

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

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

v.

SYNACOR, INC.,
Defendant.

Case No. 6:17-cv-126

COMPLAINT FOR PATENT INFRINGEMENT AGAINST SYNACOR, 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 Synacor, Inc. (“Synacor”):

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 Synacor, Inc. (“Synacor”) is a Delaware corporation with its principal place of business at 40 La Riviere Drive, Suite 300, Buffalo, NY 14202. On information and belief, Synacor can be served through its registered agent, Corporation Service Company d/b/a CSC-Lawyers Incorporating Service, 211 E. 7th St., Suite 620, Austin, TX 78701.

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 Synacor in this action because Synacor has a place of business in this District located at 2591 Dallas Parkway., Suite 200, Frisco, Texas 75034¹ and 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 Synacor would not offend traditional notions of fair play and substantial justice. Synacor, 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, Synacor maintains a place of business in the Eastern District of Texas, 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**

¹ See <https://www.zimbra.com/contact-us/>

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, Synacor has offered for sale, sold and/or imported into the United States Synacor products that infringe the ‘728 patent, and continues to do so. By way of illustrative example, these infringing products include, without limitation, Synacor’s products and services, e.g., Zimbra Backup Plus, Zimbra Collaboration Network Edition, Zimbra Collaboration Open Source, Zimbra Desktop, Zimbra Suite Plus, other products and services referred to by the “Zimbra” name, and all versions and variations thereof since the issuance of the ‘728 patent (“Accused Instrumentality”).

9. On information and belief, Synacor 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, Synacor 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 Synacor's customers.

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

11. Synacor'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, Synacor explains to customers the benefits of using the Accused Instrumentality: "Data deduplication (often called intelligent compression or single-instance storage) is a method of reducing storage needs by eliminating redundant data. Only one unique instance of the

data is actually retained on storage media, such as disk or tape. Redundant data is replaced with a pointer to the unique data copy. For example, a typical email system might contain 100 instances of the same one megabyte (MB) file attachment. If the email platform is backed up or archived, all 100 instances are saved, requiring 100 MB storage space. With data deduplication, only one instance of the attachment is actually stored; each subsequent instance is just referenced back to the one saved copy. In this example, a 100 MB storage demand could be reduced to only one MB.” See, e.g., https://wiki.zimbra.com/wiki/How_to_deliver_messages_with_duplicate_ids. Synacor also explains the benefits of the compression features of the Accused Instrumentality. See, e.g., <https://www.zimbra.com/zimbra-suite-plus/zimbra-backup-plus/> (“Compressed Backup Store: Zimbra Backup’s Plus backup store is compressed and deduplicated. The average backup store will be 70% of the size of the current data contained in the server, making it very cost-effective.”) Synacor specifically intended and was aware that the normal and customary use of the Accused Instrumentality on compatible systems would infringe the ‘728 patent. Synacor 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, Synacor engaged in such inducement to promote the sales of the Accused Instrumentality, e.g., through Synacor’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, Synacor 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. Synacor 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. Synacor'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 Accused Instrumentality must run on hardware containing a processor. See, e.g., <https://www.zimbra.com/downloads/>

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 transmitting and storing fewer bits to

represent a data set. *See, e.g.,* https://wiki.zimbra.com/wiki/How_to_deliver_messages_with_duplicate_ids (“Data deduplication (often called intelligent compression or single-instance storage) is a method of reducing storage needs by eliminating redundant data. Only one unique instance of the data is actually retained on storage media, such as disk or tape. Redundant data is replaced with a pointer to the unique data copy. For example, a typical email system might contain 100 instances of the same one megabyte (MB) file attachment. If the email platform is backed up or archived, all 100 instances are saved, requiring 100 MB storage space. With data deduplication, only one instance of the attachment is actually stored; each subsequent instance is just referenced back to the one saved copy. In this example, a 100 MB storage demand could be reduced to only one MB.”).

15. The Accused Instrumentality comprises a single data compression encoder. *See, e.g.,* <https://www.zimbra.com/zimbra-suite-plus/zimbra-backup-plus/> (“Zimbra Backup Plus is a Complete Backup and Restore Solution for Zimbra. A cutting-edge, real-time engine takes care of backing up every single item and event on your server, with split-second precision. It is specifically designed to avoid any data loss by using atomic and ever-consistent algorithms, while still saving disk space thanks to an intelligent deduplication and compression system. ... Compressed Backup Store: Zimbra Backup’s Plus backup store is compressed and deduplicated. The average backup store will be 70% of the size of the current data contained in the server, making it very cost-effective.”)

