

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS**

PARALLEL NETWORKS  
LICENSING, LLC,

Plaintiff,

v.

SUPERIOR TURNKEY SOLUTIONS  
GROUP, INC.

Defendant.

**Civil Action No. 4:19-cv-516**

**JURY TRIAL DEMANDED**

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Parallel Networks Licensing, LLC (“Parallel Networks” or “Plaintiff”), for its Complaint against Defendant Superior Turnkey Solutions Group, Inc. (hereinafter, collectively “Superior Turnkey Solutions” or “Defendant”), alleges the following:

**NATURE OF THE ACTION**

1. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*

**THE PARTIES**

2. Plaintiff Parallel Networks is a limited liability company organized under the laws of the State of Delaware with a place of business at 17440 N Dallas Parkway, Suite 230, Dallas, Texas 75287.

3. Upon information and belief, Superior Turnkey Solutions Group, Inc. is a corporation organized and existing under the laws of Texas, with a place of business at 3400 Nancy Court, Plano, Texas 75023. Upon information and belief, Superior Turnkey Solutions offers and sells products and services throughout the United States, including in and from this judicial district,

and introduces products and services that perform infringing processes into the stream of commerce knowing that they would be sold in this judicial district and elsewhere in the United States.

### **JURISDICTION AND VENUE**

4. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code.

5. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

6. Venue is proper in this judicial district under 28 U.S.C. § 1400(b).

7. This Court has personal jurisdiction over the Defendant under the laws of the State of Texas, due at least to Defendant's incorporation within the State of Texas and the presence of Defendant's registered office and headquarters within this District and its substantial business in Texas and in this judicial district, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (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 the State of Texas. Further, venue is proper in this district because Defendant regularly conducts business through its Texas office at 3400 Nancy Court, Plano, Texas 75023.

