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8 Attorney for Plaintiff,  
9 **MYMAIL, LTD.**

10 UNITED STATES DISTRICT COURT  
11 CENTRAL DISTRICT OF CALIFORNIA

12 MYMAIL, LTD.,

13 Plaintiff,

14 v.

15 TCL COMMUNICATION INC.; TCT  
16 MOBILE (US) INC. AND TCT  
17 MOBILE, INC.

18 Defendants.

**CASE NO. 8:17-cv-01461**

**ORIGINAL COMPLAINT FOR  
INFRINGEMENT OF U.S. PATENT  
NO. 8,732,318**

**DEMAND FOR JURY TRIAL**

Complaint Filed: August 23, 2017

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20 **ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT**

21 This is an action for patent infringement in which Plaintiff MyMail, Ltd. submits  
22 this Original Complaint against Defendants TCL Communication Inc., TCT Mobile  
23 (US) Inc. and TCT Mobile, Inc., as follows:  
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**NATURE OF THE ACTION**

1. This is a patent infringement action to stop Defendants' infringement of United States Patent No. 8,732,318 (the "318 patent" or "patent-in-suit").

**THE PARTIES**

2. Plaintiff, MyMail, Ltd. ("MyMail"), is a Texas Limited Partnership with an office and place business at 5344 County Road 3901, Athens, TX 75752.

3. Upon information and belief, Defendant, TCL Communication Inc. is a corporation existing under the laws of the State of Delaware, with a principal place of business at 17534 Von Karman Avenue, Irvine, California 92614.

4. Upon information and belief, Defendant TCT Mobile (US) Inc. is a corporation existing under the laws of the State of Delaware, with a principal place of business at 17534 Von Karman Avenue, Irvine, California 92614.

5. Upon information and belief, Defendant TCT Mobile, Inc. is a corporation existing under the laws of the State of Delaware, with a principal place of business at 17534 Von Karman Avenue, Irvine, California 92614.

6. TCL Communication Inc., TCT Mobile (US) Inc. and TCT Mobile, Inc., may be collectively referred to as "Defendants" or "TCL".

**JURISDICTION AND VENUE**

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2           7.       This action arises under the patent laws of the United States, Title 35 of  
3  
4 the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C.  
5 §§ 1331 and 1338(a).

6           8.       On information and belief, Defendants are subject to this Court’s specific  
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8 and general personal jurisdiction, pursuant to due process and the California Long Arm  
9 Statute, due at least to their continuous and systematic business contacts in California,  
10 including related to operations conducted from their Irvine, California facilities and the  
11 infringements alleged herein. Further, on information and belief, Defendants have,  
12 within California, engaged in at least the selling of accused products and practicing the  
13 accused methods detailed herein. In addition, Defendants induce infringement of the  
14 accused methods detailed herein. In addition, Defendants induce infringement of the  
15 patents-in-suit by sellers and/or infringing users located in California. Further, on  
16 information and belief, Defendants regularly conduct and/or solicit business, engage in  
17 other persistent courses of conduct, and/or derive substantial revenue from goods and  
18 services provided to persons and/or entities in California.  
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22           9.       Venue is proper in this District under 28 U.S.C. §§ 1391(b), 1391(c) and  
23 1400(b). Without limitation, on information and belief, Defendants have regular and  
24 established places of business in this District and in California, and at least some of  
25 their infringement of the patent-in-suit occurs in this District and in California.  
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## INTRODUCTION

### A. MyMail, Ltd.

10. MyMail was co-founded in 2003. Its executive team includes Thomas Selgas, a visionary and named inventor on the patent-in-suit. MyMail is an intellectual property development and licensing company which provides secure, internet related technologies which have brought essential communications capabilities to cell phones, web browsers, and the backbone of the internet.

11. The technologies developed and owned by MyMail enable substantial cost savings to companies, including Internet Service Providers, Content Providers (*i.e.*, ‘publishers’), and Affinity Marketers (*i.e.*, ‘Advertisers’), by allowing them to transparently manage network connections, network credentials of their end-user clients, and the use of dynamic toolbar operations.

12. MyMail is the current assignee of the patent-in-suit and has standing to bring this lawsuit, including the right to recover damages for past, present, and future infringement of the patent.

