

and alleges six counts of patent infringement of one or more claims of each of the following:

(Count 1) U.S. Patent Nos. 7,287,275, titled “Methods, systems and devices for packet watermarking and efficient provisioning of bandwidth” (the ’275 Patent);

(Count 2) 8,224,705 (the ’705 Patent);

(Count 3) 8,473,746 (the ’746 Patent);

(Count 4) 8,706,570 (the ’570 Patent);

(Count 5) RE44,222 (the ’222 Patent); and

(Count 6) RE44,307 (the ’307 Patent, and collectively the “Patents-in-Suit”) as follows:

NATURE OF THE SUIT

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

PARTIES

2. Plaintiff Blue Spike, LLC is a Texas limited liability company and has its headquarters and principal place of business at 1820 Shiloh Road, Suite 1201-C, Tyler, Texas 75703. Blue Spike, LLC is the assignee of the Patents-in-Suit, and has ownership of all substantial rights in the Patents-in-Suit, including the rights to grant sublicenses, to exclude others from using it, and to sue and obtain damages and other relief for past and future acts of patent infringement.

3. On information and belief, ZTE (USA), Inc. is a wholly owned subsidiary of ZTE Corporation. ZTE (USA), Inc. is a corporation organized and existing under the laws of the State of Texas, with its principal place of business at 2425 N. Central Expressway,

Suite 600, Richardson, Texas 75080. ZTE (USA), Inc. can be served with process through its registered agent Jing Li at 2425 N. Central Expressway, Suite 323, Richardson, Texas 75080.

4. On information and belief, ZTE (TX), Inc. is a wholly owned subsidiary of ZTE Corporation. ZTE (TX), Inc. is a corporation organized and existing under the laws of the State of Texas. ZTE (TX) can be served with process through its registered agent Ferguson, Braswell & Fraser, PC at 2500 Dallas Parkway, Suite 260, Plano, Texas 75093.

JURISDICTION AND VENUE

5. This lawsuit is a civil action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §101 *et seq.* The Court has subject-matter jurisdiction pursuant to 28 U.S.C. §§1331, 1332, 1338(a), and 1367.

6. The Court has personal jurisdiction over Defendant for at least four reasons: (1) Defendant has committed acts of patent infringement and contributed to and induced acts of patent infringement by others in this District and elsewhere in Texas; (2) Defendant regularly does business or solicits business in the District and in Texas; (3) Defendant engages in other persistent courses of conduct and derives substantial revenue from products and/or services provided to individuals in the District and in Texas; and (4) Defendant has purposefully established substantial, systematic, and continuous contacts with the District and should reasonably expect to be haled into court here. Thus, the Court's exercise of jurisdiction over Defendant will not offend traditional notions of fair play and substantial justice.

7. Venue is proper in this judicial district under 28 U.S.C. §§1391(b)–(c) and 1400(b) because Defendant does business in the State of Texas, Defendant has committed

acts of infringement in Texas and in the District, a substantial part of the events or omissions giving rise to Blue Spike's claims happened in the District, and Defendant is subject to personal jurisdiction in the District.

THE ACCUSED PRODUCTS AND SERVICES

8. Defendant designs, develops, employs, and/or manufactures routers and switches for example, including the following:

- ZTE packet core is boosting the fast development of mobile broadband in the world.²
- ZTE provides an integrated core network gateway product, ZXUN xGW (extendable Gateway). It supports 2G, 3G, LTE and non-3GPP access. ZXUN xGW could be deployed as a PDSN, GGSN, SAE-GW, HA and combo function node to satisfy different scenarios during the evolution to pure LTE/EPC network.³
- ZXR10 8900 Series Terabit MPLS Routing Switches — high-end modular switches featuring big switching capacity, full L2/L3/MPLS service capability, high-performance, superior reliability and enhanced security. ZXR10 8900 is designed for the core/aggregation layer of the Metro network or Datacenter. ZXR10 8900 supports complete ACL security filtering mechanisms. It's able to provide security control based on MAC/IP address, or based on application layer port number. Meanwhile, it

² See http://wwwen.zte.com.cn/en/products/core_network/packet_core/201407/t20140701_425_468.html as visited on July 16, 2016.

