IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

REALTIME DATA LLC d/b/a IXO,

Plaintiff,

v.

INFOVISTA CORPORATION,

Defendant.

C.A. No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT AGAINST INFOVISTA, 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 InfoVista Corporation, ("InfoVista" or "Defendant"):

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, and 66 Palmer Avenue, Suite 27, Bronxville, NY 10708. 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 40 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, InfoVista is a Delaware corporation with its principal place of business at 20405 Exchange Street, Suite 301, Ashburn, VA 20147. InfoVista can be served through its registered agent, The Corporation Trust Company, 1209 Orange St., Wilmington, Delaware, 19801.

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 InfoVista in this action because InfoVista is incorporated in Delaware and has committed acts within the District of Delaware giving rise to this action and has established minimum contacts with this forum such that the exercise of jurisdiction over InfoVista would not offend traditional notions of fair play and substantial justice. InfoVista, 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. § 1400(b). Upon information and belief, InfoVista is incorporated in Delaware, has transacted business in the District of Delaware, and has committed acts of direct and indirect infringement in this District.

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

6. Plaintiff realleges and incorporates by reference the foregoing paragraphs, as if fully set forth herein. Plaintiff Realtime is the owner by assignment of United States Patent No. 9,116,908 (the "'908 Patent") entitled "System and methods for accelerated data storage and retrieval." The '908 Patent was duly and legally issued by the United States Patent and Trademark Office on August 25, 2015. A true and correct copy of the '908 Patent is included as Exhibit A.

7. On information and belief, InfoVista has offered for sale, sold and/or imported into the United States InfoVista products and services that infringe the '908 patent, and continues to do so. By way of illustrative example, these infringing products and services include, without limitation, InfoVista products and services, *e.g.*, Ipanema SD-WAN, WAN Optimization, and the system hardware on which they operate, and all versions and variations thereof since the issuance of the '908 Patent ("Accused Instrumentalities").

8. On information and belief, InfoVista has directly infringed and continues to infringe the '908 Patent, for example, by making, selling, offering for sale, and/or importing the Accused Instrumentalities, and through its own use and testing of the Accused Instrumentalities, which constitute performing a method for accelerating data storage of data claimed by Claim 21 of the '908 Patent, comprising: compressing a first data block with a first data compression technique to provide a first compressed data block; and compressing a second data block with a second data compression technique to provide a second compressed data block, wherein the first data compression technique and the second data compression technique are different; storing the first and second data

compressed blocks on a memory device wherein the compression and storage occurs faster than the first and second data blocks are able to be stored on the memory device in uncompressed form. Upon information and belief, InfoVista uses the Accused Instrumentalities, which perform the infringing method, for its own internal non-testing business purposes, while testing the Accused Instrumentalities, and while providing technical support and repair services for the Accused Instrumentalities to its customers.

9. InfoVista also indirectly infringes the '908 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 '908 Patent and are not a staple article or commodity of commerce suitable for substantial non-infringing use. On information and belief, the Accused Instrumentality is designed to function with compatible hardware to perform a method for accelerating data storage of data comprising: compressing a first data block with a first data compression technique to provide a first compressed data block; and compressing a second data block with a second data compression technique to provide a second compressed data block, wherein the first data compression technique and the second data compression technique are different; storing the first and second data compressed blocks on a memory device wherein the compression and storage occurs faster than the first and second data blocks are able to be stored on the memory device in uncompressed form. Because the Accused Instrumentality is designed to operate as the claimed method for accelerating data storage of 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. InfoVista's manufacture, use, sale, offering for sale, and/or importation of the Accused Instrumentality constitutes contributory infringement of the '908 Patent.

10. On information and belief, InfoVista has had knowledge of the '908 Patent since at least the filing of the original Complaint in this action, or shortly thereafter, and on information and belief, InfoVista knew of the '908 Patent and knew of its infringement, including by way of this lawsuit.

