IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

TELECONFERENCE SYSTEMS LLC, Plaintiff, v. **METASWITCH NETWORKS CORP.,** Defendant.	Case No. 6:18-cv-234 PATENT CASE JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Teleconference Systems LLC ("Teleconference Systems" or "Plaintiff") files this First Amended Complaint against Metaswitch Networks Corp. ("Metaswitch" or "Defendant") for infringement of U.S. Patent No. 9,154,734 ("the '734 patent"), U.S. Patent No. 9,253,444 ("the '444 patent"), and U.S. Patent No. 9,419,939 ("the '939 patent") (collectively "the patents-in-suit" or "asserted patents").

THE PARTIES

1. Teleconference Systems is a Texas limited liability company with its principal place of business located in Frisco, Texas.

2. Metaswitch is a company organized under the laws of the State of Delaware having a regular and established place of business in this judicial district, which is located at 2801 Network Boulevard, Suite 810, Frisco, Texas 75034.

3. Metaswitch maintains a registered agent for service of process in Delaware at Corporation Service Company, 251 Little Falls Drive, Wilmington, Delaware 19808.

JURISDICTION AND VENUE

4. Teleconference Systems brings this action for patent infringement under the patent laws of the United States, namely 35 U.S.C. §§ 271, 281, and 284-285, among others. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1338(a), and 1367.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(c) and 1400(b). Metaswitch is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute. Metaswitch is registered with the State of Texas to conduct business in Texas. In addition, Metaswitch regularly conducts business in Texas, including, but not limited to, offering for sale and selling to customers that are located in Texas or for use by customers in Texas products and services that infringe the Teleconference Systems' patents. In addition, Metaswitch maintains a regular and established place of business in this judicial district. Metaswitch derives substantial revenue from the sale of infringing services and products distributed within this district and expects or should reasonably expect its actions to have consequences within this district.

6. Venue lies in this judicial district pursuant to 28 U.S.C. § 1400(b) for at least the reason that Metaswitch has a regular and established place of business in this judicial district, and, on information and belief, Metaswitch has committed acts of infringement in the State of Texas and this judicial district, including but not limited to, offering for sale and selling products and services that infringe one or more of Teleconference Systems' patents to customers that are located in Texas or for use by customers in Texas.

THE PATENTS-IN-SUIT ARE DIRECTED TO PATENT ELIGIBLE SUBJECT MATTER

7. The claimed inventions in the patents-in-suit are all directed to patent eligible subject matter.

8. The patents-in-suit are all continuations of U.S. Patent No. 6,980,526 and, therefore, share a common specification.

9. The patents-in-suit claim priority to Provisional Application No. 60/191,819 filed on March 24, 2000.

10. The claimed inventions in the patents-in-suit are not directed to the concept of videoconferencing at large.

11. The claimed inventions in the patents-in-suit are directed to videoconferencing services switches.

12. More specifically, the inventions claimed in the patents-in-suit are not directed to any videoconferencing services switches, but rather those adapted for deployment in a service provider / global Internet Protocol (IP) network that then contain the additional claimed limitations. *See e.g.*, '734 patent, claim 11; '444 patent, claims 1, 16, 23; '939 patent, claims 1, 16, 23.

13. For example, the preamble of independent claim 11 in the '734 patent states:

> 11. A videoconferencing services switch adapted for deployment in a service provider Internet Protocol (IP) network and capable of processing a videoconferencing call between an origination terminal and a destination terminal, the origination and destination terminals being located on one or more subscriber IP networks.

'734 patent, claim 11.

14. The preamble of independent claims 1, 16, and 23 in the '444 patent states:

> A videoconferencing services switch adapted for deployment in a global Internet Protocol (IP) network and to communicate with at least one other videoconferencing services switch across the global IP network.

'434 patent, claims 1, 16, and 23.

15. The preamble of independent claims 1, 16, and 23 in the '939 patent states:

> A videoconferencing services switch adapted for deployment in a global Internet Protocol (IP) network and to communicate with at least one other videoconferencing services switch across the global IP network.

'939 patent, claims 1, 16, and 23.

