 PATENT**

11. Plaintiff incorporates paragraphs 1-10 herein by reference as if set forth here in full.

12. Upon information and belief, Defendant has been and is currently directly infringing, literally or under the doctrine of equivalents, one or more claims of the '486 Patent by making, using, offering to sell, and/or selling within the United States, and/or importing into the United States, without authority, products and services that reformat web content. For example, and without limitation, Defendant directly infringed and continues to directly infringe the '486 Patent in Delaware and elsewhere in the United States. Defendant directly infringes and continues to directly infringe at least claims 11 and 12 of the '486 Patent by making, selling, using and offering for sale at least its Front End Optimization, Site Transformer and Mobile Website Acceleration services/tools.

13. Defendant also directly infringes one or more claims of the '486 Patent by directing and/or controlling its employees, executives, users, agents, affiliates, suppliers and customers to use the aforementioned web content reformatting products within the United States.

14. To the extent that any claim is construed to require a system, Defendant also directly infringes one or more claims of the '486 Patent by providing web content reformatting software, platforms and/or hardware to users, thus putting the aforementioned web content reformatting products into use.

15. By using the methods claimed in the '486 Patent and by making, selling, importing, offering for sale and/or using the aforementioned web content reformatting products,

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<sup>6</sup> [http://cdn1.cust.footprint.net/prod/App\\_Data/Replicated/MediaFiles/A/8/6/%7BA867831A-C85D-46B1-A5E7-DE3832439882%7Dbrochure\\_website\\_acceleration\\_002.pdf](http://cdn1.cust.footprint.net/prod/App_Data/Replicated/MediaFiles/A/8/6/%7BA867831A-C85D-46B1-A5E7-DE3832439882%7Dbrochure_website_acceleration_002.pdf)

Defendant has been and is now directly infringing under 35 U.S.C. § 271 one or more claims of the '486 Patent, either literally or under the doctrine of equivalents.

16. Upon information and belief, upon knowledge of the '486 Patent (at least since the filing date of this Complaint) Defendant is contributing to the infringement of the '486 Patent by, among other things, knowingly and with intent, actively encouraging its customers, suppliers, agents, users and affiliates to make, use, sell and/or offer for sale Defendant's products and services, such as, but not limited to its Front End Optimization, Site Transformer and Mobile Website Acceleration services/tools, which infringe at least claims 11 and 12 of the '486 Patent. For example, to the extent that any claim is construed to require a system, Defendant provides components, including web content reformatting software, platforms and/or hardware for use in systems with mobile devices. Defendant knows that such products constitute a material part of the inventions of the '486 Patent, knows those products to be especially made or adapted to infringe the '486 Patent, and knows that those products are not staple articles or commodities of commerce suitable for substantial non-infringing use.

17. By contributing to its customers', suppliers', agents', users' and affiliates' use of the apparatus and methods claimed in the '486 Patent and their making and/or using the aforementioned web content reformatting products, Defendant has been and is now indirectly infringing under 35 U.S.C. § 271(c) one or more claims of the '486 Patent, either literally or under the doctrine of equivalents.

18. Upon information and belief, upon knowledge of the '486 Patent (at least since the filing date of this Complaint), Defendant is inducing infringement of the '486 Patent by, among other things, knowingly and with intent, actively encouraging its customers, suppliers, users, agents and affiliates to make, use, sell and/or offer for sale Defendant's aforementioned

web content reformatting products in a manner that constitutes infringement of at least claims 11 and 12 of the '486 Patent, with the knowledge and specific intent to encourage, direct and facilitate those infringing activities, and knowing that such activities infringe the '486 Patent, including through the creation and dissemination of promotional and marketing materials, instructional materials, product materials and technical materials. For example, Defendant provides Front End Optimization, Site Transformer and Mobile Website Acceleration briefs promoting the features and benefits of FEO, among other things.<sup>7</sup>

19. To the extent that Defendant's users can be considered to put the aforementioned web content reformatting products into use (for example, to the extent any claim is construed to require such a system), then Defendant would also be inducing infringement of the '486 Patent by, among other things, knowingly and with intent (at least since the filing date of this Complaint), actively encouraging its users to make and use Defendant's aforementioned web content reformatting products in a manner that constitutes infringement of one or more claims of the '486 Patent, with the knowledge and specific intent to encourage, direct and facilitate those infringing activities, and knowing that such activities infringe the '486 Patent, including through the creation and dissemination of promotional and marketing materials, instructional materials, product materials and technical materials.

20. By inducing its customers', suppliers', users', agents' and affiliates' use of the apparatus and methods claimed in the '486 Patent and their making and/or using at least Front End Optimization, Site Transformer and Mobile Website Acceleration, Defendant has been and is now indirectly infringing under 35 U.S.C. § 271(b) at least claims 11 and 12 of the '486 Patent, either literally or under the doctrine of equivalents.

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<sup>7</sup> [http://cdn1.cust.footprint.net/prod/App\\_Data/Replicated/MediaFiles/A/8/6/%7BA867831A-C85D-46B1-A5E7-DE3832439882%7Dbrochure\\_website\\_acceleration\\_002.pdf](http://cdn1.cust.footprint.net/prod/App_Data/Replicated/MediaFiles/A/8/6/%7BA867831A-C85D-46B1-A5E7-DE3832439882%7Dbrochure_website_acceleration_002.pdf)

21. As a result of Defendant's unlawful infringement of the '486 Patent, CRFD has suffered and will continue to suffer damage. CRFD is entitled to recover from Defendant the damages adequate to compensate for such infringement, which have yet to be determined.

22. Defendant will continue to infringe the '486 Patent unless and until it is enjoined by this Court.

23. Defendant, by way of its infringing activities, has caused and continues to cause CRFD to suffer damages in an amount to be determined at trial. CRFD has no adequate remedy at law against Defendant's acts of infringement and, unless Defendant is enjoined from its infringement of the '486 Patent, CRFD will suffer irreparable harm.

#### **PRAYER FOR RELIEF**

WHEREFORE, CRFD respectfully requests that this Court enter judgment in its favor as follows:

A. Holding that Defendant has directly infringed, literally and/or under the doctrine of equivalents, one or more of the claims of the '486 Patent;

B. Holding that Defendant has indirectly infringed, literally and/or under the doctrine of equivalents, one or more of the claims of the '486 Patent;

C. Permanently enjoining Defendant and its officers, directors, agents, servants, employees, affiliates, divisions, branches, subsidiaries, parents and all others acting in concert or privity with any of them from infringing, inducing the infringement of, or contributing to the infringement of the '486 Patent;

D. Permanently enjoining the use of the web content reformatting products created or used according to the patented methods of the '486 Patent;

E. Awarding to CRFD the damages to which it is entitled under 35 U.S.C. § 284 for Defendant's past infringement and any continuing or future infringement up until the date Defendant is finally and permanently enjoined from further infringement, including compensatory damages;

F. Declaring this to be an exceptional case and awarding CRFD's attorneys' fees under 35 U.S.C. § 285;

G. Awarding CRFD costs and expenses in this action;

H. Awarding CRFD pre- and post-judgment interest on its damages; and

I. Awarding CRFD such other and further relief in law or in equity as this Court deems just and proper.

### **JURY DEMAND**

CRFD, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any and all issues so triable by right.

Dated: January 17, 2014

Respectfully submitted,

FARNAN LLP

/s/ Brian E. Farnan

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