

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

REALTIME DATA LLC d/b/a IXO,  
Plaintiff,

v.

CIRCADENCE CORPORATION,  
Defendant.

Case No. 6:17-cv-122

**COMPLAINT FOR PATENT INFRINGEMENT AGAINST CIRCADENCE  
NETWORKS INC.**

This is an action for patent infringement arising under the Patent Laws of the United States of America, 35 U.S.C. § 1 *et seq.* in which Plaintiff Realtime Data LLC d/b/a IXO (“Plaintiff,” “Realtime,” or “IXO”) makes the following allegations against Defendant Circadence Corporation (“Circadence”):

**PARTIES**

1. Realtime is a limited liability company organized under the laws of the State of New York. Realtime has places of business at 5851 Legacy Circle, Plano, Texas 75024, 1828 E.S.E. Loop 323, Tyler, Texas 75701, and 66 Palmer Avenue, Suite 27, Bronxville, NY 10708. Realtime has been registered to do business in Texas since May 2011. Since the 1990s, Realtime has researched and developed specific solutions for data compression, including, for example, those that increase the speeds at which data can be stored and accessed. As recognition of its innovations rooted in this technological field, Realtime holds 47 United States patents and has numerous pending patent applications. Realtime has licensed patents in this portfolio to many of the world’s leading technology companies. The patents-in-suit relate to Realtime’s development of advanced systems and methods for fast and efficient data compression using numerous innovative

compression techniques based on, for example, particular attributes of the data.

2. On information and belief, Defendant Circadence Inc. (“Circadence”) is a Delaware corporation with its principal place of business at 1011 Walnut St., Suite 400, Boulder, Colorado 80302. On information and belief, Circadence can be served through its registered agent, The Corporation Trust Company, Corporation Trust Center, 1209 Orange St., Wilmington, DE 19801.

### **JURISDICTION AND VENUE**

3. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has original subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. This Court has personal jurisdiction over Defendant Circadence in this action because Circadence has committed acts within the Eastern District of Texas giving rise to this action and has established minimum contacts with this forum such that the exercise of jurisdiction over Circadence would not offend traditional notions of fair play and substantial justice. Circadence, directly and through subsidiaries or intermediaries, has committed and continues to commit acts of infringement in this District by, among other things, offering to sell and selling products and/or services that infringe the asserted patents.

5. Venue is proper in this district under 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b). Upon information and belief, Circadence has transacted business in the Eastern District of Texas and has committed acts of direct and indirect infringement in the Eastern District of Texas.

### **COUNT I**

#### **INFRINGEMENT OF U.S. PATENT NO. 9,054,728**

6. Plaintiff realleges and incorporates by reference paragraphs 1-5 above, as if fully set forth herein.

7. Plaintiff Realtime is the owner by assignment of United States Patent No. 9,054,728 (“the ‘728 patent”) entitled “Data compression systems and methods.” The ‘728 patent was duly and legally issued by the United States Patent and Trademark Office on June 9, 2015. A true and correct copy of the ‘728 Patent is included as Exhibit A.

8. On information and belief, Circadence has offered for sale, sold and/or imported into the United States Circadence products that infringe the ‘728 patent, and continues to do so. By way of illustrative example, these infringing products include, without limitation, Circadence’s products and services, e.g., Circadence MVO WAN optimization solution, Circadence MVO 1200 WAN Optimization suite, Circadence MVO Windows Client, Circadence MVO Software suite, Circadence MVO Appliance, Virtual Circadence MVO, Circadence MVO Mobile, Embedded Circadence MVO, and all versions and variations thereof since the issuance of the ‘728 patent (“Accused Instrumentality”). On information and belief, each deployment type of the Accused Instrumentality is functionally equivalent. See, e.g., <https://www.circadence.com/application-optimization/white-papers/> (“The patented MVO network optimization platform is marketed to customers as a hardware appliance, virtual appliance, software suite, individual mobile user application, or embedded into/with third party platforms and applications. MVO is fully interoperable regardless of deployment platform and both the appliance and software are feature and function equivalent.”).

9. On information and belief, Circadence has directly infringed and continues to infringe the ‘728 patent, for example, through its own use and testing of the Accused Instrumentality, which constitute systems for compressing data claimed by Claim 1 of the ‘728 patent, comprising a processor; one or more content dependent data compression encoders; and a single data compression encoder; wherein the processor is configured: to analyze data within a data block to identify one or more parameters or attributes of the data wherein the analyzing of the data within the data block to identify the one or more

parameters or attributes of the data excludes analyzing based solely on a descriptor that is indicative of the one or more parameters or attributes of the data within the data block; to perform content dependent data compression with the one or more content dependent data compression encoders if the one or more parameters or attributes of the data are identified; and to perform data compression with the single data compression encoder, if the one or more parameters or attributes of the data are not identified. Upon information and belief, Circadence uses the Accused Instrumentality, an infringing system, for its own internal non-testing business purposes, while testing the Accused Instrumentality, and while providing technical support and repair services for the Accused Instrumentality to Circadence's customers.

10. On information and belief, Circadence has had knowledge of the '728 patent since at least the filing of this Complaint or shortly thereafter, and on information and belief, Circadence knew of the '728 patent and knew of its infringement, including by way of this lawsuit.

11. Circadence's affirmative acts of making, using, selling, offering for sale, and/or importing the Accused Instrumentality has induced and continues to induce users of the Accused Instrumentality to use the Accused Instrumentality in its normal and customary way on compatible systems to infringe the '728 patent, knowing that when the Accused Instrumentality is used in its ordinary and customary manner with such compatible systems, such systems constitute infringing systems for compressing data comprising; a processor; one or more content dependent data compression encoders; and a single data compression encoder; wherein the processor is configured: to analyze data within a data block to identify one or more parameters or attributes of the data wherein the analyzing of the data within the data block to identify the one or more parameters or attributes of the data excludes analyzing based solely on a descriptor that is indicative of the one or more parameters or attributes of the data within the data block; to perform content dependent data compression with the one or more content dependent data

compression encoders if the one or more parameters or attributes of the data are identified; and to perform data compression with the single data compression encoder, if the one or more parameters or attributes of the data are not identified. For example, Circadence explains to customers the benefits of using the Accused Instrumentality: “Circadence MVO solutions provide an enhanced connection across arbitrary networks between endpoints. Functionally, Circadence MVO acts as a proxy, terminating the local IP connection within the Circadence MVO process, performing additional processing (compression, de-duplication, etc.), and then transmitting the payload across the WAN using Circadence’s optimization protocol. ... The Circadence protocol provides an enhanced connection that mitigates the effects of congestion, latency, and fragmentation.” See, e.g.,

[http://www.circadenceworks.com/datasheets/Solutions\\_Overview\\_Brochure.pdf](http://www.circadenceworks.com/datasheets/Solutions_Overview_Brochure.pdf).

