

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

PLECTRUM LLC,

Plaintiff,

v.

F5 NETWORKS, INC.,

Defendant.

CIVIL ACTION NO. 4:17-CV-124

ORIGINAL COMPLAINT FOR  
PATENT INFRINGEMENT

**JURY TRIAL DEMANDED**

**ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Plectrum LLC (“Plectrum”) files this original complaint against F5 Networks, Inc. (“Defendant” or “F5”), alleging, based on its own knowledge as to itself and its own actions and based on information and belief as to all other matters, as follows:

**PARTIES**

1. Plectrum is a limited liability company formed under the laws of the State of Texas, with its principal place of business at 2325 Oak Alley, Tyler, Texas, 75703.

2. Defendant F5 Networks, Inc. is a corporation organized under the laws of the state of Washington. Defendant F5 Networks, Inc. can be served with process by serving its registered agent: CT Corporation System, 1999 Bryan St., St. 900, Dallas, Texas 75201-3136.

**JURISDICTION AND VENUE**

3. This is an action for infringement of United States patents arising under 35 U.S.C. §§ 271, 281, and 284–85, among others. This Court has subject matter jurisdiction of the action under 28 U.S.C. § 1331 and § 1338(a).

4. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400(b). Upon information and belief, Defendant has transacted business in this district and has committed, by itself or in concert with others, acts of patent infringement in this district.

5. Defendant is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to Defendant's substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; and/or (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this district.

### **BACKGROUND**

6. The patent-in-suit, U.S. Patent No. 6,751,677, discloses technology developed by engineers at HP. Founded in 1939, HP was started in a car garage in Palo Alto, California and was instrumental in the growth and development of computer technology and Silicon Valley itself.

7. HP is known worldwide for its computer and computer peripherals, such as printers and scanners. The Hewlett-Packard 9100A was launched in 1968 and is considered to be the first personal computer, and HP's inkjet and laser printers are among the most popular in the world. In addition to those products, HP also develops and manufactures networking products, servers, and software. Around the same time HP released its first personal computer, it also began offering servers for businesses. HP servers and other network equipment, such as switches and firewalls, are used by businesses worldwide. HP is one of the most prolific filers of patents in the United States, with more than 23,000 patents in its portfolio.

### **THE TECHNOLOGY**

8. United States Patent No. 6,751,677 (“the ‘677 Patent”), titled “Method and Apparatus For Allowing a Secure and Transparent Communication Between a User Device and Servers of a Data Access Network System via a Firewall and a Gateway,” teaches a method for securely communicating across a network that is less complex than a traditional firewall. In a typical communications network, firewalls are used to control external access to and from the servers to improve security and prevent unauthorized intrusions, such as a hacker.

9. The ‘677 Patent uses a number of dynamically assigned ports to connect a user device, such as a PC, with a target server, such as a secure website. In addition, the ‘677 Patent utilizes “proxifying” the communication request sent by the user device, which allows for a single, end-to-end connection with the target server.

### **COUNT I**

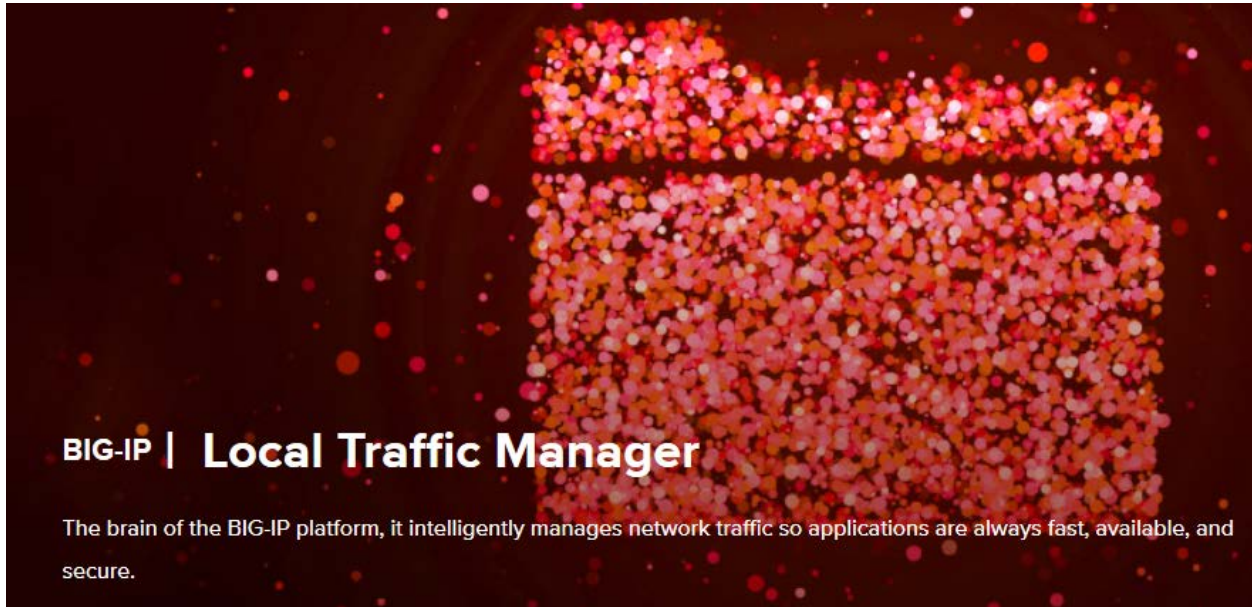
#### **DIRECT INFRINGEMENT OF U.S. PATENT NO. 6,751,677**