11. InfoVista's affirmative acts of making, using, selling, offering for sale, and/or importing the Accused Instrumentalities have induced and continue to induce users of the Accused Instrumentalities to use the Accused Instrumentalities in their normal and customary way to infringe claims of the '908 Patent. Use of the Accused Instrumentalities in their ordinary and customary manner results in infringement of claims of the '908 Patent. For example, InfoVista explains to customers the benefits of using the Accused Instrumentalities, such as by touting their performance advantages: "[I]panema WAN Optimization accelerates application response times and offers additional virtual bandwidth to the network where connectivity constraints would otherwise impair performance." *See* "Ipanema SD_WAN Product Overview" available at https://www.infovista.com/sites/default/files/resources/2018-09/sb-ipanema-sd-wan-product-overview.pdf. For similar reasons, InfoVista also induces its customers to use the Accused Instrumentalities to infringe other claims of the '908 Patent. InfoVista specifically intended and was aware that the normal and customary use of the Accused Instrumentalities on compatible systems would infringe the '908 Patent. InfoVista performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '908 Patent and with the knowledge, or willful

blindness to the probability, that the induced acts would constitute infringement. On information and belief, InfoVista engaged in such inducement to promote the sales of the Accused Instrumentalities, *e.g.,* through InfoVista's user manuals, product support, marketing materials, and training materials to actively induce the users of the accused products to infringe the '908 Patent. Accordingly, InfoVista has induced and continues to induce end users of the accused products to use the accused products in their ordinary and customary way with compatible systems to make and/or use systems infringing the '908 Patent, knowing that such use of the Accused Instrumentalities with compatible systems will result in infringement of the '908 Patent.

12. The Accused Instrumentalities compress a first data block with a first data compression technique to provide a first compressed data block. For example, the Accused Instrumentalities support compression technique (e.g., "[T]his kind of architecture increases pressure on the WAN and requires a number of optimization technologies. These technologies facilitate the mitigation of latency through protocol acceleration and optimization of bandwidth resources by using compression and de-duplication, which are especially relevant in global network environments." *See* "WAN Optimization" available at https://www.infovista.com/sites/default/files/resources/ds_wan_optimisation.pdf).

13. The Accused Instrumentalities compress a second data block with a second data compression technique to provide a second compressed data block, wherein the first data compression technique and the second data compression technique are different. For example, the Accused Instrumentalities disclose that WAN optimization includes "[D]e-duplication and redundancy elimination that drastically reduces the amount of repeated data transferred on the network." *See* "WAN Optimization" available at

https://www.infovista.com/sites/default/files/resources/ds_wan_optimisation.pdf). As such, de-duplication technique compares incoming blocks to eliminate duplicates and compresses by sending references instead of the repeated data block, whereas compression technique eliminates redundancies within the data blocks.

14. The Accused Instrumentalities store the first and second data compressed blocks on a memory device wherein the compression and storage occurs faster than the first and second data blocks are able to be stored on the memory device in uncompressed form. For example, the Accused Instrumentalities implement WAN Optimization technologies to optimize "bandwidth resources by using compression and de-duplication." *See* "WAN Optimization" available at https://www.infovista.com/sites/default/files/resources/ds_wan_optimisation.pdf. As such, the Accused Instrumentalities store compressed data blocks on Ipanema data center physical and virtual appliances (e.g., "[I]panema data center physical and virtual appliances handle WAN Optimization even for complex network architectures with asymmetric routing." *See* "WAN Optimization" available at https://www.infovista.com/sites/default/files/resources/ds_wan_optimisation.pdf). Due to the data reduction and acceleration features of the specific compression algorithms used, 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. As such, the Accused Instrumentalities include WAN optimization technologies, which "facilitate the mitigation of latency through protocol acceleration and optimization of bandwidth resources by using compression and de-duplication, which are especially relevant in global network

environments." *See* "WAN Optimization" available at https://www.infovista.com/sites/default/files/resources/ds_wan_optimisation.pdf.

15. InfoVista also infringes other claims of the '908 Patent, directly and through inducing infringement and contributory infringement.

16. On information and belief, use of the Accused Instrumentalities in their ordinary and customary fashion results in infringement of the methods claimed by the '908 Patent.

17. By making, using, offering for sale, selling and/or importing into the United States the Accused Instrumentalities, and touting the benefits of using the Accused Instrumentalities' data storage accelerating features, InfoVista has injured Realtime and is liable to Realtime for infringement of the '908 Patent pursuant to 35 U.S.C. § 271.

18. As a result of InfoVista's infringement of the '908 Patent, Plaintiff Realtime is entitled to monetary damages in an amount adequate to compensate for InfoVista's infringement, but in no event less than a reasonable royalty for the use made of the invention by InfoVista, together with interest and costs as fixed by the Court.

