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**Attorneys for Plaintiff
Tellagemini Communication LLC**

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

Tellagemini Communication LLC,

Plaintiff,

v.

Fusion Cloud Company LLC,

Defendant.

Case No. _____

Patent Case

Jury Trial Demanded

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Tellagemini Communication LLC ("Tellagemini"), through its attorneys,
complains of Fusion Cloud Company LLC ("MegaPath"), and alleges the following:

PARTIES

1. Plaintiff Tellagemini Communication LLC is a corporation organized and existing
under the laws of Washington that maintains its principal place of business at 3135 East 11th
Avenue, Spokane, WA 99202.

2. Defendant Fusion Cloud Company LLC is a corporation organized and existing under the laws of Delaware that maintains its principal place of business at 6800 Koll Center Pkwy, Ste 200, Pleasanton, CA 94566.

JURISDICTION

3. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

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

5. This Court has personal jurisdiction over Defendant because it has engaged in systematic and continuous business activities in this District. As described below, Defendant has committed acts of patent infringement giving rise to this action within this District.

VENUE

6. Venue is proper in this District under 28 U.S.C. § 1400(b) because Defendant has committed acts of patent infringement in this District, and has an established place of business in this District. In addition, Tellagimini has suffered harm in this district.

PATENT-IN-SUIT

7. Tellagimini is the assignee of all right, title and interest in United States Patent No. 7,062,036 (the "'036 Patent"); (the "Patent-in-Suit"); including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the Patent-in-Suit. Accordingly, Tellagimini possesses the exclusive right and standing to prosecute the present action for infringement of the Patent-in-Suit by Defendant.

The '036 Patent

8. The '036 Patent is entitled "Telephone call information delivery system," and issued 6/13/2006. The application leading to the '036 Patent was filed on 7/1/2002, which ultimately

1 claims priority from provisional application number 60/118,971, filed on 2/6/1999. A true and
2 correct copy of the '036 Patent is attached hereto as Exhibit 1 and incorporated herein by
3 reference.

4 9. The '036 Patent is valid and enforceable.

5 **COUNT 1: INFRINGEMENT OF THE '036 PATENT**

6 10. Tellagemini incorporates the above paragraphs herein by reference.

7 11. **Direct Infringement.** Defendant has been and continues to directly infringe one or
8 more claims of the '036 Patent in at least this District by making, using, offering to sell, selling
9 and/or importing, without limitation, at least MegaPath's Web and Audio Conferencing Service
10 (among the "Exemplary MegaPath Products") that infringe at least exemplary claims 7 of the '036
11 Patent (the "Exemplary '036 Patent Claims") literally or by the doctrine of equivalence. On
12 information and belief, numerous other devices that infringe the claims of the '036 Patent have
13 been made, used, sold, imported, and offered for sale by Defendant and/or its customers.

14 12. The filing of this Complaint constitutes notice and actual knowledge in accordance
15 with 35 U.S.C. § 287.

16 13. Despite such actual knowledge, Defendant continues to make, use, test, sell, offer
17 for sale, market, and/or import into the United States, products that infringe the '036 Patent. On
18 information and belief, Defendant has also continued to sell the Exemplary MegaPath Products
19 and distribute product literature and website materials inducing end users and others to use its
20 products in the customary and intended manner that infringes the '036 Patent. Thus, on
21 information and belief, Defendant is contributing to and/or inducing the infringement of the '036
22 Patent.

23 14. **Induced Infringement.** Defendant actively, knowingly, and intentionally has been
24 and continues to induce infringement of the '036 Patent, literally or by the doctrine of equivalence,
25

1 by selling Exemplary MegaPath Products to their customers for use in end-user products in a
2 manner that infringes one or more claims of the '036 Patent.

3 15. **Contributory Infringement.** Defendant actively, knowingly, and intentionally has
4 been and continues materially contribute to their own customers' infringement of the '036 Patent,
5 literally or by the doctrine of equivalence, by selling Exemplary MegaPath Products to their
6 customers for use in end-user products in a manner that infringes one or more claims of the '036
7 Patent.

8
9 16. Exhibit 2 includes charts comparing the Exemplary '036 Patent Claims to the
10 Exemplary MegaPath Products. As set forth in these charts, the Exemplary MegaPath Products
11 practice the technology claimed by the '036 Patent. Accordingly, the Exemplary MegaPath
12 Products incorporated in these charts satisfy all elements of the Exemplary '036 Patent Claims.

13 17. Tellagemini therefore incorporates by reference in its allegations herein the claim
14 charts of Exhibit 2.

15
16 18. Tellagemini is entitled to recover damages adequate to compensate for Defendant's
17 infringement.

18 **JURY DEMAND**

19 19. Under Rule 38(b) of the Federal Rules of Civil Procedure, Tellagemini respectfully
20 requests a trial by jury on all issues so triable.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Tellagemini respectfully requests the following relief:

- 23 A. A judgment that the '036 Patent is valid and enforceable;
24 B. A judgment that Defendant has infringed, contributorily infringed, and/or induced
25 infringement of one or more claims of the '036 Patent;
26 C. An accounting of all damages not presented at trial;
27
28

1 D. A judgment that awards Tellagemini all appropriate damages under 35 U.S.C. § 284
2 for Defendant's past infringement, and any continuing or future infringement of the
3 Patent-in-Suit, up until the date such judgment is entered, including pre- or post-
4 judgment interest, costs, and disbursements as justified under 35 U.S.C. § 284 and,
5 if necessary, to adequately compensate Tellagemini for Defendant's infringement, an
6 accounting:

- 7
- 8 i. that this case be declared exceptional within the meaning of 35 U.S.C. § 285 and
9 that Tellagemini be awarded its reasonable attorneys' fees against Defendant that
10 it incurs in prosecuting this action;
- 11 ii. that Tellagemini be awarded costs, and expenses that it incurs in prosecuting this
12 action; and
- 13 iii. that Tellagemini be awarded such further relief at law or in equity as the Court
14 deems just and proper.
15

16
17 Dated: July 17, 2019

Respectfully submitted,

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