IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

MISSED CALL, LLC, **Plaintiff,**	**Civil Action No. 1:23-cv-02913-PAB-SBP**
v.	
FRESHWORKS INC., **Defendant**	**JURY TRIAL DEMANDED**

PLAINTIFF'S FIRST AMENDED COMPLAINT

Plaintiff Missed Call, LLC ("Missed Call") files this First Amended Complaint and demand for jury trial seeking relief from patent infringement of the claims of U.S. Patent Nos. 9,531,872 ("the '872 patent") (referred to as the "Patent-in-Suit") by Freshworks Inc.. ("Defendant" or "Freshworks").

I. THE PARTIES

1. Missed Call, LLC is a Texas limited liability corporation with its principal place of business located in Austin, Texas.

2. On information and belief, Freshworks, Inc. is a corporation organized and existing under the laws of Delaware having a principal place of business at 2950 S. Delaware Street, Suite 201, San Mateo, California 94403 and a regular and estbalish place of business at 1401 Lawrence St., Suite 1200, Denver, CO 80202. Defendant has beenb served.

3. On information and belief, Defendant sells and offers to sell products and services throughout Colorado, including in this judicial district, introduces products and services that perform infringing methods or processes into the stream of commerce knowing that they would be sold in Colorado and this judicial district, and otherwise directs infringing activities to this judicial district in connection with its products and services.

II. JURISDICTION AND VENUE

4. This Court has original subject-matter jurisdiction over the entire action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because Plaintiff's claim arises under an Act of Congress relating to patents, namely, 35 U.S.C. § 271.

5. This Court has personal jurisdiction over Defendant because: (i) Defendant is present within or has minimum contacts within the State of Colorado and this judicial district; (ii) Defendant has purposefully availed itself of the privileges of conducting business in the State of Colorado and in this judicial district; and (iii) Plaintiff's cause of action arises directly from Defendant's business contacts and other activities in the State of Colorado and in this judicial district.

6. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and 1400(b). Defendant has committed acts of infringement and has a regular and established place of business in this District. Further, venue is proper because Defendant conducts substantial business in this forum, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in Colorado and this District.

III. INFRINGEMENT

A. Infringement of the '872 Patent

7. On December 27, 2016, U.S. Patent No. 9,531,872 ("the '872 patent", included as Exhibit B and incorporated by reference) entitled "Communication Apparatus For Providing And Indication About A Missed Call, And Method Thereof" was duly and legally issued by the U.S. Patent and Trademark Office. Plaintiff owns the '872 patent by assignment.

1. Teachings of the '872 Patent

8. The '872 patent relates to novel and improved systems, methods, and apparatuses for providing an indication about a missed telephone call.

9. Claim 1 of the '872 patent provides a rules-based communications apparatus for providing an indication about a missed telephone call, said apparatus comprising:

> receiving means for receiving an incoming call;
>
> control unit configured to process said received incoming call that is received by the communication apparatus;
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> output means for outputting information to a user of the communication apparatus; and
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> processing means for extracting a cause value contained in a cause information element sent from a network to said communication apparatus, and for outputting to the user, via the output means, an indication related to a missed received incoming call that is received by the communication apparatus but is not answered by the user of the communication apparatus; and
>
> wherein, when a caller ends the received incoming call, said cause value indicates that the received incoming call was cleared by the caller, and the communication apparatus outputs to the user via said output means an indication that the missed received incoming call was caused by the caller; and
>
> wherein, when the network automatically ends the received incoming call, said cause value consequently indicates that the received incoming call was cleared by the network, and the communication apparatus consequently outputs to the user via said output means an indication that the missed received incoming call was caused by the network and was urgent.

10. The '872 patent discloses that the claims provide the advantage of providing an indication about a missed call.[1]

[1] Doc. No. 1-2, column 5, lines 58-60 ("5:58-60").

11. The '872 patent teached that in the prior art there are only two possibilities when a first user calls a second used and the called user does not pick up:[2]

> According to a first possibility, the calling user makes the phone of a coiled user ringing for a determined period of time and then activates closing means (for example, the usual red button of a mobile phone) apt to close the call; therefore, in this case the disconnection that determines the missed call on the phone of the called user is caused by the calling user (through the activation of said closing means).
>
> According to a second possibility, after a particular period of time has expired, the call is disconnected automatically by the network. The expiration of the period of time is used by the network to prevent a waste utilization of the network resources during the connection setup among different communication apparatuses. [3]

12. The '872 patent further provides that the state of the art at the time of the invention of the '872 patent was such that communication apparatuses only providean indication that a call was missed and did not include additional information:

> received by the called user; as a result, the called user is not in the position to recognize if the call has been ended after a small amount of time and/or of rings, or if said call has been ended after a considerable amount of time and/or of rings, or if said call has been ended through the disconnection executed by the network. [4]

13. The '872 patent provides that because of this prior art limitation, the called user may not recognize the importance of a call.[5] In particular, the '872 patent provides "the called user is not in the position to recognize if the call has been ended after a small amount of time and/or of rings,

[2] Doc. No. 1-2 at 1:19-22.
[3] Doc. No. 1-2 at 1:23-35.
[4] Doc. No. 1-2 at 1:37-43.
[5] Doc. No. 1-2 at 1:44-49.