### **BACKGROUND**

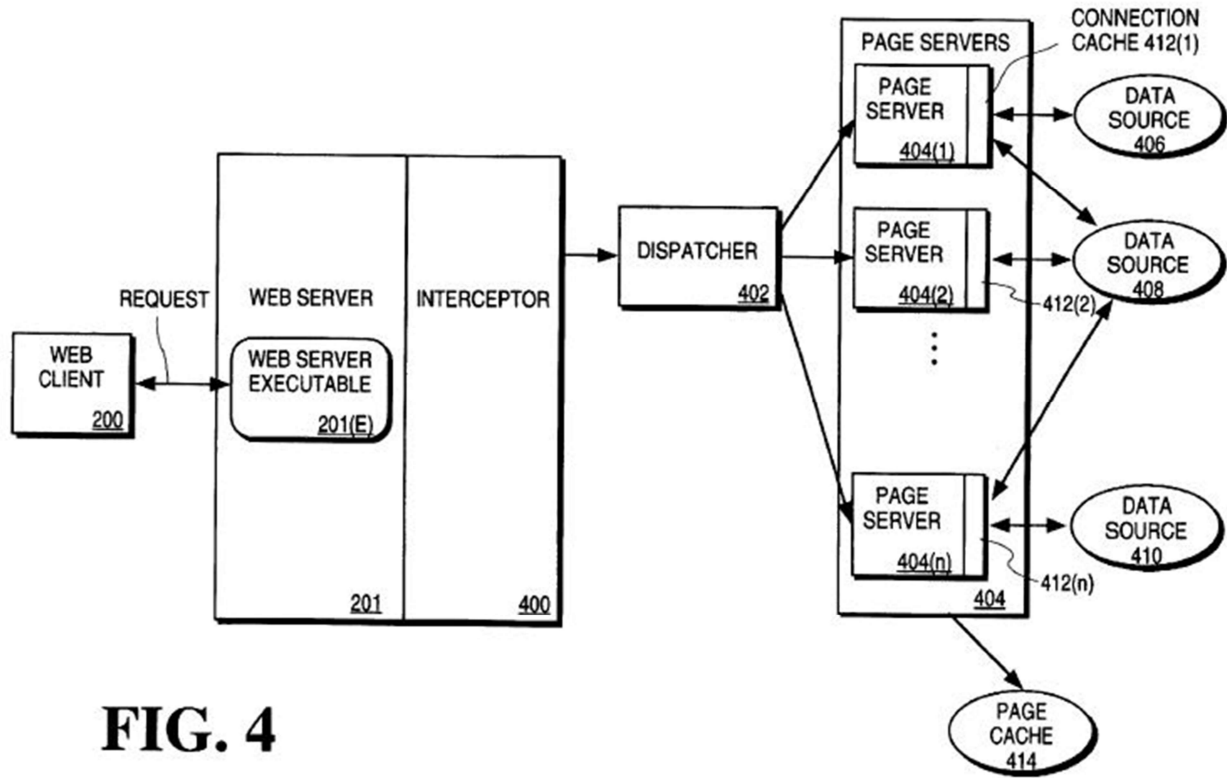
#### **The Invention**

8. Keith A. Lowery is the inventor of the U.S. Patent No. 5,894,554 ("the '554 Patent") and related U.S. Patent No. 6,415,335 ("the '335 patent") (collectively, "the Asserted Patents"), which share a common specification. Both patents resulted from the pioneering research of Mr. Lowery in the area of server load-balancing and how websites could more efficiently and quickly process very large volumes of website visitor requests for web pages.

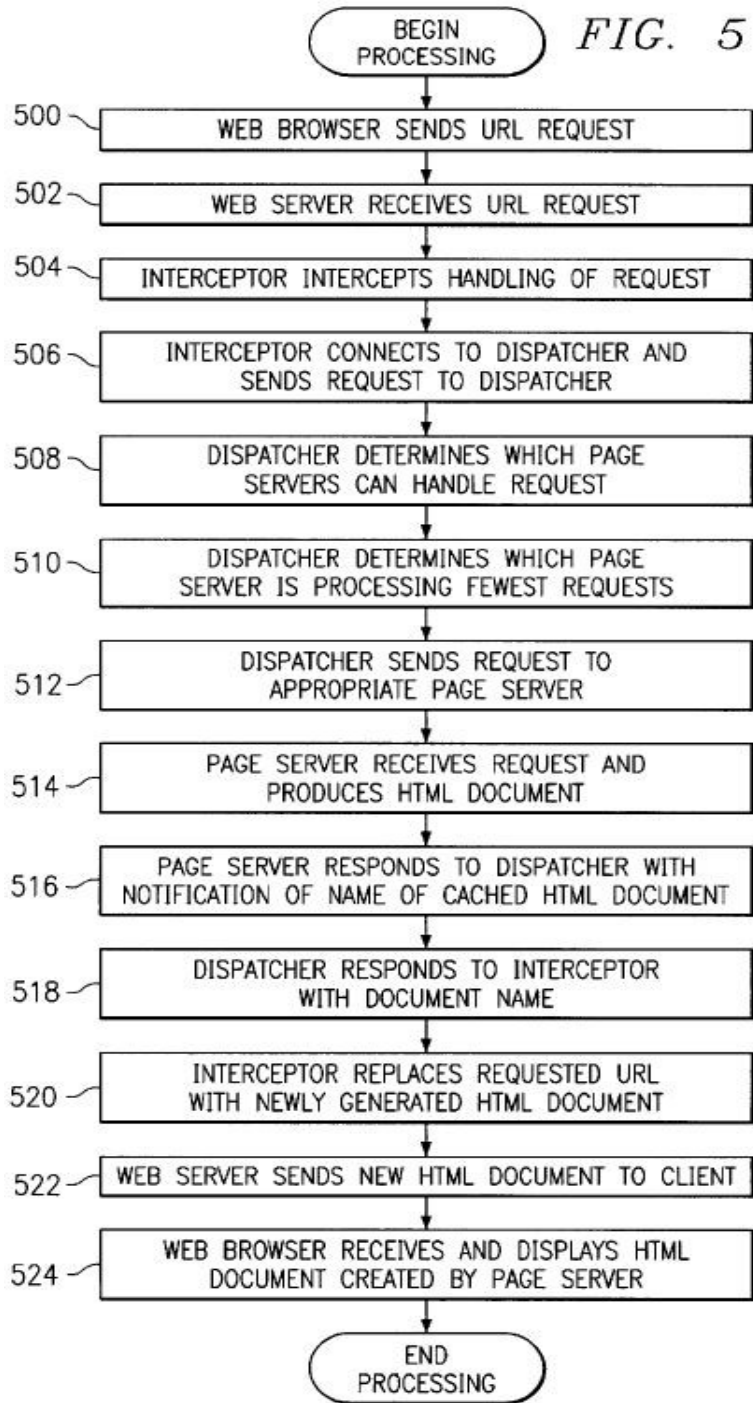
Mr. Lowery's research resulted in the development of a method and apparatus for "creating and managing custom Web sites."