### B. Patent-in-Suit

13. Mr. Selgas is the first listed co-inventor on the patent-in-suit, which is U.S. Patent No. 8,732,318 (the “318 Patent”). Mr. Selgas and the other inventors filed a provisional patent application with the United States Patent and Trademark Office (“USPTO”) on June 19, 1997. The ‘318 Patent was filed as application No. 10/417,821

1 on April 16, 2003. The '318 Patent is a division of application No. 09/100,619, filed  
2 on June 19, 1998, now U.S. Patent No. 6,571,290.

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4 14. The Abstract of the '318 Patent states the following:

5 The present invention comprises a method of and apparatus for simplifying  
6 the process of access to a network for a roaming computer user, divides  
7 the responsibility of servicing a given user wanting to access the network  
8 between multiple parties and minimizes the possibility of improper  
9 dissemination of email header data as well as improper use of network  
10 resources (including server systems) by non-clients.

11 15. As of the priority date of the '318 Patent, Internet users were becoming  
12 highly mobile and the need to access the Internet from various locations was increasing,  
13 some of which locations did not have a local phone number for communicating with  
14 the normally used ISP. Such a user either had to pay the cost of a long distance call or  
15 access a different ISP after modifying the appropriate data the operating system's  
16 networking, dial-up-networking, or communications properties used to accomplish  
17 such access. Such modification always invites a chance for erroneous data entry in the  
18 process and the accompanying time required to rectify the situation. '318/2:53-62.  
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22 16. In view of these issues and others, there existed a need to quickly and  
23 easily access the Internet from various locations, being able to access ISPs providing  
24 different types of services, using various adaptors (*i.e.*, modem or LAN card) and being  
25 able to choose whether preference should be given to items such as cost and quality of  
26 service, without the user having to be concerned about correctly modifying associated  
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1 data and parameters such as phone numbers, IDs, passwords etc. used by the Internet  
2 software. '318/3:27-34. It should be noted that the invention applies to any network or  
3  
4 interconnected set of networks including the Internet. '318/4:54-59.

5 17. As noted in the '318 patent, the recited technology solves all or some of at  
6  
7 least the following ten problems:

- 8 a. Eliminates the need for a computer user to configure and  
9 reconfigure computer networking software for network access  
10 through a multiplicity of ISPs and Network Access Providers  
11 (NAP) (companies which own the telephone networks and  
12 modem banks such as AT&T, GTE, UUNet, PSI, etc.).
- 13 b. Allows a Network Re-seller such as an Internet Service Provider  
14 to offer network access via a multiplicity of Network Access  
15 Providers based on cost, location, availability, reliability, etc.
- 16 c. Allows a Network Re-seller to balance network loads through a  
17 multiplicity of Network Access Providers and across a  
18 multiplicity of network computer servers.
- 19 d. Eliminates the need for a computer user to know or configure  
20 network access telephone numbers or network access protocol  
21 identification numbers.
- 22 e. Eliminates the need for a computer user or mobile computer user  
23 to reconfigure remote network access software to connect to a  
24 network from a remote location.
- 25 f. Allows multiple users to use a single computer each with their  
26 own unique networking attributes and unique network identity.
- 27 g. Allows separate and distinct identifications (ID) and passwords  
28 for different services and network functions such as PAP IDs and  
PAP password, Email ID and password, etc.
- h. Provides a user with true network anonymity by assigning  
independent non-user specific identifications and passwords for  
such things as PAP authentication, FTP and Email logins, News  
Server logins, and network server logins.
- i. Provides Email anonymity by transmitting and receiving all  
email through a third party (broker) wherein, if appropriate,  
aliases may be used for all un-encrypted data and these aliases

1 may be changed periodically by the system in a manner  
2 transparent to the user.

- 3 j. Eliminates third party email relay (SPAMMING) by  
4 transparently authenticating each user-system prior to giving  
5 access to a sendmail server.

6 ‘318/4:59-5:31.

7 18. The technology recited in the claims of the ‘318 Patent provides an  
8 inventive concept and does not claim an abstract idea. The inventive concept greatly  
9 enhances and facilitates technological methods which comprise obtaining a set of  
10 network access information comprising modifying a stored set of network access  
11 information using new information downloaded, via the network, to a network access  
12 device from an access provider connected to said network; and the network access  
13 device re-accessing the network via a given network service provider (NSP) using the  
14 modified set of network access information.

15 19. The technology recited in the claims of the ‘318 patent improves the  
16 functioning of computers, it improves computer capabilities, and it improves over  
17 existing technological processes, including with respect to network access and security,  
18 wherein new access information is downloaded via the network and network access is  
19 re-established using the new access information.

