UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION

REALTIME DATA LLC d/b/a IXO,

Plaintiff,

v.

SYNACOR, INC.,

Defendant.

Case No. 6:18-cv-283

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 75034[1] 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

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[1] See https://www.zimbra.com/contact-us/

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. 8,717,204

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. 8,717,204 ("the '204 patent") 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 and expires on October 3, 2021. A true and correct copy of the '204 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 '204 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 Collaboration Network Edition, Zimbra Collaboration Open Source, Zimbra Suite Plus, Zimbra Backup Plus, Zimbra HSM Plus, Zimbra Connector for Outlook, Zimbra Desktop, other products and services referred to by the "Zimbra" name, and all versions and variations thereof since the issuance of the '204 patent ("Accused Instrumentality").

9.   On information and belief, Synacor has directly infringed and continues to infringe the '204 patent, for example, through its own use and testing of the Accused Instrumentality, which practice the method claimed by Claim 1 of the '204 patent,

namely, a method for processing data, the data residing in a data field, 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 to create compressed data wherein the

compressing achieves a compression ratio of over 4:1 on the data; and broadcasting the

compressed data to a plurality of clients. Upon information and belief, Synacor uses the

Accused Instrumentality, an infringing method, for its own internal non-testing business

purposes, while testing the Accused Instrumentality, while installing the Accused

Instrumentality, and while providing technical support and support (e.g., installation and

upgrade) services for the Accused Instrumentality to Synacor's customers.

10.   On information and belief, Synacor has had knowledge of the '204 patent

since at least the filing of this Complaint or shortly thereafter, and on information and

belief, Synacor knew of the '204 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 to infringe the '204 patent by practicing a method 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 to create compressed data wherein the

compressing achieves a compression ratio of over 4:1 on the data; and broadcasting the

compressed data to a plurality of clients. 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 would infringe the '204 patent. Synacor 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, 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 '204 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 to infringe the '204 patent, knowing that such use of the Accused Instrumentality will result in infringement of the '204 patent.

12.   Synacor also indirectly infringes the '204 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 '204 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 perform a method for processing data, the data residing in a data field, 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 to create compressed data wherein the compressing achieves a compression ratio of over 4:1 on the data; and broadcasting the compressed data to a plurality of clients. 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 '204 patent.

13.   The Accused Instrumentality performs a method for processing data, data residing in a data field, comprising recognizing any characteristic, attribute, or parameter of the data. For example, the Accused Instrumentality practices data deduplication, which

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is "a method of reducing storage needs by eliminating redundant data." *See, e.g.*, https://wiki.zimbra.com/wiki/How_to_deliver_messages_with_duplicate_ids. More specifically, the Accused Instrumentality describes that "[W]hen a new item is being created its "message ID" is compared to a list of cached items, and in case of a match a hardlink to the cached message's BLOB is created instead of a whole new BLOB for the message." *See e.g.,* https://wiki.zimbra.com/wiki/Zimbra_Suite_Plus/Zimbra_HSM_Plus /Item_Deduplication.

14.   The Accused Instrumentality performs a method for processing data, comprising selecting an encoder associated with the recognized characteristic, attribute, or parameter of the data. 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 performs a method for processing data,

comprising compressing the data with the selected encoder to create compressed data wherein the compressing achieves a compression ratio of over 4:1 on the data. *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."), *see also* 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.").

16.   The Accused Instrumentality performs a method for compressing data, comprising broadcasting the compressed data to a plurality of clients. *See, e.g.*, https://wiki.zimbra.com/wiki/Zimbra_Suite_Plus/Zimbra_HSM_Plus/Item_Deduplication ("This might seem a minor improvement, in theory, but in practical use can make a huge

difference. Think about that user, the one that improperly sends nice and unnecessary 15Mb "motivational" or "funny" presentations to a-hundred-and-something-recipient-all-in-the-"to:"-field. … When a new item is being created its "message ID" is compared to a list of cached items, and in case of a match a hardlink to the cached message's BLOB is created instead of a whole new BLOB for the message);   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.").

17.   Synacor also infringes other claims of the '204 patent, directly and through inducing infringement and contributory infringement, for similar reasons as explained above with respect to Claim 1 of the '204 patent.

18.   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 '204 patent pursuant to 35 U.S.C. § 271.

19.   As a result of Synacor's infringement of the '204 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. 9,859,919

20.   Plaintiff realleges and incorporates by reference paragraphs 1-19 above, as if fully set forth herein.

21.   Plaintiff Realtime is the owner by assignment of United States Patent No. 9,859,919 ("the '919 patent") entitled "System and methods for data compression." The '919 patent was duly and legally issued by the United States Patent and Trademark Office on Jan 2, 2018 and expires on October 3, 2021. A true and correct copy of the '919 patent is included as Exhibit B.