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 stored, where the analysis does not rely only on the descriptor. *See, e.g.,* https://wiki.zimbra.com/wiki/How_to_deliver_messages_with_duplicate_ids (“Data deduplication (often called intelligent compression or single-instance storage) is a method

of reducing storage needs by eliminating redundant data. Only one unique instance of the data is actually retained on storage media, such as disk or tape. Redundant data is replaced with a pointer to the unique data copy. For example, a typical email system might contain 100 instances of the same one megabyte (MB) file attachment. If the email platform is backed up or archived, all 100 instances are saved, requiring 100 MB storage space. With data deduplication, only one instance of the attachment is actually stored; each subsequent instance is just referenced back to the one saved copy. In this example, a 100 MB storage demand could be reduced to only one MB.”).

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. For example, when the Accused Instrumentality performs deduplication, it does not transmit data previously stored.

See, e.g.,

https://wiki.zimbra.com/wiki/How_to_deliver_messages_with_duplicate_ids (“Data deduplication (often called intelligent compression or single-instance storage) is a method of reducing storage needs by eliminating redundant data. Only one unique instance of the data is actually retained on storage media, such as disk or tape. Redundant data is replaced with a pointer to the unique data copy. For example, a typical email system might contain 100 instances of the same one megabyte (MB) file attachment. If the email platform is backed up or archived, all 100 instances are saved, requiring 100 MB storage space. With data deduplication, only one instance of the attachment is actually stored; each subsequent instance is just referenced back to the one saved copy. In this example, a 100 MB storage demand could be reduced to only one MB.”).

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., <https://www.zimbra.com/zimbra-suite-plus/zimbra-backup-plus/> (“Zimbra Backup Plus is a Complete Backup and Restore Solution for Zimbra. A

cutting-edge, real-time engine takes care of backing up every single item and event on your server, with split-second precision. It is specifically designed to avoid any data loss by using atomic and ever-consistent algorithms, while still saving disk space thanks to an intelligent deduplication and compression system. ... Compressed Backup Store: Zimbra Backup's Plus backup store is compressed and deduplicated. The average backup store will be 70% of the size of the current data contained in the server, making it very cost-effective.")

19. Synacor 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, Synacor 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 Synacor's infringement of the '728 patent, Plaintiff Realtime is entitled to monetary damages in an amount adequate to compensate for Synacor's infringement, but in no event less than a reasonable royalty for the use made of the invention by Synacor, 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, Synacor has offered for sale, sold and/or imported into the United States Synacor products that infringe the '530 patent, and continues to do so. By way of illustrative example, these infringing products include, without limitation, Synacor's products and services, e.g., Zimbra Backup Plus, Zimbra Collaboration Network Edition, Zimbra Collaboration Open Source, Zimbra Desktop, Zimbra Suite Plus, other products and services referred to by the "Zimbra" name, and all versions and variations thereof since the issuance of the '530 patent ("Accused Instrumentality").

25. On information and belief, Synacor 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, 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, 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, Synacor 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 Synacor's customers.

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

27. Upon information and belief, Synacor'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 '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, 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, 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, Synacor explains to customers the benefits of using the Accused Instrumentality: "Data deduplication (often called intelligent compression or single-instance storage) is a method of reducing storage needs by eliminating redundant data. Only one unique instance of the data is actually retained on storage media, such as disk or tape. Redundant data is replaced with a pointer to the unique data copy. For example, a typical email system might contain 100 instances of the same one megabyte (MB) file attachment. If the email platform is backed up or archived, all 100 instances are saved, requiring 100 MB storage

space. With data deduplication, only one instance of the attachment is actually stored; each subsequent instance is just referenced back to the one saved copy. In this example, a 100 MB storage demand could be reduced to only one MB.” See, e.g., https://wiki.zimbra.com/wiki/How_to_deliver_messages_with_duplicate_ids. Synacor also explains the benefits of the compression features of the Accused Instrumentality. See, e.g., <https://www.zimbra.com/zimbra-suite-plus/zimbra-backup-plus/> (“Compressed Backup Store: Zimbra Backup’s Plus backup store is compressed and deduplicated. The average backup store will be 70% of the size of the current data contained in the server, making it very cost-effective.”) For similar reasons, Synacor also induces its customers to use the Accused Instrumentalities to infringe other claims of the ‘530 patent. Synacor specifically intended and was aware that these normal and customary activities would infringe the ‘530 patent. Synacor 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, Synacor engaged in such inducement to promote the sales of the Accused Instrumentalities. Accordingly, Synacor 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 Accused Instrumentality must run on hardware containing a memory device. See, e.g., <https://www.zimbra.com/downloads/>

29. The Accused Instrumentality receives an incoming stream of data. See, e.g., <https://www.zimbra.com/zimbra-suite-plus/zimbra-backup-plus/>

Zimbra Backup Plus - How it works



30. The Accused Instrumentality’s received data stream will evidently consist of more than one data block. See, e.g., <https://www.zimbra.com/zimbra-suite-plus/zimbra-backup-plus/>

