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

LONGHORN HD LLC., § § § Plaintiff, § § v. § § MITEL SOFTWARE TECHNOLOGIES § LTD., § § Defendant. §	Case No. **<u>JURY TRIAL DEMANDED</u>**

<u>COMPLAINT FOR PATENT INFRINGEMENT</u>

Plaintiff Longhorn HD LLC. ("LHD" or "Plaintiff") for its Complaint against Defendant

Mitel Software Technologies Ltd. ("Mitel" or "Defendant"), alleges as follows:

<u>THE PARTIES</u>

1.   LHD is a limited liability company organized and existing under the laws of the

State of Texas, with its principal place of business located at 203 East Travis Street, Marshall,

Texas 75670.

2.   Upon information and belief, Defendant Mitel Software Technologies Ltd. is

corporation organized under the laws of the Country of Canada, with its principal place of business

at 155 Snow Boulevard, Concord, Ontario, L4K 4N9 Canada. Upon information and belief,

Defendant may be served pursuant to the provisions of the Hague Convention. Upon information

and belief, Mitel does business in Texas and in the Eastern District of Texas, directly or through

intermediaries.

JURISDICTION

3.   This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 1, *et seq*. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4.   This Court has personal jurisdiction over Defendant. Defendant regularly conducts business and has committed acts of patent infringement and/or has induced acts of patent infringement by others in this Judicial District and/or has contributed to patent infringement by others in this Judicial District, the State of Texas, and elsewhere in the United States.

5.   Venue is proper in this Judicial District pursuant to 28 U.S.C. § 1391 because, among other things, Defendant is a defendant not resident in the United States, and thus may be sued in any judicial district pursuant to 28 U.S.C. § 1391(c)(3).

6.   Defendant is subject to this Court's jurisdiction pursuant to due process and/or the Texas Long Arm Statute due at least to its substantial business in this State and Judicial District, including (a) at least part of its past infringing activities, (b) regularly doing or soliciting business in Texas, and/or (c) engaging in persistent conduct and/or deriving substantial revenue from goods and services provided to customers in Texas.

PATENTS-IN-SUIT

7.   On October 11, 2005, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 6,954,790 (the "'790 Patent") entitled "Network-Based Mobile Workgroup System."   A true and correct copy of the '790 Patent is available at http://pdfpiw.uspto.gov/.piw?PageNum=0&docid=6954790.

8.   On August 21, 2007, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 7,260,846 (the "'846 Patent") entitled "Intrusion Detection System."

A   true   and   correct   copy   of   the   '846   Patent   is   available   at http://pdfpiw.uspto.gov/.piw?PageNum=0&docid=7260846.

9.   LHD is the sole and exclusive owner of all right, title, and interest in the'790 Patent and the '846 Patent, (collectively, the "Patents-in-Suit"), and holds the exclusive right to take all actions necessary to enforce its rights to the Patents-in-Suit, including the filing of this patent infringement lawsuit. LHD also has the right to recover all damages for past, present, and future infringement of the Patents-in-Suit and to seek injunctive relief as appropriate under the law.

FACTUAL ALLEGATIONS

10.   The Patents-in-Suit generally cover systems and methods for computer and network security.

11.   The '790 Patent generally relates to technology for mobile workgroups' VPN and firewall systems. The technology further implements these mappings as the basis for secure gateways. The technology described in the '790 Patent was developed by Jan Forslöw at Interactive People Unplugged AB. By way of example, this technology is implemented today in VPNs that allow for mobile participation, further implementing network firewalls and gateways that allow for the VPNs to share resources with mobile devices.

12.   The '846 Patent generally relates to technology for intrusion detection systems. The technology described in the '846 Patent was developed by Christopher Day at Steelcloud, Inc. By way of example, this technology is implemented today in intrusion detection systems ("IDS") and intrusion prevention systems ("IPS") that utilize machine-learning techniques to detect and prevent intrusions.

13.   Mitel has infringed and is continuing to infringe one or more of the Patents-in-Suit by making, using, selling, offering to sell, and/or importing, and by actively inducing others to

make, use, sell, offer to sell, and/or importing, products that include security gateways, routers, control system security appliance, clouds, and components and software that provide or utilize firewall, VPN, IPSec, DNS, IDS/IPS, mobile security, and threat protection, as well as network-based mobile workgroup systems. Such products include at least the Mitel Business IP Phone, MiVoice Business, MiVoice Office, MiCollab Client Softphone, and MiCloud Connect, MiVoice Connect, MiVoice Connect Edge Gateway, and MiVoice Border Gateway which utilize functionality that infringes the Patents-in-Suit ("Accused Products").