9. For example, Mr. Lowery developed a computer-implemented method for managing a dynamic Web page generation request to a HTTP-compliant device, the computer-implemented method comprising the steps of routing the request from the HTTP-compliant device to a page server, the page server receiving the request and releasing the HTTP-compliant device to process other requests, processing the request, processing the request, the processing being performed by the page server concurrently with the HTTP-compliant device, as the HTTP-compliant device processes the other requests, and dynamically generating a Web page in response to the request, the Web page, including data dynamically retrieved from one or more data sources.

10. Figure 4 (FIG. 4) of both the Asserted Patents, set forth below, is a block diagram of a client-server system which illustrates the methods claimed in the two patents.



11. Figure 5 (FIG. 5) of the Asserted Patents set forth below, is a flow chart which illustrates the operation of a client-server system constructed to perform the methods claimed in the Patents.



**Advantage Over the Prior Art**

12. The patented inventions disclosed in the Asserted Patents, provide many advantages over the prior art, and in particular improved the operations of web sites facing high-traffic conditions. *See* ‘554 Patent at col. 4, ll. 38–53, ‘335 Patent at col. 4, ll. 38–53; *see also, generally,* ‘554 Patent at col 6, ll. 49-52, ‘355 Patent at col. 6. ll. 49-52. One advantage of the patented invention is that it optimizes the performance of data sources by caching Web pages that are reputedly accessed, allowing subsequent requests to use the cached Web page rather than re-accessing the data source, radically improving the performance of the data source. *See* ‘554 Patent at col. 6, ll. 55—col. 7, ll. 7, ‘335 Patent at col. 6, ll. 55—col. 7, ll. 8.

13. Another advantage of the patented invention is that it allows Web site administrator to utilize multiple levels of security to manage the Web site, depending on the embodiment. *See* ‘554 Patent at col. 7, ll. 11—44, ‘335 Patent at col. 7 ll. 10—43. For example, by making use of the Web age caching ability described above an administrator can enable additional security for those sites that want to publish non-interactive content from internal information systems, but do not want real-time Internet accessibility to those internal information systems. *Id.* In this instance the Page server can act as a “replication and staging agent,” and create Web pages in batches rather than in real-time, and then stored for access at a later time, even if the Page sever and dispatcher are not present or responsive later. *Id.* It is also possible in another embodiment for a Page server to take such action that it can essentially deploy a Web site via the copying of a single file, reducing other security risks. *See, Id.* at col. 7, ll. 32—44, col. 7 ll. 31—43.

14. Another advantage of the patented invention is the scalability created by the dynamic nature of the load balancing, as accomplished by the Dispatcher and as modified by the Web site administrator. *See* '554 Patent at col. 8, ll. 10—51, '335 Patent at col. 8 ll. 10—51.

15. Because of these significant advantages that can be achieved through the use of the patented invention, Parallel Networks believes that the management of dynamic web page generation requests as taught in the '554 and '335 Patents is widely implemented. Indeed, the patented inventions can be used for a variety of environments where large volumes of dynamic web page requests must be optimized including, for example, server farms and cloud computing architectures.

#### **Post-Issuance Re-Examination and Litigation History of the Asserted Patents**

16. The Asserted Patents were subject to three ex-parte reexamination requests which took more than five years to complete. In July 2012, the United States Patent & Trademark Office (USPTO) issued certificates of correction which corrected erroneous claims in the *ex parte* reexamination certificates that had been issued by the USPTO for both of the Asserted Patents. All of the original claims in the '554 patent were canceled and new claims 12–49 were added. Similarly, all of the original claims in the '335 patent were canceled and new claims 30–85 were added.

17. The Asserted Patents were previously litigated in this District, as well as the United States District Court for the District of Delaware. *See Parallel Networks Licensing LLC v. International Business Machines Corporation*, 1-13-cv-02072 (DED) (filed Dec. 20, 2013); *Parallel Networks Licensing LLC v. Microsoft Corporation*, 1-13-cv-02073 (DED) (filed Dec. 20, 2013); *Parallel Networks LLC v. Orbitz Worldwide Inc.*, 2-10-cv-00059 (TXED) (filed Feb. 23, 2010); *Parallel Networks LLC vs Saks Inc.*, 2-09-cv-00367 (TXED) (filed Nov. 19, 2009);

