

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

FATPIPE, INC.,)	
)	
Plaintiff,)	
)	C.A. No. _____
v.)	
)	JURY TRIAL DEMANDED
VIPTELA, INC.,)	
)	
Defendant.)	

PLAINTIFF’S COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff FatPipe, Inc. (“FatPipe” or “Plaintiff”), by and through its undersigned counsel, files this Complaint against Defendant Viptela, Inc. (“Viptela” or “Defendant”) as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*

PARTIES

2. FatPipe is a Utah company with a principal place of business at 4455 South 700 East, Salt Lake City, Utah 84107.

3. On information and belief, Viptela is a company incorporated under the laws of the State of Delaware and has a principal place of business at 1732 North First St., Suite 600, San Jose, California 95112.

JURISDICTION AND VENUE

4. This action arises under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*, including 35 U.S.C. §§ 271, 281, 283, 284, and 285.

5. This Court has subject matter jurisdiction over this case for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over Viptela because, among other things, Viptela is incorporated under the laws of the State of Delaware and/or has purposefully availed itself of the privilege of conducting activities within this Judicial District.

7. Venue is proper in this Judicial District under 28 U.S.C. §§ 1391 and 1400(b).

PATENTS

8. On August 10, 2004, U.S. Patent Number 6,775,235, entitled “Tools and techniques for directing packets over disparate networks” (the “’235 Patent”) was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the ’235 Patent is attached as Exhibit “A” to this Complaint.

9. On July 29, 2008, U.S. Patent Number 7,406,048, entitled “Tools and techniques for directing packets over disparate networks” (the “’048 Patent”) was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the ’048 Patent is attached as Exhibit “B” to this Complaint.

10. FatPipe is the exclusive licensee of the ’235 Patent and ’048 Patent (collectively the “patents-in-suit”) with all substantial rights in the patents-in-suit, including the right to assert all causes of action arising under the patents-in-suit and the right to any remedies for infringement.

COUNT I - INFRINGEMENT OF U.S. PATENT NO. 6,775,235

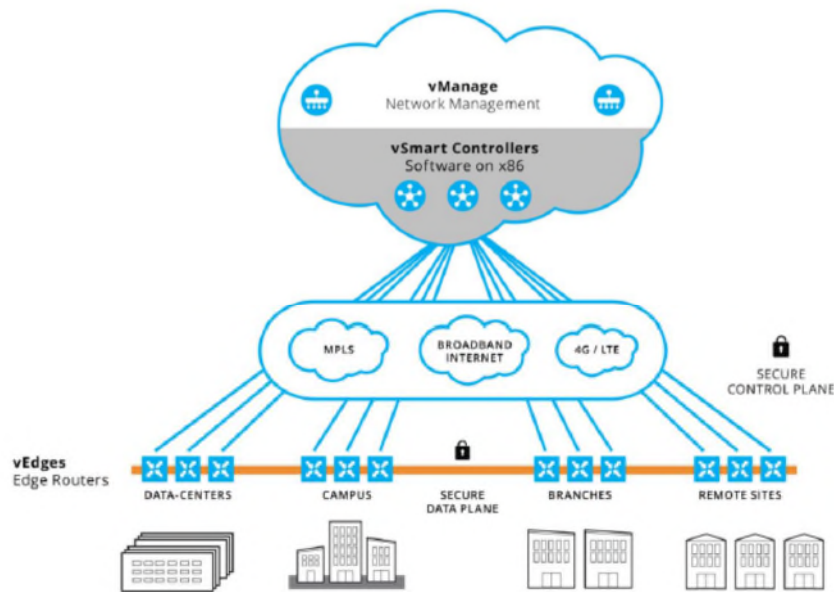
11. The allegations set forth in the foregoing paragraphs 1 through 10 are hereby realleged and incorporated herein by reference.

12. Upon information and belief, in violation of 35 U.S.C. § 271(a), Viptela has directly infringed and continues to directly infringe, literally or under the doctrine of equivalents, at least claim 5 of the ’235 Patent by making, using, offering for sale, selling, or importing devices or systems, in this judicial district and elsewhere in the United States (directly or through intermediaries), that, alone or in combination with other devices and/or systems, perform the steps

of (i) obtaining at least two known location address ranges that have associated networks; (ii) obtaining topology information that specifies associated networks, which provide, when working, connectivity between a current location and at least one destination location; (iii) receiving at the current location a packet that identifies a particular destination location by specifying a destination address for the destination location; (iv) determining whether the destination address lies within a known location address range; (v) selecting a network path from among paths to disparate associated networks, said networks being in parallel at the current location, each of said networks specified in the topology information as capable of providing connectivity between the current location and the destination location; and (vi) forwarding the packet on the selected network path.

