

Steven W. Ritcheson, Esq. (SBN 174062)

**INSIGHT, PLC**

578 Washington Blvd. #503  
Marina del Rey, California 90292  
Telephone: (424) 289-9191  
Facsimile: (818) 337-0383  
*swritcheson@insightplc.com*

**Attorney for Plaintiff  
Nitetek Licensing LLC**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

**NITETEK LICENSING LLC,**

**Plaintiff,**

**v.**

**CHARGEPOINT, INC.,**

**Defendant.**

Case No. \_\_\_\_\_

**Jury Trial Demanded**

**COMPLAINT  
FOR PATENT INFRINGEMENT**

**COMPLAINT FOR INFRINGEMENT OF PATENT**

Now comes, Plaintiff Nitetek Licensing LLC (“Plaintiff” or “Nitetek”), 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 ChargePoint, 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 Nos. 7,020,105 (hereinafter, the “105 Patent”) and 6,661,783 (hereinafter, the “783 Patent”)(collectively, the “Patents-in-Suit”), which are attached hereto as **Exhibits A** and **B**, respectively, and are

1 incorporated herein by reference, and pursuant to 35 U.S.C. §271, and to recover damages,  
2 attorney's fees, and costs.

3 **THE PARTIES**

4 2. Plaintiff is a Texas limited liability company with its principal place of business at  
5 6001 W. Parmer Ln, Suite 370-1070, Austin, TX 78727-3908.

6 3. Upon information and belief, Defendant is a corporation organized under the laws of  
7 Delaware, having a principal place of business at 240 East Hacienda Ave, Campbell, CA 95008.  
8 Upon information and belief, Defendant may be served with process c/o: CSC lawyers Incorporating  
9 Service, 2710 Gateway Oaks Drive Suite 150N, Sacramento, CA 95833.

10 4. Plaintiff is further informed and believes, and on that basis alleges, that Defendant  
11 operates the website, [www.chargepoint.com](http://www.chargepoint.com), which is in the business of providing charging services  
12 for electric vehicles. Upon information and belief, Defendant derives a portion of its revenue from  
13 sales and distribution via transactions initiated from its Internet website located at  
14 [www.chargepoint.com](http://www.chargepoint.com), and its incorporated and/or related systems (collectively the "ChargePoint  
15 Website"). Also, as identified on the ChargePoint Website, Defendant also operates an office  
16 location in this district. *See* <https://www.chargepoint.com/about/contact/>. Plaintiff is informed and  
17 believes, and on that basis alleges, that, at all times relevant hereto, Defendant has done and  
18 continues to do business in this judicial district, including, but not limited to, providing  
19 products/services to customers located in this judicial district by way of the ChargePoint Website.  
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23 **JURISDICTION AND VENUE**

24 5. This is an action for patent infringement in violation of the Patent Act of the United  
25 States, 35 U.S.C. §§1 *et seq.*

26 6. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C.  
27 §§1331 and 1338(a).  
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1           13.     The '105 Patent contains twenty-four (24) total claims with eight (8) claims being  
2 independent claims.

3           14.     For example, Claim 1 of the '105 Patent states:

4                   1. A communication method used in a mobile station apparatus  
5 which performs communication using a TDMA frame formed by  
6 eight slots, a start of a TDMA frame on an uplink being delayed  
7 by three slots or three slots minus a fraction of a slot from a start  
8 of a TDMA frame on a downlink, the method comprising:

9                                 receiving using a reception slot of the TDMA frame on the  
10                                 downlink after getting ready to receive;

11                                 transmitting using a transmission slot of the TDMA frame on the  
12                                 uplink after getting ready to transmit; and

13                                 performing adjacent cell signal level measurement before either  
14                                 getting ready to receive or getting ready to transmit,

15                                 wherein (i) when a number of transmission slots used in one  
16                                 TDMA frame on the uplink is below a predetermined number,  
17                                 then, after transmitting using a transmission slot of the  
18                                 TDMA frame on the uplink, a time allocation of two  
19                                 consecutive slots shall apply for performing adjacent cell  
20                                 signal level measurement and getting ready to receive and (ii)  
21                                 when the number of transmission slots used in one TDMA  
22                                 frame on the uplink is the predetermined number, then, after  
23                                 receiving using a reception slot of the TDMA frame on the  
24                                 downlink, a time allocation of two consecutive slots shall  
25                                 apply for performing adjacent cell signal level measurement  
26                                 and getting ready to transmit.

27           *See Exhibit A.*

28           15.     Defendant commercializes, inter alia, a device having all the elements and  
components recited in at least one claim of the '105 Patent. More particularly, Defendant  
commercializes, inter alia, a device using the method as recited in Claims 1-24 of the '105 Patent.

1 Specifically, Defendant makes, uses, sells, offers for sale, or imports a device using the method that  
2 is covered by all claims of the '105 Patent.