*Quinstreet Inc. v. Parallel Networks, LLC*, 2-09-cv-00345 (TXED) (filed Nov. 04, 2009); *Parallel Networks, LLC v. Microsoft Corporation*, 2-09-cv-00172 (TXED) (filed May. 29, 2009); *Parallel Networks, LLC v. Priceline.Com, Inc et al.*, 2-08-cv-00045 (TXED) (filed Feb. 05, 2008); *Parallel Networks, LLC v. Netflix, Inc. et al.*, 2-07-cv-00562 (TXED) (filed Dec. 28, 2007); *epicRealm Licensing, LLC v. The Macerich Company*, 5-07-cv-00181 (TXED) (filed Dec. 03, 2007); *epicRealm Licensing, LP. v. Various, Inc.*, 2-07-cv-00030 (TXED) (filed Jan. 25, 2007); *epicRealm Licensing, LP. v. Various, Inc.*, 5-07-cv-00135 (TXED) (filed Jan. 25, 2007); *Quinstreet Inc. v. Parallel Networks, LLC*, 1-06-cv-00495 (DED) (filed Aug. 08, 2006); *Oracle Corporation et al v. Parallel Networks LLC*, 1-06-cv-00414 (DED) (filed Jun. 30, 2006); *epicRealm Licensing, LLC v. Franklin Covey Co. et al.*, 5-07-cv-00126 (TXED) (filed Aug. 05, 2005); *epicRealm Licensing, LLC v. Autoflex Leasing, Inc. et al.*, 2-05-cv-00163 (TXED) (filed May. 02, 2005); *epicRealm Licensing, LLC v. Autoflex Leasing, Inc. et al.*, 5-07-cv-00125 (TXED) (filed May. 02, 2005); *epicRealm, Licensing, LLC v. Speedera Networks, Inc.*, 2-05-cv-00150 (TXED) (filed Apr. 15, 2005) (collectively “Prior District Court Litigation”).

18. Three of the Prior District Court Litigations reached final adjudication. Each of those cases involved a finding of summary judgment appealed to the Federal Circuit Court of Appeals. In the *Oracle*, the Federal Circuit vacated the District of Delaware’s grant of summary judgment of non-infringement to Oracle and the denial of summary judgment to Parallel Networks. *See Oracle Corp. v. Parallel Networks, LLC*, 375 F. App’x 36 (Fed. Cir. 2010). In *Oracle*, the Federal Circuit rejected the determination that the accused products did not meet the “releasing” limitation of the asserted claims and vacated the grant of summary judgment. *Id.* at 41. The *Oracle* case was subsequently resolved and dismissed in 2011.

19. In *Microsoft*, the Federal Circuit affirmed the District of Delaware’s grant of



summary judgment of no indirect infringement despite finding evidence to suggest “that certain Microsoft customers have configured the accused Windows Server product in a way that makes it capable of infringing the asserted claims.” *Parallel Networks Licensing v. Microsoft Corp.*, No. 2018-1120, 2019 U.S. App. LEXIS 19442, at \*9 (Fed. Cir. June 28, 2019). The Federal Circuit affirmed based on the theory that, “when an accused product has non-infringing uses and the claims require more than the capacity to perform a particular function, ‘it is not enough to simply show that a product is capable of infringement.’” *Id.* (citing *Fujitsu Ltd. v. Netgear Inc.*, 620 F.3d 1321, 1329 (Fed. Cir. 2010)). A similar evidentiary ruling was applied in the *IBM* case. *See Parallel Networks Licensing, LLC v. IBM*, Civil Action No. 13-2072 (KAJ), 2017 U.S. Dist. LEXIS 28461, at \*16-17 (D. Del. Feb. 22, 2017)

20. IBM and Microsoft were unsuccessful in their attempts to challenge the validity of the Asserted Patents in *Inter Partes* Review (IPR) proceedings before the Patent Trial and Appeals Board (PTAB) of the USPTO. *See International Business Machines Corp. v. Parallel Networks Licensing, LLC*, IPR2015-01729 (PTAB) (‘554 Patent, filed Aug. 14, 2015); *International Business Machines Corp. v. Parallel Networks Licensing, LLC*, IPR2015-01731 (PTAB) (‘554 Patent, filed Aug. 14, 2015); *International Business Machines Corp. v. Parallel Networks Licensing, LLC*, IPR2015-01732 (PTAB) (‘335 Patent, filed Aug. 14, 2015); *International Business Machines Corp. v. Parallel Networks Licensing, LLC*, IPR2015-01734 (PTAB) (‘335 Patent, filed Aug. 14, 2015); *Microsoft Corporation v. Parallel Networks Licensing, LLC*, IPR2015-00483 (PTAB); (‘554 Patent, filed Dec. 23, 2014); *Microsoft Corporation v. Parallel Networks Licensing, LLC*, IPR2015-00484 (PTAB) (‘554 Patent, filed Dec. 23, 2014); *Microsoft Corporation v. Parallel Networks Licensing, LLC*, IPR2015-00485 (PTAB) (‘335 Patent, filed Dec. 23, 2014); *Microsoft Corporation v. Parallel Networks*

*Licensing, LLC*, IPR2015-00486 (PTAB) ('335 Patent, filed Dec. 23, 2014) (collectively “the PTAB Proceedings”).

