

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

EMC CORPORATION AND EMC ISRAEL)	
DEVELOPMENT CENTER, LTD.,)	
)	
Plaintiffs,)	
)	
v.)	C.A. No. 12-956-GMS
)	
ZERTO, INC.,)	
)	
Defendant.)	

DEFENDANT ZERTO, INC.’S NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that Defendant Zerto, Inc. (“Zerto”) hereby appeals to the United States Court of Appeals for the Federal Circuit from the District Court’s Memorandum dated August 10, 2017 (D.I. 347) and Order dated August 10, 2017 (D.I. 348), including: (1) the Court’s decision to award an ongoing royalty for U.S. Patent No. 7,577,867 where there is no future direct infringement by Zerto and the jury found no infringement by Zerto’s customers; and (2) the Court’s decision to award an ongoing royalty for U.S. Patent Nos. 7,603,395 and 7,971,091 that encompasses Zerto customers that use the Zerto Virtual Replication Product without the VSS Agent. Zerto further appeals from all prior orders, judgments, and rulings entered in this action.

To the extent this notice is deemed filed “before the entry of the judgment” (e.g., because the District Court has yet to determine whether Zerto’s re-designs infringe U.S. Patent No. 7,647,460 and are subject to any ongoing royalty for that patent for sales that occurred after the date of Zerto’s first redesign on December 3, 2015), this notice shall be “treated as filed on the date of and after the entry” of judgment. Fed. R. App. P. 4(a)(2).

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Dated: September 7, 2017

CERTIFICATE OF SERVICE

I, Adam W. Poff, hereby certify that on September 7, 2017, I caused to be electronically filed a true and correct copy of the foregoing document with the Clerk of the Court using CM/ECF, which will send notification that such filing is available for viewing and downloading to the following counsel of record:

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I further certify that on September 7, 2017, I caused a copy of the foregoing document to be served by e-mail on the above-listed counsel of record and on the following:

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