Zimbra Backup Plus - How it works



31. The Accused Instrumentality compresses said data stream 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. *See, e.g.*, <https://www.zimbra.com/zimbra-suite-plus/zimbra-backup-plus/> (“Zimbra Backup Plus is a Complete Backup and Restore Solution for Zimbra. A cutting-edge, real-time engine takes care of backing up every single item and event on your server, with split-second precision. It is specifically designed to avoid any data loss by using atomic and ever-consistent algorithms, while still saving disk space thanks to an intelligent deduplication and compression system. ... Compressed Backup Store: Zimbra Backup’s Plus backup store is compressed and deduplicated. The average backup store will be 70% of the size of the current data contained in the server, making it very cost-effective.”)

32. The first (deduplication) and second (compression) compression techniques used by the Accused Instrumentality described above are necessarily different. *See, e.g.*, <https://www.zimbra.com/zimbra-suite-plus/zimbra-backup-plus/> (“Zimbra Backup Plus is a Complete Backup and Restore Solution for Zimbra. A cutting-edge, real-time engine takes care of backing up every single item and event on your server, with split-second precision. It is specifically designed to avoid any data loss by using atomic and ever-consistent algorithms, while still saving disk space thanks to an intelligent deduplication and compression system. ... Compressed Backup Store: Zimbra Backup’s Plus backup store is compressed and deduplicated. The average backup store will be 70% of the size of the current data contained in the server, making it very cost-effective.”); https://wiki.zimbra.com/wiki/How_to_deliver_messages_with_duplicate_ids (“Data deduplication (often called intelligent compression or single-instance storage) is a method of reducing storage needs by eliminating redundant data. Only one unique instance of the data is actually retained on storage media, such as disk or tape. Redundant data is replaced with a pointer to the unique data copy. For example, a typical email system might contain 100 instances of the same one megabyte (MB) file attachment. If

the email platform is backed up or archived, all 100 instances are saved, requiring 100 MB storage space. With data deduplication, only one instance of the attachment is actually stored; each subsequent instance is just referenced back to the one saved copy. In this example, a 100 MB storage demand could be reduced to only one MB.”).

33. After compression, said compressed data stream is stored on said memory device. See, e.g., <https://www.zimbra.com/zimbra-suite-plus/zimbra-backup-plus/> (“Compressed Backup Store: Zimbra Backup’s Plus backup store is compressed and deduplicated. The average backup store will be 70% of the size of the current data contained in the server, making it very cost-effective.”)

34. 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., <https://www.zimbra.com/zimbra-suite-plus/zimbra-backup-plus/> (“Zimbra Backup Plus is a Complete Backup and Restore Solution for Zimbra. A cutting-edge, real-time engine takes care of backing up every single item and event on your server, with split-second precision. It is specifically designed to avoid any data loss by using atomic and ever-consistent algorithms, while still saving disk space thanks to an intelligent deduplication and compression system. ... Compressed Backup Store: Zimbra Backup’s Plus backup store is compressed and deduplicated. The average backup store will be 70% of the size of the current data contained in the server, making it very cost-effective.”)

35. The Accused Instrumentality would evidently store a first data descriptor (e.g., a pointer to the unique data copy) on said memory device indicative of said first compression technique, and utilize said first descriptor to decompress the portion of said compressed data stream associated with said first data block. See, e.g., https://wiki.zimbra.com/wiki/How_to_deliver_messages_with_duplicate_ids (“Data deduplication (often called intelligent compression or single-instance storage) is a method of reducing storage needs by eliminating redundant data. Only one unique instance of the data is actually retained on storage media, such as disk or tape. Redundant data is

replaced with a pointer to the unique data copy. For example, a typical email system might contain 100 instances of the same one megabyte (MB) file attachment. If the email platform is backed up or archived, all 100 instances are saved, requiring 100 MB storage space. With data deduplication, only one instance of the attachment is actually stored; each subsequent instance is just referenced back to the one saved copy. In this example, a 100 MB storage demand could be reduced to only one MB.”).

36. On information and belief, Synacor 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 1 of the ‘530 patent.

37. 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.

38. 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, Synacor has injured Realtime and is liable to Realtime for infringement of the ‘530 patent pursuant to 35 U.S.C. § 271.

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

COUNT III

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

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

41. 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.

42. On information and belief, Synacor has offered for sale, sold and/or imported into the United States Synacor products that infringe the ‘908 patent, and continues to do so. By way of illustrative example, these infringing products include, without limitation, Synacor’s products and services, e.g., Zimbra Backup Plus, Zimbra Collaboration Network Edition, Zimbra Collaboration Open Source, Zimbra Desktop, Zimbra Suite Plus, other products and services referred to by the “Zimbra” name, and all versions and variations thereof since the issuance of the ‘908 patent (“Accused Instrumentality”).

