

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ROME DIVISION**

AVAYLA LICENSING LLC,

Plaintiff,

v.

Premiere Global Services, Inc.,

Defendant.

Case No.

Jury Trial Demanded

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Avayla Licensing LLC (“Plaintiff”) hereby files this Original Complaint for Patent Infringement against Premiere Global Services, Inc. (“PGi” or “Defendant”), and alleges, upon information and belief, as follows:

THE PARTIES

1. Avayla Licensing LLC is a limited liability company organized and existing under the laws of the State of Texas with its principal place of business at 1401 Lavaca Street, Austin, TX 78701.
2. Defendant is a corporation organized and existing under the laws of the State of Georgia with a place of business in this District at 999 Peachtree Street, Suite 2300, Atlanta, GA, 30309. Defendant may be served through its registered agent, CT Corporation, located at 289 S. Culver Street, Lawrenceville, GA 30046.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over this case under 28 U.S.C. §§ 1331 and 1338.
4. This Court has personal jurisdiction over Defendant. Defendant has continuous and systematic business contacts with the State of Georgia. Defendant transacts business within this District and elsewhere in the State of Georgia. Further, this Court has personal jurisdiction over Defendant based on its commission of one or more acts of infringement of Plaintiff's Patents in this District and elsewhere in the State of Georgia.
5. Defendant directly conducts business extensively throughout the State of Georgia, by distributing, making, using, offering for sale, selling, and advertising its products and services in the State of Georgia and in this District. Defendant has purposefully and voluntarily made its business services, including the infringing systems and services, available to residents of this District and into the stream of commerce with the intention and expectation that they will be purchased and/or used by consumers in this District.
6. Defendant maintains physical brick-and-mortar business locations in the State of Georgia and within this District, retains employees specifically in this District for the purpose of servicing customers in this District, and generates substantial revenues from its business activities in this District.
7. Venue is proper in this District as to Defendant pursuant to at least 28 U.S.C. §§ 1391(c)(2) and 1400(b). As noted above, Defendant maintains a regular and established business presence in this District.

PATENTS-IN-SUIT

8. Plaintiff is the sole and exclusive owner, by assignment, of U.S. Patent 9,253,445 (the “445 Patent”), titled “Terminal Multipoint Control Unit, System and Method for Implementing High Definition Multiple Pictures” (hereinafter collectively referred to as the “Patents-in-Suite”).
9. By written instruments duly filed with the United States Patent and Trademark Office, Plaintiff is assigned all rights, title, and interest in the Patents-in-Suit. As such, Plaintiff has sole and exclusive standing to assert the Patents-in-Suit and to bring these causes of action.
10. The Patents-in-Suit are valid, enforceable, and were duly issued in full compliance with Title 35 of the United States Code.
11. The Patents-in-Suit were originally assigned to international industry power, ZTE Corporation.
12. The named inventors for the Patents-in-Suit are the named inventors on hundreds U.S. Patents that were also originally assigned to international industry leaders such as ZTE, Shenzhen China Star Optoelectronics Technology, Samsung, and Zhejiang University.
13. The Patents-in-Suit each include numerous claims defining distinct inventions. No single claim is representative of any other.
14. The priority date of each of the Patents-in-Suit is at least as early as June 30, 2009. As of the priority date, the inventions as claimed were novel, non-obvious, unconventional, and non-routine. Indeed, the Patents-in-Suit overcame a number of specific technological problems in the industry, and provided specific technological solutions.
15. The claims of the Patents-in-Suit are patent eligible under 35 U.S.C. § 101, 102, 103, and 112, as reflected by the fact that three different Patent Examiners all agreed and allowed the