10. On June 15, 2004, the ‘677 Patent was duly and legally issued by the United States Patent and Trademark Office for an invention entitled “Method and Apparatus For Allowing a Secure and Transparent Communication Between a User Device and Servers of a Data Access Network System via a Firewall and a Gateway.”

11. Plectrum is the owner of the ‘677 Patent, with all substantive rights in and to that patent, including the sole and exclusive right to prosecute this action and enforce the ‘677 Patent against infringers, and to collect damages for all relevant times.

12. Defendant made, had made, used, imported, provided, supplied, distributed, sold, and/or offered for sale network switches, routers, and/or firewalls that include the infringing features (“accused products”). The accused products include a dynamic Network Address

Translation of the user IP address and the capability of performing dynamic Port Address Translation. Defendant's accused products include, for example, its BIG-IP Local Traffic Manager series products:



(Source: <https://f5.com/products/big-ip/local-traffic-manager-ltm#Features>)

13. By doing so, Defendant has directly infringed (literally and/or under the doctrine of equivalents) at least Claim 1 of the '677 Patent. Defendant's infringement in this regard is ongoing.

14. F5 has infringed the '677 Patent by making, having made, using, importing, providing, supplying, distributing, selling or offering for sale systems utilizing a method of allowing a secure and transparent communication between a user device and servers of a data access network system via a firewall and a router.

15. The accused products include designating a plurality of ports in the firewall for the router, each corresponding to one of a number of ports in the router, wherein each of the router ports can be dynamically assigned to correspond to the port of one of the servers.

16. The accused products include proxifying an object reference referring to a target server of the servers which is to be accessed by a user request by replacing the IP address and the port number of the target server in the object reference with a dynamically assigned router port and the IP address of the router.

17. The accused products include mapping the dynamically assigned router port and the router IP address to the port and IP address of the target server.

18. The accused products include sending the proxified object reference back to the user device such that the user device uses it to issue the user request to access the target server via the router in order to allow secure connection between the user device and the target server to be established without requiring the user request to expose the IP address and port of the target server at the route.

19. F5 has knowledge of the '677 Patent at least since on or around June 15, 2011, when the '677 Patent was used by the Patent Office examiner as part of a rejection under 35 U.S.C. § 103 of several claims during the prosecution of U.S. Patent No. 8,782,393, which is assigned to F5.

20. In addition, F5 listed the '677 Patent as a relevant prior-art reference in several patent applications, including Nos. 9,100,370 (Information Disclosure Statement filed on or around June 22, 2011), 9,210,131 (Information Disclosure Statement filed on or around December 7, 2011), and 9,178,706 (Information Disclosure Statement filed on or around August 29, 2013), which are or were assigned to F5.

21. Plectrum has been damaged as a result of the infringing conduct by Defendant alleged above. Thus, Defendant is liable to Plectrum in an amount that adequately compensates

it for such infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

22. Plectrum and/or its predecessors-in-interest have satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law for infringement of the '677 Patent.

**ADDITIONAL ALLEGATIONS REGARDING DIRECT INFRINGEMENT**

23. Defendant has also directly infringed the '677 Patent by exercising direction or control over the use of the accused products by its customers. When Defendant contracts with the customer to provide network services and equipment, including the accused products, Defendant is putting the accused products into service and conditions the benefit received by each customer from using the accused products (which utilize the methods taught by the '677 Patent), such benefit including improved network functionality, only if the accused products are used in the manner prescribed by Defendant. Use of the accused products in such manner infringes the '677 Patent.

