

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

SYMMETRIX VIDEO SYSTEMS LLC,

Plaintiff,

v.

CISCO WEBEX LLC,

Defendant.

Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Symmetrix LLC (“Plaintiff” or “Symmetrix”) files this Complaint against Cisco WebEx LLC (“Defendant” or “Cisco WebEx”) seeking damages and other relief for patent infringement, and alleges with knowledge of its own acts, and on information and belief as to other matters, as follows:

NATURE OF ACTION

1. This is an action for patent infringement arising under Title 35 of the United States Code, seeking monetary damages and other relief against Defendant due to Defendant’s infringement of United States Patent Nos. 10,547,811 (the patent in suit) in accordance with 35 U.S.C. § 271.

2. Plaintiff Symmetrix is a limited liability company organized and existing under the laws of the State of Delaware, having its principal place of business at 261 West 35th St., Suite #1003, New York, NY.

3. Defendant Cisco WebEx LLC is a corporation organized and existing under the laws of the State of Delaware, having its principal place of business at 307 W. Tasman Dr., San Jose, CA.

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. On information and belief, jurisdiction and venue for this action are proper in the District of Delaware.

7. This Court has personal jurisdiction over Defendant because Defendant has purposefully availed itself of the rights and benefits of the laws of this State and this Judicial District. On information and belief, Defendant is organized and existing under the laws of Delaware.

8. This Court has personal jurisdiction over Cisco WebEx under the laws of the State of Delaware, due to its incorporation in Delaware. Venue is also proper in this district because of Cisco WebEx's incorporation in Delaware.

9. Venue is proper in this Judicial District under 28 U.S.C. §§ 1391(b) and (c) and § 1400(b).

PATENT IN SUIT

10. The patent in suit is directed to solving technical problems related to encoding and sending multimedia data, including video and audio data corresponding to videoconferencing data, by a computing device. For example, the patent in suit describes illustrative embodiments that enable a computing device to manage resource utilization in connection with encoding of media by a computing device's central processing unit for video data sent over a network. ('811 Patent, col. 11, ll 42 and 43.) These features are implemented utilizing computer technology.

11. The claims of the patent in suit do not merely recite the performance of some pre-Internet business practice on the Internet. Instead, the claims of the patent in suit recite inventive concepts that are rooted in multimedia encoding and communications technology, and that address technical problems specifically arising in the realm of multimedia encoding and communications technologies.

12. The claims of the patent in suit recite inventive features that are not merely the routine or conventional use of methods and devices for encoding and sending multimedia data by a computing device over a network. Instead, the claims are directed to a method and device to manage resource utilization of the computing device's central processing unit ("CPU") (also called a central processor or main processor) in connection with multimedia data sent over a network.

13. The technology claimed in the patent in suit does not preempt all ways of encoding and sending multimedia data over a network.

14. Accordingly, each claim of the patent in suit recites a combination of elements sufficient to ensure that the claim amounts to significantly more than a patent on an ineligible concept.

15. The patent in suit describes methods to manage utilization of a computing device's CPU with respect to processing of multimedia data sent over a network. *See* '811 Patent, col. 11.

16. As explained in the patent in suit:

"The system allows [video data] to be encoded/decoded without noticeably slowing the user's other tasks. Since users prefer to be able to use their computers while conferencing, the system avoids consuming all of the CPU in the encode/decode task in such a way that the user can't do anything else on his or her computer besides encoding." *See* '811 Patent, col. 11, ll. 36-41.

DEFENDANT'S ACTIVITIES

17. Defendant is a technology company that develops and licenses video conferencing services.

18. Among Defendant's video conferencing services is WebEx Meetings.



81.

https://www.webex.com/content/webex/c/en_US/index/downloads.html/

19. On information and belief, Defendant licenses, or otherwise offers, its WebEx Meetings software according to a number of different plans, including a free personal plan, as well as starter, plus and business plans, for which a fee is charged. *See*, <https://www.webex.com/pricing/index.html>. (Collectively "WebEx Meetings." and referred to as the "Accused Instrumentality"; the Accused Instrumentality also includes the WebEx meetings mobile app and the WebEx meetings desktop software application as referenced below). In addition, Defendant makes WebEx Meetings available to its own employees.