³ See http://wwwen.zte.com.cn/en/products/core_network/packet_core/201407/t20140701_425_468.html as visited on July 16, 2016.

also supports uRPF, anti-DDOS attack, SSH2.0 security management, 802.1x access authentication, port number and IP address binding. ZXR10 8900 series switches include four models: ZXR10 8902, 8905, 8908 and 8912. Multiple kinds of line card modules are available for the 8900 switching platform while one specific interface module can be equipped on any of these four switch types, providing maximum flexibility and protecting hardware investment for user.



- ZXR10 5960 series all 10 Gigabit switches are box-like layer 3 10 Gig MPLS routing switches that deliver ultra-big switching capacity, carrier-class reliability and superior scalability. With support to abundant Datacenter related features including virtual switching and lossless Ethernet, 1RU height and optional back-to-front/front-to-back airflow, ZXR10 5960 is suitable to act as a Datacenter TOR. Currently ZXR10 5960 includes two switch types: 5960-32DL and 5960-64D.
- ZTE's commercial and home use routers, including but not limited to,

H118N Residential Wireless Router, H108N ADSL2/ADSL2+ Modem, H108L V4.0, H118N, H168N WirelessVDSL2 Uplink Gateway, ZXHN H168NW VDSL2 Giga Ethernet Device, H208N ADSL2+ Gateway, H298N, H367N, H368N, 831II, and ZXV10 W300S.

- ZTE devices like ZXA10 xPON system. It consists of series of OLT and ONU equipment, network management system and ODN system, which offer end users high bandwidth, multiple services, high QoS and efficiency security, which include, ZXA10 C300, ZXA10 C320 Full-Service Optical Access Platform, ZXA10 F829: Stable CBU for Mobile Backhaul, ZXA10 F821: Flexible Design for Sustained Return, and ZXA10 F822 : Employing FTTx and Build Wireless City.
- Collectively, these are described as the “Accused Products,” which infringe one or more claims of the Patent-in-Suit.

9. Defendant has not sought or obtained a license for any of Blue Spike’s patented technologies.

10. Yet Defendant’s Accused Products are using methods, devices, and systems taught by Blue Spike’s Patent-in-Suit.

**COUNT 1:
Infringement of U.S. Patent Nos. 7,287,275**

11. Blue Spike incorporates by reference the allegations in paragraphs above.

12. The ’275 Patent is valid, is enforceable, and duly issued by the United States Patent and Trademark Office.

13. Without a license or permission from Blue Spike, Defendant has infringed and continues to infringe on one or more claims of the '275 Patent—directly, contributorily, or by inducement—by importing, making, using, offering for sale, or selling products and devices that embody the patented invention, including, without limitation, one or more of the Accused Products, in violation of 35 U.S.C. §271.

14. Defendant has been and now is indirectly infringing by way of inducing infringement by others and/or contributing to the infringement by others of the '275 Patent in the State of Texas, in this judicial district, and elsewhere in the United States, by, among other things, making, using, importing, offering for sale, and/or selling, without license or authority, products for use in systems that fall within the scope of one or more claims of the '275 Patent. Such products include, without limitation, one or more of the Accused Products. Such products have no substantial non-infringing uses and are for use in systems that infringe the '275 Patent. By making, using, importing offering for sale, and/or selling such products, Defendant injured Blue Spike and is thus liable to Blue Spike for infringement of the '275 Patent under 35 U.S.C. § 271. Those whom Defendant induces to infringe and/or to whose infringement Defendant contributes are the end users of the Accused Products. Defendant had knowledge of the '275 Patent at least as early as the service of this complaint and is thus liable for infringement of one or more claims of the '275 Patent by actively inducing infringement and/or is liable as contributory infringer of one or more claims of the '275 Patent under 35 U.S.C. §271.