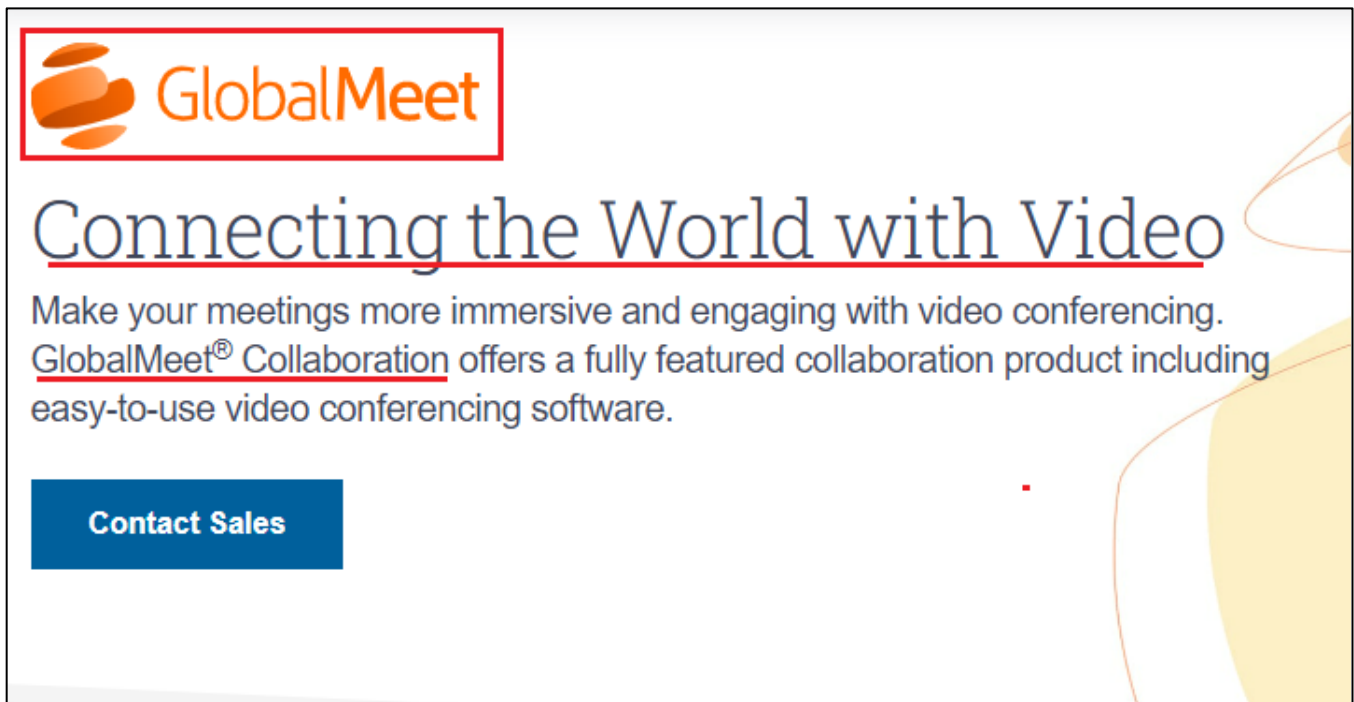
Patents-in-Suit over extensive prior art as disclosed and of record during the prosecution of the Patents-in-Suit. *See Stone Basket Innov. v. Cook Medical*, 892 F.3d 1175, 1179 (Fed. Cir. 2018) (“when prior art is listed on the face of a patent, the examiner is presumed to have considered it”) (citing *Shire LLC v. Amneal Pharm., LLC*, 802 F.3d 1301, 1307 (Fed. Cir. 2015)); *Exmark Mfg. v. Briggs & Stratton*, 879 F.3d 1332, 1342 (Fed. Cir. 2018).

