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12   **UNITED STATES DISTRICT COURT**

13   **CENTRAL DISTRICT OF CALIFORNIA**

14   **WESTERN DIVISION**

15

16 Scale Video Coding LLC,   Case No. 8:21-cv-1700

17   Plaintiff,   **COMPLAINT FOR PATENT
                                             INFRINGEMENT**
18   v.

19 KDDI America, Inc.,   **DEMAND FOR JURY TRIAL**

20   Defendant.

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COMPLAINT FOR PATENT INFRINGEMENT   CASE NO.

1   Plaintiff Scale Video Coding LLC ("Scale Video" or "Plaintiff"), for its

2 Complaint against Defendant KDDI America, Inc., (referred to herein as "KDDI"

3 or "Defendant"), alleges the following:

4   **NATURE OF THE ACTION**

5   1.   This is an action for patent infringement arising under the Patent Laws

6 of the United States, 35 U.S.C. § 1 *et seq*.

7   **THE PARTIES**

8   2.   Plaintiff Scale Video is a limited liability company organized under

9 the laws of the State of Delaware with a place of business at 717 N. Union Street,

10 Wilmington, Delaware 19805.

11   3.   Upon information and belief, KDDI is a corporation organized under

12 the laws of the State of New York with a place of business at 7 Teleport Drive,

13 Staten Island, New York 10311. Upon information and belief, KDDI sells, offers

14 to sell, and/or uses products and services throughout the United States, including in

15 this judicial district, and introduces infringing products and services into the stream

16 of commerce knowing that they would be sold and/or used in this judicial district

17 and elsewhere in the United States.

18   **JURISDICTION AND VENUE**

19   4.   This is an action for patent infringement arising under the Patent Laws

20 of the United States, Title 35 of the United States Code.

21   5.   This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331

22 and 1338(a).

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

24   7.   This Court has personal jurisdiction over the KDDI under the laws of

25 the State of California, due at least to their substantial business in California and in

26 this judicial district, directly or through intermediaries, including: (i) at least a

27 portion of the infringements alleged herein; and (ii) regularly doing or soliciting

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1 business, engaging in other persistent courses of conduct and/or deriving

2 substantial revenue from goods and services provided to individuals in the State of

3 California. Venue is also proper in this district because KDDI has a regular and

4 established place of business in this district. For instance, KDDI has a branch

5 office in this judicial district. For example, KDDI has a branch office located at

6 21241 South Western Avenue, Suite 210, Torrance, CA 90501. (*See, e.g.*,

7 https://us.kddi.com/company/corporate/ (last accessed Oct. 10, 2021).)

BACKGROUND

The Invention

10   8.   Erik Van Zijst is the inventor of U.S. Patent No 11,019,372 ("the '372

11 patent"). A true and correct copy of the '372 patent is attached as Exhibit A.

12   9.   The '372 patent resulted from the pioneering efforts of Mr. Van Zijst

13 (hereinafter "the Inventor")in the area of network management. These efforts

14 resulted in the development of a method and apparatus for the management of data

15 packets to support multicasting, or supporting one-to-many communication over

16 the Internet, within the last five years. At the time of these pioneering efforts, the

17 most widely implemented technology used to address network management was to

18 discard data packets that could not be immediately forwarded to the data recipient.

19 In that type of system, the data stream that is eventually received by one or more

20 receivers further down the network is corrupt and the congestion also has a

21 negative impact on communication sessions of other nodes that communicate

22 through the bottleneck router. The Inventor conceived of the inventions claimed in

23 the '372 patent as a way to send data packets from a data source to more than one

24 receiver, ideally without putting extra stress on the network or source when the

25 number of receivers increases.

26   10.   For example, the Inventor developed a method whereby receivers tell

27 the network which data streams the receivers want to receive and let the network

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1   compute data distribution paths to deliver just the right packets to each receiver.

2   As an additional example, the Inventor developed a method of letting the source

3   encode the list of receivers in each data packet, thereby freeing the network from

4   the potentially computationally intensive task of maintaining multicast distribution

5   paths. As a further example, the Inventor developed a method of relying on logic

6   at the receiver by letting the network apply a broadcast mechanism whereby each

7   packet is delivered to every connected note and letting the receivers filter out only

8   those packets that are interesting.

9   **Advantage Over the Prior Art**

10   11.   The patented invention disclosed in the '372 patent, provides many

11   advantages over the prior art, and in particular improved the operations of network

12   routers. (*See* '372 patent at 3:6-10.) One advantage of the patented invention is

13   that routers are given the ability to tell the network which data streams the

14   receivers want to receive and let the network compute data distribution paths to

15   deliver just the right packets to each receiver. (*See* '372 patent at 3:11-15.) Prior

16   to the patented invention, data packets would be discarded if bandwidth

17   bottlenecks prohibited the data packet from being forwarded. By allowing the

18   network to compute distribution paths, the path of the data packet could be

19   adjusted to avoid the bottleneck, allowing the data packet to be forwarded.

20   12.   Another advantage of the patented invention is the method of a source

21   delivering data packets to all receivers and allowing the receivers to filter out only

22   the packets needed at the receiver. (*See* '372 patent at 3:20-24.) While this places

23   a heavy initial load on the network, bottlenecks are avoided because the flow of

24   data packets over the distribution paths is constant and the network need not

25   compute different data paths based on the an increase in the number of receivers.