Circadence specifically intended and was aware that the normal and customary use of the Accused Instrumentality on compatible systems would infringe the ‘728 patent. Circadence performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the ‘728 patent and with the knowledge, or willful blindness to the probability, that the induced acts would constitute infringement. On information and belief, Circadence engaged in such inducement to promote the sales of the Accused Instrumentality, e.g., through Circadence’s user manuals, product support, marketing materials, and training materials to actively induce the users of the accused products to infringe the ‘728 patent. Accordingly, Circadence has induced and continues to induce end users of the accused products to use the accused products in their ordinary and customary way with compatible systems to make and/or use systems infringing the ‘728 patent, knowing that such use of the Accused Instrumentality with compatible systems will result in infringement of the ‘728 patent.

12. Circadence also indirectly infringes the ‘728 patent by manufacturing, using, selling, offering for sale, and/or importing the accused products, with knowledge

that the accused products were and are especially manufactured and/or especially adapted for use in infringing the '728 patent and are not a staple article or commodity of commerce suitable for substantial non-infringing use. On information and belief, the Accused Instrumentality is designed to function with compatible hardware to create systems for compressing data comprising; a processor; one or more content dependent data compression encoders; and a single data compression encoder; wherein the processor is configured: to analyze data within a data block to identify one or more parameters or attributes of the data wherein the analyzing of the data within the data block to identify the one or more parameters or attributes of the data excludes analyzing based solely on a descriptor that is indicative of the one or more parameters or attributes of the data within the data block; to perform content dependent data compression with the one or more content dependent data compression encoders if the one or more parameters or attributes of the data are identified; and to perform data compression with the single data compression encoder, if the one or more parameters or attributes of the data are not identified. Because the Accused Instrumentality is designed to operate as the claimed system for compressing input data, the Accused Instrumentality has no substantial non-infringing uses, and any other uses would be unusual, far-fetched, illusory, impractical, occasional, aberrant, or experimental. Circadence's manufacture, use, sale, offering for sale, and/or importation of the Accused Instrumentality constitutes contributory infringement of the '728 patent.

13. The Accused Instrumentality is a system for compressing data, comprising a processor. For example, the software versions of the Accused Instrumentality must be run on hardware containing a processor, the physical appliance versions of the Accused Instrumentality must contain a processor, and the virtual appliance versions of the Accused Instrumentality must run on hardware containing a processor running the hypervisor on which the virtual appliance versions run. See, e.g., [http://www.circadenceworks.com/datasheets/Solutions\\_Overview\\_Brochure.pdf](http://www.circadenceworks.com/datasheets/Solutions_Overview_Brochure.pdf) (“The

Circadence MVO™ 1200 WAN Optimization suite offers many flexible deployment options including a software-only suite, virtual appliance, hardware appliance, individual user application, and modules that embed into third-party platforms and applications. Circadence MVO solutions are fully interoperable regardless of the deployment platform, and the appliance and software are both equivalent in features and functions.”).

14. The Accused Instrumentality is a system for compressing data, comprising one or more content dependent data compression encoders. For example, the Accused Instrumentality performs deduplication, which is a content dependent data compression encoder. Performing deduplication results in representation of data with fewer bits. See, e.g., [http://www.circadenceworks.com/datasheets/Solutions\\_Overview\\_Brochure.pdf](http://www.circadenceworks.com/datasheets/Solutions_Overview_Brochure.pdf) (“Circadence MVO solutions provide an enhanced connection across arbitrary networks between endpoints. Functionally, Circadence MVO acts as a proxy, terminating the local IP connection within the Circadence MVO process, performing additional processing (compression, de-duplication, etc.), and then transmitting the payload across the WAN using Circadence’s optimization protocol.”).

15. The Accused Instrumentality comprises a single data compression encoder. See, e.g., [http://www.circadenceworks.com/datasheets/Solutions\\_Overview\\_Brochure.pdf](http://www.circadenceworks.com/datasheets/Solutions_Overview_Brochure.pdf) (“Circadence MVO solutions utilize a fast LZO (Lempel-Ziv-Oberhumer) compression module, allowing block-based, lossless compression to be performed at wire speed. Circadence has created a decision module that determines whether or not to compress data based on speed, bypassing if compression time exceeds the benefit.”).

16. The Accused Instrumentality analyzes data within a data block to identify one or more parameters or attributes of the data, for example, whether the data is duplicative of data previously transmitted and/or stored, where the analysis does not rely only on the descriptor. See, e.g., [http://www.circadenceworks.com/datasheets/Solutions\\_Overview\\_Brochure.pdf](http://www.circadenceworks.com/datasheets/Solutions_Overview_Brochure.pdf)

“Circadence MVO solutions provide an enhanced connection across arbitrary networks between endpoints. Functionally, Circadence MVO acts as a proxy, terminating the local IP connection within the Circadence MVO process, performing additional processing (compression, de-duplication, etc.), and then transmitting the payload across the WAN using Circadence’s optimization protocol.”).

17. The Accused Instrumentality performs content dependent data compression with the one or more content dependent data compression encoders if the one or more parameters or attributes of the data are identified. See, e.g., [http://www.circadenceworks.com/datasheets/Solutions\\_Overview\\_Brochure.pdf](http://www.circadenceworks.com/datasheets/Solutions_Overview_Brochure.pdf)

“Circadence MVO solutions provide an enhanced connection across arbitrary networks between endpoints. Functionally, Circadence MVO acts as a proxy, terminating the local IP connection within the Circadence MVO process, performing additional processing (compression, de-duplication, etc.), and then transmitting the payload across the WAN using Circadence’s optimization protocol.”).

18. The Accused Instrumentality performs data compression with the single data compression encoder, if the one or more parameters or attributes of the data are not identified. See, e.g., [http://www.circadenceworks.com/datasheets/Solutions\\_Overview\\_Brochure.pdf](http://www.circadenceworks.com/datasheets/Solutions_Overview_Brochure.pdf)

“Circadence MVO solutions utilize a fast LZO (Lempel-Ziv-Oberhumer) compression module, allowing block-based, lossless compression to be performed at wire speed. Circadence has created a decision module that determines whether or not to compress data based on speed, bypassing if compression time exceeds the benefit.”).

19. Circadence also infringes other claims of the ‘728 patent, directly and through inducing infringement and contributory infringement, for similar reasons as explained above with respect to Claim 1 of the ‘728 patent.

20. By making, using, offering for sale, selling and/or importing into the United States the Accused Instrumentality, and touting the benefits of using the Accused



Instrumentality's compression features, Circadence has injured Realtime and is liable to Realtime for infringement of the '728 patent pursuant to 35 U.S.C. § 271.

21. As a result of Circadence's infringement of the '728 patent, Plaintiff Realtime is entitled to monetary damages in an amount adequate to compensate for Circadence's infringement, but in no event less than a reasonable royalty for the use made of the invention by Circadence, together with interest and costs as fixed by the Court.