COUNT I
(Infringement of the '790 Patent)

14.   Paragraphs 1 through 13 are incorporated by reference as if fully set forth herein.

15.   LHD has not licensed or otherwise authorized Defendant to make, use, offer for sale, sell, or import any products that embody the inventions of the '790 Patent.

16.   Defendant has and continues to directly infringe the '790 Patent, either literally or under the doctrine of equivalents, without authority and in violation of 35 U.S.C. § 271, by making, using, offering to sell, selling, and/or importing into the United States products that satisfy each and every limitation of one or more claims of the '790 Patent. Such products include at least the Mitel Business IP Phone, MiVoice Business, MiVoice Office, MiCollab Client Softphone, and MiCloud Connect, MiVoice Connect, MiVoice Connect Edge Gateway, and MiVoice Border Gateway.

17.   For example, Defendant has and continues to directly infringe at least claim 1 of the '790 Patent by making, using, offering to sell, selling, and/or importing into the United States products that include gateway devices that provide mobile user workgroups. The infringing systems include a network-based mobile workgroup system comprising a plurality of mobile client nodes, each mobile client node providing an interface for user interaction by a mobile user, for

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example, Mitel Remote Access Clients running on mobile devices, including but not limited to
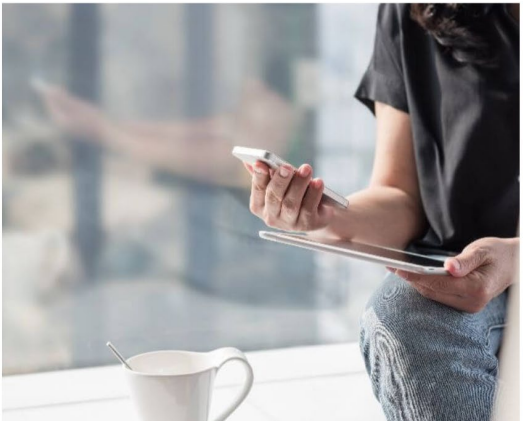
Android devices.

FEATURES

- Robust client for settings, call control, chats and events
- Available for PC, Mac, iOS and Android
- Audio and video conferencing with web sharing
- Built-in VPN
- Individual and group chat
- Team collaboration with persistent workspaces

- Business SMS
- Native integrations with leading CRMs and calendars
- Softphone and web dialer
- Mobile-first design
- Integrated contact center
- IP desk phones

BUSINESS COMMUNICATIONS CONTINUITY

MiCloud Connect is architected with enterprise-class security measures and redundancy at network, infrastructure and application layers to maximize uptime and scalability. In addition, cloud phone services are backed by Mitel's cloud Service Level Agreement (SLA) for added reassurance. And in the unlikely event that a disaster prevents Mitel's primary data center from servicing communications, MiCloud Connect disaster recovery process migrates service to a redundant data center located in a different geographic region in order to mitigate risk

[2]

18.   The Accused Products include a plurality of mobile service router nodes, each mobile service router node providing a mobile Virtual Private Network (VPN), or the functional equivalent thereof, to the mobile client nodes spanning multiple router hops and sites, for example, a Mitel Gateway or Firewall unit in connection with access points. Upon information and belief, the Accused Products further include a network address identifier (NAI) with which a user of a

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[2] https://www.mitel.com/products/business-phone-systems/cloud/micloud-connect

mobile client is uniquely identified to the mobile VPN system, for example, a device Media Access

Control ("MAC") address.

19.   Additionally, the Accused Products include a set of firewall filters and route

policies with which the workgroup is protected, such as, for example, firewalls and rules enforced

by the Mitel Gateway or Firewall units. Additionally, the mobile VPN provides each mobile client

secure data access to the VPN and provides secure data access to each mobile client from within

the mobile VPN, wherein a point of attachment of any mobile client node to the mobile VPN may

change without affecting that mobile client node's participation in the mobile VPN.

