**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

WAVE LINX LLC,	
Plaintiff,	Civil Action No.
v.	**TRIAL BY JURY DEMANDED**
HIGHFIVE TECHNOLOGIES, INC.,	
Defendant.	

COMPLAINT FOR INFRINGEMENT OF PATENT

Now comes, Plaintiff, Wave Linx LLC ("Plaintiff" or "Wave Linx"), by and through undersigned counsel, and respectfully alleges, states, and prays as follows:

NATURE OF THE ACTION

1.   This is an action for patent infringement under the Patent Laws of the United States, Title 35 United States Code ("U.S.C.") to prevent and enjoin Defendant HighFive Technologies, Inc. (hereinafter "Defendant"), from infringing and profiting, in an illegal and unauthorized manner, and without authorization and/or consent from Plaintiff from U.S. Patent No. 8,843,549 ("the '549 Patent" or the "Patent-in-Suit"), which is attached hereto as Exhibit A and incorporated herein by reference, and pursuant to 35 U.S.C. § 271, and to recover damages, attorney's fees, and costs.

THE PARTIES

2.   Plaintiff is a Texas limited liability company with its principal place of business at 2108 Dallas Parkway, Suite 214, #1010, Plano, Texas 75093.

3.   Upon information and belief, Defendant is a limited liability company organized under the laws of Delaware, having a principal place of business at 500 Arguello Street, Suite 300,

Redwood City, CA 94063. Upon information and belief, Defendant may be served with process

c/o Incorporating Services, Ltd., 3500 South DuPont Highway, Dover, Delaware 19901.

4.   Plaintiff is further informed and believes, and on that basis alleges, that Defendant

operates the website www.highfive.com, which is in the business of providing communication

services, amongst other services. Defendant derives a portion of its revenue from sales and

distribution via electronic transactions conducted on and using at least, but not limited to, an

Internet website located at www.highfive.com, and its incorporated and/or related systems

(collectively the "HighFive Website"). Plaintiff is informed and believes, and on that basis alleges,

that, at all times relevant hereto, Defendant has done and continues to do business in this judicial

district, including, but not limited to, providing products/services to customers located in this

judicial district by way of the HighFive Website.

JURISDICTION AND VENUE

5.   This is an action for patent infringement in violation of the Patent Act of the United

States, 35 U.S.C. §§1 *et seq*.

6.   The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C.

§§1331 and 1338(a).

7.   This Court has personal jurisdiction over Defendant by virtue of its systematic and

continuous contacts with this jurisdiction and its residence in this District, as well as because of

the injury to Plaintiff, and the cause of action Plaintiff has risen in this District, as alleged herein.

8.   Defendant is subject to this Court's specific and general personal jurisdiction

pursuant to its substantial business in this forum, including: (i) at least a portion of the

infringements alleged herein; (ii) regularly doing or soliciting business, engaging in other

persistent courses of conduct, and/or deriving substantial revenue from goods and services

provided to individuals in Delaware and in this judicial District; and (iii) being incorporated in this

District.

9.   Venue is proper in this judicial district pursuant to 28 U.S.C. § 1400(b) because

Defendant resides in this District under the Supreme Court's opinion in *TC Heartland v. Kraft*

Foods Group Brands LLC, 137 S. Ct. 1514 (2017) through its incorporation, and regular and

established place of business in this District.

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FACTUAL ALLEGATIONS

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10.   On October 23, 2012, the United States Patent and Trademark Office ("USPTO")

duly and legally issued the '549 Patent, entitled "Streaming Method for Transmitting Telephone

System Notifications to Internet Terminal Devices in Real Time" after a full and fair examination.

The '549 Patent is attached hereto as Exhibit A and incorporated herein as if fully rewritten.

11.   Plaintiff is presently the owner of the '549 Patent, having received all right, title

and interest in and to the '549 Patent from the previous assignee of record. Plaintiff possesses all

rights of recovery under the '549 Patent, including the exclusive right to recover for past

infringement.