15. Defendant's acts of infringement of the '275 Patent have caused damage to Blue Spike, and Blue Spike is entitled to recover from Defendant the damages sustained as a result of Defendant's wrongful acts in an amount subject to proof at trial pursuant to 35

U.S.C. §271. Defendant's infringement of Blue Spike's exclusive rights under the '275 Patent will continue to damage Blue Spike, causing it irreparable harm, for which there is no adequate remedy at law, warranting an injunction from the Court.

16. On information and belief, the infringement of the Patent-in-Suit by Defendant has been willful and continues to be willful. Defendant had knowledge of the Patent-in-Suit, including but not limited to at least one or more of the following:

a. Through the Defendant's obligations to disclose information to the United States Patent and Trademark Office, which the Defendant is very familiar with as the world's leader for filing international patent applications in 2014.

b. Through ZTE's knowledge of Sony's U.S. Patent 7,233,669B2, titled "Selective encryption to enable multiple decryption keys" and ZTE working relationship with Sony. See

c. This patent has been cited by numerous companies and agencies such as, The Hong Kong University Of Science And Technology; Vmware, Inc.; Verizon Services Organization Inc.; Verizon Patent And Licensing Inc.; and Palo Alto Research Center Incorporated.

d. Through the due diligence performed by Defendant when filing its patent applications related to the accused products, including by not limited to,

i. U.S. Patent 9,197,609 assigned to ZTE titled "Method, device and system for protecting multimedia data of multimedia messages," that has a priority date of April 1, 2011.

- ii. Patent Application WO2010145477A1 assigned to ZTE titled “Scheduling method and device for high-speed packet access system,” that has a priority date of June 29, 2009.
- iii. Patent Application WO2010130193A1 assigned to ZTE titled “Device, method for controlling audio media packet transmission and audio media server,” that has a priority date of May 13, 2009.
- iv. Patent Application WO2016000385A assigned to ZTE titled “Data packet allocating method and device” that has a priority date of June 30, 2014.
- v. Patent Application WO 2016000348 A1 assigned to ZTE titled “Packet format processing method and device” that has a priority date of June 30, 2014.
- vi. Patent Application WO 2009059475 A1 assigned to ZTE titled “A method for clock link automatically protection in packet networks.”

e. Through the filing of a prior complaint for patent infringement by Plaintiff against the Defendant.

17. On information and belief, Defendant has at least had constructive notice of the '275 Patent by operation of law.

**COUNT 2:
Infringement of U.S. Patent 8,224,705**

18. Blue Spike incorporates by reference the allegations in paragraphs above.

19. The '705 Patent is valid, is enforceable, and duly issued by the United States Patent and Trademark Office.

20. Without a license or permission from Blue Spike, Defendant has infringed and continues to infringe on one or more claims of the '705 Patent—directly, contributorily, or by inducement—by importing, making, using, offering for sale, or selling products and devices that embody the patented invention, including, without limitation, one or more of the Accused Products, in violation of 35 U.S.C. §271.

21. Defendant has been and now is indirectly infringing by way of inducing infringement by others and/or contributing to the infringement by others of the '705 Patent in the State of Texas, in this judicial district, and elsewhere in the United States, by, among other things, making, using, importing, offering for sale, and/or selling, without license or authority, products for use in systems that fall within the scope of one or more claims of the '705 Patent. Such products include, without limitation, one or more of the Accused Products. Such products have no substantial non-infringing uses and are for use in systems that infringe the '705 Patent. By making, using, importing offering for sale, and/or selling such products, Defendant injured Blue Spike and is thus liable to Blue Spike for infringement of the '705 Patent under 35 U.S.C. § 271. Those whom Defendant induces to infringe and/or to whose infringement Defendant contributes are the end users of the Accused Products. Defendant had knowledge of the '705 Patent at least as early as the service of this complaint and is thus liable for infringement of one or more claims of the '705 Patent by actively inducing infringement and/or is liable as contributory infringer of one or more claims of the '705 Patent under 35 U.S.C. §271.