20 20. One inventive component of the ‘318 patent is improving network access  
21 and security in ways that are necessarily rooted in computer, specifically network,  
22 technology to overcome problems specifically arising in the realm of computer  
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1 networks. The claims recite an invention that was not merely a routine or conventional  
2 use of conventional devices and technologies. The claimed invention was not practiced  
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4 by others prior to the '318 invention, nor was it a well-known, fundamental economic  
5 or conventional business practice, nor was it a practice to which general-purpose  
6 computer components were added after the fact.  
7

8 21. Claim 5 of the '318 Patent covers the following:

9 A method for obtaining a set of network access information comprising  
10 the steps of:

11 modifying a stored set of network access information using new  
12 information downloaded, via the network, to a network access device from  
13 an access provider connected to said network; and

14 the network access device re-accessing the network via a given network  
15 service provider (NSP) using the modified set of network access  
16 information.

17 22. Neither claim 5 nor any other claims of the '318 Patent is directed to an  
18 abstract idea. Neither claim 5 nor any other claims of the '318 Patent preempt any  
19 abstract idea or otherwise preempt anything that would render them unpatentable. For  
20 example, one is free to practice the prior art of record and the prior art referenced in the  
21 specification. The '318 claims do not improperly inhibit further discovery by tying up  
22 any building blocks of human ingenuity or technological work.  
23

24 23. Claim 5 of the '318 Patent covers, among other things, specific  
25 applications of specific methods for obtaining a new or modified set of network access  
26 information via the network and re-accessing the network using the modified set of  
27 network access information, including in order to achieve the aims of the invention as  
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1 stated above, and to overcome the shortcomings in the prior art, including prior art  
2 network access and security methods, as noted above. This claim comprises, among  
3 other things, specific applications or improvements to technologies in the marketplace,  
4 including improvements to the existing network access and security methods. Properly  
5 understood, the claimed technology constitutes the application of certain ideas, and it  
6 necessitates the use of discrete computer hardware and software components configured  
7 and programmed in a particular way that enable performance of the specified functions.  
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11 24. Further, including when claim 5 is viewed as a whole at the time of the  
12 invention, there are sufficient unconventional, non-routine, novel, meaningful, and  
13 inventive claim limitations to claim 5 that are sufficient to ensure that the claim in  
14 practice amounts to significantly more than merely a patent on any abstract idea or  
15 patent ineligible concept. Those unconventional, non-routine, novel, meaningful, and  
16 inventive claim limitations comprise the following: modifying a stored set of network  
17 access information using new information downloaded, via the network, to a network  
18 access device from an access provider connected to said network, wherein the network  
19 access device re-accesses the network via a given network service provider (NSP) using  
20 the modified set of network access information.  
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24 25. Further, claim 5 can only be implemented by a special purpose computer,  
25 which is integral to the claimed invention, facilitating the process in a way that a person  
26 making calculations or computations could not, including that such calculations or  
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1 computations could not be performed solely in the human mind. A special computer is  
2 integral to claim 5, including because special programming is necessary to perform the  
3 claimed steps. Further, claim 5 is necessarily rooted in computer technology because  
4 computer technology is the only way to perform the claimed steps, including that, as  
5 noted above, claim 5 relates to specific use of network technology.  
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8 26. The '318 Patent claims cannot be practiced by a human alone and there  
9 exists no human analogue to the methods claimed in the '318 Patent. The claims are  
10 specifically directed to, *inter alia*, network access and security, wherein new access  
11 information is downloaded via the network and network access is re-established using  
12 the new access information. These things exist only in the context of computers, and  
13 specifically computer networks.  
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16 27. The invention of claim 5 uses computer technology to overcome the  
17 shortcomings of prior art methods, as noted above, including state of the art network  
18 access and security methods, which lacked, among other things, the ability to perform  
19 the foregoing steps. As such, claim 5 overcomes a technical problem and effects an  
20 improvement to a specific technology or technical field, namely computer networks and  
21 networking. One such inventive component of the '318 Patent is improving network  
22 access and security in ways that are necessarily rooted in computer technology to  
23 overcome problems specifically arising in the realm of computer networks, including  
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1 the Internet. The claims recite an invention that was not merely a routine or  
2 conventional use of the Internet.