20. To use WebEx Meetings, a licensee (or subscriber or customer) downloads Defendant's WebEx Meetings software onto an end user computing device. As an example, a subscriber having a computer device (*e.g.* desktop computer or mobile phone) with a browser may access the WebEx Meetings software via a Cisco Software as a Service (SaaS) platform. Software as a service (SaaS) is a delivery and licensing model in which software is accessed on the web via a subscription rather than installed on local computers. (*See* <https://www.cisco.com/c/en/us/products/software/what-is-software-as-a-service-saas.html>)

21. Defendant offers the WebEx Meetings software to mobile device users by offering a mobile app. Defendant makes the following statements (on its website): 1) "use the web app to join a Webex Meeting from your browser. This is the easiest way to join if you're using a Chromebook, a Linux computer, or you simply don't want to download anything;" 2) "When it's time to connect to a scheduled Cisco Webex meeting or Personal Room meeting, you can join quickly from the mobile app."; and 3) "You can start an instant meeting by opening the Webex Meetings app and tapping Start Meeting."

22. Defendant offers a WebEx Meetings desktop software application to subscribers. The WebEx Meetings desktop software application automatically downloads after starting or joining a WebEx meeting from a WebEx site. Defendant also provides installation instructions on its website for a user to download the WebEx Meetings desktop software app. (<https://help.webex.com/en-us/0tow9g/Download-the-Cisco-Webex-Meetings-Desktop-App>)

23. The Defendant WebEx Meetings desktop software application and the mobile app are both part of the Accused Instrumentality.

24. Defendant's WebEx Meetings complies with and has adopted OpenH264, a video codec specification, which defines encoding and sending video data via a network.

Supported Codecs

You can refer to these specifications to get information about the supported codecs, video definition, and bandwidth usage in Webex Teams.

We optimize the quality by using the Opus codec for audio and the OpenH264 codec for video.

<https://help.webex.com/en-us/nckc1aeb/Video-Specifications-for-Cisco-Webex-Teams-Calls-and-Meetings>

About the WebEx Video Codec

The Cisco WebEx Meeting Center has adopted the H.264 standards-based Scalable Video Coding (SVC) for video compression to deliver adaptive standard-quality (SQ), high-quality (HQ), and high-definition (HD) video. HD (720p) video is currently available in Meeting Center and Training center.

The video engine consists of all the fundamental video processing modules, including capture, encoding, transmission, receiving, decoding, and rendering. It also includes supporting modules for error control, congestion control, bit-rate adaptation, and encryption.

https://informationsecurity.report/Resources/Whitepapers/e667bc78-998b-4908-b109-0fe46c517474_Cisco%20WebEx%20Network%20Bandwidth.pdf,

25. Defendant's WebEx Meetings also complies with and has adopted Opus codec, which defines encoding and sending audio data, via a network.

Supported Codecs

You can refer to these specifications to get information about the supported codecs, video definition, and bandwidth usage in Webex Teams.

We optimize the quality by using the Opus codec for audio and the OpenH264 codec for video.

<https://help.webex.com/en-us/nckc1aeb/Video-Specifications-for-Cisco-Webex-Teams-Calls-and-Meetings>

COUNT I

Infringement of U.S. Patent No. 10,547,811

26. Plaintiff incorporates by reference the allegations contained in paragraphs 1 to 25 above.

27. Plaintiff is the lawful owner of all rights, title, and interest in U.S. Patent No. 10,547,811 entitled “System and Method(s) for Processor Utilization-based Encoding,” (the ’811 Patent) including the right to sue and to recover for infringement thereof. The ’811 Patent was duly and legally issued on January 28, 2020. A true and correct copy of the ’811 Patent is attached as Exhibit A.

28. Defendant infringes, either literally or under the doctrine of equivalents, one or more claims of the ’811 Patent in violation of 35 U.S.C. § 271(a), based on Defendant’s use of one or more computing devices (*e.g.* a computer controlled by Defendant or a computer device of a licensee or subscriber of Defendant) that executes or otherwise runs the Defendant’s WebEx Meetings software.

29. On information and belief, Defendant has and continues to directly infringe at least claim 7 (the “Claimed Method”) of the ’811 Patent when the Accused Instrumentality (via one or more computer devices) is executed and generates multiple portions of multimedia data on a computing device having a central processing unit (CPU), encodes the multimedia data and sends the encoded multimedia data from the computing device via a network to a second computing device (*e.g.* an end user computer).