COUNT II
INFRINGEMENT OF U.S. PATENT NO. 9,667,751

19. Plaintiff realleges and incorporates by reference the foregoing paragraphs, as if fully set forth herein.

20. 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. A true and correct copy of the '751 Patent is included as Exhibit B.

21. On information and belief, InfoVista has offered for sale, sold and/or imported into the United States InfoVista products and services that infringe the '751 patent, and continues to do so. By way of illustrative example, these infringing products and services include, without limitation, InfoVista products and services, *e.g.*, Ipanema SD-WAN, WAN Optimization, and the system hardware on which they operate, and all versions and variations thereof since the issuance of the '751 Patent ("Accused Instrumentalities").

22. On information and belief, InfoVista has directly infringed and continues to infringe the '751 Patent, for example, through its own use and testing of the Accused Instrumentalities, which in the ordinary course of their operation perform a method for compressing data claimed by Claim 1 of the '751 Patent, comprising: analyzing content of a data block to identify a parameter, attribute, or value of the data block that excludes analyzing based solely on reading a descriptor; selecting an encoder associated with the identified parameter, attribute, or value; compressing data in the data block with the selected encoder to produce a compressed data block, wherein the compressing includes utilizing a state machine; and storing 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, InfoVista uses the Accused Instrumentalities, which perform the infringing method, for its own internal non-testing business purposes, while testing the Accused Instrumentalities, and while providing technical support and repair services for the Accused Instrumentalities to InfoVista's customers.

23. On information and belief, InfoVista has had knowledge of the '751 Patent since at least the filing of the original Complaint in this action, or shortly thereafter, and on information and belief, InfoVista knew of the '751 Patent and knew of its infringement, including by way of this lawsuit.

24. Upon information and belief, InfoVista's affirmative acts of making, using, and selling the Accused Instrumentalities, and providing implementation services and technical support to users of the Accused Instrumentalities, have induced and continue to induce users of the Accused Instrumentalities to use them in their normal and customary way to infringe Claim 1 of the '751 Patent by analyzing content of a data block to identify a parameter, attribute, or value of the data block that excludes analyzing based solely on reading a descriptor; selecting an encoder associated with the identified parameter, attribute, or value; compressing data in the data block with the selected encoder to produce a compressed data block, wherein the compressing includes utilizing a state machine; and storing 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, InfoVista explains to customers the benefits of using the Accused Instrumentalities, such as by touting their efficiency: "[I]panema WAN Optimization accelerates application response times and offers additional virtual bandwidth to the network where connectivity constraints would otherwise impair performance." *See* "Ipanema SD_WAN Product Overview" available at https://www.infovista.com/sites/default/files/resources/2018-09/sb-ipanema-sd-wan-product-overview.pdf. For similar reasons, InfoVista also induces its customers to use the Accused Instrumentalities to infringe other claims of the '751 Patent. InfoVista

specifically intended and was aware that these normal and customary activities would infringe the '751 Patent. InfoVista 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, InfoVista engaged in such inducement to promote the sales of the Accused Instrumentalities. Accordingly, InfoVista 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.

25. InfoVista 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. On information and belief, the Accused Instrumentality is designed to perform a method for compressing data comprising: analyzing content of a data block to identify a parameter, attribute, or value of the data block that excludes analyzing based solely on reading a descriptor; selecting an encoder associated with the identified parameter, attribute, or value; compressing data in the data block with the selected encoder to produce a compressed data block, wherein the compressing includes utilizing a state machine; and storing 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. Because the Accused Instrumentality is designed to operate as the claimed method for compressing, the Accused Instrumentality

has no substantial non-infringing uses, and any other uses would be unusual, far-fetched, illusory, impractical, occasional, aberrant, or experimental. InfoVista's manufacture, use, sale, offering for sale, and/or importation of the Accused Instrumentality constitutes contributory infringement of the '751 Patent.

26. The Accused Instrumentalities analyze content of a data block to identify a parameter, attribute, or value of the data block that excludes analyzing based solely on reading a descriptor. For example, the Accused Instrumentalities support WAN Optimization, which performs "[D]e-duplication and redundancy elimination that drastically reduces the amount of repeated data transferred on the network." *See* "WAN Optimization" available at https://www.infovista.com/sites/default/files/resources/ds_wan_optimisation.pdf). Specifically, the Accused Instrumentalities analyze the data blocks to detect repeated data blocks.