12.   The invention claimed in the '549 Patent comprises a method for an application

involving real-time notification of a client by a telephone switching system.

13.   The '549 Patent contains two independent claims and eight dependent claims.

14.   Claim 1 of the '549 Patent states:

> "1. A method for an application involving real-time notification of a client
> by a telephone switching system, comprising:
>
> a) opening a connection between the client and a server;
>
> b) transmitting notification messages from the telephone switching system
> to the server using a networking protocol;

c) transforming the notification messages at the server into a programming language code and using said networking protocol for sending the programming language code to the client, wherein the programming language code is executable by the client's browser;

d) using an HTTP streaming mechanism for transmission of the notification from the server to the browser through the open connection, whereby the connection between the client and the server remains open in the intervening period between the transmission of individual notification messages; and

e) executing the programming language codes by the browser whereby the respective notification messages are displayed or outputted at the client." See Exhibit A.

15.   Defendant commercializes, inter alia, methods that perform all the steps recited in at least one claim of the '549 Patent. More particularly, Defendant commercializes, inter alia, methods that perform all the steps recited in Claim 1 of the '549 Patent. Specifically, Defendant makes, uses, sells, offers for sale, or imports a method that encompasses that which is covered by Claim 1 of the '549 Patent.

16.   Dependent Claim 4 of the '549 patent states: "The method according to claim 1, further comprising: using the HTTP protocol for the client-server connection." See Exhibit A.

DEFENDANT'S PRODUCTS

17.   Defendant offers solutions, such as the "HighFive Meetings®" system (the "Accused Instrumentality"), that enables a method for an application involving real-time notification of a client by a telephone switching system. For example, as shown in Defendant's user guide (the "User Guide"), which is attached as Exhibit B and incorporated herein as if fully rewritten, the Accused Instrumentality performs the method of an application involving real-time notification of a client by a telephone switching system. A non-limiting and exemplary claim chart

comparing the Accused Instrumentality to Claim 1 of the '549 Patent is attached hereto as Exhibit

B and is incorporated herein as if fully rewritten.

18.   As recited in Claim 1, the Accused Instrumentality practices a method for an

application (e.g., Highfive Meetings client application) involving real-time notification (e.g.,

notification of a participant in waiting room of a meeting) of a client (e.g., a user who is utilizing

web browser interface/app interface of Highfive meetings) by a telephone switching system (e.g.,

PSTN, dial-in telephone). See Exhibit B.

19.   As recited in one step of Claim 1, the Accused Instrumentality practices opening a

connection (e.g., joining/starting a meeting) between the client (e.g., a user who is utilizing web

browser interface/app interface of Highfive meetings) and a server (e.g., Highfive Meetings

server). See Exhibit B.

20.   As recited in another step of Claim 1, the Accused Instrumentality practices

transmitting notification messages (e.g., notification of a participant in waiting room of a meeting)

from the telephone switching system (e.g., a participant who is joining or leaving the meeting using

dial-in telephone or PSTN phone) to the server (e.g., Highfive meetings server) using a networking

protocol (e.g., IP network). See Exhibit B.

21.   As recited in another step of Claim 1, the Accused Instrumentality practices

transforming the notification messages (e.g., notification of a participant in waiting room of a

meeting) at the server (e.g., Highfive server) into a programming language code (e.g., markup

language code such as HTML code) and using said networking protocol (e.g., IP) for sending the

programming language code (e.g., markup language code such as HTML code) to the client (e.g.,

a user who is utilizing web browser interface/app interface of Highfive meetings), wherein the

programming language code is executable by the client's browser (e.g., web browser of the user such as Google Chrome). See Exhibit B.