16. A videoconferencing services switch is a device for use in videoconferencing.

17. A videoconferencing services switch is not merely a generic computer.

18. The inventions claimed in the patents-in-suit were aimed at addressing a number of shortcomings in the prior art.

19. For example, the patent specifications note the shortcomings of prior ISDN based videoconferencing systems, stating:

> However, ISDN videoconferencing is extremely expensive, because ISDN lines are costly to install and lease, and because specialized hardware is required at the sites of the users. Because of this expense, ISDN videoconferencing systems are typically offered in a specialized videoconferencing room, rather than at each desktop computer of each employee in an enterprise. In addition, ISDN can be complicated to set up, and unreliable. ISDN calls on average take more than 10 minutes to set-up, and greater than 10% of calls are dropped without being completed.

See e.g., '734 patent, 1:38-48.

20. The patent specification also notes the shortcomings with videoconferencing systems for use on packet-switched Internet Protocol (IP) networks, stating:

> Videoconferencing over IP networks has a number of fundamental problems, including security, bandwidth utilization, quality of service, and deployment and management.

See e.g., '734 patent, 1:58-60.

21. Regarding security, the patent specifications go on to note the difficulty of implementing H.323 and SIP based systems with then current firewalls, stating:

> Regarding security, H.323 and SIP are difficult to implement with current firewalls. The difficulty lies in the fact that H.323 and SIP are complex protocols and use multiple dynamically allocated ports for each call. Because of the heavy use of dynamically allocated ports, it is not possible to preconfigure firewalls to allow SIP- or H.323-signaled traffic without opening up large numbers of holes in the firewall. This represents a more

> lax firewall policy than would be acceptable at most enterprises. In addition, SIP or H.323 video endpoints behind a firewall typically cannot receive calls from external parties due to firewall policies in place at most enterprises.

See e.g., '734 patent, 1:61-2:4.

22. Regarding bandwidth utilization, the patent specifications go on to note that:

> … in order to achieve a quality sufficient for business videoconferencing, a minimum of 384 Kbps bandwidth is generally required per videoconferencing participant. Multiple users simultaneously engaged in videoconferencing applications may use up available bandwidth on a local area network (LAN), slowing down other critical network operations. Current systems do not allow a network administrator to control easily the bandwidth usage of multiple network users. Therefore, network administrators are reluctant to deploy videoconferencing systems.

See e.g., '734 patent, 2:24-33.

23. Regarding quality of service, the patent specifications go on to note that:

> … typical IP networks do not provide guaranteed transmission speeds for videoconferencing data. Videoconferencing data generally is indistinguishable from other data on IP networks, such as email and web page data. Data on IP networks may be delayed due to network congestion. While small delays are generally not a problem for less time sensitive data such as email, it can severely affect picture and audio quality for videoconference participants.

See e.g., '734 patent, 2:34-42.

24. Regarding deployment and management, the patent specifications go on to note that:

> … enterprises cannot easily outsource videoconferencing services to outside service providers. Currently, service providers are not able to cost-effectively provide videoconferencing services to a large number of subscribers, because specialized equipment must be deployed or existing equipment must be upgraded at every subscriber site. This results in an expensive up-front capital investment as well as significant operational expenses for the service provider. Up-front equipment installations take time at each subscriber, resulting in a slow deployment of the videoconferencing capabilities to subscribers. In addition, the high up-front costs result in decreased service provider profit margins. It is difficult to grow such a service because each subscriber adds to an incremental growth in the capital equipment pool because these resources are not shared.

See e.g., '734 patent, 2:44-58.

25. In light of the aforementioned deficiencies in prior art videoconferencing systems, at the time of the filing of the '526 patent, there existed a need for a videoconferencing device "for delivering secure, high-quality videoconferencing services over an IP network to multiple enterprise subscribers in a manner that does not require expensive upgrading and customization of the enterprise network." *See e.g.*, '734 patent, 2:66-3:4. The inventions claimed in the patents-in-suit addressed this need.