30. The central processing unit of a computing device (that is executing the Accused Instrumentality) is or includes electronic circuitry that executes instructions that make up a

computer program, such as Defendant's WebEx Meeting software. *See*, https://en.wikipedia.org/wiki/Central_processing_unit

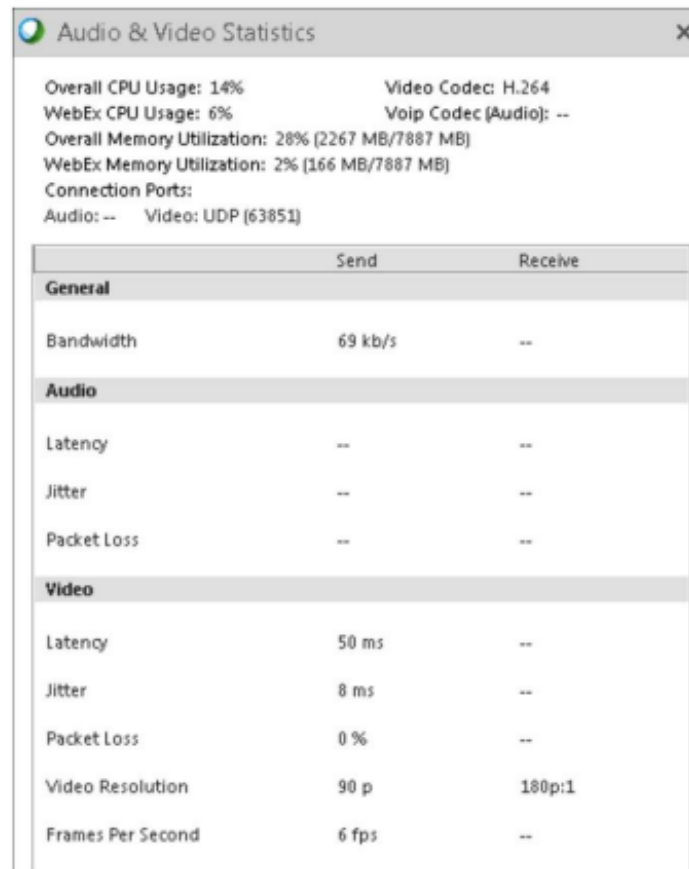
31. Defendant (and licensees of Defendant) executes the Accused Instrumentality on at least one computer.



https://www.webex.com/content/webex/c/en_US/index/downloads.html/

32. The Accused Instrumentality (via a computing device) generates, at the computing device, multimedia data including video and audio. The Accused Instrumentality (via the computing device and via Defendant's cloud network), provides video conferencing. The multimedia data is communicating during and corresponds to the video conferencing. Thus, the first element of claim 7 is satisfied.

33. The Accused Instrumentality (via a computing device), determines a first utilization level of a process (of the computing device). Thus, the second element of claim 7 is satisfied.

Figure 10. Statistics Window

https://informationsecurity.report/Resources/Whitepapers/e667bc78-998b-4908-b109-0fe46c517474_Cisco%20WebEx%20Network%20Bandwidth.pdf

34. The Accused Instrumentality (via a computing device) uses the OpenH264 codec and the Opus codec to encode and send video and audio portions of multimedia data. In accordance with the Claimed Method, the Accused Instrumentality (via the computing device) encodes and sends a first portion of multimedia data via a network (*e.g.* the Cisco cloud network), the first portion of the multimedia data including video and audio. Thus, the third and fourth elements of claim 7 are satisfied.

Supported Codecs

You can refer to these specifications to get information about the supported codecs, video definition, and bandwidth usage in Webex Teams.

We optimize the quality by using the Opus codec for audio and the OpenH264 codec for video.