## **COUNT II**

### **INFRINGEMENT OF U.S. PATENT NO. 7,415,530**

22. Plaintiff realleges and incorporates by reference paragraphs 1-21 above, as if fully set forth herein.

23. Plaintiff Realtime is the owner by assignment of United States Patent No. 7,415,530 ("the '530 patent") entitled "System and methods for accelerated data storage and retrieval." The '530 patent was duly and legally issued by the United States Patent and Trademark Office on August 19, 2008. A true and correct copy of the '530 patent is included as Exhibit B.

24. On information and belief, Circadence has offered for sale, sold and/or imported into the United States Circadence products that infringe the '530 patent, and continues to do so. By way of illustrative example, these infringing products include, without limitation, Circadence's products and services, e.g., Circadence MVO WAN optimization solution, Circadence MVO 1200 WAN Optimization suite, Circadence MVO Windows Client, Circadence MVO Software suite, Circadence MVO Appliance, Virtual Circadence MVO, Circadence MVO Mobile, Embedded Circadence MVO, and all versions and variations thereof since the issuance of the '530 patent ("Accused Instrumentality"). On information and belief, each deployment type of the Accused Instrumentality is functionally equivalent. See, e.g.,

<https://www.circadence.com/application-optimization/white-papers/> (“The patented MVO network optimization platform is marketed to customers as a hardware appliance, virtual appliance, software suite, individual mobile user application, or embedded into/with third party platforms and applications. MVO is fully interoperable regardless of deployment platform and both the appliance and software are feature and function equivalent.”).

25. On information and belief, Circadence has directly infringed and continues to infringe the ‘530 patent, for example, through its own use and testing of the Accused Instrumentality, which constitutes a system comprising: a memory device; and a data accelerator, wherein said data accelerator is coupled to said memory device, a data stream is received by said data accelerator in received form, wherein a bandwidth of the received data stream is determined, said data stream includes a first data block and a second data block, said data stream is compressed by said data accelerator to provide a compressed data stream by compressing said first data block with a first compression technique and said second data block with a second compression technique, said first and second compression techniques are different, wherein a data rate of the compressed data stream is adjusted by modifying a system parameter to make a bandwidth of the compressed data stream compatible with a bandwidth of the memory device, said compressed data stream is stored on said memory device, said compression and storage occurs faster than said data stream is able to be stored on said memory device in said received form, a first data descriptor is stored on said memory device indicative of said first compression technique, and said first descriptor is utilized to decompress the portion of said compressed data stream associated with said first data block. Upon information and belief, Circadence uses the Accused Instrumentality, an infringing system, for its own internal non-testing business purposes, while testing the Accused Instrumentality, and while providing technical support and repair services for the Accused Instrumentality to Circadence’s customers.

26. On information and belief, Circadence has had knowledge of the '530 patent since at least the filing of this Complaint or shortly thereafter, and on information and belief, Circadence knew of the '530 patent and knew of its infringement, including by way of this lawsuit.

27. Upon information and belief, Circadence's affirmative acts of making, using, and selling the Accused Instrumentalities, and providing implementation services and technical support to users of the Accused Instrumentalities, have induced and continue to induce users of the Accused Instrumentalities to use them in their normal and customary way to infringe Claim 24 of the '530 patent by making or using a system comprising: a memory device; and a data accelerator, wherein said data accelerator is coupled to said memory device, a data stream is received by said data accelerator in received form, wherein a bandwidth of the received data stream is determined, said data stream includes a first data block and a second data block, said data stream is compressed by said data accelerator to provide a compressed data stream by compressing said first data block with a first compression technique and said second data block with a second compression technique, said first and second compression techniques are different, wherein a data rate of the compressed data stream is adjusted by modifying a system parameter to make a bandwidth of the compressed data stream compatible with a bandwidth of the memory device, said compressed data stream is stored on said memory device, said compression and storage occurs faster than said data stream is able to be stored on said memory device in said received form, a first data descriptor is stored on said memory device indicative of said first compression technique, and said first descriptor is utilized to decompress the portion of said compressed data stream associated with said first data block. For example, Circadence explains to customers the benefits of using the Accused Instrumentality: "Circadence MVO solutions provide an enhanced connection across arbitrary networks between endpoints. Functionally, Circadence MVO acts as a proxy, terminating the local IP connection within the Circadence MVO process,

performing additional processing (compression, de-duplication, etc.), and then transmitting the payload across the WAN using Circadence's optimization protocol. ... The Circadence protocol provides an enhanced connection that mitigates the effects of congestion, latency, and fragmentation. ... Instead, it uses an understanding of current conditions discovered through an out-of-band, quality of service (QoS) discovery packet. That information is used to carefully meter packets onto the wire, and it enables fine changes in transfer rates to suit conditions – allowing the protocol to maintain peak throughput rates and recover more quickly from disruptions. Throughput gains are quite significant and the delta in performance increases greatly as latency, congestion, or fragmentation increase.” See, e.g., [http://www.circadenceworks.com/datasheets/Solutions\\_Overview\\_Brochure.pdf](http://www.circadenceworks.com/datasheets/Solutions_Overview_Brochure.pdf). For similar reasons, Circadence also induces its customers to use the Accused Instrumentalities to infringe other claims of the '530 patent. Circadence specifically intended and was aware that these normal and customary activities would infringe the '530 patent. Circadence performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '530 patent and with the knowledge, or willful blindness to the probability, that the induced acts would constitute infringement. On information and belief, Circadence engaged in such inducement to promote the sales of the Accused Instrumentalities. Accordingly, Circadence has induced and continues to induce users of the accused products to use the accused products in their ordinary and customary way to infringe the '530 patent, knowing that such use constitutes infringement of the '530 patent.

28. The Accused Instrumentality evidently includes the memory device and includes the data accelerator, wherein said data accelerator is coupled to said memory device. For example, the software versions of the Accused Instrumentality must be run on hardware containing a memory device, the physical appliance versions of the Accused Instrumentality must contain a memory device, and the virtual appliance versions of the

Accused Instrumentality must run on hardware containing a memory device running the hypervisor on which the virtual appliance versions run. See, e.g., [http://www.circadenceworks.com/datasheets/Solutions\\_Overview\\_Brochure.pdf](http://www.circadenceworks.com/datasheets/Solutions_Overview_Brochure.pdf) (“The Circadence MVO™ 1200 WAN Optimization suite offers many flexible deployment options including a software-only suite, virtual appliance, hardware appliance, individual user application, and modules that embed into third-party platforms and applications. Circadence MVO solutions are fully interoperable regardless of the deployment platform, and the appliance and software are both equivalent in features and functions.”). The Accused Instrumentality accelerates the movement of data. See, e.g., [http://www.circadenceworks.com/datasheets/Solutions\\_Overview\\_Brochure.pdf](http://www.circadenceworks.com/datasheets/Solutions_Overview_Brochure.pdf) (“That information is used to carefully meter packets onto the wire, and it enables fine changes in transfer rates to suit conditions – allowing the protocol to maintain peak throughput rates and recover more quickly from disruptions. Throughput gains are quite significant and the delta in performance increases greatly as latency, congestion, or fragmentation increase.”).