20.   Defendant has and continues to indirectly infringe one or more claims of the '790

Patent by knowingly and intentionally inducing others, including Mitel customers and end-users,

to directly infringe, either literally or under the doctrine of equivalents, by making, using, offering

to sell, selling and/or importing into the United States products that include infringing technology,

such as Mitel Client for mobile devices.

21.   Defendant, with knowledge that these products, or the use thereof, infringe the '790

Patent at least as of the date of this Complaint, knowingly and intentionally induced, and continues

to knowingly and intentionally induce, direct infringement of the '790 Patent by providing these

products to end users for use in an infringing manner.

22.   Defendant induced infringement by others, including end users, with the intent to

cause infringing acts by others or, in the alternative, with the belief that there was a high probability

that others, including end users, infringe the '790 Patent, but while remaining willfully blind to the

infringement.

23.   LHD has suffered damages as a result of Defendant's direct and indirect

infringement of the '790 Patent in an amount to be proved at trial.

24.   LHD has suffered, and will continue to suffer, irreparable harm as a result of Defendant's infringement of the '790 Patent, for which there is no adequate remedy at law, unless Defendant's infringement is enjoined by this Court.

COUNT II
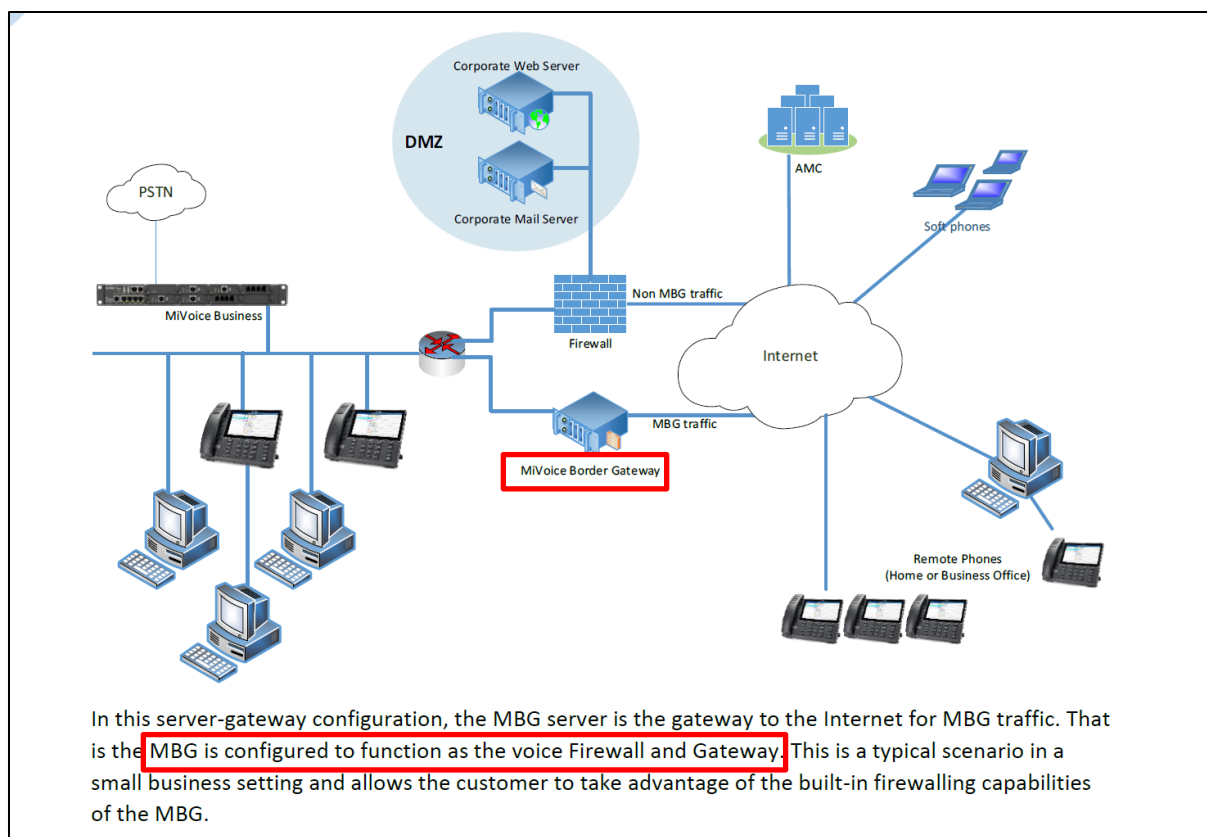### (Infringement of the '846 Patent)

25.   Paragraphs 1 through 13 are incorporated by reference as if fully set forth herein.

26.   LHD has not licensed or otherwise authorized Defendant to make, use, offer for sale, sell, or import any products that embody the inventions of the '846 Patent.