22. Defendant's acts of infringement of the '705 Patent have caused damage to Blue Spike, and Blue Spike is entitled to recover from Defendant the damages sustained as a result of Defendant's wrongful acts in an amount subject to proof at trial pursuant to 35

U.S.C. §271. Defendant's infringement of Blue Spike's exclusive rights under the '705 Patent will continue to damage Blue Spike, causing it irreparable harm, for which there is no adequate remedy at law, warranting an injunction from the Court.

23. On information and belief, the infringement of the Patent-in-Suit by Defendant has been willful and continues to be willful. Defendant had knowledge of the Patent-in-Suit, including but not limited to at least one or more of the following:

- a. Through the Defendant's obligations to disclose information to the United States Patent and Trademark Office, which the Defendant is very familiar with as the world's leader for filing international patent applications in 2014.
- b. This patent has been cited by numerous well-known companies Huawei would monitor as part of its due diligence in this field to have Freedom to Operate. For example, Disney Enterprises, Inc. even cited to this patent.
- c. Through the due diligence performed by Defendant when filing its patent applications related to the accused products, including by not limited to,
 - i. U.S. Patent 9,197,609 assigned to ZTE titled "Method, device and system for protecting multimedia data of multimedia messages," that has a priority date of April 1, 2011.
 - ii. Patent Application WO2010145477A1 assigned to ZTE titled "Scheduling method and device for high-speed packet access system," that has a priority date of June 29, 2009.
 - iii. Patent Application WO2010130193A1 assigned to ZTE titled "Device, method for controlling audio media packet transmission and audio media server," that has a priority date of May 13, 2009.

- iv. Patent Application WO2016000385A assigned to ZTE titled “Data packet allocating method and device” that has a priority date of June 30, 2014.
- v. Patent Application WO 2016000348 A1 assigned to ZTE titled “Packet format processing method and device” that has a priority date of June 30, 2014.
- vi. Patent Application WO 2009059475 A1 assigned to ZTE titled “A method for clock link automatically protection in packet networks.”

d. Through the filing of a prior complaint for patent infringement by Plaintiff against the Defendant.

On information and belief, Defendant has at least had constructive notice of the ’705 Patent by operation of law.

**COUNT 3:
Infringement of U.S. Patent 8,473,746**

24. Blue Spike incorporates by reference the allegations in paragraphs above.

25. The ’746 Patent is valid, is enforceable, and duly issued by the United States Patent and Trademark Office.

26. Without a license or permission from Blue Spike, Defendant has infringed and continues to infringe on one or more claims of the ’746 Patent—directly, contributorily, or by inducement—by importing, making, using, offering for sale, or selling products and devices that embody the patented invention, including, without limitation, one or more of the Accused Products, in violation of 35 U.S.C. §271.

27. Defendant has been and now is indirectly infringing by way of inducing infringement by others and/or contributing to the infringement by others of the '746 Patent in the State of Texas, in this judicial district, and elsewhere in the United States, by, among other things, making, using, importing, offering for sale, and/or selling, without license or authority, products for use in systems that fall within the scope of one or more claims of the '746 Patent. Such products include, without limitation, one or more of the Accused Products. Such products have no substantial non-infringing uses and are for use in systems that infringe the '746 Patent. By making, using, importing offering for sale, and/or selling such products, Defendant injured Blue Spike and is thus liable to Blue Spike for infringement of the '746 Patent under 35 U.S.C. § 271. Those whom Defendant induces to infringe and/or to whose infringement Defendant contributes are the end users of the Accused Products. Defendant had knowledge of the '746 Patent at least as early as the service of this complaint and is thus liable for infringement of one or more claims of the '746 Patent by actively inducing infringement and/or is liable as contributory infringer of one or more claims of the '746 Patent under 35 U.S.C. §271.