13. Viptela's infringing products and services include, without limitation, Viptela's SD-WAN System and associated Secure Extensible Network Solution Components including, but not limited to, the vSmart Cloud-based SD-WAN Controller, the vManage Network Management System and vEdge Routers ("Accused Instrumentalities").

14. As illustrated on Viptela's website, the Accused Instrumentalities are configured to select and transmit data among disparate parallel networks, including MPLS, Internet and 4G/LTE networks:



See <http://viptela.com/solutions/overview/>.

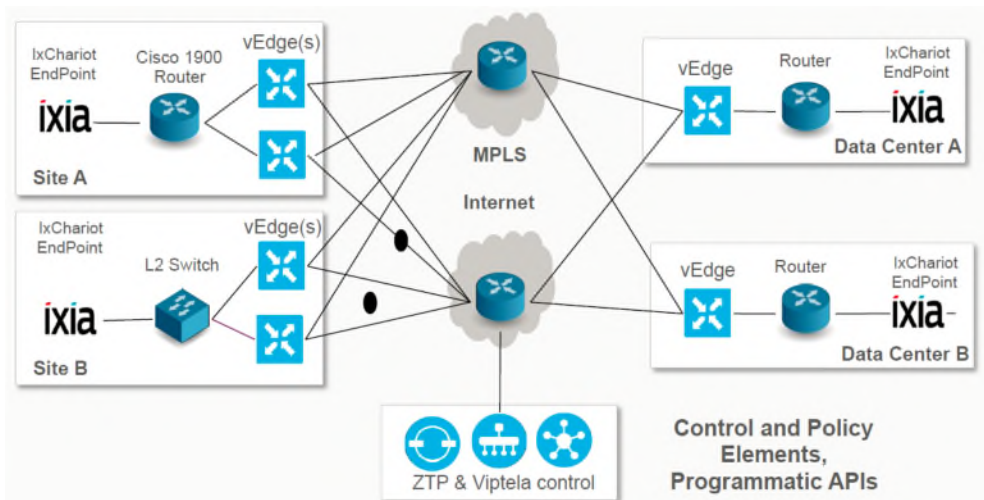
15. “Customers place Viptela’s hardware appliance, the vEdge router, at each end point that needs connectivity The appliance then merges these connections and applies customer policies to the traffic.” <http://www.informationweek.com/interop/startup-profile-viptela-targets-wan-cost-complexity/a/d-id/1317794>. The policies are configured, managed and applied using the vSmart Cloud-based SDN-WAN Controller and the vManage Network Management System. The “vSmart Cloud-based SDN-WAN Controller is the brain of the Viptela solution and centrally manages routing, policy, security, segmentation, and authentication of all devices on the overlay network.” <http://viptela.com/solutions/overview/>. The “vManage Network Management System (NMS) enables centralized configuration and management of the Viptela Secure Extensible Network solution and provides a real-time dashboard on the health of the network.” *Id.* Through these products and services, Viptela offers “*any-to-any* connectivity with features such as application aware routing, service chaining, virtual Demilitarized Zone (DMZ) and weighted

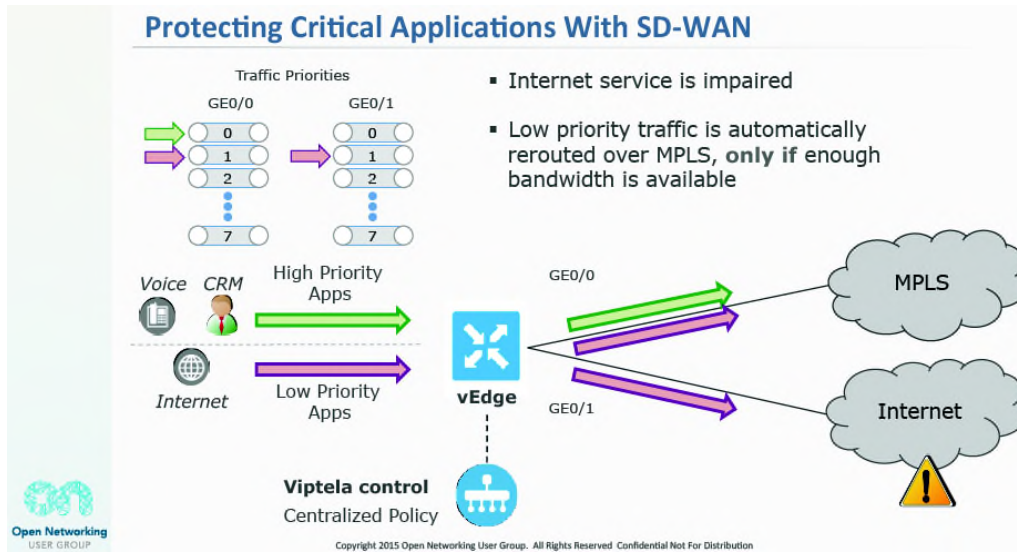
Equal Cost Multipath (ECMP) operating on different transports.”