26. For example, '734 patent, claim 11, claims:

> 11. A videoconferencing services switch adapted for deployment in a service provider Internet Protocol (IP) network and capable of processing a videoconferencing call between an origination terminal and a destination terminal, the origination and destination terminals being located on one or more subscriber IP networks, the videoconferencing services switch comprising:
>
> a call control module capable of performing call set-up and tear-down operations and managing call data streams for the videoconferencing call;
>
> a quality of service module capable of being configured to guarantee quality of service for the videoconferencing call placed via the switch according to the subscriber-specific settings;
>
> a security module configured to provide firewall services for the videoconferencing call, the security module further comprising a Session Initiation Protocol (SIP) firewall module configured to use firewall settings on a per-subscriber basis to allow a subscriber-specific firewall that is custom-implemented for traffic from each subscriber;
>
> a tunneling services module configured to provide a virtual private network (VPN) between the videoconferencing services switch and a subscriber IP network; and
>
> a policy engine capable of being configured to enforce policies on the videoconferencing call based on subscriber-specific or user-specific settings.

'734 patent, claim 11.

27. As another example, '444 patent, claim 16, claims:

> 16. A videoconferencing services switch adapted for deployment in a global Internet Protocol (IP) network and configured to communicate with at least one other videoconferencing services switch across the global IP network, the switch comprising:
>
> at least one processor; and
>
> a memory device, the memory device having instructions stored thereon that, when executed by the at least one processor, cause the switch to:

receive endpoint registration and Session Initiation Protocol (SIP) call control data from call origination and destination IP videoconferencing endpoints in subscriber IP networks;
manage transfer of encrypted real-time audio and video data streams between the subscriber IP networks having the call origination and destination IP videoconferencing endpoints; and
enforce policies on videoconferencing calls based on subscriber-specific settings.

'444 patent, claim 16.

28. As another example, '939 patent, claim 16, claims:

16. A videoconferencing services switch adapted for deployment in a global Internet Protocol (IP) network and configured to communicate with at least one other videoconferencing services switch across the global IP network, the switch comprising:
at least one processor; and
a memory device, the memory device having instructions stored thereon that, when executed by the at least one processor, cause the switch to:
receive endpoint registration and Session Initiation Protocol (SIP) call control data from call origination and destination IP videoconferencing endpoints in subscriber IP networks;
set-up videoconferencing call connections for audio and video media exchange between the call origination and destination IP videoconferencing endpoints; and
enforce policies on videoconferencing calls based on subscriber-specific settings.

'939 patent, claim 16.

29. The inventions claimed in the patents-in-suit are not merely the computerized implementation of an abstract idea.

30. The inventions claimed in the patents-in-suit do not merely recite the performance of some business practice known from the pre-Internet world along with the requirement to perform it on the Internet.

31. As discussed in the preceding paragraphs, the inventions claimed in the patents-in-suit are rooted in computer technology in order to overcome a problem specifically arising in the realm of computer networks.

32. The inventions claimed in the patents-in-suit are directed to a specific set of operations confined to a particular context.

33. The inventions claimed in the patents-in-suit do not preempt the field of videoconferencing.

34. The inventions claimed in the patents-in-suit do not preempt the field of videoconferencing over IP networks.

35. The inventions claimed in the patents-in-suit do not preempt the field of videoconferencing services switches.

36. The inventions claimed in the patents-in-suit, when considered as a whole and/or as an ordered combination, are not well-understood, routine, and conventional.

COUNT I
(INFRINGEMENT OF U.S. PATENT NO. 9,154,734)

37. Teleconference Systems incorporates paragraph 1 through 36 herein by reference.

38. This cause of action arises under the patent laws of the United States, and in particular, 35 U.S.C. §§ 271, *et seq.*

39. Teleconference Systems is the exclusive licensee of the ’734 patent, entitled “Multiple Subscriber Videoconference System,” with all substantial rights to the ’734 patent, including the exclusive right to enforce, sue, and recover damages for past and future infringement. A copy of the ’734 patent is attached as Exhibit 1.

40. The ’734 patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

(Direct Infringement)

41. Defendant has, and continues to, directly infringe one or more claims of the ’734 patent in this judicial district and elsewhere in the United States.

42. In particular, Defendant has, and continues to, infringe at least claims 11-13 and 15-17 of the ’734 patent by, making, using, selling, offering to sell, and/or selling within, and/or importing into the United States session border controllers, including but not limited to the Metaswitch Perimeta SBC Integrated Session Controller, Metaswitch Perimeta SBC Signaling Session Controller, and Metaswitch Perimeta SBC Media Session Controller (“the Metaswitch SBCs”).