16. After giving full proper credit to the prior art and having conducted a thorough search for all relevant art and having fully considered the most relevant art known at the time, the United States Patent Examiners allowed all of the claims of the Patents-in-Suit to issue. In so doing, it is presumed that Examiners used their knowledge of the art when examining the claims. *See K/S Himpp v. Hear-Wear Techs., LLC*, 751 F.3d 1362, 1369 (Fed. Cir. 2014). It is further presumed that Patent Examiners had experience in the field of the invention, and that the Patent Examiners properly acted in accordance with a person of ordinary skill. *In re Sang Su Lee*, 277 F.3d 1338, 1345 (Fed. Cir. 2002).
17. The claims of the Patents-in-Suit are novel and non-obvious, including over all non-cited art that is merely cumulative with the referenced and cited prior art. *See 37 C.F.R. § 1.56(b)* (information is material to patentability when it is not cumulative to information already of record in the application); *see also AbbVie Deutschland GmbH v. Janssen Biotech*, 759 F.3d 1285, 1304 (Fed. Cir. 2014); *In re DBC*, 545 F.3d 1373, 1382 (Fed. Cir. 2008). Likewise, the claims of the Patents-in-Suit are novel and non-obvious, including over all non-cited contemporaneous state of the art systems and methods, all of which would have been known to a person of ordinary skill in the art, and which were therefore presumptively also known and considered by the Examiners. *See, e.g., St. Clair I.P. Consultants v. Canon, Inc.*, 2011 WL 66166 at *6 (Fed. Cir. 2011); *In re Sang Su Lee*, 277 F.3d 1338, 1345 (Fed. Cir. 2002);

In re Koninklijke Philips Patent Litigation, 2020 WL 7392868 at *19 (N.D. Cal. 2020); *Standard Oil v. American Cyanamid*, 774 F.2d 448, 454 (Fed. Cir. 1985) (persons of ordinary skill are presumed to be aware of all pertinent prior art).

THE ACCUSED INSTRUMENTALITIES

18. Upon information and belief, Defendant makes, sells, advertises, offers for sale, uses, or otherwise provides a a method for implementing high-definition multiple pictures (e.g., HD video conferencing) covered by the Patents-in-Suit, including GlobalMeet Collaboration, as represented below, including all augmentations to these platforms or descriptions of platforms. Collectively, all the foregoing is referred to herein as the “Accused instrumentalities.”

A screenshot of a GlobalMeet advertisement. At the top left, the GlobalMeet logo is enclosed in a red rectangular box. The logo consists of three orange, rounded shapes to the left of the text "GlobalMeet" in an orange sans-serif font. Below the logo, the headline "Connecting the World with Video" is written in a large, blue, serif font and is underlined with a red line. Underneath the headline, the text "Make your meetings more immersive and engaging with video conferencing. GlobalMeet® Collaboration offers a fully featured collaboration product including easy-to-use video conferencing software." is displayed in a smaller blue font. At the bottom left, there is a blue rectangular button with the white text "Contact Sales". The background of the advertisement is white with some faint orange and yellow abstract shapes on the right side.

See <https://www.pgi.com/online-meetings/video-conferencing/>.

19. Defendant has a cloud-based infrastructure solution for HD video conferencing that contains MCU in its hardware providing flexible bandwidth optimization and multiple participants layout functionality features.

GlobalMeet® Collaboration
Delivering a Superior Collaboration Experience

GlobalMeet Collaboration is a feature-rich video conferencing solution that delivers a superior collaboration experience. Users have instant, one-click access to their own simple and intuitive meeting room on any device, whenever, wherever. Backed by 24/7 in-meeting support, GlobalMeet is an ideal fit for team meetings, customer presentations, training sessions and other everyday collaboration needs.

See <https://www.pgi.com/wp-content/uploads/2020/05/GlobalMeet-Collaboration-Datasheet.pdf>

Video Conferencing Features

 HD Video Enable high-quality video with simultaneous screen share.	 Recording Playback your meetings anytime with cloud recording.
 Global Reach With over 160 points of presence in 60 countries, you can meet from anywhere.	 Video Room Integration Maximize video room hardware investments.

See <https://www.pgi.com/online-meetings/video-conferencing/>.