22.   On information and belief, Synacor has offered for sale, sold and/or imported into the United States Synacor products that infringe the '919 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 Collaboration Network Edition, Zimbra Collaboration Open Source, Zimbra Suite Plus, Zimbra Backup Plus, Zimbra HSM Plus, Zimbra Connector for Outlook, Zimbra Desktop, other products and services referred to by the "Zimbra" name, and all versions and variations thereof since the issuance of the '204 patent ("Accused Instrumentality").

23.   On information and belief, Synacor has directly infringed and continues to infringe the '919 patent, for example, through its own use and testing of the Accused Instrumentality, which constitutes a system for compressing data in one or more data blocks, comprising: a data storage server implemented on one or more processors and one or more memory systems and configured to: analyze a data block to determine a

parameter, attribute, or value of the data block; wherein the analyzing excludes only reading a descriptor or data token associated with the data block; select at least one lossless encoder associated with the determined parameter, attribute, or value; compress data in the data block with the selected at least one lossless encoder to produce a compressed data block, having a size over 10 times smaller than the data block; and store the compressed data block, wherein the time of the compressing the data block and the storing the compressed data block is less than the time of storing the data block 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, while installing the Accused Instrumentality, and while providing technical support and professional services (e.g., installation and upgrade) for the Accused Instrumentality to Synacor's customers.

24.   On information and belief, Synacor has had knowledge of the '919 patent since at least the filing of this Complaint or shortly thereafter, and on information and belief, Synacor knew of the '919 patent and knew of its infringement, including by way of this lawsuit.

25.   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 9 of the '919 patent by making or using a system for compressing data in one or more data blocks, comprising: a data storage server implemented on one or more processors and one or more memory systems and configured to: analyze a data

block to determine a parameter, attribute, or value of the data block; wherein the analyzing excludes only reading a descriptor or data token associated with the data block; select at least one lossless encoder associated with the determined parameter, attribute, or value; compress data in the data block with the selected at least one lossless encoder to produce a compressed data block, having a size over 10 times smaller than the data block; and store the compressed data block, wherein the time of the compressing the data block and the storing the compressed data block is less than the time of storing the data block 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.*, *See, e.g.*, https://zimbra.github.io/adminguide/latest /index.html ("the exported data is compressed through the gzip algorithm, and all zimbra items are deduplicated, usually reducing the size of exported to 70% of the original size."); *see also* 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 '919 patent. Synacor specifically intended and was aware that these normal and customary activities would infringe the '919 patent. Synacor performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '919 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 '919 patent, knowing that such use constitutes infringement of the '919 patent.

26.   For similar reasons, Synacor also infringes the '919 patent by supplying or causing to be supplied in or from the United States all or a substantial portion of the components of the Accused Instrumentality, where such components are uncombined in whole or in part, in such manner as to actively induce the combination of such components outside of the United States in a manner that would infringe the '919 patent if such combination occurred within the United States.

27.   Synacor also indirectly infringes the '919 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 '919 patent and are not a staple article or commodity of commerce

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suitable for substantial non-infringing use.

28.   For similar reasons, Synacor also infringes the '919 patent by supplying or causing to be supplied in or from the United States components of the Accused Instrumentality that are especially made or especially adapted for use in the Accused Instrumentality, where such components are not staple articles or commodities of commerce suitable for substantial noninfringing use, and where such components are uncombined in whole or in part, knowing that such components are so made or adapted and intending that such components are combined outside of the United States in a manner that would infringe the '919 patent if such combination occurred within the United States.

29.   The Accused Instrumentality includes a data storage server implemented on one or more processors and one or more memory systems. For example, the Accused Instrumentality must run on hardware containing one or more processors and a memory system. More specifically, Zimbra, for example, discloses that the "mailbox server is a dedicated server that manages all the mailbox content, including messages, contacts, calendar, and attachments. The Zimbra mailbox server has dedicated volumes for backup and log files." *See, e.g.*, https://zimbra.github.io/adminguide/latest /index.html#_zimbra_mailbox_server. Moreover, the Accused Instrumentality analyzes a data block to determine a parameter, attribute, or value of the data block, wherein the analysis excludes only reading a descriptor or data token associated with the data block. For example, the Accused Instrumentality practices data deduplication, which is "a method of reducing storage needs by eliminating redundant data." *See, e.g.*, https://wiki.zimbra.com/wiki/How_to_deliver_messages_with_duplicate_ids. More