27. The Accused Instrumentalities select an encoder associated with the identified parameter, attribute, or value. For example, the Accused Instrumentalities support data compression and deduplication techniques (e.g., "[T]his kind of architecture increases pressure on the WAN and requires a number of optimization technologies. These technologies facilitate the mitigation of latency through protocol acceleration and optimization of bandwidth resources by using compression and de-duplication, which are especially relevant in global network environments." *See* "WAN Optimization" available at https://www.infovista.com/sites/default/files/resources/ds_wan_optimisation.pdf). As another example, the Accused Instrumentalities support WAN Optimization, which performs "[D]e-duplication and redundancy elimination that drastically reduces the

amount of repeated data transferred on the network." *See* "WAN Optimization" available at https://www.infovista.com/sites/default/files/resources/ds_wan_optimisation.pdf). As such, if a repeated block is found, the Accused Instrumentalities use deduplication technique to eliminate redundancy across repeated data blocks. The Accused Instrumentalities use data compression technique to address redundancy across a unique data block.

28. The Accused Instrumentalities compress data in the data block with the selected encoder to produce a compressed data block, wherein the compressing includes utilizing a state machine. For example, the Accused Instrumentalities support both data compression and deduplication techniques (e.g., "[T]his kind of architecture increases pressure on the WAN and requires a number of optimization technologies. These technologies facilitate the mitigation of latency through protocol acceleration and optimization of bandwidth resources by using compression and de-duplication, which are especially relevant in global network environments." *See* "WAN Optimization" available at https://www.infovista.com/sites/default/files/resources/ds_wan_optimisation.pdf). In particular, the Accused Instrumentalities support WAN Optimization, which performs "[D]e-duplication and redundancy elimination that drastically reduces the amount of repeated data transferred on the network." *See* "WAN Optimization" available at https://www.infovista.com/sites/default/files/resources/ds_wan_optimisation.pdf).

29. The Accused Instrumentalities store the compressed data block. For example, the Accused Instrumentalities implement WAN Optimization technologies to optimize "bandwidth resources by using compression and de-duplication." *See* "WAN Optimization" available at

https://www.infovista.com/sites/default/files/resources/ds_wan_optimisation.pdf. As such, the Accused Instrumentalities store compressed data blocks on Ipanema data center physical and virtual appliances (e.g., "[I]panema data center physical and virtual appliances handle WAN Optimization even for complex network architectures with asymmetric routing." *See* "WAN Optimization" available at https://www.infovista.com/sites/default/files/resources/ds_wan_optimisation.pdf.)

30. The Accused Instrumentalities compress data, 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, the Accused Instrumentalities perform compression and data de-duplication (e.g., "[D]e-duplication and redundancy elimination that drastically reduces the amount of repeated data transferred on the network." *See* "WAN Optimization" available at https://www.infovista.com/sites/default/files/resources/ds_wan_optimisation.pdf "optimization of bandwidth resources by using compression and de-duplication, which are especially relevant in global network environments." *See* "WAN Optimization" available at https://www.infovista.com/sites/default/files/resources/ds_wan_optimisation.pdf). Due to the data reduction and acceleration features of the specific compression algorithms used, 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. As such, the Accused Instrumentalities include WAN optimization technologies, which "facilitate the mitigation of latency through protocol acceleration and optimization of bandwidth resources by using compression and de-duplication, which are especially relevant in global network

environments." *See* "WAN Optimization" available at https://www.infovista.com/sites/default/files/resources/ds_wan_optimisation.pdf.

31. On information and belief, InfoVista also infringes, directly and through induced infringement, and continues to infringe other claims of the '751 Patent.

32. On information and belief, use of the Accused Instrumentalities in their ordinary and customary fashion results in infringement of the methods claimed by the '751 Patent.

33. By making, using, offering for sale, selling and/or importing into the United States the Accused Instrumentalities, and touting the benefits of using the Accused Instrumentalities' compression features, InfoVista has injured Realtime and is liable to Realtime for infringement of the '751 Patent pursuant to 35 U.S.C. § 271.