Cloud-based Video Conference Calls

GlobalMeet Collaboration combines web and video conferencing technology with industry-leading audio for secure and reliable meetings. The cloud-based technology allows you to turn on your webcam or leverage your existing video room infrastructure for a video meeting.

[Contact Sales](#)

See <https://www.pgi.com/online-meetings/video-conferencing/>

GlobalMeet Collaboration: The Secure Choice

GlobalMeet Collaboration is built with the security of our customers and their data in mind with greater controls to the meeting host, including participant access controls and meeting locks.



Secure and Reliable Global Service:

We provide enterprises with the tools to communicate and collaborate securely - without worrying about your data or privacy.



Continuous Performance Improvement:

At PGI, our network, hardware, software, personnel and facilities are all optimized to protect the integrity of your meetings.

See <https://www.pgi.com/online-meetings/>



HD Video Streaming

Flexible HD video streaming with zero network bandwidth interruption

See <https://www.pgi.com/wp-content/uploads/2020/03/GlobalMeet-Webcast-Datasheet-06.2019-2.pdf>



Seamless Integrations

Gain more value by utilizing our integrations with key cloud-based software providers.



Audience Engagement

Control the audience experience with dynamic layout capabilities, a way for presenters to direct the audience to focus on specific presentation content.

See <https://www.pgi.com/wp-content/uploads/2020/03/GlobalMeet-Webcast-Datasheet-06.2019-2.pdf>.

Online Meetings Should Be Collaborative

GlobalMeet® Collaboration puts powerful meeting tools at your fingertips. Instantly join web or video meetings from your office, home or on the go.

See <https://www.pgi.com/online-meetings/>.



Superior Meeting Quality

Engage participants with high-quality and flawless HD audio and video.



Interoperability with H.323 and SIP

Works with the most popular conferencing systems, including Cisco/Tandberg, LifeSize, Polycom and more.



Universal Access

Users can easily join meetings in real-time via video endpoints, regardless of location or device.



Engaging Video Layouts

Experience video layouts with up to six video cubes and simultaneous screen share.

See <https://www.pgi.com/wp-content/uploads/2018/10/GlobalMeet-Video-Room-Connector-Datasheet-09.2018-final.pdf>.

Video conferencing: The linchpin to successful huddle rooms

Video conferencing is a critical ingredient for great huddle room experiences. It enables team members to have face-to-face conversations that encourage better listening, more valuable conversations and more productive collaboration.

Video conferencing technology connects a multitude of endpoints and software that further augment the experience, including:

- Collaboration platforms
- White boarding technology
- Display screens of various sizes

Companies use a variety of terms for video conferencing technology, such as video room connector, video teleconferencing and standards-based conferencing. At the core is software-based video room systems or endpoints with internet connection and a multi-point control unit (MCU) or bridge for multi-point conferencing.

See <https://www.pgi.com/resources/articles/the-it-leaders-guide-to-collaboration-huddle-rooms/>.

COUNT I

Infringement of U.S. Patent No. 9,253,445

20. Plaintiff incorporates the above paragraphs by reference.
21. Defendant has been on actual notice of the '445 Patent at least as early as the date it received service of the Original Complaint in this litigation.
22. The damages period begins at least as early as six years prior to the date of service of the Original Complaint in this litigation.
23. Defendant manufactures, sells, offers for sale, owns, directs, and/or controls the operation of the Accused Instrumentalities and generates substantial financial revenues and benefits therefrom.
24. Defendant has directly infringed and continues to directly infringe the claims of the '445 Patent. As exemplary, Claim 1 is by making, using, importing, selling, and/or offering for sale the Accused Instrumentalities. Defendant directly makes and sells the infringing Accused Instrumentalities at least because it is solely responsible for putting the infringing systems into service by directing or controlling the systems as a whole and by obtaining the

benefits therefrom. More specifically, and on information and belief, with respect to the Accused Instrumentalities, Defendant:

- (i) practices such that a terminal (e.g., GlobalMeet video conference systems, mobile apps, video endpoints, etc.) receiving a capability set (e.g., HD video codec stream such as H.264) sent by a Multipoint Control Unit (MCU), the capability set (e.g., HD video codec stream such as H.264) including a high-definition video code stream format (e.g., format based on bandwidth data) calculated by the MCU according to video conference control information (e.g., control information related to conference video stream such as number of participants, whether a participant enabled video capturing, etc.);
- (ii) provides a user terminal such as GlobalMeet video conference systems, a user's smartphone enabled with GlobalMeet Collaboration mobile application, etc. The user terminal receives video conferencing capability set from GlobalMeet Platform's MCU;
- (iii) provides video conference call functionality through it to multiple user terminal devices. It sets calling functions such as video/audio, bitrate, etc. (e.g., capability set) for each terminal in the conference call. The MCU gathers bandwidth data for all connected terminals, calculates optimum stream format based on the participant numbers, videos to be streamed, network, etc. and sends the capability set to the terminal;
- (iv) practices such that the terminal (e.g., GlobalMeet video conference systems) encoding a high-definition video image (e.g., full-HD video conferencing) according

- to the video code stream format (e.g., HD video codec stream such as H.265/HEVC, H.264 etc.) and sending an encoded high-definition video code stream to the MCU;
- (v) provides video conference call functionality through it to multiple user terminal devices. It sets calling functions such as video/audio, bitrate, etc. (e.g., capability set) for each terminal in the conference call. The MCU gathers bandwidth data for all connected terminals, calculates optimum stream format based on the participant numbers, videos to be streamed, network, etc. and sends the capability set to the terminal. The user terminal encodes video streams including HD videos using the capability sent and sends it to MCU;
 - (vi) practices such that the terminal (e.g., GlobalMeet video conference systems, mobile apps, video endpoints, etc.) receiving a high-definition multipicture video code stream image obtained after the MCU synthesizes the high-definition video code stream image into multiple pictures (e.g., video conference comprising participant's video stream) and displaying the high-definition multipicture video code stream image;
 - (vii) supports providing the video conference control information comprising a number of pictures of a conference (e.g., the video frames of participants displayed on a number of tiles depending upon the number of participating users), a picture number (e.g., when the user is the current speaker, it's picture number is considered as the first picture number on the layout) of the terminal (e.g., GlobalMeet video conference systems, mobile apps, video endpoints, etc.), and whether the terminal is viewed by other terminals (e.g., based on layout and display control information, etc.); and

- (ix) provides video conference call functionality through MCU to multiple user terminal devices. It sets calling functions such as video/audio, image layout size, bitrate, etc. (e.g., capability set) for each terminal in the conference call. The MCU gathers bandwidth data for all connected terminals and calculates optimum stream format based on the number of participants, multiple video pictures from the participants, network congestion, etc. It sends the capability set to the terminal.

25. Further on information and belief, Defendant directly uses the infringing Accused Instrumentalities at least because it assembled the combined infringing elements and makes them collectively available in the United States, including via its Internet domain web pages and/or software applications, as well as via its internal systems and interfaces. Further, and on information and belief, Defendant has directly infringed by using the infringing Accused Instrumentalities as part of its ongoing and regular testing and/or internal legal compliance activities. Such testing and/or legal compliance necessarily requires Defendant to make and use the Accused Instrumentalities in an infringing manner. Still further, Defendant is a direct infringer by virtue of its branding and marketing activities, which collectively comprise the sale and offering for sale of the infringing Accused Instrumentalities.
26. As shown above, Defendant is making, using, and offering for sale the Accused Instrumentalities.
27. Additionally, upon information and belief, Defendant owns, directs, and/or controls the infringing method operation of the Accused Instrumentalities.
28. On information and belief, the infringement of the Patents-in-Suit by Defendant will now be willful through the filing and service of this Complaint.