43. Defendant describes the Metaswitch SBCs as products that “deliver sophisticated network security, advanced management of packet throughput under all load conditions, extensive protocol interworking and normalization and complete packet analysis for in-depth problem isolation and repair.” *See* https://www.metaswitch.com/products/core-network/perimeta-sbc. Defendants further state that the Metaswitch SBCs are “proven to deliver the Session Initiation Protocol (SIP) interworking and security performance demanded of large-scale rich communications services.” *Id*. Furthermore, Defendant states that the Metaswitch SBCs provide “[i]ncredible flexibility in deployment: on COTS hardware or in private, public and hybrid clouds.” *Id*.

44. Each of the Metaswitch SBCs are videoconferencing services switches adapted for deployment in a service provider Internet Protocol (IP) network and capable of processing a videoconferencing call between an origination terminal and a destination terminal, the origination and destination terminals being located on one or more subscriber IP networks, comprising a call control module capable of performing call set-up and tear-down operations and managing call data streams for the videoconferencing call; a quality of service module capable of being configured to guarantee quality of service for the videoconferencing call placed via the switches according to the subscriber-specific settings; a security module configured to provide firewall services for the

videoconferencing call, the security module further comprising a Session Initiation Protocol (SIP) firewall module configured to use firewall settings on a per-subscriber basis to allow a subscriber-specific firewall that is custom-implemented for traffic from each subscriber; a tunneling services module configured to provide a virtual private network (VPN) between the videoconferencing services switches and a subscriber IP network; and a policy engine capable of being configured to enforce policies on the videoconferencing call based on subscriber-specific or user-specific settings as claimed in claim 11 of the '734 patent. *See, e.g.*, Metaswitch Perimeta SBC Integrated Session Controller Datasheet (attached as Exhibit 4), pp. 1-3; Metaswitch Perimeta SBC Signaling Session Controller Datasheet (attached as Exhibit 5), pp. 1-3; Metaswitch Perimeta SBC Media Session Controller Datasheet (attached as Exhibit 6), pp. 1-3; Metaswitch Perimeta Configuration and Interoperability Guide (publicly available at http://ivstel.com/support/index.php?/Knowledgebase/Article/View/16/28/, attached as Exhibit 7), at pp. 43-44, 82-85, 140-142, 303-304, 320; https://www.metaswitch.com/products/core-network/perimeta-sbc.

45. Furthermore, on information and belief, each of the Metaswitch SBCs include each of the specific elements found in claims 12-13 and 15-17 of the '734 patent, including: where the subscriber-specific settings are selected from the group consisting of: calling privileges, encryption, bandwidth, priority, participation, and restriction policies; where the quality of service module comprises a call bandwidth management module; where the quality of service module comprises: a call Differentiated Services (Diff Serv) capabilities module; where the security module further comprises a Session Initiation Protocol (SIP) Network Address Translation (NAT) module configured to provide network address translation services for videoconferencing calls placed with the SIP protocol; wherein the security module is further configured to provide network

address translation services for videoconferencing calls; and wherein each videoconferencing services switch is adapted for deployment at an access point of the service provider IP network. *See e.g.*, Exhibit 7, at pp. 23, 43, 48, 65-67, 78, 82, 141-142, 437, 488.

46. Defendant is liable for these direct infringements pursuant to 35 U.S.C. § 271.

(Indirect Infringement)

47. Based on the information presently available to Teleconference Systems, absent discovery, and in the alternative to its direct infringement claims against Defendant, Teleconference Systems contends that Defendant has and continues to indirectly infringe the '734 patent by inducing end users of the Metaswitch SBCs to infringe at least claims 11-13 and 15-17 via their use of the Metaswitch SBCs.

48. Defendant has been on notice of the '734 patent since at least service of the original complaint in this matter.

49. Since Defendant was on notice of the '734 patent, Defendant knowingly induced infringement of the '734 patent, including at least claims 11-13 and 15-17 of the '734 patent, and possessed specific intent to encourage others' infringement.

50. Since Defendant was on notice of the '734 patent, Defendant knew or should have known that its actions alleged herein would induce actual infringement of the '734 patent, including at least claims 11-13 and 15-17 of the '734 patent.

