

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

<p>T-NETIX, INC., and SECURUS TECHNOLOGIES, INC.</p> <p style="text-align: center;">Plaintiffs,</p> <p>v.</p> <p>PINNACLE PUBLIC SERVICES, LLC, INTELMATE, LLC, and TELMATE, LLC</p> <p style="text-align: center;">Defendants.</p>	§ § § § § § § § § § §	<p>Civil Action No. 2:09-CV-00333-TJW</p> <p>Jury Trial Requested</p>
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**PLAINTIFFS’ SECOND AMENDED COMPLAINT
AND JURY DEMAND**

Plaintiffs T-Netix, Inc. and Securus Technologies, Inc. file this Second Amended Complaint and Jury Demand for patent infringement against Defendants Pinnacle Public Services, LLC, Intelmate, LLC, and Telmate, LLC, and allege as follows:

**I.
PARTIES**

1. Plaintiff T-NETIX, Inc. (“T-Netix”) is a Delaware corporation with its principal place of business in Dallas, Texas. Plaintiff Securus Technologies, Inc. (“Securus Technologies”) is a Delaware corporation with its principal place of business in Dallas, Texas. Securus was formerly known as Evercom Systems, Inc.

2. Upon information and belief, Defendant Pinnacle Public Services, LLC, (“Pinnacle”) is an Oregon limited liability company with its principal place of business at 1108 SE 6th St., Ontario, Oregon 97914. Pinnacle may be served with process by serving its registered

agent in the State of Oregon, Max S. Taggart, at its registered agent address, 399 S. Oregon St., Ontario, Oregon 97914-2811.

3. Upon information and belief, Defendant Intelmate, LLC, (“Intelmate”) is a California company with its principal place of business at 188 King Street #602, San Francisco, California 94107. Intelmate may be served with process by serving its registered agent in the State of California, Richard Torgersrud, at its registered agent address, 188 King Street #602, San Francisco, California 94107.

4. Upon information and belief, Defendant Telmate, LLC, (“Telmate”) is a Delaware limited liability company with its principal place of business at 1108 SE 6th St., Ontario, Oregon 97914. Telmate may be served with process by serving its registered agent in the State of Oregon, Corporation Service Company, at its registered agent address, 285 Liberty Street NE, Salem, Oregon 97301.

5. Upon information and belief, Pinnacle, Intelmate, and Telmate operate and hold themselves out to customers and potential customers as affiliated companies with overlapping services, ownership, and/or operating resources.

II. **JURISDICTION AND VENUE**

6. This action arises under the laws of the United States, including the patent laws of the United States, 35 U.S.C. § 101 *et seq.* This Court has original and exclusive jurisdiction over the subject matter of the Complaint under 28 U.S.C. §§ 1331 and 1338(a).

7. Upon information and belief, Defendants operate data centers in Dallas, Texas and in Longview, Texas, and transact business and have committed acts of patent infringement within the State of Texas and, upon information and belief, within the Eastern District of Texas. Defendants are, therefore, subject to the personal jurisdiction of this Court.

8. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b)-(c) and 1400(b).

III.
PATENT INFRINGEMENT

9. United States Patent No. 6,560,323 (the “’323 Patent”) entitled “Computer-Based Method and Apparatus for Controlling, Monitoring, Recording and Reporting Telephone Access” was duly and legally issued by the United States Patent and Trademark Office on May 6, 2003, after full and fair examination. T-Netix is the assignee of all rights, title, and interest in and to the ’323 Patent, and possesses all rights of recovery, including the right to recover all past damages under the ’323 Patent.

10. United States Patent No. 5,655,013 (the “’013 Patent”) entitled “Computer-Based Method and Apparatus for Controlling, Monitoring, Recording and Reporting Telephone Access” was duly and legally issued by the United States Patent and Trademark Office on August 5, 1997, after full and fair examination. T-Netix is the assignee of all rights, title, and interest in and to the ’013 Patent, and possesses all rights of recovery, including the right to recover all past damages under the ’013 Patent.

11. United States Patent No. 6,611,583 (the “’583 Patent”) entitled “Computer-Based Method and Apparatus for Controlling, Monitoring, Recording and Reporting Telephone Access” was duly and legally issued by the United States Patent and Trademark Office on August 26, 2003, after full and fair examination. T-Netix is the assignee of all rights, title, and interest in and to the ’583 Patent, and possesses all rights of recovery, including the right to recover all past damages under the ’583 Patent.