<https://help.webex.com/en-us/nckc1aeb/Video-Specifications-for-Cisco-Webex-Teams-Calls-and-Meetings>

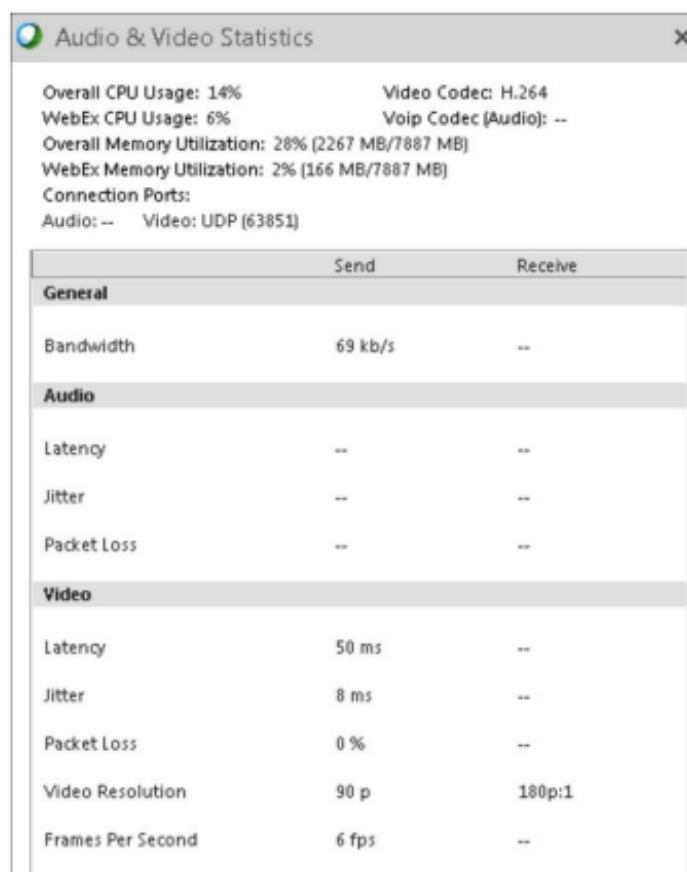
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35. The Accused Instrumentality (via a computing device) determines a second utilization level of the processor, and the second utilization level is greater than the first utilization level. Thus, the fifth element of claim 7 is satisfied.

Figure 10. Statistics Window

https://informationsecurity.report/Resources/Whitepapers/e667bc78-998b-4908-b109-0fe46c517474_Cisco%20WebEx%20Network%20Bandwidth.pdf

36. The Accused Instrumentality (via a computing device) encodes and sends a second portion of the multimedia data based on the second utilization level, the second portion including audio but not video. (*e.g.* see below). Thus, the sixth and seventh elements of claim 7 are satisfied.

Frame-Rate Range

WebEx supports various frame-rate ranges. On the sender side, it depends on the camera capture capability and available computing and bandwidth resources. On the receiver side, it depends on the bandwidth and computing resources.

- Up to 30-fps HQ and HD video is supported in a one-on-one meeting (only two participants point to point [P2P]).
- Up to 24-fps HQ and HD video is supported in a multipoint meeting (three or more participants).
- Up to 18-fps 180p video is supported in a one-on-one meeting (only two participants P2P).
- Up to 12-fps 180p video is supported in a multipoint meeting (three and more participants).
- The WebEx client may stop sending and receiving the video if the network or hardware environment conditions deteriorate drastically.

https://informationsecurity.report/Resources/Whitepapers/e667bc78-998b-4908-b109-0fe46c517474_Cisco%20WebEx%20Network%20Bandwidth.pdf.

Low-Bandwidth Errors in Cisco Webex Video Platform Meetings

Common causes and resolutions to Low-Bandwidth messages.

Low-Bandwidth errors in Cisco Webex Video Platform meetings.

I get a low-bandwidth error when I try to view video from TelePresence users.