34. As a result of InfoVista's infringement of the '751 Patent, Plaintiff Realtime is entitled to monetary damages in an amount adequate to compensate for InfoVista's infringement, but in no event less than a reasonable royalty for the use made of the invention by InfoVista, together with interest and costs as fixed by the Court.

COUNT III
INFRINGEMENT OF U.S. PATENT NO. 8,933,825

35. Plaintiff realleges and incorporates by reference the foregoing paragraphs, as if fully set forth herein. Plaintiff Realtime is the owner by assignment of United States Patent No. 8,933,825 (the "'825 Patent") entitled "Data compression systems and methods." The '825 Patent was duly and legally issued by the United States Patent and Trademark Office on January 13, 2015. A true and correct copy of the '825 Patent is included as Exhibit C.

36. On information and belief, InfoVista has offered for sale, sold and/or imported into the United States InfoVista products and services that infringe the ’825 patent, and continues to do so. By way of illustrative example, these infringing products and services include, without limitation, InfoVista products and services, *e.g.*, Ipanema SD-WAN, WAN Optimization, and the system hardware on which they operate, and all versions and variations thereof since the issuance of the ’825 Patent (“Accused Instrumentalities”).

37. On information and belief, InfoVista has directly infringed and continues to infringe the ’825 Patent, for example, by making, selling, offering for sale, and/or importing the Accused Instrumentalities, and through its own use and testing of the Accused Instrumentalities, which constitute performing a method claimed by Claim 18 of the ’825 Patent, comprising: associating at least one encoder to each one of a plurality of parameters or attributes of data; analyzing data within a data block to determine whether a parameter or attribute of the data within the data block is identified for the data block; wherein the analyzing of the data within the data block to identify a parameter or attribute of the data excludes analyzing based only on a descriptor that is indicative of the parameter or attribute of the data within the data block; identifying a first parameter or attribute of the data of the data block; compressing, if the first parameter or attribute of the data is the same as one of the plurality of parameter or attributes of the data, the data block with the at least one encoder associated with the one of the plurality of parameters or attributes of the data that is the same as the first parameter or attribute of the data to provide a compressed data block; and compressing, if the first parameter or attribute of the data is not the same as one of the plurality of parameters or attributes of the data, the data block with a default encoder

to provide the compressed data block. Upon information and belief, InfoVista uses the Accused Instrumentalities, which perform the infringing method, for its own internal non-testing business purposes, while testing the Accused Instrumentalities, and while providing technical support and repair services for the Accused Instrumentalities to its customers.

38. InfoVista also indirectly infringes the ’825 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 ’458 Patent and are not a staple article or commodity of commerce suitable for substantial non-infringing use. On information and belief, the Accused Instrumentality is designed to function with compatible hardware to perform a method comprising: associating at least one encoder to each one of a plurality of parameters or attributes of data; analyzing data within a data block to determine whether a parameter or attribute of the data within the data block is identified for the data block; wherein the analyzing of the data within the data block to identify a parameter or attribute of the data excludes analyzing based only on a descriptor that is indicative of the parameter or attribute of the data within the data block; identifying a first parameter or attribute of the data of the data block; compressing, if the first parameter or attribute of the data is the same as one of the plurality of parameter or attributes of the data, the data block with the at least one encoder associated with the one of the plurality of parameters or attributes of the data that is the same as the first parameter or attribute of the data to provide a compressed data block; and compressing, if the first parameter or attribute of the data is not the same as one of the plurality of parameters or attributes of the data, the data block with a default encoder to provide the compressed data block. Because the Accused Instrumentality is designed to

operate as the claimed method, the Accused Instrumentality has no substantial non-infringing uses, and any other uses would be unusual, far-fetched, illusory, impractical, occasional, aberrant, or experimental. InfoVista's manufacture, use, sale, offering for sale, and/or importation of the Accused Instrumentality constitutes contributory infringement of the '825 Patent.

39. On information and belief, InfoVista has had knowledge of the '825 Patent since at least the filing of the original Complaint in this action, or shortly thereafter, and on information and belief, InfoVista knew of the '825 Patent and knew of its infringement, including by way of this lawsuit.