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4 28. Claim 5 is not directed to a longstanding commercial practice nor does it  
5 merely apply generic or general purposes computers to prior art systems or methods.  
6 Including as noted above, prior art methods were incapable of the functionality of the  
7 method of claim 5. The technology claimed in the '318 Patent does not preempt all  
8 types of network access and security or anything else. For example, the prior art cited  
9 on the face of the '318 Patent remains available for practice by Defendants, and the  
10 '318 Patent claims do not preempt practice of those prior art methods.  
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13 **COUNT I – INFRINGEMENT OF U.S. PATENT NO. 8,732,318**

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15 29. Plaintiff refers to and incorporates herein the allegations in the above  
16 paragraphs.

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18 30. The '318 Patent, entitled "Method of Connecting a User to a Network,"  
19 was duly and legally issued by the USPTO on May 20, 2014 after full and fair  
20 examination.  
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22 31. The claims of the '318 Patent cover, *inter alia*, methods, including  
23 associated with computers and computer networks, for obtaining a set of network access  
24 information comprising modifying a stored set of network access information using  
25 new information downloaded, via the network, to a network access device from an  
26 access provider connected to said network; and the network access device re-accessing  
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1 the network via a given network service provider (NSP) using the modified set of  
2 network access information.

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4 32. TCL has infringed and is now infringing, including literally, jointly, and/or  
5 equivalently, the '318 patent, including at least claim 5, in this judicial district, the State  
6 of California, and elsewhere, in violation of 35 U.S.C. § 271 through actions comprising  
7 the practicing, making, using, offering for sale, and/or selling, without authority from  
8 Plaintiff, methods and devices implementing methods, including associated with  
9 computers and computer networks, for obtaining a set of network access information  
10 comprising modifying a stored set of network access information using new  
11 information downloaded, via the network, to a network access device from an access  
12 provider connected to said network; and the network access device re-accessing the  
13 network via a given network service provider (NSP) using the modified set of network  
14 access information. For example, the accused TCL devices support Wi-Fi Protected  
15 Setup ("WPS") and can connect to WPS-enabled wireless networks. When connected  
16 to a WPS-enabled network in which a guest device leaves the network, the accused  
17 TCL devices perform a method of obtaining a set of network access information  
18 comprising modifying a stored set of network access information (*e.g.*, WLAN  
19 credentials) using new information downloaded, via the network, from an access  
20 provider connected to said network, followed by re-accessing the network via a network  
21 service provider using the modified set of network access information. Additionally,  
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1 for example, the accused TCL devices support Wi-Fi Protected Access  
2 (“WPA/WPA2”) functionality and can connect to WPA/WPA2-enabled wireless  
3 networks. Without limitation, when connected to a WPA/WPA2-enabled wireless  
4 network in which a device is deauthenticated or dissociated, the accused TCL devices  
5 perform a method of obtaining a set of network access information comprising a stored  
6 set of network access information (*e.g.*, a Group Temporal Key) using new information  