12. United States Patent No. 7,248,680 (the “’680 Patent”) entitled “Computer-Based Method and Apparatus for Controlling, Monitoring, Recording and Reporting Telephone Access” was duly and legally issued by the United States Patent and Trademark Office on July

24, 2007, after full and fair examination. T-Netix is the assignee of all rights, title, and interest in and to the '680 Patent, and possesses all rights of recovery, including the right to recover all past damages under the '680 Patent.

13. United States Patent No. 7,899,167 (the "'167 Patent") entitled "Centralized Call Processing" was duly and legally issued by the United States Patent and Trademark Office on March 1, 2011, after full and fair examination. Securus Technologies is the assignee of all rights, title, and interest in and to the '167 Patent, and possesses all rights of recovery, including the right to recover all past damages under the '167 Patent.

14. Plaintiffs make, use, sell, and offer to sell to the telecommunications industry specialized call-processing and billing equipment and services for correctional institutions, direct local and long-distance call processing for correctional facilities, value-added telecommunications services such as pre-connection restrictions, digital recording, jail and inmate management systems, video booking and other related goods and services, including commissary services.

15. Defendants make, manufacture, use, sell, or offer to sell specialized telephone call-processing and billing equipment and/or services for correctional institutions in competition with Securus. On information and belief, Defendants by making, using, selling, or offering to sell in the United States, without authority, products and services, including their Intelmate Telephone System or ITS, have directly and indirectly infringed (by inducement) and are continuing to infringe, directly and indirectly, the '323 Patent, the '013 Patent, the '583 Patent, the '680, and the '167 Patent within the United States.

IV.
CAUSES OF ACTION

Count One – Infringement of '323 Patent

16. Plaintiffs re-allege and incorporate by reference paragraphs 1-15 above.

17. Defendants have infringed and continue to directly and indirectly infringe one or more claims of the '323 Patent by, among other things, making, manufacturing, using, selling, or offering to sell goods and services, as stated above, that practice the '323 Patent in violation of 35 U.S.C. § 271.

Count Two – Infringement of '013 Patent

18. Plaintiffs re-allege and incorporate by reference paragraphs 1-15 above.

19. Defendants have infringed and continue to directly and indirectly infringe one or more claims of the '013 Patent by, among other things, making, manufacturing, using, selling, or offering to sell goods and services, as stated above, that practice the '013 Patent in violation of 35 U.S.C. § 271.

Count Three – Infringement of '583 Patent

20. Plaintiffs re-allege and incorporate by reference paragraphs 1-15 above.

21. Defendants have infringed and continue to directly and indirectly infringe one or more claims of the '583 Patent by, among other things, making, manufacturing, using, selling, or offering to sell goods and services, as stated above, that practice the '583 Patent in violation of 35 U.S.C. § 271.

Count Four – Infringement of '680 Patent

22. Plaintiffs re-allege and incorporate by reference paragraphs 1-15 above.

23. Defendants have infringed and continue to directly and indirectly infringe one or more claims of the '680 Patent by, among other things, making, manufacturing, using, selling, or offering to sell goods and services, as stated above, that practice the '680 Patent in violation of 35 U.S.C. § 271.

Count Five – Infringement of '167 Patent

24. Plaintiffs re-allege and incorporate by reference paragraphs 1-15 above.

25. Defendants have infringed and continue to directly and indirectly infringe one or more claims of the '167 Patent by, among other things, making, manufacturing, using, selling, or offering to sell goods and services, as stated above, that practice the '167 Patent in violation of 35 U.S.C. § 271.

**V.
REMEDIES**

26. As a direct and proximate consequence of the acts and practices of Defendants in infringing and/or inducing the infringement of one or more claims of the '323 Patent, the '013 Patent, the '583 Patent, the '680 Patent, and the '167 Patent, Plaintiffs have been damaged in an amount to be determined at trial and will continue to be damaged in their business and property rights as a result of Defendants' infringing activities, unless such activities are enjoined by this Court. Pursuant to 35 U.S.C. § 284, Plaintiffs are entitled to damages adequate to compensate for the infringement, including, *inter alia*, lost profits and/or a reasonable royalty.