40. InfoVista's affirmative acts of making, using, selling, offering for sale, and/or importing the Accused Instrumentalities have induced and continue to induce users of the Accused Instrumentalities to use the Accused Instrumentalities in their normal and customary way to infringe claims of the '825 Patent. Use of the Accused Instrumentalities in their ordinary and customary manner results in infringement of claims of the '825 Patent.

41. For example, InfoVista explains to customers the benefits of using the Accused Instrumentalities, such as by touting their performance advantages: "[I]panema WAN Optimization accelerates application response times and offers additional virtual bandwidth to the network where connectivity constraints would otherwise impair performance." *See* "Ipanema SD_WAN Product Overview" available at https://www.infovista.com/sites/default/files/resources/2018-09/sb-ipanema-sd-wan-product-overview.pdf. For similar reasons, InfoVista also induces its customers to use the Accused Instrumentalities to infringe other claims of the '825 Patent. InfoVista specifically intended and was aware that the normal and customary use of the Accused

Instrumentalities on compatible systems would infringe the '825 Patent. InfoVista performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '825 Patent and with the knowledge, or willful blindness to the probability, that the induced acts would constitute infringement. On information and belief, InfoVista engaged in such inducement to promote the sales of the Accused Instrumentalities, *e.g.,* through InfoVista's user manuals, product support, marketing materials, and training materials to actively induce the users of the accused products to infringe the '825 Patent. Accordingly, InfoVista has induced and continues to induce end users of the accused products to use the accused products in their ordinary and customary way with compatible systems to make and/or use systems infringing the '825 Patent, knowing that such use of the Accused Instrumentalities with compatible systems will result in infringement of the '825 Patent.

42. The Accused Instrumentalities associate at least one encoder to each one of a plurality of parameters or attributes of data. For example, the Accused Instrumentalities support compression and deduplication encoders (e.g., "[T]his kind of architecture increases pressure on the WAN and requires a number of optimization technologies. These technologies facilitate the mitigation of latency through protocol acceleration and optimization of bandwidth resources by using compression and de-duplication, which are especially relevant in global network environments." *See* "WAN Optimization" available at https://www.infovista.com/sites/default/files/resources/ds_wan_optimisation.pdf). As such, the Accused Instrumentalities analyze data blocks to detect repeated data blocks (e.g., "[D]e-duplication and redundancy elimination that drastically reduces the amount of repeated data transferred on the network." *See* "WAN Optimization" available at

https://www.infovista.com/sites/default/files/resources/ds_wan_optimisation.pdf). In particular, the Accused Instrumentalities associate deduplication encoder with the repeated data block and compression encoder with a unique data block.

43. The Accused Instrumentalities analyze data within a data block to determine whether a parameter or attribute of the data within the data block is identified for the data block. For example, the Accused Instrumentalities analyze data blocks to determine repeated data blocks by performing "[D]e-duplication and redundancy elimination that drastically reduces the amount of repeated data transferred on the network." *See* "WAN Optimization" available at https://www.infovista.com/sites/default/files/resources/ds_wan_optimisation.pdf).

44. The Accused Instrumentalities analyze data, wherein the analyzing of the data within the data block to identify a parameter or attribute of the data excludes analyzing based only on a descriptor that is indicative of the parameter or attribute of the data within the data block. For example, the Accused Instrumentalities support data deduplication (e.g., "[T]his kind of architecture increases pressure on the WAN and requires a number of optimization technologies. These technologies facilitate the mitigation of latency through protocol acceleration and optimization of bandwidth resources by using compression and de-duplication, which are especially relevant in global network environments." *See* "WAN Optimization" available at https://www.infovista.com/sites/default/files/resources/ds_wan_optimisation.pdf). As another example, the Accused Instrumentalities analyze data blocks to identify repeated data blocks by performing "[D]e-duplication and redundancy elimination that drastically reduces the amount of repeated data transferred on the network." *See* "WAN

Optimization" available at https://www.infovista.com/sites/default/files/resources/ds_wan_optimisation.pdf). As such, the Accused Instrumentalities analyze the data blocks to detect repeated data blocks.

45. The Accused Instrumentalities identify a first parameter or attribute of the data of the data block. For example, the Accused Instrumentalities analyze the data blocks to identify repeated data blocks (e.g., "[D]e-duplication and redundancy elimination that drastically reduces the amount of repeated data transferred on the network." *See* "WAN Optimization" available at https://www.infovista.com/sites/default/files/resources/ds_wan_optimisation.pdf).