27.   Defendant has and continues to directly infringe the '846 Patent, either literally or under the doctrine of equivalents, without authority and in violation of 35 U.S.C. § 271, by making, using, offering to sell, selling, and/or importing into the United States products that satisfy each and every limitation of one or more claims of the '846 Patent. Such products include intrusion detection systems and intrusion prevention systems including the Mitel MiVoice Border Gateway, MiVoice 5000, and MiVoice MX-One.

28.   For example, Defendant has and continues to directly infringe at least claim 7 of the '846 Patent by making, using, offering to sell, selling, and/or importing into the United States products that include systems that practice the claimed method alone, or in combination with other Mitel products or services.

29.   The Accused Products are systems that perform an intrusion detection method comprising the steps of monitoring network traffic passing across a network communications path. For example, the MiVoice Border Gateway monitors network traffic.   Additionally, upon information and belief, the MiVoice Border Gateway performs network traffic parsing:

In this server-gateway configuration, the MBG server is the gateway to the Internet for MBG traffic. That is the MBG is configured to function as the voice Firewall and Gateway. This is a typical scenario in a small business setting and allows the customer to take advantage of the built-in firewalling capabilities of the MBG. [3]

30.   Additionally, upon information and belief, the Accused Products store individual components of said network packets in a database and construct multi-dimensional vectors from at least two of said stored individual components and applying at least one multi-variate analysis to said constructed multi-dimensional vectors, said at least one multi-variate analysis producing a corresponding output set. Additionally, the Accused Products establish a correlation between individual output sets based upon a selected metric to identify anomalous behavior.

31.   The Accused Products classify the anomalous behavior as an event selected from the group consisting of a network fault, a change in network performance, and a network attack.

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[3] "Security and the Mitel Teleworker" at 4:
https://productdocuments.mitel.com/legacypdf/Security/Technical%20Papers/All%20Releases/en/Security%20and%20the%20Teleworker%20Whitepaper-2019.pdf?_ga=2.254473288.135559264.1603549685-121082297.1603549685.

32.   Defendant has and continues to indirectly infringe one or more claims of the '846 Patent by knowingly and intentionally inducing others, including Mitel customers and end-users, to directly infringe, either literally or under the doctrine of equivalents, by making, using, offering to sell, selling and/or importing into the United States products that include infringing technology, such as IDS and IPS systems.

33.   Defendant, with knowledge that these products, or the use thereof, infringe the '846 Patent at least as of the date of this Complaint, knowingly and intentionally induced, and continues to knowingly and intentionally induce, direct infringement of the '846 Patent by providing these products to end users for use in an infringing manner.

34.   Defendant induced infringement by others, including end users, with the intent to cause infringing acts by others or, in the alternative, with the belief that there was a high probability that others, including end users, infringe the '846 Patent, but while remaining willfully blind to the infringement.   For example, Mitel provides instructions to secure Mitel's cloud-based communications networks.[4]   In these and other instruction manuals, Mitel promotes the use of infringing technology to secure its networks:

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[4]*See*, *e.g.*, Mitel Engineering Group, "Securing Mitel Cloud Based Unified Communication (UC) Networks":
https://productdocuments.mitel.com/legacypdf/Security/Technical%20Papers/All%20Releases/en/Securin g%20Mitel%20Cloud%20based%20Unified%20Communications.pdf?_ga=2.40540898.135559264.1603 549685-121082297.1603549685.

Chapter 7   Unifying Next-Generation Security Tools

This document has provided the network designer with recommendations on deploying several network security measures such as IDS, IDPS, NGFWs, advanced Layer Two Switches, NAC measures, Wi-Fi NAC measures and Host based IDPS. [5]

Off-Net Firewall Best Practices

A firewall is an information technology (IT) security device, which is configured to permit, deny or proxy data connections set and configured by the organization's security policy. Firewalls can either be hardware and/or software based. Mitel Network Services does configure firewalls per a Network Delivery billable engagement. Mitel does not make recommendations on what firewalls to use other than what capabilities are required.