28. Defendant's acts of infringement of the '746 Patent have caused damage to Blue Spike, and Blue Spike is entitled to recover from Defendant the damages sustained as a result of Defendant's wrongful acts in an amount subject to proof at trial pursuant to 35 U.S.C. §271. Defendant's infringement of Blue Spike's exclusive rights under the '746 Patent will continue to damage Blue Spike, causing it irreparable harm, for which there is no adequate remedy at law, warranting an injunction from the Court.

29. On information and belief, the infringement of the Patent-in-Suit by Defendant has been willful and continues to be willful. Defendant had knowledge of the Patent-in-Suit, including but not limited to at least one or more of the following:

- a. Through the Defendant's obligations to disclose information to the United States Patent and Trademark Office, which the Defendant is very familiar with as the world's leader for filing international patent applications in 2014.
- b. This patent has been cited by numerous companies and agencies such as, Omnipoint Corporation, which was later acquired by T-Mobile US, Inc.
- c. Through the due diligence performed by Defendant when filing its patent applications related to the accused products, including by not limited to,
 - i. U.S. Patent 9,197,609 assigned to ZTE titled "Method, device and system for protecting multimedia data of multimedia messages," that has a priority date of April 1, 2011.
 - ii. Patent Application WO2010145477A1 assigned to ZTE titled "Scheduling method and device for high-speed packet access system," that has a priority date of June 29, 2009.
 - iii. Patent Application WO2010130193A1 assigned to ZTE titled "Device, method for controlling audio media packet transmission and audio media server," that has a priority date of May 13, 2009.
 - iv. Patent Application WO2016000385A assigned to ZTE titled "Data packet allocating method and device" that has a priority date of June 30, 2014.

v. Patent Application WO 2016000348 A1 assigned to ZTE titled “Packet format processing method and device” that has a priority date of June 30, 2014.

vi. Patent Application WO 2009059475 A1 assigned to ZTE titled “A method for clock link automatically protection in packet networks.”

d. Through the filing of a prior complaint for patent infringement by Plaintiff against the Defendant.

30. On information and belief, Defendant has at least had constructive notice of the ’746 Patent by operation of law.

**COUNT 4:
Infringement of U.S. Patent 8,706,570**

31. Blue Spike incorporates by reference the allegations in paragraphs above.

32. The ’570 Patent is valid, is enforceable, and duly issued by the United States Patent and Trademark Office.

33. Without a license or permission from Blue Spike, Defendant has infringed and continues to infringe on one or more claims of the ’570 Patent—directly, contributorily, or by inducement—by importing, making, using, offering for sale, or selling products and devices that embody the patented invention, including, without limitation, one or more of the Accused Products, in violation of 35 U.S.C. §271.

34. Defendant has been and now is indirectly infringing by way of inducing infringement by others and/or contributing to the infringement by others of the ’570 Patent in the State of Texas, in this judicial district, and elsewhere in the United States, by, among other things, making, using, importing, offering for sale, and/or selling,

without license or authority, products for use in systems that fall within the scope of one or more claims of the '570 Patent. Such products include, without limitation, one or more of the Accused Products. Such products have no substantial non-infringing uses and are for use in systems that infringe the '570 Patent. By making, using, importing offering for sale, and/or selling such products, Defendant injured Blue Spike and is thus liable to Blue Spike for infringement of the '570 Patent under 35 U.S.C. § 271. Those whom Defendant induces to infringe and/or to whose infringement Defendant contributes are the end users of the Accused Products. Defendant had knowledge of the '570 Patent at least as early as the service of this complaint and is thus liable for infringement of one or more claims of the '570 Patent by actively inducing infringement and/or is liable as contributory infringer of one or more claims of the '570 Patent under 35 U.S.C. §271.