46. The Accused Instrumentalities compress, if the first parameter or attribute of the data is the same as one of the plurality of parameter or attributes of the data, the data block with the at least one encoder associated with the one of the plurality of parameters or attributes of the data that is the same as the first parameter or attribute of the data to provide a compressed data block. For example, the Accused Instrumentalities support data deduplication (e.g., "[T]his kind of architecture increases pressure on the WAN and requires a number of optimization technologies. These technologies facilitate the mitigation of latency through protocol acceleration and optimization of bandwidth resources by using compression and de-duplication, which are especially relevant in global network environments." *See* "WAN Optimization" available at https://www.infovista.com/sites/default/files/resources/ds_wan_optimisation.pdf). As such, if a repeated block is found, the Accused Instrumentalities use deduplication encoder to eliminate redundancy across the repeated data blocks (e.g., "[D]e-duplication and redundancy elimination that drastically reduces the amount of repeated data transferred on

the network." *See* "WAN Optimization" available at https://www.infovista.com/sites/default/files/resources/ds_wan_optimisation.pdf).

47. The Accused Instrumentalities compress, if the first parameter or attribute of the data is not the same as one of the plurality of parameters or attributes of the data, the data block with a default encoder to provide the compressed data block. For example, the Accused Instrumentalities support data compression (e.g., "[T]his kind of architecture increases pressure on the WAN and requires a number of optimization technologies. These technologies facilitate the mitigation of latency through protocol acceleration and optimization of bandwidth resources by using compression and de-duplication, which are especially relevant in global network environments." *See* "WAN Optimization" available at https://www.infovista.com/sites/default/files/resources/ds_wan_optimisation.pdf). As such, if repeated data blocks are not identified, the Accused Instrumentalities use compression encoder to eliminate redundancies in unique data blocks.

48. InfoVista also infringes other claims of the '825 Patent, directly and through inducing infringement and contributory infringement.

49. On information and belief, use of the Accused Instrumentalities in their ordinary and customary fashion results in infringement of the methods claimed by the '825 Patent.

50. By making, using, offering for sale, selling and/or importing into the United States the Accused Instrumentalities, and touting the benefits of using the Accused Instrumentalities' data storage accelerating features, InfoVista has injured Realtime and is liable to Realtime for infringement of the '825 Patent pursuant to 35 U.S.C. § 271.

51. As a result of InfoVista's infringement of the '825 Patent, Plaintiff Realtime is entitled to monetary damages in an amount adequate to compensate for InfoVista's infringement, but in no event less than a reasonable royalty for the use made of the invention by InfoVista, 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 InfoVista has infringed, either literally and/or under the doctrine of equivalents, the '908 Patent, the '825 Patent, and the '751 Patent;

b. A permanent injunction prohibiting InfoVista from further acts of infringement of the '908 Patent, the '825 Patent, and the '751 Patent;

c. A judgment and order requiring InfoVista to pay Plaintiff its damages, costs, expenses, and prejudgment and post-judgment interest for its infringement of the '908 Patent, the '825 Patent, and the '751 Patent; and

d. A judgment and order requiring InfoVista to provide an accounting and to pay supplemental damages to Realtime, including without limitation, prejudgment and post-judgment interest;

e. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Plaintiff its reasonable attorneys' fees against Defendants; and

f. Any and all other relief as the Court may deem appropriate and just under the circumstances.

DEMAND FOR JURY TRIAL

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

Dated: February 26, 2019

OF COUNSEL

Marc A. Fenster
Reza Mirzaie
Paul A. Kroeger
C. Jay Chung
RUSS AUGUST & KABAT
12424 Wilshire Boulevard, 12th Floor
Los Angeles, CA 90025
(310) 826-7474
mfenster@raklaw.com
rmirzaie@raklaw.com
pkroeger@raklaw.com
jchung@raklaw.com

BAYARD, P.A.

/s/ Stephen B. Brauerman
Stephen B. Brauerman (No. 4952)
Sara E. Bussiere (No. 5725)
600 N. King Street, Suite 400
Wilmington, DE 19801
Phone: (302) 655-5000
sbrauerman@bayardlaw.com
sbussiere@bayardlaw.com

Attorneys for Plaintiff Realtime Data LLC d/b/a IXO