**ADDITIONAL ALLEGATIONS REGARDING INDIRECT INFRINGEMENT**

24. Defendant has also indirectly infringed the '677 Patent by inducing others to directly infringe the '677 Patent. Defendant has induced the end-users, Defendant's customers, to directly infringe (literally and/or under the doctrine of equivalents) '677 Patent by using the accused products. Defendant took active steps, directly and/or through contractual relationships with others, with the specific intent to cause them to use the accused products in a manner that infringes one or more claims of the patents-in-suit, including, for example, claim 1 of the '677 Patent. Such steps by Defendant included, among other things, advising or directing customers and end-users to use the accused products in an infringing manner; advertising and promoting the

use of the accused products in an infringing manner; and/or distributing instructions that guide users to use the accused products in an infringing manner. Defendant performed these steps, which constitute induced infringement with the knowledge of the '677 Patent and with the knowledge that the induced acts would constitute infringement. Additionally, Defendant provides network management services, which help Defendant's customers optimize the networks utilizing the accused products. This also induces end-users to use the accused products in a manner that infringes the '677 Patent. Defendant was and is aware that the normal and customary use of the accused products by Defendant's customers would infringe the '677 Patent. Defendant's inducement is ongoing.

25. Defendant has also indirectly infringed by contributing to the infringement of the '677 Patent. Defendant has contributed to the direct infringement of the '677 Patent by the end-user of the accused products. The accused products have special features that are specially designed to be used in an infringing way and that have no substantial uses other than ones that infringe the '677 Patents, including, for example, claim 1 of the '677 Patent. The special features include a dynamic Network Address Translation of the user IP address and/or the capability of performing dynamic Port Address Translation in a manner that infringes the '677 Patent. The special features constitute a material part of the invention of one or more of the claims of the '677 Patent and are not staple articles of commerce suitable for substantial non-infringing use. Defendant's contributory infringement is ongoing.

26. Defendant also has knowledge of the '677 Patent at least as of the date when it was notified of the filing of this action. In addition, Defendant has knowledge of the '677 Patent since at least June 15, 2011, as described above.

27. Furthermore, Defendant has a policy or practice of not reviewing the patents of others (including instructing its employees to not review the patents of others), and thus has been willfully blind of Plectrum's patent rights.

28. Defendant's actions are at least objectively reckless as to the risk of infringing a valid patent and this objective risk was either known or should have been known by Defendant.

29. Defendant's direct and indirect infringement of the '677 Patent is, has been, and continues to be willful, intentional, deliberate, and/or in conscious disregard of Plectrum's rights under the patent.

30. Plectrum has been damaged as a result of the infringing conduct by defendant alleged above. Thus, Defendant is liable to Plectrum in an amount that adequately compensates it for such infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

#### **JURY DEMAND**

Plectrum hereby requests a trial by jury on all issues so triable by right.

#### **PRAYER FOR RELIEF**

Plectrum requests that the Court find in its favor and against Defendant, and that the Court grant Plectrum the following relief:

a. Judgment that one or more claims of the '677 Patent have been infringed, either literally and/or under the doctrine of equivalents, by Defendant and/or all others acting in concert therewith;

b. A permanent injunction enjoining Defendant and its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in concert therewith from infringement of the '677 Patent; or, in the alternative, an award of a



reasonable ongoing royalty for future infringement of the '677 Patent by such entities;

c. Judgment that Defendant accounts for and pays to Plectrum all damages to and costs incurred by Plectrum because of Defendant's infringing activities and other conduct complained of herein, including an award of all increased damages to which Plectrum is entitled under 35 U.S.C. § 284;

d. That Plectrum be granted pre-judgment and post-judgment interest on the damages caused by Defendant's infringing activities and other conduct complained of herein;

e. That this Court declare this an exceptional case and award Plectrum its reasonable attorney's fees and costs in accordance with 35 U.S.C. § 285; and

f. That Plectrum be granted such other and further relief as the Court may deem just and proper under the circumstances.

Dated: February 20, 2017

Respectfully submitted,

/s/ Zachariah S. Harrington

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 20<sup>th</sup> day of February, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Zachariah S. Harrington  
Zachariah S. Harrington