35. Defendant's acts of infringement of the '570 Patent have caused damage to Blue Spike, and Blue Spike is entitled to recover from Defendant the damages sustained as a result of Defendant's wrongful acts in an amount subject to proof at trial pursuant to 35 U.S.C. §271. Defendant's infringement of Blue Spike's exclusive rights under the '570 Patent will continue to damage Blue Spike, causing it irreparable harm, for which there is no adequate remedy at law, warranting an injunction from the Court.

36. On information and belief, the infringement of the Patent-in-Suit by Defendant has been willful and continues to be willful. Defendant had knowledge of the Patent-in-Suit, including but not limited to at least one or more of the following:

- a. Through the Defendant's obligations to disclose information to the United States Patent and Trademark Office, which the Defendant is very familiar with as the world's leader for filing international patent applications in 2014.

b. Through this patent being cited by numerous companies and agencies associated with and/or competing with Defendant, such as,

Matsushita Electric Industrial Co., Ltd., Massachusetts Institute Of Technology, and NEC Research Institute, Inc.

c. Through the due diligence performed by Defendant when filing its patent applications related to the accused products, including by not limited to,

i. U.S. Patent 9,197,609 assigned to ZTE titled “Method, device and system for protecting multimedia data of multimedia messages,” that has a priority date of April 1, 2011.

ii. Patent Application WO2010145477A1 assigned to ZTE titled “Scheduling method and device for high-speed packet access system,” that has a priority date of June 29, 2009.

iii. Patent Application WO2010130193A1 assigned to ZTE titled “Device, method for controlling audio media packet transmission and audio media server,” that has a priority date of May 13, 2009.

iv. Patent Application WO2016000385A assigned to ZTE titled “Data packet allocating method and device” that has a priority date of June 30, 2014.

v. Patent Application WO 2016000348 A1 assigned to ZTE titled “Packet format processing method and device” that has a priority date of June 30, 2014.

vi. Patent Application WO 2009059475 A1 assigned to ZTE titled “A method for clock link automatically protection in packet networks.”

d. Through Plaintiff filing of a prior complaint for patent infringement by against the Defendant.

37. On information and belief, Defendant has at least had constructive notice of the '570 Patent by operation of law.

**COUNT 5:
Infringement of U.S. Patent Re-Exam No. RE44,222**

38. Blue Spike incorporates by reference the allegations in paragraphs above.

39. The '222 Patent is valid, is enforceable, and duly issued by the United States Patent and Trademark Office.

40. Without a license or permission from Blue Spike, Defendant has infringed and continues to infringe on one or more claims of the '222 Patent—directly, contributorily, or by inducement—by importing, making, using, offering for sale, or selling products and devices that embody the patented invention, including, without limitation, one or more of the Accused Products, in violation of 35 U.S.C. §271.

41. Defendant has been and now is indirectly infringing by way of inducing infringement by others and/or contributing to the infringement by others of the '222 Patent in the State of Texas, in this judicial district, and elsewhere in the United States, by, among other things, making, using, importing, offering for sale, and/or selling, without license or authority, products for use in systems that fall within the scope of one or more claims of the '222 Patent. Such products include, without limitation, one or more of the Accused Products. Such products have no substantial non-infringing uses and are

for use in systems that infringe the '222 Patent. By making, using, importing offering for sale, and/or selling such products, Defendant injured Blue Spike and is thus liable to Blue Spike for infringement of the '222 Patent under 35 U.S.C. § 271. Those whom Defendant induces to infringe and/or to whose infringement Defendant contributes are the end users of the Accused Products. Defendant had knowledge of the '222 Patent at least as early as the service of this complaint and is thus liable for infringement of one or more claims of the '222 Patent by actively inducing infringement and/or is liable as contributory infringer of one or more claims of the '222 Patent under 35 U.S.C. §271.