29. The Accused Instrumentality receives a data stream in received form, wherein a bandwidth of the received data stream is determined. See, e.g., [http://www.circadenceworks.com/datasheets/Solutions\\_Overview\\_Brochure.pdf](http://www.circadenceworks.com/datasheets/Solutions_Overview_Brochure.pdf) (“Circadence MVO solutions use the Circadence optimization protocol for transport across the WAN. The Circadence protocol provides an enhanced connection that mitigates the effects of congestion, latency, and fragmentation. The connection begins with a slow start process that has a variably aggressive ramp rate, letting our proprietary protocol discover the real-time bandwidth limit quickly (mostly important in highly transient networks and wireless). Furthermore, our protocol is not directly “loss based” in determining the send rate. Instead, it uses an understanding of current conditions discovered through an out-of-band, quality of service (QoS) discovery packet. That information is used to carefully meter packets onto the wire, and it enables fine changes

in transfer rates to suit conditions – allowing the protocol to maintain peak throughput rates and recover more quickly from disruptions. Throughput gains are quite significant and the delta in performance increases greatly as latency, congestion, or fragmentation increase.”).

30. In the Accused Instrumentality, said data stream includes a first data block and a second data block, said data stream is compressed by said data accelerator to provide a compressed data stream by compressing said first data block with a first compression technique and said second data block with a second compression technique, said first and second compression techniques are different. See, e.g., [http://www.circadenceworks.com/datasheets/Solutions\\_Overview\\_Brochure.pdf](http://www.circadenceworks.com/datasheets/Solutions_Overview_Brochure.pdf) (“Circadence MVO solutions provide an enhanced connection across arbitrary networks between endpoints. Functionally, Circadence MVO acts as a proxy, terminating the local IP connection within the Circadence MVO process, performing additional processing (compression, de-duplication, etc.), and then transmitting the payload across the WAN using Circadence’s optimization protocol. ... Circadence MVO solutions utilize a fast LZO (Lempel-Ziv-Oberhumer) compression module, allowing block-based, lossless compression to be performed at wire speed. Circadence has created a decision module that determines whether or not to compress data based on speed, bypassing if compression time exceeds the benefit.”).

31. In the Accused Instrumentality, a data rate of the compressed data stream is adjusted by modifying a system parameter to make a bandwidth of the compressed data stream compatible with a bandwidth of the memory device. [http://www.circadenceworks.com/datasheets/Solutions\\_Overview\\_Brochure.pdf](http://www.circadenceworks.com/datasheets/Solutions_Overview_Brochure.pdf) (“Circadence MVO solutions use the Circadence optimization protocol for transport across the WAN. The Circadence protocol provides an enhanced connection that mitigates the effects of congestion, latency, and fragmentation. The connection begins with a slow start process that has a variably aggressive ramp rate, letting our proprietary

protocol discover the real-time bandwidth limit quickly (mostly important in highly transient networks and wireless). Furthermore, our protocol is not directly “loss based” in determining the send rate. Instead, it uses an understanding of current conditions discovered through an out-of-band, quality of service (QoS) discovery packet. That information is used to carefully meter packets onto the wire, and it enables fine changes in transfer rates to suit conditions – allowing the protocol to maintain peak throughput rates and recover more quickly from disruptions. Throughput gains are quite significant and the delta in performance increases greatly as latency, congestion, or fragmentation increase.”.”

32. In the Accused Instrumentality, said compressed data stream is stored on said memory device. See, e.g., [http://www.circadenceworks.com/datasheets/Solutions\\_Overview\\_Brochure.pdf](http://www.circadenceworks.com/datasheets/Solutions_Overview_Brochure.pdf) (“Circadence MVO solutions provide an enhanced connection across arbitrary networks between endpoints. Functionally, Circadence MVO acts as a proxy, terminating the local IP connection within the Circadence MVO process, performing additional processing (compression, de-duplication, etc.), and then transmitting the payload across the WAN using Circadence’s optimization protocol. At the distant end, the payload is captured and reassembled into the original IP packet, including original header information, and sent on to the destination”).

33. In the Accused Instrumentality, said compression and storage occurs faster than said data stream is able to be stored on said memory device in said received form. See, e.g., [http://www.circadenceworks.com/datasheets/Solutions\\_Overview\\_Brochure.pdf](http://www.circadenceworks.com/datasheets/Solutions_Overview_Brochure.pdf) (“That information is used to carefully meter packets onto the wire, and it enables fine changes in transfer rates to suit conditions – allowing the protocol to maintain peak throughput rates and recover more quickly from disruptions. Throughput gains are quite significant and the delta in performance increases greatly as latency, congestion, or fragmentation

increase.”).

34. The Accused Instrumentality would evidently store a first data descriptor on said memory device indicative of said first compression technique, such as a pointer to a deduplicated data block, and utilize said first descriptor to decompress the portion of said compressed data stream associated with said first data block. See, e.g., [http://www.circadenceworks.com/datasheets/Solutions\\_Overview\\_Brochure.pdf](http://www.circadenceworks.com/datasheets/Solutions_Overview_Brochure.pdf) (“Circadence MVO solutions provide an enhanced connection across arbitrary networks between endpoints. Functionally, Circadence MVO acts as a proxy, terminating the local IP connection within the Circadence MVO process, performing additional processing (compression, de-duplication, etc.), and then transmitting the payload across the WAN using Circadence’s optimization protocol.”).

35. On information and belief, Circadence also infringes, directly and through induced infringement, and continues to infringe other claims of the ‘530 patent, for similar reasons as explained above with respect to Claim 24 of the ‘530 patent.

36. On information and belief, use of the Accused Instrumentality in its ordinary and customary fashion results in infringement of the methods claimed by the ‘530 patent.

37. By making, using, offering for sale, selling and/or importing into the United States the Accused Instrumentalities, and touting the benefits of using the Accused Instrumentalities’ compression features, Circadence has injured Realtime and is liable to Realtime for infringement of the ‘530 patent pursuant to 35 U.S.C. § 271.

38. As a result of Circadence’s infringement of the ‘530 patent, Plaintiff Realtime is entitled to monetary damages in an amount adequate to compensate for Circadence’s infringement, but in no event less than a reasonable royalty for the use made of the invention by Circadence, together with interest and costs as fixed by the Court.



**COUNT III**

**INFRINGEMENT OF U.S. PATENT NO. 9,116,908**

39. Plaintiff Realtime realleges and incorporates by reference paragraphs 1-38 above, as if fully set forth herein.

40. Plaintiff Realtime is the owner by assignment of United States Patent No. 9,116,908 (“the ‘908 Patent”) entitled “System and methods for accelerated data storage and retrieval.” The ‘908 Patent was duly and legally issued by the United States Patent and Trademark Office on August 25, 2015. A true and correct copy of the ‘908 Patent is included as Exhibit C.