51. Defendant instructs and encourage users to use the Metaswitch SBCs in a manner that infringes the '734 patent. For example, Defendant offers customers specialized training and educational programs on how to use the Metaswitch SBCs in an infringing manner. *See e.g.*, https://www.metaswitch.com/services/training. Furthermore, Defendant's customer care webpage indicates that Defendant "support[s] live network deployments from local offices all over

the world, and can work on-site with […] customers." *See e.g.*, https://www.metaswitch.com/services/customer-care.

52. Furthermore, Defendant has not provided any information or indication that it has implemented a design around or otherwise taken any remedial action with respect to the '734 patent. In accordance with Fed. R. Civ. P. 11(b)(3), Plaintiff will likely have additional evidentiary support after a reasonable opportunity for discovery on this issue.

53. Teleconference Systems has been damaged as a result of Defendant's infringing conduct described in this Count. Defendant is, thus, liable to Teleconference Systems in an amount that adequately compensates Teleconference Systems for Defendant's infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

COUNT II
(INFRINGEMENT OF U.S. PATENT NO. 9,253,444)

54. Teleconference Systems incorporates paragraph 1 through 53 herein by reference.

55. This cause of action arises under the patent laws of the United States, and in particular, 35 U.S.C. §§ 271, *et seq.*

56. Teleconference Systems is the exclusive licensee of the '444 patent, entitled "Multiple Subscriber Videoconference System," with all substantial rights to the '444 patent, including the exclusive right to enforce, sue, and recover damages for past and future infringement. A copy of the '444 patent is attached as Exhibit 2.

57. The '444 patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

(Direct Infringement)

58. Defendant has, and continues to, directly infringe one or more claims of the ’444 patent in this judicial district and elsewhere in the United States.

59. In particular, Defendant has, and continues to, infringe at least claims 1, 3, 16, 18, 23, and 25 of the ’444 patent by, making, using, selling, offering to sell, and/or selling within, and/or importing into the United States session border controllers, including but not limited to the Metaswitch SBCs.

60. Specifically, each of the Metaswitch SBCs are videoconferencing services switches adapted for deployment in a global Internet Protocol (IP) network and to communicate with at least one other videoconferencing services switch across the global IP network comprising a call control module capable of receiving call control data from call origination and destination IP videoconferencing endpoints in subscriber IP networks; a tunneling services module configured to receive encrypted real-time audio and video data streams from the subscriber IP networks having the call origination and destination IP videoconferencing endpoints; and a policy engine capable of being configured to enforce policies on videoconferencing calls based on subscriber-specific settings as claimed in claim 1 of the ’444 patent. *See*, *e.g.*, Exhibit 4, pp. 1-3; Exhibit 5, pp. 1-3; Exhibit 6, pp. 1-3; https://www.metaswitch.com/products/core-network/perimeta-sbc.

61. Furthermore, on information and belief, each of the Metaswitch SBCs include each of the specific elements found in claims 3, 16, 18, 23, and 25 of the ’444 patent, including: where at least one of the subscriber IP networks is connected to the global IP network through a network address translation (NAT) device located in the subscriber IP network; at least one processor; a memory device, the memory device having instructions stored thereon that, when executed by the at least one processor, cause the switch to: receive endpoint registration and Session Initiation

Protocol (SIP) call control data from call origination and destination IP videoconferencing endpoints in subscriber IP networks, manage transfer of encrypted real-time audio and video data streams between the subscriber IP networks having the call origination and destination IP videoconferencing endpoints, and enforce policies on videoconferencing calls based on subscriber-specific settings; and a memory device, the memory device having instructions stored thereon that, when executed by the at least one processor, cause the switch to: receive call control data from call origination and destination IP videoconferencing endpoints in subscriber IP networks, receive encrypted real-time audio and video data streams from the subscriber IP networks having call origination and destination IP videoconferencing endpoints, and enforce policies on videoconferencing calls based on subscriber-specific settings. *See Id*. *See also* Metaswitch Perimeta Performance and Hardware Specifications (attached as Exhibit 8), pp. 1-5.