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specifically, the Accused Instrumentality describes that "[W]hen a new item is being created its "message ID" is compared to a list of cached items, and in case of a match a hardlink to the cached message's BLOB is created instead of a whole new BLOB for the message." *See e.g.,* https://wiki.zimbra.com/wiki/Zimbra_Suite_Plus/ Zimbra_HSM_Plus/Item_Deduplication

30.   The Accused Instrumentality selects at least one lossless encoder associated with the determined parameter, attribute, or value. For example, the Accused Instrumentality compares a new item to a list of cached or stored items and in case of a mismatch the new item is compressed with gzip (lossless) encoder. For example, the Accused Instrumentality discloses in its Administrator Guide that "the exported data is compressed through the gzip algorithm, and all zimbra items are deduplicated ...." *See e.g.,* https://zimbra.github.io/adminguide/latest/index.html#_zimbra_mailbox_server; https://www.zimbra.com/zimbra-suite-plus/zimbra-backup-plus/

31.   The Accused Instrumentality compress data in the data block with the selected at least one lossless encoder to produce a compressed data block, having a size over 10 times smaller than the data block. For example, the Accused Instrumentality compresses a new with the gzip (lossless) encoder. For example, the Accused Instrumentality discloses in its Administrator Guide that "the exported data is compressed through the gzip algorithm ...." *See e.g.,* https://zimbra.github.io/adminguide/latest/ index.html#_zimbra_mailbox_server. Moreover, gzip lossless compression algorithm may achieve 4:1 compression ratio for plain text, HTML, or marked up documents; *see also* https://www.zimbra.com/zimbra-suite-plus/zimbra-backup-plus/

32.   The Accused Instrumentality stores the compressed data block, wherein

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the time of the compressing the data block and the storing the compressed data block is less than the time of storing the data block in uncompressed form. For example, the Accused Instrumentality discloses in its Administrator Guide that "[E]xported data is deduplicated and compressed to optimize disk utilization, transfer times and I/O rates." *See e.g.,* https://zimbra.github.io/adminguide/latest/index.html#_zimbra_mailbox_server.

33.   On information and belief, Synacor also infringes, directly and indirectly, and continues to infringe other claims of the '919 patent, for similar reasons as explained above with respect to Claim 1 of the '919 patent.

34.   On information and belief, use of the Accused Instrumentality in its ordinary and customary fashion results in infringement of the methods claimed by the '919 patent.

35.   By making, using, offering for sale, selling and/or importing into the United States the Accused Instrumentalities, or by supplying or causing to be supplied from the United States components of 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 '919 patent pursuant to 35 U.S.C. § 271.

36.   As a result of Synacor's infringement of the '919 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. 9,667,751

37.   Plaintiff Realtime realleges and incorporates by reference paragraphs 1-37 above, as if fully set forth herein.

38.   Plaintiff Realtime is the owner by assignment of United States Patent No. 9,667,751 ("the '751 Patent") entitled "Data feed acceleration." The '751 Patent was duly and legally issued by the United States Patent and Trademark Office on May 30, 2017 and expires on October 3, 2021. A true and correct copy of the '751 Patent is included as Exhibit C.

39.   On information and belief, Synacor has offered for sale, sold and/or imported into the United States Synacor products that infringe the '751 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 Collaboration Network Edition, Zimbra Collaboration Open Source, Zimbra Suite Plus, Zimbra Backup Plus, Zimbra HSM Plus, Zimbra Connector for Outlook, Zimbra Desktop, other products and services referred to by the "Zimbra" name, and all versions and variations thereof since the issuance of the '204 patent ("Accused Instrumentality").

40.   On information and belief, Synacor has directly infringed and continues to infringe the '751 patent, for example, through its own use and testing of the Accused Instrumentality, which constitutes a system for compressing data comprising: a data server implemented on one or more processors and one or more memory systems and configured to: analyze content of a data block to identify a parameter, attribute, or value of the data block that excludes analysis based solely on reading a descriptor; select an encoder associated with the identified parameter, attribute, or value; compress data in the data block with the selected encoder to produce a compressed data block, wherein the

compression utilizes a state machine; and store the compressed data block; wherein the time of the compressing the data block and the storing the compressed data block is less than the time of storing the data block 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, while installing the Accused Instrumentality, and while providing technical support and professional services (e.g., installation and upgrade) for the Accused Instrumentality to Synacor's customers.

41.   On information and belief, use of the Accused Instrumentality in its ordinary and customary fashion results in infringement of the systems claimed by the '751 patent.

42.   On information and belief, Synacor has had knowledge of the '751 patent since at least the filing of this Complaint or shortly thereafter, and on information and belief, Synacor knew of the '751 patent and knew of its infringement, including by way of this lawsuit.