7 downloaded, via the network, from an access provider connected to said network,  
8 followed by re-accessing the network via a network service provider using the modified  
9 network access information.  
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13 33. TCL infringes the ‘318 Patent by and through at least its practicing of the  
14 patented method, included via its making, using, offering for sale, and/or selling  
15 phones, tablets, televisions, and other mobile devices, comprising WPS functionality  
16 and/or WPA/WPA2 functionality, including the products comprising 65US5800,  
17 55UP130, 55UP120, 55US5800, 55US57, 55FS3750, 50UP130, 50UP120, 50FS3800,  
18 49FP110, 48FS3750, 48FD2700, 43UP130, 43UP120, 43FP110, 40FS3800,  
19 40FS3750, 40FD2700, 32S3800, 32S3750, 32D2700, 28S3750, 28D2700, TCL 550,  
20 TCL 580, TCL T9, TCL 950, TCL 598, TCL 562, TCL 560, TCL 750, TCL J926T,  
21 TCL P550U, TCL P561M, TCL Play 2, TCL Play 2C, 302U, 309T, Pride T500L,  
22 P528D, P308L, P308M, P502U, P332U+, H916T, P316T, P316L, i709M, i708U,  
23 P332U+, P689L, P360W, P302C, P728M, P520L, S838M, S725T, P331M, P301M,  
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1 J736L, J716D, J936D, P306C, J930, S830U, J938M, J929L, P301C, J620, J900, J320T,  
2 J600T, S700, J630, J630T, J920, J726T, P606T, J900T, S530T, Joy, P561U, P350M,  
3 P589L, P560M, M2M, M2U, P588L, P335M, i800, 3S, Ono, P501M, P620M, P618L,  
4 M2T, M2L, P516L, P500M, P55U, i718M, P518L, S720T, P631M, P688L, Memeda,  
5 S720, J730U, J738M, Idol X+, S860, S960, Agate, Yaris, 5138E, 5050S, 6036Y,  
6 5050Y, P330X, 5050X, 6036X, 7055A, 5050A, 6037B, A995L, 6050A, 6037I, 6050Y,  
7 6036A, A845L, 6037K, 6050F, 7050Y, 6037Y, 6043D, 6042D, 6043A, 4023A, VF-  
8 795, 4022D, 4022X, 4031D, M821F, 7054T, 5065X, A462C, 5017B, 9007A, 5015D,  
9 5017A, 5015X, 6045I, 5065A, 5065D, 9007X, 6045B, 6045Y, A450TL, 5015A,  
10 5015E, 5017X, 5016J, 4024X, 6045K, 5042T, M823F, 5016A, 5018D, 4024D, 5017D,  
11 5017E, 7049D, VF-696, 5065W, 5017O, 6044D, 5054S, 4038D, 7053J, 5025G, 6045F,  
12 7053E, 5054D, 5055S, 7053D, 5070D, 5054N, 5054T, 5055W, 9007T, 5054X, 6045O,  
13 5054O, 902X, 5054A, 5017G, 5022D, VF-1397, A621BL, 5017W, 5065T, A621R,  
14 AM-H200, 5045A, A570BL, A621BL-V, 4017A, A571VL, A622VL, A622GL,  
15 5056M, 5060O, 5022X, 5056D, 5056A, 4017F, 5056X, 4034G, 5056T, 4017X, 5056A,  
16 4034A, 4034D, 4034X, 4017D, 4034E, 5045X, 5045D, 5010D, 5045J, VFD 300,  
17 5045G, 5010G, 5010S, 4034F, 4034M, 4034N, 6070K, 5010X, 5051X, 5051J, 5051A,  
18 5010E, 5051M, 5027B, 5051T, 5051D, 5010U, 4060A, 6055K, 5095I, 4060O, 5095Y,  
19 4017S, 5098S, VFD 900, 6070Y, 6055B, 6055U, 5095B, 5056N, VFD 700, 9001X,  
20 5065N, 9001I, A466BG, 9001D, POP 4S, 5065E, FL02, VFD500, 5045T, A573VC,  
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1 6055P, 5012F, 5012G, 5045Y, VFD501, 5057M, 4060S, A572BG, 6071W, 5057X,  
2 5023F, VFD 100, 5023E, FL03, 5048A, 5048U, 5048T, 5045I, 4060W, 6070O, TCL  
3 562, 5080U, 5080X, 9022S, TCL 5145A, A466T, 6055Z, 5080A, 4044T, 4044W,  
4 6055A, 5080Q, VFD 301, 7070Q, 5044A, 5056I, T-1000, 4044O, A576BL, 5041D,  
5 5080F, T550D, 5085A, 5085J, 9008A, 5044O, 5085Q, 4044N, A577VL, 5085I, 5044Y,  
6 6055D, 4044V, 5085B, 7070X, 5044D, 5085Y, 7070D, 5085D, 5044I, VFD502,  
7 5046U, 5044R, 5046I, 4055J, 5045F, 4044M, 5046J, 4055A, 9008J, 4055U, A576CC,  
8 5046S, 4055I, 4055Q, 9008D, VFD 610, 5046G, 9008T, 5056G, 9008I, BBB100-2,  
9 BBB100-1, 9008X, BBB100-3, Vodafone Smart Tab 4, One Touch P310A, One Touch  
10 P310X, One Touch P320X, One Touch P320A, One Touch P321, I216A, 9002X,  
11 9002A, P360X, 9006W, I216X, VF-1497, 8055, 8056, Telekom Puls, 9020A, 8057,  
12 Vodafone Smart Tab 3G, 9005X, 8054, 8079, 8080, 8070, 9010X, 9015W, 8050D,  
13 8050X, VF-1296, 9002W, 8050G, 8050E, 9003A, VFD 1100, 9003X, 8085, 9030G,  
14 VFD 1400, 8062, 8063, 9030Q, 5098O, 9015Q, 9025Q, 9015J, 9015B, 9015U, C15BA,  
15 IC01, 9203A, and 9024W.