62. Defendant is liable for these direct infringements pursuant to 35 U.S.C. § 271.

(Indirect Infringement)

63. Based on the information presently available to Teleconference Systems, absent discovery, and in the alternative to its direct infringement claims against Defendant, Teleconference Systems contends that Defendant has and continues to indirectly infringe the ’444 patent by inducing end users of the Metaswitch SBCs to infringe at least claims 1, 3, 16, 18, 23, and 25 via their use of the Metaswitch SBCs.

64. Defendant has been on notice of the ’444 patent since at least service of the original complaint in this matter.

65. Since Defendant was on notice of the ’444 patent, Defendant knowingly induced infringement of the ’444 patent, including at least claims 1, 3, 16, 18, 23, and 25 of the ’444 patent, and possessed specific intent to encourage others’ infringement.

66. Since Defendant was on notice of the ’444 patent, Defendant knew or should have known that its actions alleged herein would induce actual infringement of the ’444 patent, including at least claims 1, 3, 16, 18, 23, and 25 of the ’444 patent.

67. Defendant instructs and encourage users to Metaswitch SBCs in a manner that infringes the ’444 patent. For example, Defendant offers customers specialized training and educational programs on how to use the Metaswitch SBCs in an infringing manner. *See e.g.*, https://www.metaswitch.com/services/training. Furthermore, Defendant’s customer care webpage indicates that Defendant “support[s] live network deployments from local offices all over the world, and can work on-site with […] customers.” *See e.g.*, https://www.metaswitch.com/services/customer-care.

68. Furthermore, Defendant has not provided any information or indication that it has implemented a design around or otherwise taken any remedial action with respect to the ’444 patent. In accordance with Fed. R. Civ. P. 11(b)(3), Plaintiff will likely have additional evidentiary support after a reasonable opportunity for discovery on this issue.

69. Teleconference Systems has been damaged as a result of Defendant’s infringing conduct described in this Count. Defendant is, thus, liable to Teleconference Systems in an amount that adequately compensates Teleconference Systems for Defendant’s infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

COUNT III
(INFRINGEMENT OF U.S. PATENT NO. 9,419,939)

70. Teleconference Systems incorporates paragraph 1 through 69 herein by reference.

71. This cause of action arises under the patent laws of the United States, and in particular, 35 U.S.C. §§ 271, *et seq.*

72. Teleconference Systems is the exclusive licensee of the ’939 patent, entitled “Multiple Subscriber Videoconferencing System,” with all substantial rights to the ’939 patent, including the exclusive right to enforce, sue, and recover damages for past and future infringement. A copy of the ’939 patent is attached as Exhibit 3.

73. The ’939 patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

(Direct Infringement)

74. Defendant has, and continues to, directly infringe one or more claims of the ’939 patent in this judicial district and elsewhere in the United States.

75. In particular, Defendant has, and continues to, infringe at least claims 1, 4, 16, 19, 23, and 26 of the ’939 patent by, making, using, selling, offering to sell, and/or selling within, and/or importing into, the United States, the Metaswitch SBCs.

76. Specifically, the Metaswitch SBCs are videoconferencing services switches adapted for deployment in a global Internet Protocol (IP) network and to communicate with at least one other videoconferencing services switch across the global IP network, the videoconferencing services switch comprising a call control module capable of receiving call control data from call origination and destination IP videoconferencing endpoints in subscriber IP networks; a tunneling services module configured to receive real-time audio and video data streams from the call origination and destination IP videoconferencing endpoints; and a policy engine capable of being configured to enforce policies on videoconferencing calls based on subscriber-specific settings as claimed in claim 1 of the ’939 patent. *See, e.g.*, Exhibit 4, pp. 1-3; Exhibit 5, pp. 1-3; Exhibit 6, pp. 1-3; https://www.metaswitch.com/products/core-network/perimeta-sbc.