21. In December 2014, Microsoft filed IPR petitions challenging the claims of the Asserted Patents under 35 U.S.C. §§ 102 and 103. As to the '554 patent, the PTAB instituted reviews of claims 12–19, 32, 34, 46 and 48 in IPR2015-00483 (IPR-483) and claims 12, 20–31, 33, 35–45, 47 and 49 in IPR2015-00484. The PTAB consolidated those reviews into IPR-483, which involves claims 12–49 of the '554 patent. As to the '335 patent, the PTAB instituted reviews of claims 30–40, 43–53, and 56–85 in IPR2015-00485 (IPR-485) and claims 32, 33, 35–42, 45, 46, 48–55, 65, 69, 80, and 84 in IPR2015-00486. The PTAB consolidated those reviews in IPR-485, which involves claims 30–85 of the '335 patent. In August 2015, IBM filed IPR petitions substantially similar to the Microsoft petitions. The PTAB instituted reviews on the IBM petitions and joined IBM as a petitioner to IPR-483 and IPR-485.

22. In its August 2016 Final Written Decision for IPR483, the PTAB concluded that Microsoft and IBM (hereafter collectively “Microsoft”) failed to demonstrate the unpatentability of claims 12–49 of the '554 patent over the cited prior art. *Microsoft Corp. v. Parallel Networks Licensing, LLC*, IPR2015-00483, 2016 WL 8944632, at \*11 (PTAB, Aug. 11, 2016) (IPR-483 Final Decision). The PTAB reached the same conclusion in IPR-485 for claims 30–85 of the '335 patent. *Microsoft Corp. v. Parallel Networks Licensing, LLC*, IPR2015-00485, 2016 WL 8999702, at \*10 (P.T.A.B. Aug. 11, 2016) (IPR-485 Final Decision).

23. Microsoft appealed the PTAB’s Final Written Decisions to the Federal Circuit, which issued its ruling on December 1, 2017 affirming the PTAB’s claim construction and rejecting certain anticipation arguments while vacating and remanding with respect to certain other invalidity arguments. *Microsoft Corp. v. Parallel Networks Licensing, LLC*, 715 F. App'x

1013, 1015 (Fed. Cir. 2017).

24. The Prior District Court Litigation, PTAB Proceedings, and Federal Circuit Appeals, inform the scope and construction of the claims of the Asserted Patents.

**COUNT I – DEFENDANT’S INFRINGEMENT OF**  
**U.S. PATENT NO. 5,894,554**

25. The allegations set forth in the foregoing paragraphs are incorporated into this First Count.

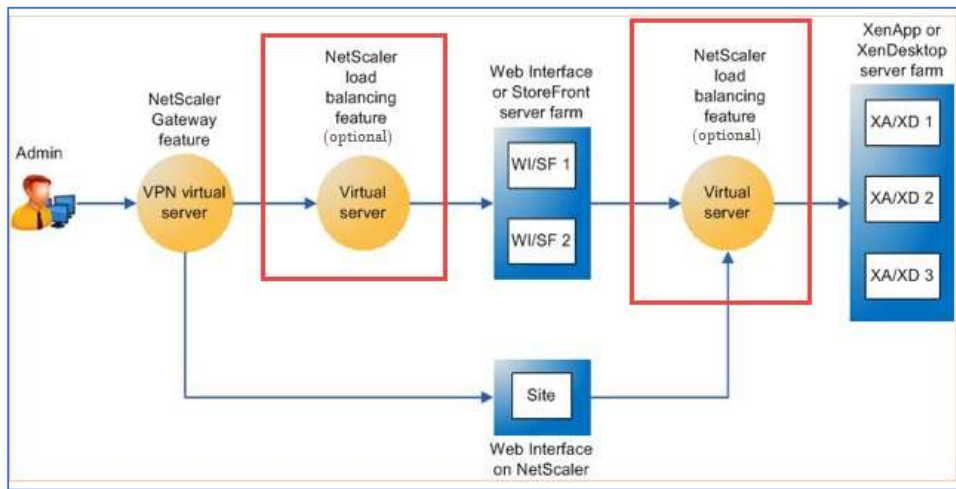
26. On April 13, 1999, the ‘554 Patent was duly and legally issued by the United States Patent and Trademark Office under the title “System for managing dynamic web page generation requests by intercepting request at Web server and routing to page server thereby releasing web server to process other requests[.]” A true and correct copy of the ‘554 Patent is attached as Exhibit A.