41. On information and belief, Circadence has offered for sale, sold and/or imported into the United States Circadence products that infringe the ‘908 patent, and continues to do so. By way of illustrative example, these infringing products include, without limitation, Circadence’s products and services, e.g., Circadence MVO WAN optimization solution, Circadence MVO 1200 WAN Optimization suite, Circadence MVO Windows Client, Circadence MVO Software suite, Circadence MVO Appliance, Virtual Circadence MVO, Circadence MVO Mobile, Embedded Circadence MVO, and all versions and variations thereof since the issuance of the ‘908 patent (“Accused Instrumentality”). On information and belief, each deployment type of the Accused Instrumentality is functionally equivalent. See, e.g., <https://www.circadence.com/application-optimization/white-papers/> (“The patented MVO network optimization platform is marketed to customers as a hardware appliance, virtual appliance, software suite, individual mobile user application, or embedded into/with third party platforms and applications. MVO is fully interoperable regardless of deployment platform and both the appliance and software are feature and function equivalent.”).

42. On information and belief, Circadence has directly infringed and continues to infringe the ‘908 patent, for example, through its own use and testing of the Accused

Instrumentality, which constitutes a system comprising: a memory device; and a data accelerator configured to compress: (i) a first data block with a first compression technique to provide a first compressed data block; and (ii) a second data block with a second compression technique, different from the first compression technique, to provide a second compressed data block; wherein the compressed first and second data blocks are stored on the memory device, and the compression and storage occurs faster than the first and second data blocks are able to be stored on the memory device in uncompressed form. Upon information and belief, Circadence uses the Accused Instrumentality, an infringing system, for its own internal non-testing business purposes, while testing the Accused Instrumentality, and while providing technical support and repair services for the Accused Instrumentality to Circadence's customers.

43. On information and belief, use of the Accused Instrumentality in its ordinary and customary fashion results in infringement of the systems claimed by the '908 patent.

44. On information and belief, Circadence has had knowledge of the '908 patent since at least the filing of this Complaint or shortly thereafter, and on information and belief, Circadence knew of the '908 patent and knew of its infringement, including by way of this lawsuit.

45. Upon information and belief, Circadence's affirmative acts of making, using, and selling the Accused Instrumentalities, and providing implementation services and technical support to users of the Accused Instrumentalities, have induced and continue to induce users of the Accused Instrumentalities to use them in their normal and customary way to infringe Claim 1 of the '908 patent by making or using a system comprising: a memory device; and a data accelerator configured to compress: (i) a first data block with a first compression technique to provide a first compressed data block; and (ii) a second data block with a second compression technique, different from the first compression technique, to provide a second compressed data block; wherein the

compressed first and second data blocks are stored on the memory device, and the compression and storage occurs faster than the first and second data blocks are able to be stored on the memory device in uncompressed form. For example, Circadence explains to customers the benefits of using the Accused Instrumentality: “Circadence MVO solutions provide an enhanced connection across arbitrary networks between endpoints. Functionally, Circadence MVO acts as a proxy, terminating the local IP connection within the Circadence MVO process, performing additional processing (compression, de-duplication, etc.), and then transmitting the payload across the WAN using Circadence’s optimization protocol. ... The Circadence protocol provides an enhanced connection that mitigates the effects of congestion, latency, and fragmentation.” See, e.g., [http://www.circadenceworks.com/datasheets/Solutions\\_Overview\\_Brochure.pdf](http://www.circadenceworks.com/datasheets/Solutions_Overview_Brochure.pdf). For similar reasons, Circadence also induces its customers to use the Accused Instrumentalities to infringe other claims of the ‘908 patent. Circadence specifically intended and was aware that these normal and customary activities would infringe the ‘908 patent. Circadence performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the ‘908 patent and with the knowledge, or willful blindness to the probability, that the induced acts would constitute infringement. On information and belief, Circadence engaged in such inducement to promote the sales of the Accused Instrumentalities. Accordingly, Circadence has induced and continues to induce users of the accused products to use the accused products in their ordinary and customary way to infringe the ‘908 patent, knowing that such use constitutes infringement of the ‘908 patent.

46. The Accused Instrumentality evidently includes a memory device and a data accelerator configured to compress: (i) a first data block with a first compression technique to provide a first compressed data block; and (ii) a second data block with a second compression technique, different from the first compression technique, to provide a second compressed data block. For example, the software versions of the Accused

Instrumentality must be run on hardware containing a memory device, the physical appliance versions of the Accused Instrumentality must contain a memory device, and the virtual appliance versions of the Accused Instrumentality must run on hardware containing a memory device running the hypervisor on which the virtual appliance versions run. See, e.g., [http://www.circadenceworks.com/datasheets/Solutions\\_Overview\\_Brochure.pdf](http://www.circadenceworks.com/datasheets/Solutions_Overview_Brochure.pdf) (“The Circadence MVO™ 1200 WAN Optimization suite offers many flexible deployment options including a software-only suite, virtual appliance, hardware appliance, individual user application, and modules that embed into third-party platforms and applications. Circadence MVO solutions are fully interoperable regardless of the deployment platform, and the appliance and software are both equivalent in features and functions.”). The Accused Instrumentality accelerates the movement of data. See, e.g., [http://www.circadenceworks.com/datasheets/Solutions\\_Overview\\_Brochure.pdf](http://www.circadenceworks.com/datasheets/Solutions_Overview_Brochure.pdf) (“That information is used to carefully meter packets onto the wire, and it enables fine changes in transfer rates to suit conditions – allowing the protocol to maintain peak throughput rates and recover more quickly from disruptions. Throughput gains are quite significant and the delta in performance increases greatly as latency, congestion, or fragmentation increase.”).

47. The Accused Instrumentality stores the compressed first and second data blocks on the memory device, and the compression and storage occurs faster than the first and second data blocks are able to be stored on the memory device in uncompressed form. See, e.g., [http://www.circadenceworks.com/datasheets/Solutions\\_Overview\\_Brochure.pdf](http://www.circadenceworks.com/datasheets/Solutions_Overview_Brochure.pdf) (“Circadence MVO solutions provide an enhanced connection across arbitrary networks between endpoints. Functionally, Circadence MVO acts as a proxy, terminating the local IP connection within the Circadence MVO process, performing additional processing (compression, de-duplication, etc.), and then transmitting the payload across the WAN

using Circadence's optimization protocol. ... Circadence MVO solutions utilize a fast LZO (Lempel-Ziv-Oberhumer) compression module, allowing block-based, lossless compression to be performed at wire speed. Circadence has created a decision module that determines whether or not to compress data based on speed, bypassing if compression time exceeds the benefit.”).