42. Defendant's acts of infringement of the '222 Patent have caused damage to Blue Spike, and Blue Spike is entitled to recover from Defendant the damages sustained as a result of Defendant's wrongful acts in an amount subject to proof at trial pursuant to 35 U.S.C. §271. Defendant's infringement of Blue Spike's exclusive rights under the '222 Patent will continue to damage Blue Spike, causing it irreparable harm, for which there is no adequate remedy at law, warranting an injunction from the Court.

43. On information and belief, the infringement of the Patent-in-Suit by Defendant has been willful and continues to be willful. Defendant had knowledge of the Patent-in-Suit, including but not limited to at least one or more of the following:

- a. Through the Defendant's obligations to disclose information to the United Patent and Trademark Office, which the Defendant is very familiar with as the world's leader for filing international patent applications in 2014.
- b. This patent discloses inventions in the exact field of Defendant's product offering, such as, Claim 24, that recites:

A system for secure data transmission, comprising:

a receiver to receive data;

a processor to organize the data into a plurality of packets;

a watermark generator to generate at least a portion of a packet watermark associated with at least one packet of data wherein the packet watermark is associated with verification information; and

a transmitter to transmit at least one of the plurality of data packets, and its associated packet watermark, across a network.

c. Through the due diligence performed by Defendant when filing its patent applications related to the accused products, including by not limited to,

- i. U.S. Patent 9,197,609 assigned to ZTE titled “Method, device and system for protecting multimedia data of multimedia messages,” that has a priority date of April 1, 2011.
- ii. Patent Application WO2010145477A1 assigned to ZTE titled “Scheduling method and device for high-speed packet access system,” that has a priority date of June 29, 2009.
- iii. Patent Application WO2010130193A1 assigned to ZTE titled “Device, method for controlling audio media packet transmission and audio media server,” that has a priority date of May 13, 2009.
- iv. Patent Application WO2016000385A assigned to ZTE titled “Data packet allocating method and device” that has a priority date of June 30, 2014.
- v. Patent Application WO2016000348A1 assigned to ZTE titled “Packet format processing method and device” that has a priority date of June 30, 2014.

vi. Patent Application WO2009059475A1 assigned to ZTE titled “A method for clock link automatically protection in packet networks.”

- d. Through the filing of a prior complaint for patent infringement by Plaintiff against the Defendant.
44. On information and belief, Defendant has at least had constructive notice of the '222 Patent by operation of law.

**COUNT 6:
Infringement of U.S. Patent Re-Exam RE44,307**

45. Blue Spike incorporates by reference the allegations in paragraphs above.
46. The '307 Patent is valid, is enforceable, and duly issued by the United States Patent and Trademark Office.
47. Without a license or permission from Blue Spike, Defendant has infringed and continues to infringe on one or more claims of the '307 Patent—directly, contributorily, or by inducement—by importing, making, using, offering for sale, or selling products and devices that embody the patented invention, including, without limitation, one or more of the Accused Products, in violation of 35 U.S.C. §271.
48. Defendant has been and now is indirectly infringing by way of inducing infringement by others and/or contributing to the infringement by others of the '307 Patent in the State of Texas, in this judicial district, and elsewhere in the United States, by, among other things, making, using, importing, offering for sale, and/or selling, without license or authority, products for use in systems that fall within the scope of one or more claims of the '307 Patent. Such products include, without limitation, one or more of the Accused Products. Such products have no substantial non-infringing uses and are

for use in systems that infringe the '307 Patent. By making, using, importing offering for sale, and/or selling such products, Defendant injured Blue Spike and is thus liable to Blue Spike for infringement of the '307 Patent under 35 U.S.C. § 271. Those whom Defendant induces to infringe and/or to whose infringement Defendant contributes are the end users of the Accused Products. Defendant had knowledge of the '307 Patent at least as early as the service of this complaint and is thus liable for infringement of one or more claims of the '307 Patent by actively inducing infringement and/or is liable as contributory infringer of one or more claims of the '307 Patent under 35 U.S.C. §271.