3 ***B. The '783 Patent***

4 16. On December 9, 2003, the United States Patent and Trademark Office ("USPTO")  
5 duly and legally issued the '783 Patent, entitled "CDMA TRANSMISSION APPARATUS" after a  
6 full and fair examination. The '783 Patent is attached hereto as **Exhibit B** and incorporated herein  
7 as if fully rewritten.

8  
9 17. Plaintiff is presently the owner of the '783 Patent, having received all right, title and  
10 interest in and to the '783 Patent from the previous assignee of record. Plaintiff possesses all rights  
11 of recovery under the '783 Patent, including the exclusive right to recover for past infringement.

12 18. The invention claimed in the '783 Patent comprises an improvement to CDMA  
13 transmission apparatuses used for cellular systems.

14 19. The '783 Patent contains ten (10) total claims with six (6) claims being independent  
15 claims.

16  
17 20. For example, Claim 3 of the '783 Patent states:

18 3. A spreading code selection method, which selects as the spreading  
19 code for asymmetric communications, a hierarchic orthogonal  
20 type spreading code which is a spreading code of a hierarchy  
21 which contains spreading codes of a longer length than spreading  
22 codes used for symmetric communication lines and is orthogonal  
to spreading codes used for other asymmetric communication  
lines.

23 *See Exhibit B.*

24 4. Defendant commercializes, inter alia, a device having all the elements and  
25 components recited in at least one claim of the '783 Patent. More particularly, Defendant  
26 commercializes, inter alia, a device as recited in Claims 3 and 4 of the '783 Patent. Specifically,  
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1 Defendant makes, uses, sells, offers for sale, or imports a device that encompasses that which is  
2 covered by at least Claims 3 and 4 of the '783 Patent.

3 **DEFENDANT'S PRODUCTS**

4 5. During the enforceability period of the Patents-in-Suit, Defendant offered solutions,  
5 such as the "ChargePoint Gateway" (hereinafter, the "Accused Product") for charging electric  
6 vehicles from charging spots around the world. A non-limiting and exemplary claim chart  
7 comparing the Accused Product to each claim of the '105 Patent is attached hereto as **Exhibit C** and  
8 is incorporated herein as if fully rewritten. Additionally, a non-limiting and exemplary claim chart  
9 comparing the Accused Product to Claims 3 and 4 of the '783 Patent is attached hereto as **Exhibit**  
10 **D** and is incorporated herein as if fully rewritten.

11 12 6. Defendant's Accused Product provides charging capabilities for various electric  
13 vehicles from various locations using a fully integrated portfolio of hardware and cloud services.  
14 *See Exhibits C and D.*

15 16 7. As recited in Claim 1 of the '105 Patent, the Accused Product can communicate via  
17 a GSM cellular connection and would adhere to the 3GPP TS 45.002 V6.12.0 (2005-11) standard  
18 defining GSM. *See Exhibit C at 1.*

19 20 8. As recited in Claim 1 of the '105 Patent, the Accused Product uses the 3GPP TS  
21 45.002 V6.12.0 (2005-11) standard to provide a communication method used in a mobile station  
22 apparatus (e.g. mobile station) which performs communication using a TDMA frame formed by  
23 eight slots (e.g. eight timeslots shall form a TDMA frame), a start of a TDMA frame on an uplink  
24 being delayed by three slots (e.g. the uplink is delayed by the fixed period of three timeslots from  
25 the start of the TDMA). *See Exhibit C at 1.*

26 27 9. As recited in Claim 1 of the '105 Patent, the Accused Product uses the 3GPP TS  
28 45.002 V6.12.0 (2005-11) standard for receiving (e.g. Rx) using a reception slot of the TDMA frame

1 on the downlink (e.g. at frame 3 on downlink) after getting ready to receive (e.g. red highlight frames  
2 0-2 on downlink). *See* Exhibit C at 1(a).

3 10. As recited in Claim 1 of the '105 Patent, the Accused Product uses the 3GPP TS  
4 45.002 V6.12.0 (2005-11) standard to provide transmitting (e.g. Tx) using a transmission slot of the  
5 TDMA frame on the uplink (e.g. frame 3 on uplink) after getting ready to transmit (e.g. red highlight  
6 frames 0-2 on uplink). *See* Exhibit C at 1(b).

7 11. As recited in Claim 1 of the '105 Patent, the Accused Product uses the 3GPP TS  
8 45.002 V6.12.0 (2005-11) standard to provide performing adjacent cell signal level measurement  
9 before either getting ready to receive or getting ready to transmit (e.g. Tta and/or Tra). *See* Exhibit  
10 C at 1(c).