27. Parallel Networks is the assignee and owner of the right, title and interest in and to the ‘554 Patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

28. Upon information and belief, each Defendant has and continues to directly infringe one or more claims of the ‘554 Patent by using, and/or providing and causing to be used products, specifically one or more servers that may load-balance among other servers, which by way of example, includes each defendant’s use of Citrix’s NetScaler, Citrix NetScaler, and/or Citrix ADC products, or the use of a web server in conjunction with the same (the “Accused Instrumentalities”).

29. Upon information and belief, each Defendant has and continues to directly infringe at least claim 12 of the ‘554 patent by its use of Citrix’s NetScaler, Citrix NetScaler, and/or Citrix ADC products, or by use of a web server in conjunction with the same.

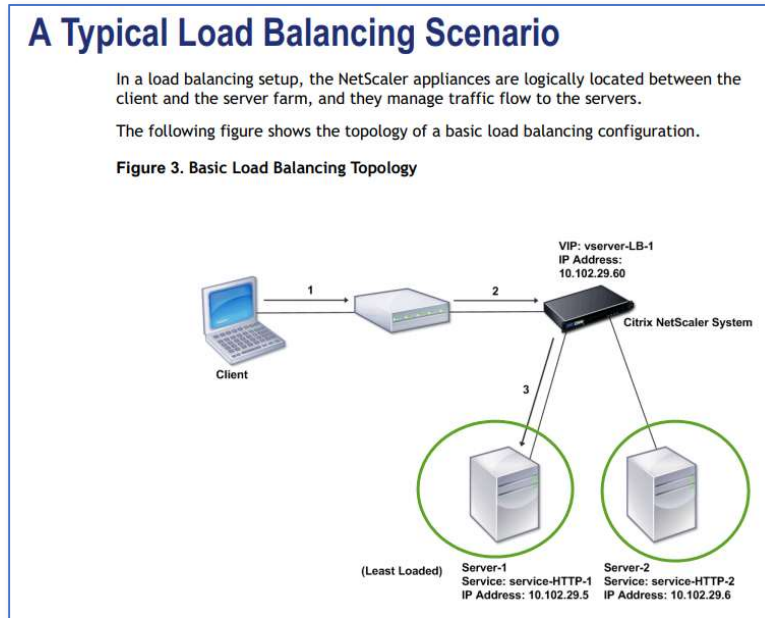
30. Upon information and belief, the Accused Instrumentalities perform a computer-implemented method for managing a dynamic Web page generation request to a Web server. Citrix's NetScaler, Citrix NetScaler, and/or Citrix ADC products feature the ability to server as a server that load-balances among other servers. The below deployment example from Citrix's website shows load balancing among servers in a sever farm, as well as among Citrix XenApp or XenDesktop servers.



Source: <https://docs.citrix.com/en-us/netscaler/12/solutions/deploy-xa-xd.html>

31. Upon information and belief, the Accused Instrumentalities rout requests from a Web server to a selected page server, said selected page server receiving said request and releasing said Web server to process other requests, wherein said routing step further includes the steps of intercepting said request at said Web server, routing said request from said Web server to a dispatcher, and dispatching, by said dispatcher, said request to said selected page server. This element is met, in one non-limiting example, by Citrix's NetScaler, Citrix NetScaler, and/or Citrix ADC products' use of the least-connected load-balancing method.

32. In using this method, as demonstrated in the diagram below, the Accused Instrumentalities rout a request from a Web server, and selects a page server to release the Web server from that request to process it.



Source: <https://docs.citrix.com/en-us/categories/legacy-archive/downloads/netscaler-10.pdf> at page 463 of 5752.

33. All requests dispatched from the Accused Instrumentalities are concurrently received and processed by one of the page server machines as chosen, in this example, by the method of determining which has the least active connections. The web server resources, including, but not limited to, memory, and a CPU associated with the particular task, duty or obligations in processing this request are thereby freed. The NetScaler load-balancing feature operates as the dispatcher in this scenario.