22.   As recited in another step of Claim 1, the Accused Instrumentality practices using an HTTP streaming (e.g., meeting session streaming to a user's web browser) mechanism for transmission of the notification (e.g., notification of a participant in waiting room of a meeting) from the server (e.g., Highfive meetings server) to the browser (e.g., web browser of the user such as Google Chrome) through the open connection (e.g., ongoing meeting session), whereby the connection between the client (e.g., a user who is utilizing web browser interface/app interface of Highfive meetings) and the server (e.g., Highfive meetings server) remains open in the intervening period between the transmission of individual notification messages. See Exhibit B.

23.   As recited in another step of Claim 1, the Accused Instrumentality practices executing the programming language codes (e.g., markup language code such as HTML code) by the browser (e.g., web browser of the user such as Google Chrome) whereby the respective notification messages are displayed or outputted (e.g., display notification or play sound) at the client (e.g., the user who is utilizing web browser interface/app interface of Highfive meetings). See Exhibit B.

24.   The elements described in paragraphs 18-23 are covered by at least Claim 1 of the '549 Patent. Thus, Defendant's use of the Accused Instrumentality is enabled by the method described in the '549 Patent.

25.   As to Claim 4, the Accused Instrumentality practices the method using the HTTP protocol for the client-server connection. See Exhibit B.

26.   The elements described in paragraphs 18-23, and 25 are covered by at least Claim 4 of the '549 Patent. Thus, Defendant's use of the Accused Instrumentality is enabled by the method described in the '549 Patent.

INFRINGEMENT OF THE '549 PATENT

27.   Plaintiff realleges and incorporates by reference all of the allegations set forth in Paragraphs 1 to 26.

28.   In violation of 35 U.S.C. § 271, Defendant is now, and has been directly infringing the '549 Patent.

29.   Defendant has had knowledge of infringement of the '549 Patent at least as of the service of the present Complaint.

30.   Defendant has directly infringed and continues to directly infringe at least one claim of the '549 Patent by using, at least through internal testing or otherwise, the Accused Instrumentality without authority in the United States, and will continue to do so unless enjoined by this Court. As a direct and proximate result of Defendant's direct infringement of the '549 Patent, Plaintiff has been and continues to be damaged.

31.   By engaging in the conduct described herein, Defendant has injured Plaintiff and is thus liable for infringement of the '549 Patent, pursuant to 35 U.S.C. § 271.

32.   Defendant has committed these acts of infringement without license or authorization.

33.   As a result of Defendant's infringement of the '549 Patent, Plaintiff has suffered monetary damages and is entitled to a monetary judgment in an amount adequate to compensate for Defendant's past infringement, together with interests and costs.

34.   Plaintiff will continue to suffer damages in the future unless Defendant's infringing activities are enjoined by this Court.   As such, Plaintiff is entitled to compensation for any continuing and/or future infringement up until the date that Defendant is finally and permanently enjoined from further infringement.

DEMAND FOR JURY TRIAL

35.   Plaintiff demands a trial by jury of any and all causes of action.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief:

a.   That Defendant be adjudged to have directly infringed the '549 Patent either literally or under the doctrine of equivalents;

b.   An accounting of all infringing sales and damages including, but not limited to, those sales and damages not presented at trial;

c.   That Defendant, its officers, directors, agents, servants, employees, attorneys, affiliates, divisions, branches, parents, and those persons in active concert or participation with any of them, be permanently restrained and enjoined from directly infringing the '549 Patent;

d.   An award of damages pursuant to 35 U.S.C. §284 sufficient to compensate Plaintiff for the Defendant's past infringement and any continuing or future infringement up until the date that Defendant is finally and permanently enjoined from further infringement, including compensatory damages;

e.   An assessment of pre-judgment and post-judgment interest and costs against Defendant, together with an award of such interest and costs, in accordance with 35 U.S.C. § 284;

f.   That Defendant be directed to pay enhanced damages, including Plaintiff's attorneys' fees incurred in connection with this lawsuit pursuant to 35 U.S.C. § 285; and

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

Dated: February 28, 2019   Respectfully submitted,

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