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22 34. Additionally, or in the alternative, upon information and belief, TCL has  
23 induced infringement of the '318 Patent in this judicial district, the State of California,  
24 and elsewhere, by intentionally inducing direct infringement of the '318 Patent,  
25 including by aiding or abetting the infringement of its end users and/or customers, by  
26 and through at least TCL's practicing, making, using, offering for sale, selling, without  
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1 authority from Plaintiff, methods and devices implementing methods, including  
2 associated with computers and computer networks, comprising at least the above-  
3 described products. Upon information and belief, such aiding and abetting comprises  
4 providing hardware, software and/or instructions. Upon information and belief, such  
5 induced infringement has occurred since TCL became aware of the '318 Patent, which  
6 is at a minimum is in connection with the filing of this lawsuit.  
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9         35. Additionally, or in the alternative, upon information and belief, TCL  
10 contributed to infringement of the '318 patent in this judicial district, the State of  
11 California, and elsewhere, by actions comprising making, selling, and/or offering for  
12 sale at least the above-described products, which at a minimum are used in practicing  
13 the methods of the '318 patent. These products contribute to the direct infringement of  
14 the '318 patent by customers and/or other end users in this judicial district, the State of  
15 California, and elsewhere. Upon information and belief, these products are especially  
16 made or especially adapted for uses and practices which constitute infringement of the  
17 '318 patent. These products are not staple articles or commodities of commerce suitable  
18 for substantial non-infringing uses, including at least because they are especially made  
19 or especially adapted for uses and practices which constitute infringement of the '318  
20 patent.  
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26         36. On information and belief, TCL's contributory infringement comprises its  
27 knowledge that the above-mentioned products are especially made or especially  
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1 adapted for uses and/or practices which constitute infringement of the '318 patent and  
2 they are not staple articles or commodities of commerce suitable for substantial non-  
3 infringing uses. Such knowledge is evidenced by the fact that infringement of the '318  
4 patent from the use of the products is clear, evident, and unmistakable to anyone aware  
5 of both the '318 patent and of the details of the uses and practices employed in  
6 connection with the products. It is similarly clear, evident, and unmistakable to anyone  
7 aware of both the '318 patent and of the details of the uses and practices employed in  
8 connection with the products that they are especially made or especially adapted for  
9 uses and/or practices which constitute infringement of the '318 patent and they do not  
10 comprise staple articles or commodities of commerce suitable for substantial non-  
11 infringing uses. TCL would necessarily be aware of the details of the methods used  
12 and practiced in connection with the products at the time it became aware of the '318  
13 patent, and at that point it would have necessarily become clear and unmistakable to  
14 TCL that at least its customers and end users were infringing the '318 patent, that the  
15 products are, at a minimum, contributing to such infringement, and that the products  
16 are especially made or especially adapted for uses and practices which constitute  
17 infringement of the '318 patent, and they are not staple articles or commodities of  
18 commerce suitable for substantial non-infringing uses. Since TCL became aware of the  
19 '318 patent, it has necessarily possessed such knowledge.  
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1           37. On information and belief, Defendants have had at least constructive  
2 notice of the '318 Patent pursuant to the Patent Act. Further, it is likely that Defendants  
3 became aware of the '318 patent well before the filing of this suit in connection with  
4 Civil Action No. 2:17-cv-00257 filed on April 3, 2017, for activities infringing the '318  
5 patent comprising methods for obtaining a set of network access information with at  
6 least substantial similarities to Defendants' infringing activities. Further, Defendants  
7 will at a minimum have actual notice of the '318 patent at least upon being notified of  
8 and/or formally served with a copy of this Complaint. At a minimum, this Complaint  
9 (and also the Complaint in Civil Action No. 2:17-cv-00257) notifies Defendants that  
10 they have been infringing, and their activities have been accused of infringing, the '318  
11 patent. MyMail's Complaint also recites facts which state a valid and plausible claim  
12 of infringement. Defendants' infringement of the '318 patent is clear, unmistakable,  
13 and inexcusable. To the extent Defendants continue their infringing activities  
14 comprising obtaining a set of network access information in an infringing manner post-  
15 notice, such infringement is necessarily willful and deliberate. Plaintiff believes and  
16 contends that Defendants' continuance of their clear and inexcusable infringement of  
17 the '318 patent post notice and at a minimum post-suit suit is willful, wanton, malicious,  
18 bad-faith, deliberate, consciously wrongful, flagrant, and/or characteristic of a pirate.