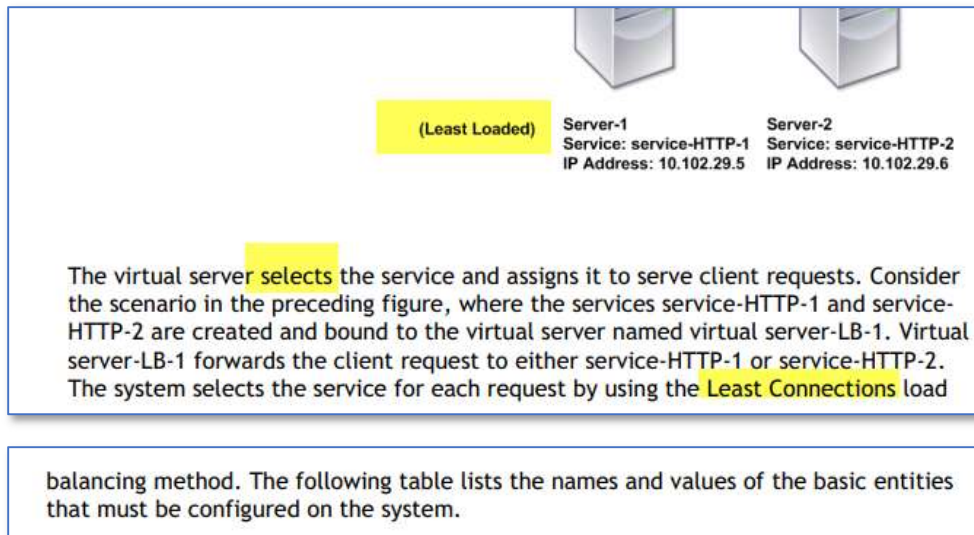
34. Upon information and belief, the Accused Instrumentalities process requests, wherein such processing is performed by a selected page server while the Web server concurrently processes other requests. This element is met by Citrix's NetScaler, Citrix NetScaler, and/or Citrix ADC products, as in using methods of load-balancing like the least-

connected method, the routing of a new request necessarily depends on the number of current active transactions at the page server level.

35. Upon information and belief, the Accused Instrumentality, in response to a request, a selected page server retrieves data from one or more sources and aids in the generations of dynamic web pages. Much of Citrix's documentation describes dynamically retrieved content as being retrieved from databases, but also from on-board caches when such data has already been recently accessed.

36. Upon information and belief, the Accused Instrumentalities utilize a form of dispatching such that it includes examining a request to make a selection of which page server should process said request from among a plurality of page servers that can each generate said Web page requested by said request, selecting one of said plurality of page servers to dynamically generate said Web page, wherein such selection is base don examining dynamic information regarding a load associated with each of the plurality of page servers and sending said request to said selected page server based on this examination.

37. This dispatching element is satisfied by the use of Citrix's NetScaler, Citrix NetScaler, and/or Citrix ADC products, as they examine requests to make selections of page servers—each of which is capable of generating the Web page—based on information regarding the load associated with each page server. For example, NetScaler dispatches a request to an appropriate page server based on examining the dynamic information regarding the load associated with each of the page servers—one non-limiting example of such information being which page server has the least amount of active connections:



Source: <https://docs.citrix.com/en-us/categories/legacy-archive/downloads/netScaler-10.pdf> at page 463-464 of 5752.

38. Parallel Networks has been harmed by Defendant's infringing activities.

**COUNT 2 – DEFENDANT'S INFRINGEMENT OF  
U.S. PATENT NO. 6,415,335**

39. The allegations set forth in the foregoing paragraphs are incorporated into this Second Count.

40. On July 2, 2002, the '335 Patent was duly and legally issued by the United States Patent and Trademark Office under the title "System and method of managing dynamic web page generation requests[.]" A true and correct copy of the '335 Patent is attached as Exhibit B.