43. On information and belief, Synacor 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, Synacor 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 Synacor’s customers.

44. 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.

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

46. Upon information and belief, Synacor'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, Synacor explains to customers the benefits of using the Accused Instrumentality: "Data deduplication (often called intelligent compression or single-instance storage) is a method of reducing storage needs by eliminating redundant data. Only one unique instance of the data is actually retained on storage media, such as disk or tape. Redundant data is replaced with a pointer to the unique data copy. For example, a typical email system might contain 100 instances of the same one megabyte (MB) file attachment. If the email platform is backed up or archived, all 100 instances are saved, requiring 100 MB storage space. With data deduplication, only one instance of the attachment is actually stored; each subsequent instance is just referenced back to the one saved copy. In this example, a 100 MB storage demand could be reduced to only one MB." See, e.g., https://wiki.zimbra.com/wiki/How_to_deliver_messages_with_duplicate_ids. Synacor

also explains the benefits of the compression features of the Accused Instrumentality. *See, e.g.*, <https://www.zimbra.com/zimbra-suite-plus/zimbra-backup-plus/> (“Compressed Backup Store: Zimbra Backup’s Plus backup store is compressed and deduplicated. The average backup store will be 70% of the size of the current data contained in the server, making it very cost-effective.”) For similar reasons, Synacor also induces its customers to use the Accused Instrumentalities to infringe other claims of the ‘908 patent. Synacor specifically intended and was aware that these normal and customary activities would infringe the ‘908 patent. Synacor 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, Synacor engaged in such inducement to promote the sales of the Accused Instrumentalities. Accordingly, Synacor 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.

47. 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 Accused Instrumentality must run on hardware containing a memory device. *See, e.g.*, <https://www.zimbra.com/downloads/> Moreover, by reducing the amount of data transferred, the Accused Instrumentality inherently accelerates the movements of data. The Accused Instrumentality compresses (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. *See, e.g.*, <https://www.zimbra.com/zimbra-suite-plus/zimbra-backup-plus/> (“Zimbra Backup Plus is

a Complete Backup and Restore Solution for Zimbra. A cutting-edge, real-time engine takes care of backing up every single item and event on your server, with split-second precision. It is specifically designed to avoid any data loss by using atomic and ever-consistent algorithms, while still saving disk space thanks to an intelligent deduplication and compression system. ... Compressed Backup Store: Zimbra Backup's Plus backup store is compressed and deduplicated. The average backup store will be 70% of the size of the current data contained in the server, making it very cost-effective.”).

48. 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.,* <https://www.zimbra.com/zimbra-suite-plus/zimbra-backup-plus/> (“Zimbra Backup Plus is a Complete Backup and Restore Solution for Zimbra. A cutting-edge, real-time engine takes care of backing up every single item and event on your server, with split-second precision. It is specifically designed to avoid any data loss by using atomic and ever-consistent algorithms, while still saving disk space thanks to an intelligent deduplication and compression system. ... Compressed Backup Store: Zimbra Backup's Plus backup store is compressed and deduplicated. The average backup store will be 70% of the size of the current data contained in the server, making it very cost-effective.”); https://wiki.zimbra.com/wiki/How_to_deliver_messages_with_duplicate_ids (“Data deduplication (often called intelligent compression or single-instance storage) is a method of reducing storage needs by eliminating redundant data. Only one unique instance of the data is actually retained on storage media, such as disk or tape. Redundant data is replaced with a pointer to the unique data copy. For example, a typical email system might contain 100 instances of the same one megabyte (MB) file attachment. If the email platform is backed up or archived, all 100 instances are saved, requiring 100 MB storage space. With data deduplication, only one instance of the attachment is actually stored; each subsequent instance is just referenced back to the one saved copy. In

this example, a 100 MB storage demand could be reduced to only one MB.”).

49. On information and belief, Synacor 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.

50. 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, Synacor has injured Realtime and is liable to Realtime for infringement of the ‘908 patent pursuant to 35 U.S.C. § 271.

51. As a result of Synacor’s infringement of the ‘908 patent, Plaintiff Realtime is entitled to monetary damages in an amount adequate to compensate for Synacor’s infringement, but in no event less than a reasonable royalty for the use made of the invention by Synacor, 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 Synacor has infringed, either literally and/or under the doctrine of equivalents, the ‘728 patent, the ‘530 patent, and the ‘908 patent;

b. A permanent injunction prohibiting Synacor from further acts of infringement of the ‘728 patent, the ‘530 patent, and the ‘908 patent;

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

d. A judgment and order requiring Synacor 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, 2017

Respectfully submitted,

/s/ Marc A. Fenster by permission Andrea Fair

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