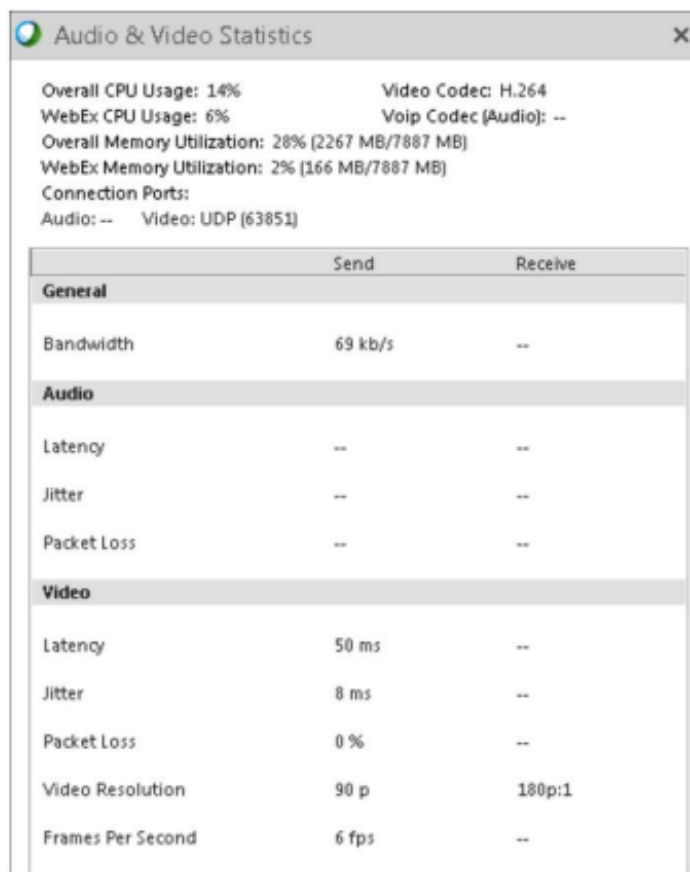
How do I troubleshoot 'low-bandwidth' errors in Cisco Webex Video Platform?

I can see a yellow triangle warning icon instead of video in my Cisco Webex Video Platform meeting.

Error: 'Due to low-bandwidth or local computer conditions (such as CPU or RAM use), video is not currently available'

<https://help.webex.com/en-us/WBX84420/Low-Bandwidth-Errors-in-Cisco-Webex-Video-Platform-Meetings>.

37. The Accused Instrumentality (via the computing device) determines a third utilization level of the processor, and the third utilization level is less than the second utilization level (*e.g.* see below). Thus, the eighth element of claim 7 is satisfied.

Figure 10. Statistics Window

https://informationsecurity.report/Resources/Whitepapers/e667bc78-998b-4908-b109-0fe46c517474_Cisco%20WebEx%20Network%20Bandwidth.pdf

38. The Accused Instrumentality (via the computer) sends a third portion of the multimedia data based on the third utilization level, the third portion including video and audio data. (*e.g.*, see below). Thus, the ninth and final element of claim 7 is satisfied.

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https://informationsecurity.report/Resources/Whitepapers/e667bc78-998b-4908-b109-0fe46c517474_Cisco%20WebEx%20Network%20Bandwidth.pdf. Defendant's use of a

computing device for videoconferencing using its WebEx Meetings directly infringes, either literally or under the doctrine of equivalents, one or more claims of the '811 Patent in violation of 35 U.S.C. § 271(a).

39. On information and belief, Defendant has and continues to directly infringe at least claim 7 of the '811 Patent when its employees use the Accused Instrumentality on a computer owned by the Defendant (*e.g.* employee use of video conferring or testing of the WebEx Meetings software).

40. In the case of usage of the WebEx Meetings software by Defendant's employees (*e.g.* for commercial use or for testing), the computer is a computing device controlled by at least one of the employees and such computing device includes a CPU and executes the WebEx Meetings software (or at least a portion thereof).

41. Plaintiff has been harmed by Defendant's infringing activities.

42. Defendant's infringement has damaged and continues to damage and injure Plaintiff. Plaintiff's injury is irreparable and will continue unless and until Defendant is enjoined by this Court from further infringement.

RELIEF REQUESTED

WHEREFORE, Plaintiff respectfully requests that the Court:

- A. Enter judgment that Defendant has directly infringed and continues to directly infringe one or more claims of the '811 Patent in violation of 35 U.S.C. § 271(a);
- B. Award Plaintiff past and future damages, to be paid by Defendant, in an amount no less than a reasonable royalty and adequate to compensate Plaintiff for such past

and future damages, and an accounting of all infringing acts including, but not limited to, those acts not presented at trial, together with pre-judgment and post-judgment interest for Defendant's infringement of the '811 Patent through the date that such judgment is entered in accordance with 35 U.S.C. § 284, and increase such award by up to three times the amount found or assessed in accordance with 35 U.S.C. § 284;

- C. Declare this case exceptional pursuant to 35 U.S.C. § 285; and
- D. Award Plaintiff its costs, disbursements, attorneys' fees, and such further and additional relief as is deemed appropriate by this Court.

JURY DEMAND

Plaintiff respectfully requests a jury trial on all issues so triable.

Dated: July 6, 2020

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