<http://viptela.com/2015/05/viptela-software-defined-wan-sd-wan/>.

16. Upon information and belief, in violation of 35 U.S.C. § 271(b), Viptela has induced and continues to induce others (e.g., Viptela’s customers, distributors, partners and/or third parties) to infringe, literally or under the doctrine of equivalents, the ’235 Patent by providing instructions via its website, or through other documents that induce others to directly infringe at least claim 5 of the ’235 Patent.

17. Viptela induces its customers to infringe the ’235 Patent by, for example and without limitation, actively promoting the use of the Accused Instrumentalities to perform the claimed systems and methods. As described above, Viptela’s website illustrates that its Secure Extensible Network Solution is to be configured to transmit data packets in parallel across MPLS, Internet and 4G/LTE networks. See <http://viptela.com/solutions/overview/>. A presentation made by Viptela to the Open Network User Group similarly promotes the use of Viptela’s products and systems to transmit data packets in parallel across multiple network paths:





http://opennetworkingusergroup.com/downloads/ONUG_S2015_slides/SD-WAN%20Verification%20Slides.pdf.

18. Upon information and belief, Viptela contributorily infringes at least claim 5 of the '235 Patent because it sells, imports, or offers to sell components of infringing products, including, for example, components of the Accused Instrumentalities, that constitute a material part of the invention of the '235 Patent, knowing the components to be especially made or especially adapted for use in an infringement of the '235 Patent, and knowing the components are not a staple article or commodity of commerce suitable for substantial noninfringing use.

19. Viptela's infringement of the '235 Patent is without consent of, authority of, or license from FatPipe.

COUNT II - INFRINGEMENT OF U.S. PATENT NO. 7,406,048

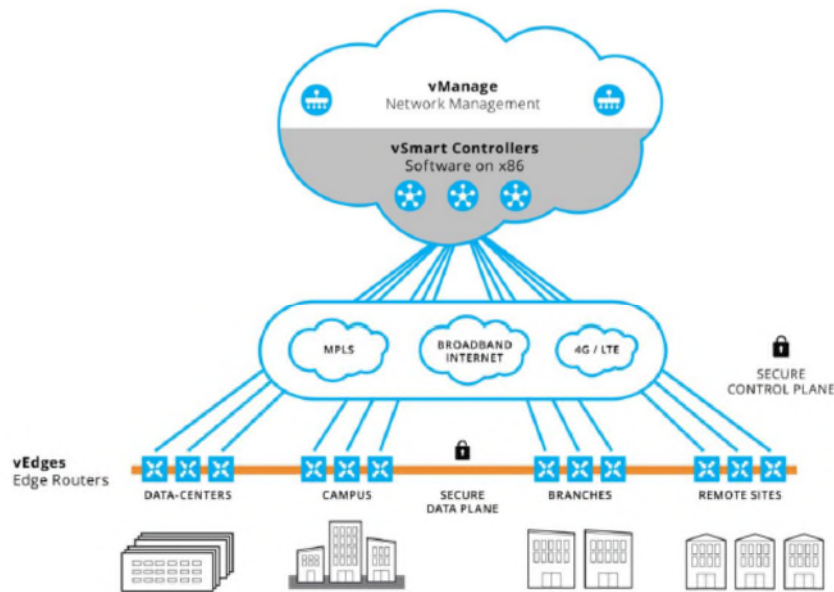
20. The allegations set forth in the foregoing paragraphs 1 through 19 are hereby realleged and incorporated herein by reference.