29. In addition or in the alternative, Defendant now has knowledge and continues these actions and it indirectly infringes by way of inducing direct infringement by others and/or contributing to the infringement by others of the '445 Patent in the State of Georgia, in this judicial district, and elsewhere in the United States, by, among other things, making, using, importing, offering for sale, and/or selling, without license or authority, infringing services for use in systems that fall within the scope of the claims of the '445 Patent. This includes without limitation, one or more of the Accused Instrumentalities by making, using, importing offering for sale, and/or selling such services, Defendant injured Plaintiff and is thus liable to Plaintiff for infringement of the '445 Patent under 35 U.S.C. § 271.
30. Now with knowledge of the Patents-in-Suit, Defendant induces infringement under Title 35 U.S.C. § 271(b). Defendant will have performed actions that induced infringing acts that Defendant knew or should have known would induce actual infringements. *See Manville Sales Corp. v. Paramount Sys., Inc.*, 917 F.2d 544, 553 (Fed.Cir.1990), quoted in *DSU Med. Corp. v. JMS Co.*, 471 F.3d 1293, 1306 (Fed.Cir.2006) (*en banc* in relevant part). “[A] finding of inducement requires a threshold finding of direct infringement—either a finding of specific instances of direct infringement or a finding that the accused products necessarily infringe.” *Ricoh*, 550 F.3d at 1341 (citing *ACCO Brands, Inc. v. ABA Locks Manufacturer Co.*, 501 F.3d 1307, 1313, (Fed. Cir. 2007).
31. Plaintiff will rely on direct and/or circumstantial evidence to prove the intent element. *See Fuji Photo Film Co. v. Jazz Photo Corp.*, 394 F.3d 1368, 1377 (Fed. Cir. 2005) (“A patentee may prove intent through circumstantial evidence.”); *Water Techs. Corp. v. Calco, Ltd.*, 850 F.2d 660, 668 (Fed. Cir. 1988) (“While proof of intent is necessary, direct evidence is not required; rather, circumstantial evidence may suffice.”).

32. Defendant has taken active steps to induce infringement, such as advertising an infringing use, which supports a finding of an intention for the accused product to be used in an infringing manner. *See Metro-Goldwyn-Mayer Studios Inc. v. Grokster, Ltd.*, 545 U.S. 913, 932, 125 S. Ct. 2764, 162 L. Ed. 2d 781 (2005) (explaining that the contributory infringement doctrine “was devised to identify instances in which it may be presumed from distribution of an article in commerce that the distributor intended the article to be used to infringe another’s patent, and so may justly be held liable for that infringement”).
33. In addition, on information and belief, and based in part upon the clear infringement by the Accused Instrumentalities, Defendant has a practice of not performing a review of the patent rights of others first for clearance or to assess infringement thereof prior to launching products and services. As such, Defendant has been willfully blind to the patent rights of Plaintiff.
34. The foregoing infringement on the part of Defendant has caused past and ongoing injury to Plaintiff. The specific dollar amount of damages adequate to compensate for the infringement shall be determined at trial but is in no event less than a reasonable royalty from the date of first infringement to the expiration of the Patents-in-Suit.
35. Each of Defendant’s aforesaid activities have been without authority and/or license from Plaintiff.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the Court enter judgment against Defendant as follows:

1. Declaring that Defendant has infringed each of the Patents-in-Suit;

2. Awarding Plaintiff its damages suffered because of Defendant's infringement of the Patents-in-Suit;
3. Enter a judgment awarding treble damages pursuant to 35 U.S.C. §284 for Defendant's willful infringement of one or more of the Patents-in-Suit;
4. Awarding Plaintiff its costs, reasonable attorneys' fees, expenses, and interest; and
5. Granting Plaintiff such further relief as the Court finds appropriate.

JURY DEMAND

Plaintiff demands trial by jury, under Fed. R. Civ. P. 38.

Respectfully Submitted

/s/ M. Scott Fuller

M. Scott Fuller

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