49. Defendant's acts of infringement of the '307 Patent have caused damage to Blue Spike, and Blue Spike is entitled to recover from Defendant the damages sustained as a result of Defendant's wrongful acts in an amount subject to proof at trial pursuant to 35 U.S.C. §271. Defendant's infringement of Blue Spike's exclusive rights under the '307 Patent will continue to damage Blue Spike, causing it irreparable harm, for which there is no adequate remedy at law, warranting an injunction from the Court.

50. On information and belief, the infringement of the Patent-in-Suit by Defendant has been willful and continues to be willful. Defendant had knowledge of the Patent-in-Suit, including but not limited to at least one or more of the following:

- a. Through the Defendant's obligations to disclose information to the United Patent and Trademark Office, which the Defendant is very familiar with as one of the world's leader for filing international patent applications in 2014.
- b. Through the due diligence performed by Defendant when filing its patent applications related to the accused products, including by not limited to,

- i. U.S. Patent 9,197,609 assigned to ZTE titled “Method, device and system for protecting multimedia data of multimedia messages,” that has a priority date of April 1, 2011.
 - ii. Patent Application WO2010145477A1 assigned to ZTE titled “Scheduling method and device for high-speed packet access system,” that has a priority date of June 29, 2009.
 - iii. Patent Application WO2010130193A1 assigned to ZTE titled “Device, method for controlling audio media packet transmission and audio media server,” that has a priority date of May 13, 2009.
 - iv. Patent Application WO2016000385A assigned to ZTE titled “Data packet allocating method and device” that has a priority date of June 30, 2014.
 - v. Patent Application WO 2016000348 A1 assigned to ZTE titled “Packet format processing method and device” that has a priority date of June 30, 2014.
 - vi. Patent Application WO 2009059475 A1 assigned to ZTE titled “A method for clock link automatically protection in packet networks.”
- c. Through its knowledge of U.S. Patent 7,530,102 that the United States Patent and Trademark Office reissued as ’307 Patent.
 - d. Through the filing of one prior complaint for patent infringement by Plaintiff against the Defendant.

51. On information and belief, Defendant has at least had constructive notice of the '307 Patent by operation of law.

REQUEST FOR RELIEF

Blue Spike incorporates each of the allegations above and respectfully asks the Court to:

- (a) enter a judgment that Defendant has directly infringed, contributorily infringed, and/or induced infringement of one or more claims of each of the Patent-in-Suit;
- (b) enter a judgment awarding Blue Spike all damages adequate to compensate it for Defendant's infringement of, direct or contributory, or inducement to infringe, the Patent-in-Suit, including all pre-judgment and post-judgment interest at the maximum rate permitted by law;
- (c) enter a judgment awarding treble damages pursuant to 35 U.S.C. §284 for Defendant's willful infringement of one or more of the Patent-in-Suit;
- (d) issue a preliminary injunction and thereafter a permanent injunction enjoining and restraining Defendant, its directors, officers, agents, servants, employees, and those acting in privity or in concert with them, and their subsidiaries, divisions, successors, and assigns, from further acts of infringement, contributory infringement, or inducement of infringement of the Patent-in-Suit;
- (e) enter a judgment requiring Defendant to pay the costs of this action, including all disbursements, and attorneys' fees as provided by 35 U.S.C. §285, together with prejudgment interest; and
- (f) award Blue Spike all other relief that the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Blue Spike demands a jury trial on all issues that may be determined by a jury.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A). Pursuant to Federal Rule of Civil Procedure 5(d) and Local Rule CV-5(d) and (e), all other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by email, on this the 9th day of December 2015.

/s/ Randall T. Garteiser

Randall T. Garteiser