48. On information and belief, Circadence also infringes, directly and through induced infringement, and continues to infringe other claims of the '908 patent, for similar reasons as explained above with respect to Claim 1 of the '908 patent.

49. By making, using, offering for sale, selling and/or importing into the United States the Accused Instrumentalities, and touting the benefits of using the Accused Instrumentalities' compression features, Circadence has injured Realtime and is liable to Realtime for infringement of the '908 patent pursuant to 35 U.S.C. § 271.

50. As a result of Circadence's infringement of the '908 patent, Plaintiff Realtime is entitled to monetary damages in an amount adequate to compensate for Circadence's infringement, but in no event less than a reasonable royalty for the use made of the invention by Circadence, together with interest and costs as fixed by the Court.

#### **COUNT IV**

#### **INFRINGEMENT OF U.S. PATENT NO. 7,358,867**

51. Plaintiff realleges and incorporates by reference paragraphs 1-50 above, as if fully set forth herein.

52. Plaintiff Realtime is the owner by assignment of United States Patent No. 7,358,867 (“'867 patent”) entitled “Content independent data compression method and system.” The '867 patent was duly and legally issued by the United States Patent and Trademark Office on April 15, 2008. A true and correct copy of the '867 Patent is included as Exhibit D.

53. On information and belief, Circadence has offered for sale, sold and/or

imported into the United States Circadence products that infringe the '867 patent, and continues to do so. By way of illustrative example, these infringing products include, without limitation, Circadence's products and services, e.g., Circadence MVO WAN optimization solution, Circadence MVO 1200 WAN Optimization suite, Circadence MVO Windows Client, Circadence MVO Software suite, Circadence MVO Appliance, Virtual Circadence MVO, Circadence MVO Mobile, Embedded Circadence MVO, and all versions and variations thereof since the issuance of the '867 patent ("Accused Instrumentality"). On information and belief, each deployment type of the Accused Instrumentality is functionally equivalent. See, e.g., <https://www.circadence.com/application-optimization/white-papers/> ("The patented MVO network optimization platform is marketed to customers as a hardware appliance, virtual appliance, software suite, individual mobile user application, or embedded into/with third party platforms and applications. MVO is fully interoperable regardless of deployment platform and both the appliance and software are feature and function equivalent.").

54. On information and belief, Circadence has directly infringed and continues to infringe the '867 patent, for example, through its own use and testing of the accused products to practice compression methods claimed by the '867 patent, including a method comprising: receiving a plurality of data blocks; determining whether or not to compress each one of said plurality of data blocks with a particular one or more of several encoders; if said determination is to compress with said particular one or more of said several encoders for a particular one of said plurality of data blocks; compressing said particular one of said plurality of data blocks with said particular one or more of said several encoders to provide a compressed data block; providing a data compression type descriptor representative of said particular one or more of said several encoders; outputting said data compression type descriptor and said compressed data block; if said determination is to not compress said particular one of said plurality of data blocks;

providing a null data compression type descriptor representative of said determination not to compress; and outputting said null data compression type descriptor and said particular one of said plurality of data blocks. On information and belief, Circadence uses the Accused Instrumentality in its ordinary and customary fashion for its own internal non-testing business purposes, while testing the Accused Instrumentality, and while providing technical support and repair services for the Accused Instrumentality to Circadence's customers, and use of the Accused Instrumentality in its ordinary and customary fashion results in infringement of the methods claimed by the '867 patent.

55. On information and belief, Circadence has had knowledge of the '867 patent since at least the filing of this Complaint or shortly thereafter, and on information and belief, Circadence knew of the '867 patent and knew of its infringement, including by way of this lawsuit.

56. Circadence's affirmative acts of making, using, selling, offering for sale, and/or importing the Accused Instrumentality have induced and continue to induce users of the Accused Instrumentality to use the Accused Instrumentality in its normal and customary way to infringe the '867 patent by practicing compression methods claimed by the '867 patent, including a method comprising: receiving a plurality of data blocks; determining whether or not to compress each one of said plurality of data blocks with a particular one or more of several encoders; if said determination is to compress with said particular one or more of said several encoders for a particular one of said plurality of data blocks; compressing said particular one of said plurality of data blocks with said particular one or more of said several encoders to provide a compressed data block; providing a data compression type descriptor representative of said particular one or more of said several encoders; outputting said data compression type descriptor and said compressed data block; if said determination is to not compress said particular one of said plurality of data blocks; providing a null data compression type descriptor representative of said determination not to compress; and outputting said null data compression type

descriptor and said particular one of said plurality of data blocks. For example, Circadence explains to customers that “Circadence MVO solutions provide an enhanced connection across arbitrary networks between endpoints. Functionally, Circadence MVO acts as a proxy, terminating the local IP connection within the Circadence MVO process, performing additional processing (compression, de-duplication, etc.), and then transmitting the payload across the WAN using Circadence’s optimization protocol. ... Circadence MVO solutions utilize a fast LZO (Lempel-Ziv-Oberhumer) compression module, allowing block-based, lossless compression to be performed at wire speed. Circadence has created a decision module that determines whether or not to compress data based on speed, bypassing if compression time exceeds the benefit.” See, e.g., [http://www.circadenceworks.com/datasheets/Solutions\\_Overview\\_Brochure.pdf](http://www.circadenceworks.com/datasheets/Solutions_Overview_Brochure.pdf).

Circadence specifically intended and was aware that the normal and customary use of the Accused Instrumentality would infringe the ‘867 patent. Circadence performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the ‘867 patent and with the knowledge, or willful blindness to the probability, that the induced acts would constitute infringement. On information and belief, Circadence engaged in such inducement to promote the sales of the Accused Instrumentality, e.g., through Circadence’s user manuals, product support, marketing materials, and training materials to actively induce the users of the Accused Instrumentality to infringe the ‘867 patent. Accordingly, Circadence has induced and continues to induce users of the Accused Instrumentality to use the Accused Instrumentality in its ordinary and customary way to infringe the ‘867 patent, knowing that such use constitutes infringement of the ‘867 patent.

57. The Accused Instrumentality practices a method comprising: receiving a plurality of data blocks. See, e.g., [http://www.circadenceworks.com/datasheets/Solutions\\_Overview\\_Brochure.pdf](http://www.circadenceworks.com/datasheets/Solutions_Overview_Brochure.pdf)

(“Circadence MVO solutions provide an enhanced connection across arbitrary networks



between endpoints. Functionally, Circadence MVO acts as a proxy, terminating the local IP connection within the Circadence MVO process, performing additional processing (compression, de-duplication, etc.), and then transmitting the payload across the WAN using Circadence's optimization protocol.”).