77. Furthermore, on information and belief, each of the Metaswitch SBCs include each of the specific elements found in claims 1, 4, 16, 19, 23, and 26 of the '939 patent, including: where at least one of the subscriber IP networks is connected to the global IP network through a network address translation (NAT) device located in the subscriber IP network; at least one processor; a memory device, the memory device having instructions stored thereon that, when executed by the at least one processor, cause the switch to: receive endpoint registration and Session Initiation Protocol (SIP) call control data from call origination and destination IP videoconferencing endpoints in subscriber IP networks, set-up videoconferencing call connections for audio and video media exchange between the call origination and destination IP videoconferencing endpoints, and enforce policies on videoconferencing calls based on subscriber-specific settings; where the instructions further cause the switch to: set-up the videoconferencing call connections for encrypted audio and video media exchange between the call origination and destination IP videoconferencing endpoints; and a memory device, the memory device having instructions stored thereon that, when executed by the at least one processor, cause the switch to: receive call control data from call origination and destination IP videoconferencing endpoints in subscriber IP networks, set-up videoconferencing call connections for audio and video media exchange between the call origination and destination IP videoconferencing endpoints, and enforce policies on videoconferencing calls based on subscriber-specific settings. *See Id*. *See also* Exhibit 8, pp. 1-5.

78. Defendant is liable for these direct infringements pursuant to 35 U.S.C. § 271.

(Indirect Infringement)

79. Based on the information presently available to Teleconference Systems, absent discovery, and in the alternative to its direct infringement claims against Defendant,

Teleconference Systems contends that Defendant has and continues to indirectly infringe the ’939 patent by inducing end users of the Metaswitch SBCs to infringe at least claims 1, 4, 16, 19, 23, and 26 via their use of the Metaswitch SBCs.

80. Defendant has been on notice of the ’939 patent since at least service of the original complaint in this matter.

81. Since Defendant was on notice of the ’939 patent, Defendant knowingly induced infringement of the ’939 patent, including at least claims 1, 4, 16, 19, 23, and 26 of the ’939 patent, and possessed specific intent to encourage others’ infringement.

82. Since Defendant was on notice of the ’939 patent, Defendant knew or should have known that its actions alleged herein would induce actual infringement of the ’939 patent, including at least claims 1, 4, 16, 19, 23, and 26 of the ’939 patent.

83. Defendant instructs and encourage users to use the Metaswitch SBCs in a manner that infringes the ’939 patent. For example, Defendant offers customers specialized training and educational programs on how to use the Metaswitch SBCs in an infringing manner. *See e.g.*, https://www.metaswitch.com/services/training. Furthermore, Defendant’s customer care webpage indicates that Defendant “support[s] live network deployments from local offices all over the world, and can work on-site with […] customers.” *See e.g.*, https://www.metaswitch.com/services/customer-care.

84. Furthermore, Defendant has not provided any information or indication that it has implemented a design around or otherwise taken any remedial action with respect to the ’939 patent. In accordance with Fed. R. Civ. P. 11(b)(3), Plaintiff will likely have additional evidentiary support after a reasonable opportunity for discovery on this issue.

85. Teleconference Systems has been damaged as a result of Defendant's infringing conduct described in this Count. Defendant is, thus, liable to Teleconference Systems in an amount that adequately compensates Teleconference Systems for Defendant's infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

JURY DEMAND

Teleconference Systems requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

Plaintiff asks that the Court find in its favor and against Defendant and that the Court grant Plaintiff the following relief:

a. Judgment that one or more claims of the '734 patent have been infringed directly or indirectly either literally and/or under the doctrine of equivalents by Defendant;

b. Judgment that one or more claims of the '444 patent have been infringed directly or indirectly either literally and/or under the doctrine of equivalents by Defendant;

c. Judgment that one or more claims of the '939 patent have been infringed directly or indirectly either literally and/or under the doctrine of equivalents by Defendant;

d. Judgment that Defendant account for and pay to Plaintiff all damages and costs incurred by Plaintiff because of Defendant's infringing activities and other conduct complained of herein;

e. Judgment that Defendant account for and pay to Plaintiff a reasonable, ongoing, post judgment royalty because of Defendant's infringing activities and other conduct complained of herein;

f. That Plaintiff be granted pre-judgment and post judgment interest on the damages caused by Defendant's infringing activities and other conduct complained of herein; and

g. That Plaintiff be granted such other and further relief as the Court may deem just and proper under the circumstances.

DATED: August 27, 2018 TELECONFERENCE SYSTEMS LLC

By: /s/ *Timothy Grochocinski*

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served on all counsel of record via the Court's CM/ECF system on August 27, 2018.

/s/ Timothy E. Grochocinski