41. Parallel Networks is the assignee and owner of the right, title and interest in and to the '335 Patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

42. Upon information and belief, each Defendant has and continues to directly infringe one or more claims of the '335 Patent by using, and/or providing and causing to be used products, specifically one or more servers that may load-balance among other servers, which by

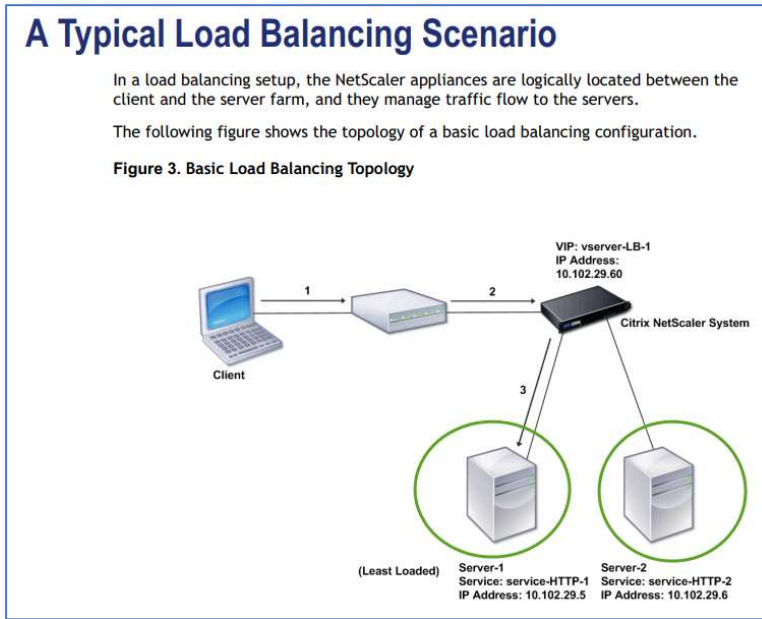
way of example, includes defendant's use of Citrix's NetScaler, Citrix NetScaler, and/or Citrix ADC products, or the use of a web server in conjunction with the same (the "Accused Instrumentalities").

43. Upon information and belief, each Defendant has and continues to directly infringe at least claim 43 of the '335 patent by its use of Citrix's NetScaler, Citrix NetScaler, and/or Citrix ADC products, or by use of a web server in conjunction with the same.

44. Upon information and belief, the Accused Instrumentalities transfers requests from a HTTP-compliant device to a selected page server, said selected page server being selected from among a plurality of page servers, and receiving said request and releasing said HTTP-compliant device to process other requests, wherein said transferring step further includes the steps of intercepting said request at said HTTP-compliant device, selecting said page server from among a plurality of page servers that can each process the request based on dynamic information maintained for each of said plurality of page servers, and then transferring said request from said HTTP-compliant device to the selected page server. This element is met, in one non-limiting example, by Citrix's NetScaler, Citrix NetScaler, and/or Citrix ADC products' use of the least-connected load-balancing method.

45. In using this method, as demonstrated in the diagram below, the Accused Instrumentalities transfers a request from a HTTP-compliant device, and selects a page server to release the HTTP-compliant device from that request to process it.





Source: <https://docs.citrix.com/en-us/categories/legacy-archive/downloads/netScaler-10.pdf> at page 463 of 5752.

46. All requests transferred from the Accused Instrumentalities are concurrently received and processed by one of the page server machines as chosen, in this example, by the method of determining which has the least active connections. The HTTP-compliant device resources, including, but not limited to, memory, and a CPU associated with the particular task, duty or obligations in processing this request are thereby freed. The NetScaler load-balancing feature operates as the dispatcher in this scenario.

47. Upon information and belief, the Accused Instrumentalities process requests, wherein such processing is performed by a selected page server while the HTTP-compliant device concurrently processes other requests. This element is met by Citrix's NetScaler, Citrix NetScaler, and/or Citrix ADC products, as in using methods of load-balancing like the least-connected method, the routing of a new request necessarily depends on the number of current active transactions at the page server level.

48. Upon information and belief, the Accused Instrumentality, in response to a request, a selected page server retrieves data from one or more sources and aids in the generations of dynamic web pages. Much of Citrix's documentation describes dynamically retrieved content as being retrieved from databases, but also from on-board caches when such data has already been recently accessed.

49. Parallel Networks has been harmed by Defendant's infringing activities.

### **JURY DEMAND**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Parallel Networks demands a trial by jury on all issues triable as such.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Parallel Networks demands judgment for itself and against Defendant as follows:

- A. An adjudication that each Defendant has infringed the '554 and 335 Patents;
- B. An award of damages to be paid by each Defendant adequate to compensate Parallel Networks, LLC for Defendant's past infringement of the '554 and '335 Patents, and any continuing or future infringement through the date such judgment is entered, including interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;
- C. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of Plaintiff's reasonable attorneys' fees; and
- D. An award to Parallel Networks of such further relief at law or in equity as the Court deems just and proper.

Dated: July 12, 2019

DEVLIN LAW FIRM LLC

*/s/ James M. Lennon*

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