21. Upon information and belief, in violation of 35 U.S.C. § 271(a), Viptela has directly infringed and continues to directly infringe, literally or under the doctrine of equivalents, at least claim 1 of the '048 Patent by making, using, offering for sale, selling, or importing devices or

systems, in this judicial district and elsewhere in the United States (directly or through intermediaries), that, alone or in combination with other devices and/or systems, provide a controller having (i) a site interface connecting the controller to a site; (ii) at least two network interfaces that send packets toward the disparate networks; and (iii) a packet path selector that selects between network interfaces, using at least two known location address ranges which are respectively associated with disparate networks, according to at least: a destination of the packet, an optional presence of alternate paths to that destination, and at least one specified criterion for selecting between alternate paths when such alternate paths are present; wherein the controller receives a packet through the site interface and sends the packet through the network interface that was selected by the packet path selector.

22. Viptela's infringing products and services include, without limitation, Viptela's SD-WAN System and associated Secure Extensible Network Solution Components including, but not limited to, the vSmart Cloud-based SD-WAN Controller, the vManage Network Management System and vEdge Routers.

23. As illustrated on Viptela's website, the Accused Instrumentalities are configured to select and transmit data among disparate parallel networks, including MPLS, Internet, and 4G/LTE networks:



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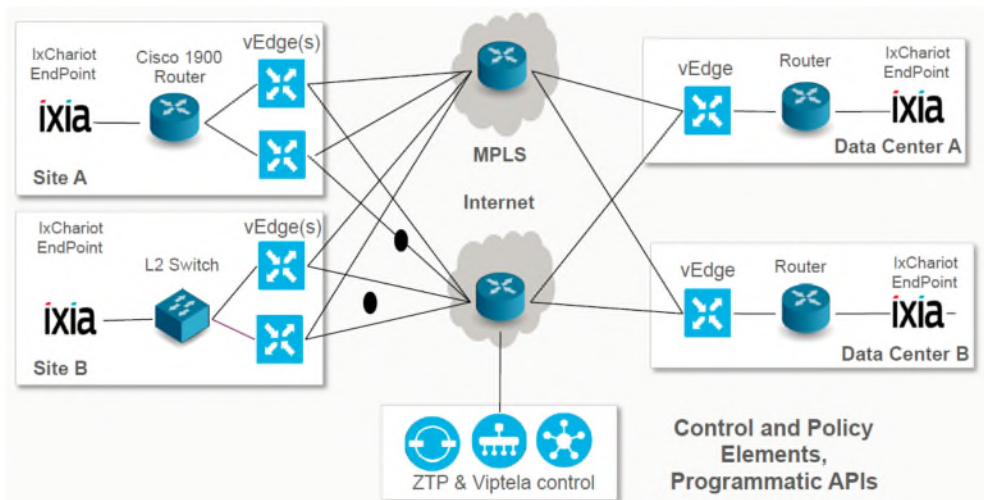
24. “Customers place Viptela’s hardware appliance, the vEdge router, at each end point that needs connectivity The appliance then merges these connections and applies customer policies to the traffic.” <http://www.informationweek.com/interop/startup-profile-viptela-targets-wan-cost-complexity/a/d-id/1317794>. The policies are configured, managed, and applied using the vSmart Cloud-based SDN-WAN Controller and the vManage Network Management System. The “vSmart Cloud-based SDN-WAN Controller is the brain of the Viptela solution and centrally manages routing, policy, security, segmentation, and authentication of all devices on the overlay network.” <http://viptela.com/solutions/overview/>. The “vManage Network Management System (NMS) enables centralized configuration and management of the Viptela Secure Extensible Network solution and provides a real-time dashboard on the health of the network.” *Id.* Through these products and services, Viptela offers “*any-to-any* connectivity with features such as application aware routing, service chaining, virtual Demilitarized Zone (DMZ), and weighted