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22           38. On account of the foregoing, Plaintiff contends such activities by  
23 Defendants qualify this as an egregious case of misconduct beyond typical  
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1 infringement, entitling Plaintiff to enhanced damages. Thus, Plaintiff requests an award  
2 enhanced damages, including treble damages, pursuant to 35 U.S.C. § 284. Plaintiff  
3 reserves the right to take discovery regarding Defendants' first actual notice of the '318  
4 Patent, including as related to whether Defendants' infringement is or was willful, and  
5 to the extent such notice preceded this suit being filed.  
6  
7

8 39. Each of Defendants' aforesaid activities have been without authority  
9 and/or license from Plaintiff.  
10

### 11 **DAMAGES**

12 40. By way of their infringing activities, Defendants have caused and continue  
13 to cause Plaintiff to suffer damages, and Plaintiff is entitled to recover from Defendants  
14 the damages sustained by Plaintiff as a result of Defendants' wrongful acts in an amount  
15 subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together  
16 with interest and costs as fixed by this Court under 35 U.S.C. § 284.  
17  
18

19 41. Defendants' infringement of Plaintiff's rights under the patent-in-suit will  
20 continue to damage Plaintiff, causing irreparable harm for which there is no adequate  
21 remedy at law, unless enjoined by this Court.  
22

23 42. Plaintiff also requests that the Court make a finding that this is an  
24 exceptional case entitling Plaintiff to recover their attorneys' fees and costs pursuant to  
25 35 U.S.C. § 285.  
26

### 27 **JURY DEMAND**

1 43. Plaintiff hereby requests a trial by jury pursuant to Rule 38 of the Federal  
2 Rules of Civil Procedure on all issues so triable.

3  
4 **PRAYER FOR RELIEF**

5 1. Plaintiff respectfully requests that the Court find in their favor and against  
6 Defendants, and that the Court grant Plaintiff the following relief:

7  
8 A. An adjudication that one or more claims of the patent-in-suit has been directly  
9 and/or indirectly infringed, either literally and/or under the doctrine of  
10 equivalents, by Defendants;

11  
12 B. An award to Plaintiff of damages adequate to compensate Plaintiff for  
13 Defendants' past infringement, together with pre-judgment and post-judgment  
14 interest, and any continuing or future infringement through the date such  
15 judgment is entered, including interest, costs, expenses, and an accounting of all  
16 infringing acts including, but not limited to, those acts not presented at trial;

17  
18  
19 C. A grant of preliminary and permanent injunction pursuant to 35 U.S.C. § 283,  
20 enjoining Defendants and all persons, including its officers, directors, agents,  
21 servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all  
22 others acting in active concert or participation therewith, from making, using,  
23 offering to sell, or selling in the United States or importing into the United States  
24 any methods, systems, or computer readable media that infringe any claim of the  
25 patent-in-suit, or contributing to or inducing the same by others from further acts  
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1 of infringement with respect to the claims of the patent-in-suit;

2 D. That this Court declare that Defendants' infringement has been, and continues to  
3 be, willful, including that Defendants acted to infringe the patent-in-suit despite  
4 an objectively high likelihood that its actions constituted infringement of a valid  
5 patent and, accordingly, award enhanced damages, including treble damages,  
6 pursuant to 35 U.S.C. § 284;  
7

8  
9 E. That this Court declare this to be an exceptional case and award Plaintiff  
10 reasonable attorneys' fees and costs in accordance with 35 U.S.C. § 285; and  
11

12 F. A judgment and order requiring Defendants to pay Plaintiff their damages, costs,  
13 expenses, fees, and prejudgment and post-judgment interest for Defendants'  
14 infringement of the patent-in-suit as provided under 35 U.S.C. §§ 284 and/or 285;  
15  
16 and  
17

18 G. Any and all further relief for which Plaintiff may show itself justly entitled that  
19 this Court deems just and proper.  
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1 Dated: August 23, 2017

Respectfully submitted,

2 COLLINS EDMONDS SCHLATHER  
& TOWER, PLLC

3  
4 /s/ John J. Edmonds

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