26   13.   Because of these significant advantages that can be achieved through

27   the use of the patented invention, Scale Video believes that the '372 patent

1   presents significant commercial value for companies like KDDI. Indeed, KDDI's

2   business engages heavily in the transfer of data packets over the Internet on at least

3   a national scale, representing a significant commercial investment for KDDI.

4   **Technological Innovation**

5   14.   The patented invention disclosed in the '372 patent resolves technical

6   problems related to network management, particularly problems related to the

7   utilization of video routers support multicasting data packets. As the '372 patent

8   explains, one of the limitations of the prior art as regards network management was

9   that when a bandwidth bottleneck is reached, a video router discards the packets

10   that cannot immediately be forwarded. This causes two problems. The data stream

11   that is eventually received by one or more receivers further down the network is

12   corrupt and the congestion also has a negative impact on communication sessions

13   of other nodes that communicate through the bottleneck router. (*See* '372 patent at

14   1:59-65.)

15   15.   The claims of the '372 patent do not merely recite the performance of

16   some well-known business practice from the pre-Internet world along with the

17   requirement to perform it on the Internet. Instead, the claims of the '372 patent

18   recite inventive concepts that are deeply rooted in engineering technology, and

19   overcome problems specifically arising out of how to manage the transfer of data

20   packets over a network.

21   16.   In addition, the claims of the '372 patent recite inventive concepts that

22   improve the functioning of video routers, particularly a video router's ability to

23   communicate with a network or filter data packets transferred over a network to

24   remove unimportant packets.

25   17.   Moreover, the claims of the '372 patent recite inventive concepts that

26   are not merely routine or conventional use of data packet management. Instead,

27   the patented invention disclosed in the '372 patent provides a new and novel

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1   solution to specific problems related to improving a network's ability to multicast

2   data packets to one or more receivers over a network with limited bandwidth

3   capacity and decreasing the number of data packets discarded when network

4   bandwidth bottlenecks are reached.

5   18.   And finally, the patented invention disclosed in the '372 patent does

6   not preempt all the ways that video routers may be used to improve network

7   management, nor does the '372 patent preempt any other well-known or prior art

8   technology.

9   19.   Accordingly, the claims in the '372 patent recite a combination of

10   elements sufficient to ensure that the claim in substance and in practice amounts to

11   significantly more than a patent-ineligible abstract idea.

12   **COUNT I – INFRINGEMENT OF U.S. PATENT NO. 11,019,372**

13   20.   The allegations set forth in the foregoing paragraphs 1 through 19 are

14   incorporated into this First Claim for Relief.

15   21.   On May 25, 2021, the '372 patent was duly and legally issued by the

16   United States Patent and Trademark Office under the title "LAYERED

17   MULTICAST AND FAIR BANDWIDTH ALLOCATION AND PACKET

18   PRIORITIZATION"

19   22.   Scale Video is the assignee and owner of the right, title and interest in

20   and to the '372 patent, including the right to assert all causes of action arising

21   under said patent and the right to any remedies for infringement of it.

22   23.   Upon information and belief, KDDI has and continues to directly

23   infringe one or more claims of the '372 patent by selling, offering to sell, making,

24   using, and/or providing and causing to be used products, specifically one or more

25   cloud business services, which by way of example include Business Intelligence,

26   Kintone, KDDI Cloud Inventory, KDDI Vist@Finder, Zscaler, HENNGE Cloud

27   Security Service, KDDI Cloud Platform Service, KDDI File Storage, KDDI

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Chatwork, and KDDI TeleOffice Video Conferencing System (See, e.g., https://us.kddi.com/products_services/category/cloud_saas.html (last accessed Oct. 10, 2021)) (the "Accused Instrumentalities").

24.   Upon information and belief, the Accused Instrumentalities performs a method for transmitting video signals.

25.   Exemplary infringement analysis showing infringement of claims 1, 6, and 11 of the '372 patent is set forth in Exhibit B. This infringement analysis is necessarily preliminary, as it is provided in advance of any discovery provided by KDDI with respect to the '372 patent. Scale Video reserves all rights to amend, supplement and modify this preliminary infringement analysis. Nothing in the attached chart should be construed as any express or implied contention or admission regarding the construction of any term or phrase of the claims of the '372 patent.

26.   The Accused Instrumentality infringed and continues to infringe claims 1, 6, and 9 of the '372 patent during the pendency of the '372 patent.

27.   Scale Video has been harmed by the KDDI's infringing activities.

JURY DEMAND

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

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Scale Video demands judgment for itself and against KDDI as follows:

A.   An adjudication that the KDDI has infringed the '372 patent;

B.   An award of damages to be paid by KDDI adequate to compensate Scale Video for KDDI's past infringement of the '372 patent, and any continuing or future infringement through the date such judgment is entered, including

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1 interest, costs, expenses and an accounting of all infringing acts including, but not

2 limited to, those acts not presented at trial;

3   C.   A declaration that this case is exceptional under 35 U.S.C. § 285, and

4 an award of Scale Video's reasonable attorneys' fees; and

5   D.   An award to Scale Video of such further relief at law or in equity as

6 the Court deems just and proper.

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8 Dated: October 13, 2021   By: */s/ Timothy Devlin*

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