Firewall requirements for any relevant Mitel MiCloud Connect configuration includes the following features:

- Stateful Inspection
- NAT
- DHCP server
- AV Antivirus Enforcement
- Spam filter
- Intrusion Detection System (IDS)
- Virtual Private Network (VPN) [6]

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[5] Mitel Engineering Group, "Securing Mitel Cloud Based Unified Communication (UC) Networks" at 39: https://productdocuments.mitel.com/legacypdf/Security/Technical%20Papers/All%20Releases/en/Securin g%20Mitel%20Cloud%20based%20Unified%20Communications.pdf?_ga=2.40540898.135559264.1603 549685-121082297.1603549685.

[6] "Network Best Practices for Mitel MiCloud Connect" at 25: https://oneview.mitel.com/servlet/fileField?entityId=ka40h000000XdISAA0&field=Attachment_1__Bod y__s.

IDPS - Performance Considerations

When selecting an IDS or IDPS solution the network designer must consider the throughput and packet processing capabilities of the product. IDS and IDPS products are built for specific network speeds and applications; there are IDS and IDPS solutions on the market to meet the requirements of most businesses and also the most common network interface speeds.

The IDPS solution needs to be able to process packets at wire speed - the same speed as the network segment that it is protecting. When an IDPS solution is introduced into a network segment, the product's behaviour must be as close to transparent as possible. The IDPS solution must not cause network congestion and any network latency introduced by the solution should be kept as low as possible, especially on network segments carrying real time traffic such as VoIP telephony and video conferencing.

An IDS device should selected so that its packet processing capabilities closely match the wire speed of the network segment being monitored, but since the data flow is not through the IDS, IDS processing speed is not as critical a consideration as when selecting an IDPS solution.

The following table provides some examples of IDPS product families and available interface speeds.

Product	Available Interface Speeds
Cisco IPS 4200 Sensor	1 Gb/s, 600 Mb/s, 250 Mb/s & 80 Mb/s
IBM Proventia IPS	2 Gb/s, 1.2 Gb/s, 400 Mb/s, 200 Mb/s
Juniper Networks IDP	1 Gb/s, 500 Mb/s, 250 Mb/s & 50 Mb/s
McAfee IntruSheild Network IPS	2 Gb/s, 1 Gb/s, 600 Mb/s, 200 Mb/s & 100 Mb/s
Tipping Point	5 Gb/s, 2 Gb/s, 1.2 Gb/s, 600 Mb/s, 200 Mb/s & 50 Mb/s

Table 2 IDPS Product Interface Speeds [7]

35.   LHD has suffered damages as a result of Defendant's direct and indirect infringement of the '846 Patent in an amount to be proved at trial.

36.   LHD has suffered, and will continue to suffer, irreparable harm as a result of Defendant's infringement of the '846 Patent, for which there is no adequate remedy at law, unless Defendant's infringement is enjoined by this Court.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury for all issues so triable.

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[7] Mitel Engineering Group, "Intrusion Detection and Prevention Systems" at 19: https://www.mitel.com/document-center/security/technical-papers/all-releases/en/intrusion-detection-and-prevention-systems-technical-paper.

PRAYER FOR RELIEF

WHEREFORE, LHD prays for relief against Defendant as follows:

a.   Entry of judgment declaring that Defendant has directly and/or indirectly infringed one or more claims of each of the Patents-in-Suit;

b.   An order pursuant to 35 U.S.C. § 283 permanently enjoining Defendant, its officers, agents, servants, employees, attorneys, and those persons in active concert or participation with it, from further acts of infringement of the Patents-in-Suit;

c.   An order awarding damages sufficient to compensate LHD for Defendant's infringement of the Patents-in-Suit, but in no event less than a reasonable royalty, together with interest and costs;

d.   Entry of judgment declaring that this case is exceptional and awarding LHD its costs and reasonable attorney fees under 35 U.S.C. § 285; and,

e.   Such other and further relief as the Court deems just and proper.

Dated: November 5, 2020   Respectfully submitted,

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