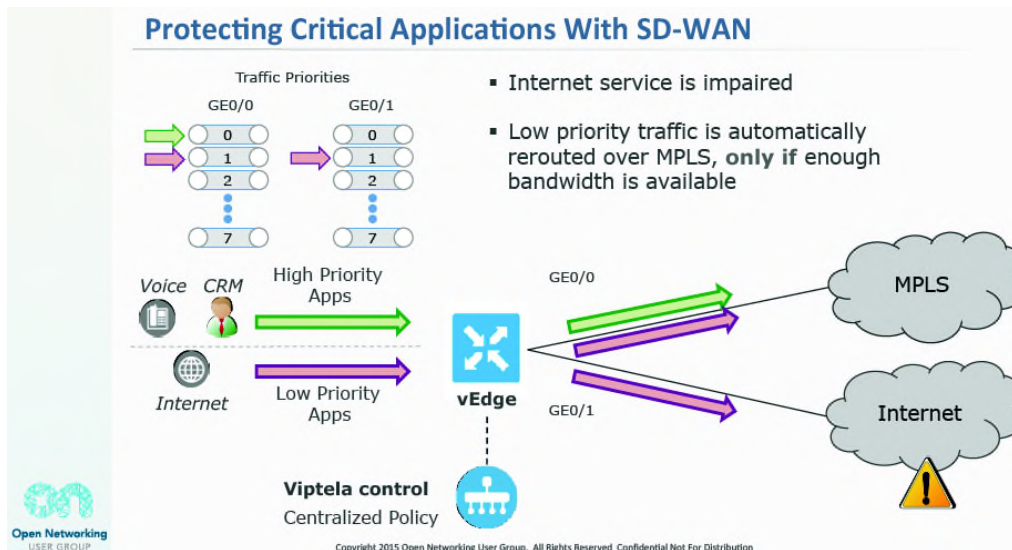
Equal Cost Multipath (ECMP) operating on different transports.”

<http://viptela.com/2015/05/viptela-software-defined-wan-sd-wan/>.

25. Upon information and belief, in violation of 35 U.S.C. § 271(b), Viptela has induced and continues to induce others (*e.g.*, Viptela’s customers, distributors, partners, and/or third parties) to infringe, literally or under the doctrine of equivalents, the ’048 Patent by providing instructions via its website or through other documents that induce others to directly infringe at least claim 1 of the ’048 Patent.

26. Viptela induces its customers to infringe the ’048 Patent by, for example and without limitation, actively promoting the use of the Accused Instrumentalities to perform the claimed systems and methods. As described above, Viptela’s website illustrates that its Secure Extensible Network Solution is to be configured to transmit data packets in parallel across MPLS, Internet, and 4G/LTE networks. See <http://viptela.com/solutions/overview/>. A presentation made by Viptela to the Open Network User Group similarly promotes the use of Viptela’s products and systems to transmit data packets in parallel across multiple network paths:





http://opennetworkingusergroup.com/downloads/ONUG_S2015_slides/SD-WAN%20Verification%20Slides.pdf.

27. Upon information and belief, Viptela contributorily infringes at least claim 1 of the '048 Patent because it sells, imports, or offers to sell components of infringing products, including, for example, components of the Accused Instrumentalities, that constitute a material part of the invention of the '048 Patent, knowing the components to be especially made or especially adapted for use in an infringement of the '048 Patent and knowing the components are not a staple article or commodity of commerce suitable for substantial noninfringing use.

28. Viptela's infringement of the '048 Patent is without consent of, authority of, or license from FatPipe.

JURY DEMAND

FatPipe hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

FatPipe respectfully requests that the Court find in its favor and against Viptela, and that the Court grant FatPipe the following relief:

- A. a judgment that Viptela has infringed, directly or indirectly, the '235 Patent and/or '048 Patent;
- B. injunctive relief enjoining Viptela, its officers, agents, servants, employees and attorneys, and all other persons in active concert or participation with it from (i) making, using, selling, offering to sell, importing, and/or exporting a product or service that falls within the scope of the claims of the '235 Patent and/or '048 Patent, (ii) inducing others to infringe the '235 Patent and/or '048 Patent, or (iii) engaging in any acts constituting contributory infringement of any claims of the '235 Patent and/or '048 Patent;
- C. a judgment and order requiring Viptela to pay FatPipe its damages, costs, expenses, and pre-judgment and post-judgment interest for Viptela's infringement of the '235 Patent and/or '048 Patent as provided under 35 U.S.C. § 284;
- D. an award to FatPipe for enhanced damages as provided under 35 U.S.C. § 284;
- E. any and all other relief at law or in equity as the Court deems just and proper.

Respectfully submitted,

POTTER ANDERSON & CORROON LLP

OF COUNSEL:

Timothy J. Carroll
Steven M. Lubezny
PERKINS COIE LLP
131 S. Dearborn Street
Suite 1700
Chicago, IL 60603
Tel: 312-324-8400
tcarroll@perkinscoie.com
slubezny@perkinscoie.com

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By: /s/ David E. Moore
David E. Moore (#3983)
Bindu A. Palapura (#5370)
Stephanie E. O'Byrne (#4446)
Hercules Plaza, 6th Floor
1313 N. Market Street
Wilmington, DE 19801
Tel: (302) 984-6000
dmoore@potteranderson.com
bpalapura@potteranderson.com
sobyrne@potteranderson.com

Attorneys for Plaintiff FatPipe, Inc.