58. The Accused Instrumentality determines whether or not to compress each one of said plurality of data blocks with a particular one or more of several encoders. See, e.g., [http://www.circadenceworks.com/datasheets/Solutions\\_Overview\\_Brochure.pdf](http://www.circadenceworks.com/datasheets/Solutions_Overview_Brochure.pdf) (“Circadence MVO solutions utilize a fast LZO (Lempel-Ziv-Oberhumer) compression module, allowing block-based, lossless compression to be performed at wire speed. Circadence has created a decision module that determines whether or not to compress data based on speed, bypassing if compression time exceeds the benefit.”).

59. If the Accused Instrumentality determines to compress with said particular one or more of said several encoders for a particular one of said plurality of data blocks; it compresses said particular one of said plurality of data blocks with said particular one or more of said several encoders to provide a compressed data block. See, e.g., [http://www.circadenceworks.com/datasheets/Solutions\\_Overview\\_Brochure.pdf](http://www.circadenceworks.com/datasheets/Solutions_Overview_Brochure.pdf) (“Circadence MVO solutions utilize a fast LZO (Lempel-Ziv-Oberhumer) compression module, allowing block-based, lossless compression to be performed at wire speed. Circadence has created a decision module that determines whether or not to compress data based on speed, bypassing if compression time exceeds the benefit.”).

60. The Accused Instrumentality provides a data compression type descriptor representative of said particular one or more of said several encoders and outputs said data compression type descriptor, which is stored in a compression dictionary, and said compressed data block. See, e.g., [http://www.circadenceworks.com/datasheets/Solutions\\_Overview\\_Brochure.pdf](http://www.circadenceworks.com/datasheets/Solutions_Overview_Brochure.pdf) (“Circadence MVO solutions provide an enhanced connection across arbitrary networks between endpoints. Functionally, Circadence MVO acts as a proxy, terminating the local

IP connection within the Circadence MVO process, performing additional processing (compression, de-duplication, etc.), and then transmitting the payload across the WAN using Circadence’s optimization protocol.”).

61. If said determination is to not compress said particular one of said plurality of data blocks; the Accused Instrumentality provides a null data compression type descriptor representative of said determination not to compress; and outputs said null data compression type descriptor and said particular one of said plurality of data blocks.

See, e.g.,

[http://www.circadenceworks.com/datasheets/Solutions\\_Overview\\_Brochure.pdf](http://www.circadenceworks.com/datasheets/Solutions_Overview_Brochure.pdf)

(“Circadence MVO solutions utilize a fast LZO (Lempel-Ziv-Oberhumer) compression module, allowing block-based, lossless compression to be performed at wire speed. Circadence has created a decision module that determines whether or not to compress data based on speed, bypassing if compression time exceeds the benefit.”).

62. Circadence also infringes other claims of the ‘867 patent, directly and through inducing infringement, for similar reasons as explained above with respect to Claim 16 of the ‘867 patent.

63. By making, using, offering for sale, selling and/or importing into the United States the Accused Instrumentality, and touting the benefits of using the Accused Instrumentality’s compression features, Circadence has injured Realtime and is liable to Realtime for infringement of the ‘867 patent pursuant to 35 U.S.C. § 271.

64. As a result of Circadence’s infringement of the ‘867 patent, Plaintiff Realtime is entitled to monetary damages in an amount adequate to compensate for Circadence’s infringement, but in no event less than a reasonable royalty for the use made of the invention by Circadence, together with interest and costs as fixed by the Court.

## **COUNT V**

### **INFRINGEMENT OF U.S. PATENT NO. 8,717,204**

65. Plaintiff realleges and incorporates by reference paragraphs 1-64 above, as if fully set forth herein.

66. Plaintiff Realtime is the owner by assignment of United States Patent No. 8,717,204 entitled “Methods for encoding and decoding data.” The ‘204 patent was duly and legally issued by the United States Patent and Trademark Office on May 6, 2014. A true and correct copy of the ‘204 Patent is included as Exhibit E.

67. On information and belief, Circadence has offered for sale, sold and/or imported into the United States Circadence products that infringe the ‘204 patent, and continues to do so. By way of illustrative example, these infringing products include, without limitation, Circadence’s products and services, e.g., Circadence MVO WAN optimization solution, Circadence MVO 1200 WAN Optimization suite, Circadence MVO Windows Client, Circadence MVO Software suite, Circadence MVO Appliance, Virtual Circadence MVO, Circadence MVO Mobile, Embedded Circadence MVO, and all versions and variations thereof since the issuance of the ‘204 patent (“Accused Instrumentality”). On information and belief, each deployment type of the Accused Instrumentality is functionally equivalent. See, e.g., <https://www.circadence.com/application-optimization/white-papers/> (“The patented MVO network optimization platform is marketed to customers as a hardware appliance, virtual appliance, software suite, individual mobile user application, or embedded into/with third party platforms and applications. MVO is fully interoperable regardless of deployment platform and both the appliance and software are feature and function equivalent.”).

68. On information and belief, Circadence has directly infringed and continues to infringe the ‘204 patent, for example, through its own use and testing of the accused products to practice compression methods claimed by the ‘204 patent, including a method for processing data, the data residing in data fields, comprising: recognizing any characteristic, attribute, or parameter of the data; selecting an encoder associated with the

recognized characteristic, attribute, or parameter of the data; compressing the data with the selected encoder utilizing at least one state machine to provide compressed data having a compression ratio of over 4:1; and point-to-point transmitting the compressed data to a client; wherein the compressing and the transmitting occur over a period of time which is less than a time to transmit the data in an uncompressed form. On information and belief, Circadence uses the Accused Instrumentality in its ordinary and customary fashion for its own internal non-testing business purposes, while testing the Accused Instrumentality, and while providing technical support and repair services for the Accused Instrumentality to Circadence's customers, and use of the Accused Instrumentality in its ordinary and customary fashion results in infringement of the methods claimed by the '204 patent.

69. On information and belief, Circadence has had knowledge of the '204 patent since at least the filing of this Complaint or shortly thereafter, and on information and belief, Circadence knew of the '204 patent and knew of its infringement, including by way of this lawsuit.