27. By reason of their infringing acts and practices, Defendants have caused, are causing, and, unless such acts and practices are enjoined by the Court, will continue to cause immediate and irreparable harm to Plaintiffs for which there is no adequate remedy at law, and for which Plaintiffs are entitled to injunctive relief under 35 U.S.C. § 283. Plaintiffs therefore request a permanent injunction prohibiting Defendants, their directors, officers, employees, agents, parents, subsidiaries, affiliates, and anyone else in active concert or participation with them from infringement, inducement to infringe, or contributory infringement of the '323 Patent, the '013 Patent, the '583 Patent, the '680 Patent, and the '167 Patent, including the making, manufacture, use, sale, offer for sale, distribution, or promotion of products and/or services

falling within the scope of the '323 Patent, the '013 Patent, the '583 Patent, the '680 Patent, or the '167 Patent.

28. Plaintiffs have given Defendants actual notice of their rights in the '323 Patent, the '013 Patent, the '583 Patent, the '680 Patent, and the '167 Patent by written notice, by filing suit, or otherwise. Defendants have knowledge of the '323 Patent, the '013 Patent, the '583 Patent, the '680 Patent, and/or the '167 Patent and have not ceased their infringing activities. Defendants' continuing infringement of the '323 Patent, the '013 Patent, the '583 Patent, the '680 Patent, and the '167 Patent is willful and deliberate.

VI.
COSTS, INTEREST AND ATTORNEYS' FEES

29. Plaintiffs request the Court award them all reasonable attorneys' fees and costs incurred in this litigation and prejudgment and postjudgment interest pursuant to 35 U.S.C. §§ 284 and 285.

VII.
JURY DEMAND

30. Plaintiffs request a jury trial of all issues in this action so triable.

VIII.
PRAAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request the following relief:

1. A judgment that Defendants have infringed, directly and/or indirectly, the '323 Patent, the '013 Patent, the '583 Patent, the '680 Patent, and the '167 Patent;
2. A judgment and order permanently enjoining Defendants and their directors, officers, employees, agents, parents, subsidiaries, affiliates, and all persons in active concert or participation with them from infringement,

inducement to infringe, or contributory infringement of the '323 Patent, the '013 Patent, the '583 Patent, the '680 Patent, and the '167 Patent, including the making, manufacture, use, sale, offer for sale, distribution, or promotion of products and/or services falling within the scope of the '323 Patent, the '013 Patent, the '583 Patent, the '680 Patent, and the '167 Patent pursuant to 35 U.S.C. § 283;

3. A judgment and order requiring Defendants to pay Plaintiffs damages sufficient to compensate them for the infringement of the '323 Patent, the '013 Patent, the '583 Patent, the '680 Patent, and the '167 Patent in an amount not less than Plaintiffs' lost profits and/or a reasonable royalty and interest and costs, pursuant to 35 U.S.C. § 284, and supplemental damages for any continuing post-verdict infringement up until entry of final judgment with an accounting, as needed;
4. A judgment and order awarding treble damages, pursuant to 35 U.S.C. § 284, to the extent that Defendants' acts of infringement of the '323 Patent, the '013 Patent, the '583 Patent, the '680 Patent, and the '167 Patent are determined to be willful;
5. An award of prejudgment interest, pursuant to 35 U.S.C. § 284, from the date of each act of infringement of the '323 Patent, the '013 Patent, the '583 Patent, the '680 Patent, and the '167 Patent by Defendants to the day a damages judgment is entered, and a further award of post-judgment interest, pursuant to 28 U.S.C. § 1961, continuing until such judgment is paid;

6. An award of all costs and reasonable attorneys' fees against Defendants pursuant to 35 U.S.C. §§ 284 and 285, based on their infringement of the '323 Patent, the '013 Patent, the '583 Patent, the '680 Patent, and the '167 Patent;
7. Such other and further relief to which Plaintiffs may be entitled.

DATED: August 22, 2011

Respectfully submitted,

By: /s/ Anthony J. Magee

G. Michael Gruber
State Bar No. 08555400
mgruber@ghjhlaw.com

Anthony J. Magee
State Bar No. 00786081
amagee@ghjhlaw.com

Demarron A. Berkley
State Bar No. 24050287
dberkley@ghjhlaw.com

**GRUBER HURST JOHANSEN HAIL
SHANK, LLP**

1445 Ross Ave., Suite 2500
Dallas, Texas 75202
Telephone: 214.855.6800
Facsimile: 214.855.6808

**ATTORNEYS FOR PLAINTIFFS T-NETIX,
INC. and SECURUS TECHNOLOGIES. INC.**

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this the 22nd day of August 2011. Any other counsel of record will be served by first class U.S. mail on this same date.

/s/ Anthony J. Magee
Anthony J. Magee