43.   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 25 of the '751 patent by making or using a system for compressing data comprising: a data server implemented on one or more processors and one or more memory systems and configured to: analyze content of a data block to identify a parameter, attribute, or value of the data block that excludes analysis based solely on

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reading a descriptor; select an encoder associated with the identified parameter, attribute, or value; compress data in the data block with the selected encoder to produce a compressed data block, wherein the compression utilizes a state machine; and store the compressed data block; wherein the time of the compressing the data block and the storing the compressed data block is less than the time of storing the data block 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://zimbra.github.io/adminguide/ latest/index.html ("the exported data is compressed through the gzip algorithm, and all zimbra items are deduplicated, usually reducing the size of exported to 70% of the original size;   *see   also*   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 '751 patent. Synacor specifically intended and was aware that these normal and customary activities would infringe the '751 patent. Synacor performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '751 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 '751 patent, knowing that such use constitutes infringement of the '751 patent.

44.   For similar reasons, Synacor also infringes the '751 patent by supplying or causing to be supplied in or from the United States all or a substantial portion of the components of the Accused Instrumentality, where such components are uncombined in whole or in part, in such manner as to actively induce the combination of such components outside of the United States in a manner that would infringe the '751 patent if such combination occurred within the United States.

45.   Synacor also indirectly infringes the '751 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 '751 patent and are not a staple article or commodity of commerce suitable for substantial non-infringing use.

46.   For similar reasons, Synacor also infringes the '751 patent by supplying or causing to be supplied in or from the United States components of the Accused Instrumentality that are especially made or especially adapted for use in the Accused Instrumentality, where such components are not staple articles or commodities of commerce suitable for substantial noninfringing use, and where such components are uncombined in whole or in part, knowing that such components are so made or adapted and intending that such components are combined outside of the United States in a manner that would infringe the '751 patent if such combination occurred within the United States.

47.   The Accused Instrumentality includes a data server implemented on one or more processors and one or more memory systems. For example, the Accused Instrumentality must run on hardware containing one or more processors and a memory system. More specifically, Zimbra, for example, discloses that "mailbox server is a dedicated server that manages all the mailbox content, including messages, contacts, calendar, and attachments. The Zimbra mailbox server has dedicated volumes for backup and log files." *See, e.g.*, https://zimbra.github.io/adminguide/latest/index.html#_zimbra_mailbox_server. The Accused Instrumentality analyzes content of a data block to identify a parameter, attribute or value of the data block that excludes analysis based solely on reading a descriptor. For example, the Accused Instrumentality practices data deduplication, which is "a method of reducing storage needs by eliminating redundant data." *See, e.g.*, https://wiki.zimbra.com/wiki/How_to_deliver_messages_with_duplicate_ids. More specifically, the Accused Instrumentality describes that "[W]hen a new item is being created its "message ID" is compared to a list of cached

items, and in case of a match a hardlink to the cached message's BLOB is created instead of a whole new BLOB for the message." *See e.g.,* https://wiki.zimbra.com/wiki/Zimbra_Suite_Plus/Zimbra_HSM_Plus/ Item_Deduplication.

48.   The Accused Instrumentality compresses data in the data block with the selected encoder to produce a compressed data block, wherein the compression utilizes a state machine; and store the compressed 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."). More specifically, the Accused Instrumentality describes that "[W]hen a new item is being created its "message ID" is compared to a list of cached items, and in case of a match a hardlink to the cached message's BLOB is created instead of a whole new BLOB for the message." *See e.g.,*https://wiki.zimbra.com/wiki/Zimbra_Suite_Plus/Zimbra_HSM_Plus /Item_Deduplication

49.   The Accused Instrumentality compresses data in the data block, wherein

the time of the compressing the data block and the storing the compressed data block is less than the time of storing the data block in uncompressed form.

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."); *see also* 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.").

50.   On information and belief, Synacor also infringes, directly and indirectly infringement, and continues to infringe other claims of the '751 patent, for similar reasons as explained above with respect to Claim 1 of the '751 patent.

51.   By making, using, offering for sale, selling and/or importing into the United States the Accused Instrumentalities, or by supplying or causing to be supplied from the United States components of the Accused Instrumentality, and touting the benefits of using the Accused Instrumentalities' compression features, Synacor has injured Realtime and is liable to Realtime for infringement of the '751 patent pursuant to 35 U.S.C. § 271.

52.   As a result of Synacor's infringement of the '751 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, and indirectly infringed, under 35 U.S.C. §§ 271(b) (c) and (f), the '204 patent, the '919 patent, and the '751 patent;

b.   A permanent injunction prohibiting Synacor from further acts of infringement of the '204 patent, the '919 patent, and the '751 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 '204 patent, the '919 patent, and the '751 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: June 19, 2018   Respectfully submitted,

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