11 12. As recited in Claim 1 of the '105 Patent, the Accused Product uses the 3GPP TS  
12 45.002 V6.12.0 (2005-11) standard to provide (I) when a number of transmission slots used in one  
13 TDMA frame on the uplink is below a predetermined number, then, after transmitting using a  
14 transmission slot of the TDMA frame on the uplink, a time allocation of two consecutive slots shall  
15 apply for performing adjacent cell signal level measurement (e.g. Tra) and getting ready to receive  
16 (e.g. Ttb) and (ii) when the number of transmission slots used in one TDMA frame on the uplink is  
17 the predetermined number, then, after receiving using a reception slot of the TDMA frame on the  
18 downlink, a time allocation of two consecutive slots shall apply for performing adjacent cell signal  
19 level measurement (e.g. Tta) and getting ready to transmit (e.g. Trb). *See* Exhibit C at 1(d).

20 13. As recited in Claim 3 of the '783 Patent, the Accused Product, at least in internal  
21 testing and usage, practices selecting as the spreading code (e.g., OVSF code as channelization code)  
22 for asymmetric communications, a hierarchic orthogonal type spreading code (e.g., hierarchical  
23 OVSF codes) which is a spreading code of a hierarchy which contains spreading codes of a longer  
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1 length than spreading codes used for symmetric communication lines and is orthogonal to spreading  
2 codes used for other asymmetric communication lines. *See* Exhibit D.

3 14. As recited in Claim 3 of the '783 Patent, the Accused Product provides different  
4 users in UMTS-FDD use different spreading codes which are mutually orthogonal and therefore  
5 spreading codes for asymmetric communication line between a user and a base station and that of  
6 another user and the base station respectively happen to be orthogonal. The Accused Product is  
7 equipped with 3G (also referred to as UMTS). 3G/UMTS has UMTS-FDD as one of its variants.  
8 *See* Exhibit D.  
9

10 15. The elements described in paragraphs 5-14 are covered by at least Claim 3 of the  
11 '783 and Claim 1 of the '105 Patent, for example. *See* Exhibits C and D. Thus, Defendant's use of  
12 the Accused Product is enabled by the device described in the Patents-in-Suit.

13 **COUNT I:**

14 **INFRINGEMENT OF THE '105 PATENT**

15 16. Plaintiff realleges and incorporates by reference all of the allegations set forth in the  
16 preceding Paragraphs.  
17

18 17. In violation of 35 U.S.C. §271, Defendant has directly infringed the '105 Patent.

19 18. Defendant has had knowledge of infringement of the '105 Patent at least as of the  
20 service of the present Complaint.

21 19. Defendant has directly infringed at least one claim of the '105 Patent by using, at  
22 least through internal testing or otherwise, the Accused Product without authority in the United  
23 States. As a direct and proximate result of Defendant's direct infringement of the '105 Patent,  
24 Plaintiff has been damaged.  
25

26 20. By engaging in the conduct described herein, Defendant has injured Plaintiff and is  
27 thus liable for infringement of the '105 Patent, pursuant to 35 U.S.C. §271.  
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1 21. Defendant has committed these acts of infringement without license or authorization.

2 22. As a result of Defendant's infringement of the '105 Patent, Plaintiff has suffered  
3 monetary damages and is entitled to a monetary judgment in an amount adequate to compensate for  
4 Defendant's past infringement, together with interests and costs.

5 23. Plaintiff reserves the right to modify its infringement theories as discovery  
6 progresses in this case; it shall not be estopped for infringement contention or claim construction  
7 purposes by the claim charts that it provides with this Complaint. The claim chart depicted in  
8 Exhibit C is intended to satisfy the notice requirements of Rule 8(a)(2) of the Federal Rule of Civil  
9 Procedure and does not represent Plaintiff's preliminary or final infringement contentions or  
10 preliminary or final claim construction positions.  
11

12 **COUNT II:**

13 **INFRINGEMENT OF THE '783 PATENT**

14 24. Plaintiff realleges and incorporates by reference all of the allegations set forth in the  
15 preceding Paragraphs.  
16

17 25. In violation of 35 U.S.C. §271, Defendant has directly infringed the '783 Patent.

18 26. Defendant has had knowledge of infringement of the '783 Patent at least as of the  
19 service of the present Complaint.

20 27. Defendant has directly infringed at least one claim of the '783 Patent by using, at  
21 least through internal testing or otherwise, the Accused Product without authority in the United  
22 States. As a direct and proximate result of Defendant's direct infringement of the '783 Patent,  
23 Plaintiff has been damaged.  
24

25 28. By engaging in the conduct described herein, Defendant has injured Plaintiff and is  
26 thus liable for infringement of the '783 Patent, pursuant to 35 U.S.C. §271.

27 29. Defendant has committed these acts of infringement without license or authorization.  
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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: May 29, 2020

Respectfully submitted,

/s/ Steven W. Ritcheson  
Steven W. Ritcheson, Esq. (SBN 174062)  
**INSIGHT, PLC**  
578 Washington Blvd. #503  
Marina del Rey, California 90292  
Telephone: (424) 289-9191  
Facsimile: (818) 337-0383  
*swritcheson@insightplc.com*

**Attorney for Plaintiff**  
**Nitetek Licensing LLC**