70. Circadence's affirmative acts of making, using, selling, offering for sale, and/or importing the Accused Instrumentality have induced and continue to induce users of the Accused Instrumentality to use the Accused Instrumentality in its normal and customary way to infringe the '204 patent by practicing compression methods claimed by the '204 patent, including a method for processing data, the data residing in data fields, comprising: recognizing any characteristic, attribute, or parameter of the data; selecting an encoder associated with the recognized characteristic, attribute, or parameter of the data; compressing the data with the selected encoder utilizing at least one state machine to provide compressed data having a compression ratio of over 4:1; and point-to-point transmitting the compressed data to a client; wherein the compressing and the transmitting occur over a period of time which is less than a time to transmit the data in an uncompressed form. For example, Circadence explains to customers the benefits of

using the Accused Instrumentality: “Circadence MVO solutions provide an enhanced connection across arbitrary networks between endpoints. Functionally, Circadence MVO acts as a proxy, terminating the local IP connection within the Circadence MVO process, performing additional processing (compression, de-duplication, etc.), and then transmitting the payload across the WAN using Circadence’s optimization protocol. ... The Circadence protocol provides an enhanced connection that mitigates the effects of congestion, latency, and fragmentation.” See, e.g., [http://www.circadenceworks.com/datasheets/Solutions\\_Overview\\_Brochure.pdf](http://www.circadenceworks.com/datasheets/Solutions_Overview_Brochure.pdf). For similar reasons, Circadence also induces its customers to use the Accused Instrumentalities to infringe other claims of the ‘204 patent. Circadence specifically intended and was aware that these normal and customary activities would infringe the ‘204 patent. Circadence performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the ‘204 patent and with the knowledge, or willful blindness to the probability, that the induced acts would constitute infringement. On information and belief, Circadence engaged in such inducement to promote the sales of the Accused Instrumentalities. Accordingly, Circadence has induced and continues to induce users of the accused products to use the accused products in their ordinary and customary way to infringe the ‘204 patent, knowing that such use constitutes infringement of the ‘204 patent.

71. The Accused Instrumentality practices a method for processing data, the data residing in data fields. See, e.g., [http://www.circadenceworks.com/datasheets/Solutions\\_Overview\\_Brochure.pdf](http://www.circadenceworks.com/datasheets/Solutions_Overview_Brochure.pdf) (“Circadence MVO solutions provide an enhanced connection across arbitrary networks between endpoints. Functionally, Circadence MVO acts as a proxy, terminating the local IP connection within the Circadence MVO process, performing additional processing (compression, de-duplication, etc.), and then transmitting the payload across the WAN using Circadence’s optimization protocol. At the distant end, the payload is captured and

reassembled into the original IP packet, including original header information, and sent on to the destination.”).

72. The Accused Instrumentality recognizes any characteristic, attribute, or parameter of the data. *See, e.g.,* [http://www.circadenceworks.com/datasheets/Solutions\\_Overview\\_Brochure.pdf](http://www.circadenceworks.com/datasheets/Solutions_Overview_Brochure.pdf)

(“Circadence MVO solutions provide an enhanced connection across arbitrary networks between endpoints. Functionally, Circadence MVO acts as a proxy, terminating the local IP connection within the Circadence MVO process, performing additional processing (compression, de-duplication, etc.), and then transmitting the payload across the WAN using Circadence’s optimization protocol.”).

73. The Accused Instrumentality selects an encoder associated with the recognized characteristic, attribute, or parameter of the data. *See, e.g.,* [http://www.circadenceworks.com/datasheets/Solutions\\_Overview\\_Brochure.pdf](http://www.circadenceworks.com/datasheets/Solutions_Overview_Brochure.pdf)

(“Circadence MVO solutions provide an enhanced connection across arbitrary networks between endpoints. Functionally, Circadence MVO acts as a proxy, terminating the local IP connection within the Circadence MVO process, performing additional processing (compression, de-duplication, etc.), and then transmitting the payload across the WAN using Circadence’s optimization protocol.”).

74. Upon information and belief, the Accused Instrumentality compresses the data with the selected encoder utilizing at least one state machine to provide compressed data having a compression ratio of over 4:1. *See, e.g.,* [http://www.circadenceworks.com/datasheets/Solutions\\_Overview\\_Brochure.pdf](http://www.circadenceworks.com/datasheets/Solutions_Overview_Brochure.pdf)

(“Circadence MVO solutions provide an enhanced connection across arbitrary networks between endpoints. Functionally, Circadence MVO acts as a proxy, terminating the local IP connection within the Circadence MVO process, performing additional processing (compression, de-duplication, etc.), and then transmitting the payload across the WAN using Circadence’s optimization protocol.”).

75. The Accused Instrumentality point-to-point transmits the compressed data to a client. *See, e.g.,* [http://www.circadenceworks.com/datasheets/Solutions\\_Overview\\_Brochure.pdf](http://www.circadenceworks.com/datasheets/Solutions_Overview_Brochure.pdf) (“Circadence MVO solutions provide an enhanced connection across arbitrary networks between endpoints. Functionally, Circadence MVO acts as a proxy, terminating the local IP connection within the Circadence MVO process, performing additional processing (compression, de-duplication, etc.), and then transmitting the payload across the WAN using Circadence’s optimization protocol. At the distant end, the payload is captured and reassembled into the original IP packet, including original header information, and sent on to the destination.”).

76. In the Accused Instrumentality, the compressing and the transmitting occur over a period of time which is less than a time to transmit the data in an uncompressed form. *See, e.g.,* [http://www.circadenceworks.com/datasheets/Solutions\\_Overview\\_Brochure.pdf](http://www.circadenceworks.com/datasheets/Solutions_Overview_Brochure.pdf) (“That information is used to carefully meter packets onto the wire, and it enables fine changes in transfer rates to suit conditions – allowing the protocol to maintain peak throughput rates and recover more quickly from disruptions. Throughput gains are quite significant and the delta in performance increases greatly as latency, congestion, or fragmentation increase.”).

77. On information and belief, Circadence also infringes, directly and through induced infringement, and continues to infringe other claims of the ‘204 patent, for similar reasons as explained above with respect to Claim 12 of the ‘204 patent.

78. By making, using, offering for sale, selling and/or importing into the United States the Accused Instrumentalities, and touting the benefits of using the Accused Instrumentalities’ compression features, Circadence has injured Realtime and is liable to Realtime for infringement of the ‘204 patent pursuant to 35 U.S.C. § 271.

79. As a result of Circadence’s infringement of the ‘204 patent, Plaintiff

Realtime is entitled to monetary damages in an amount adequate to compensate for Circadence's infringement, but in no event less than a reasonable royalty for the use made of the invention by Circadence, together with interest and costs as fixed by the Court.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Realtime respectfully requests that this Court enter:

a. A judgment in favor of Plaintiff that Circadence has infringed, either literally and/or under the doctrine of equivalents, the '728 patent, the '530 patent, the '908 patent, the '867 patent, and the '204 patent;

b. A permanent injunction prohibiting Circadence from further acts of infringement of the '728 patent, the '530 patent, the '908 patent, the '867 patent, and the '204 patent;

c. A judgment and order requiring Circadence to pay Plaintiff its damages, costs, expenses, and prejudgment and post-judgment interest for its infringement of the '728 patent, the '530 patent, the '908 patent, the '867 patent, and the '204 patent; and

d. A judgment and order requiring Circadence to provide an accounting and to pay supplemental damages to Realtime, including without limitation, prejudgment and post-judgment interest;

e. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Plaintiff its reasonable attorneys' fees against Defendants; and

f. Any and all other relief as the Court may deem appropriate and just under the circumstances.

**DEMAND FOR JURY TRIAL**

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



Dated: February 27, 17

Respectfully submitted,

*s/ Marc A. Fenster by permission Andrea Fair*

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