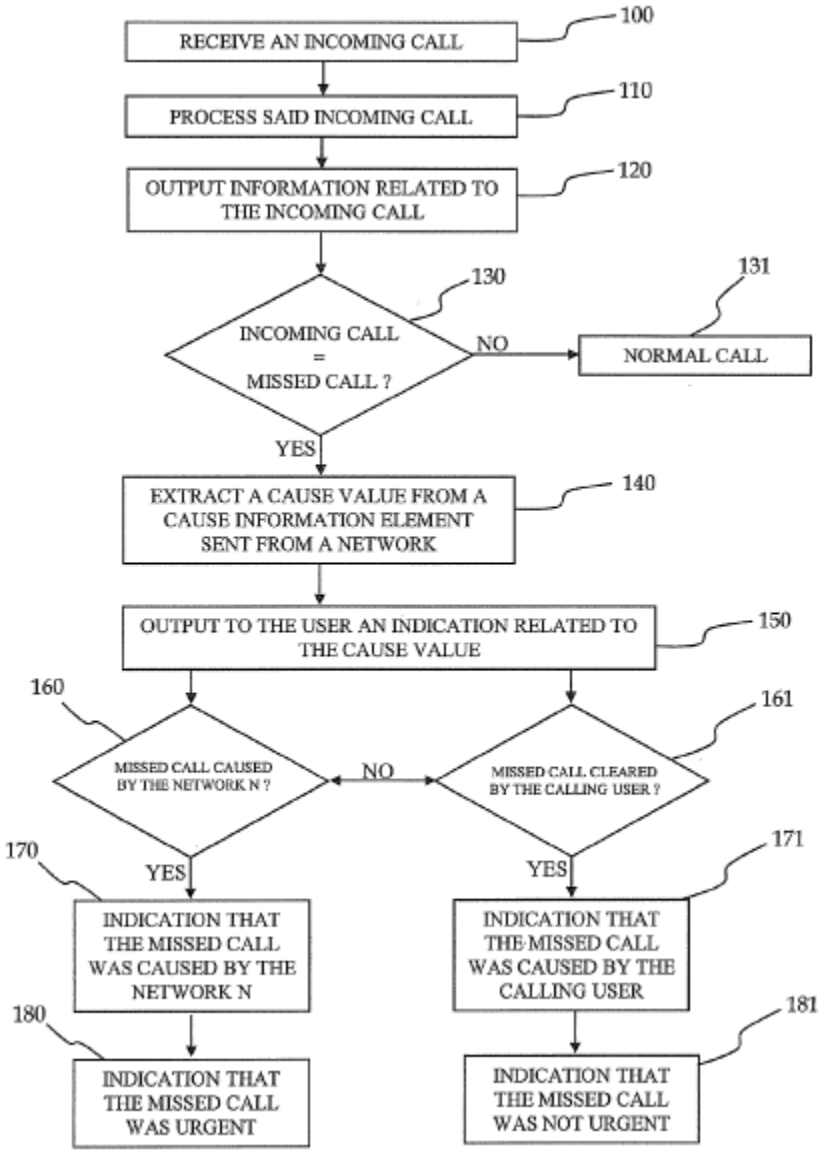
or if said call has been ended after a considerable amount of time and/or of rings, or if said call has been ended through the disconnection executed by the network."[6]

14. In explaining its technological soultuion to this priopor art problem, the '872 poatent discusses the prior art document EP1473912 as it relates to a mobile terminal for a wireless communication system and document U.S. Pat. No. 4,751,729 which relates to a telephone accessory for detecting and recording and optionally displaying the number of rings sounded by a telephone which is ringing is disclosed. The '872 patent teached that both solutions do not provide a reliable indication of why the call was disconnected.[7]

15. The '872 patent teached that the claimed inventipon overcome these prior aryt limitations by by providing a "processing means **40** that extract a cause value from a cause information element sent from a network N allows to provide a communication apparatus and a method conceived in a manner to be apt to provide a reliable indication about the cause of the disconnection of the missed call."[8] In one embodiment, the '872 patent teached that "processing means **40** allows to provide an indication regarding the fact that the disconnection of the missed call was caused by the calling user or by the network; as a consequence, the called user can have a precise indication regarding the urgency of said missed call, in particular via said output means **30**."[9]

16. The '872 patent's Figure 2 provides:

[6] Doc. No. 1-2 at 1: 37-43.
[7] Doc. No. 1-2 at 1:50-2:18.
[8] Doc. No. 1-2 at 5:61-67.
[9] Doc. No. 1-2 at 6:1-6.



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17. Figure 2 provides specific and detailed rules for the '872 patent's claimed call apparatus, making the invention concrete.

18. Defendant maintains, operates, and administers systems, products, and services that facilitate providing of an indication of a missed telephone call that infringe one or more of claims 1-13 of the '872 patent, literally or under the doctrine of equivalents. Defendant put the inventions

[10] Doc. No. 1-2 at Figure 2.

claimed by the '872 patent into service (i.e., used them); but for Defendant's actions, the claimed-inventions embodiments involving Defendant's products and services would never have been put into service. Defendant's acts complained of herein caused those claimed-invention embodiments as a whole to perform, and Defendant's procurement of monetary and commercial benefit from it.

19. Support for the allegations of infringement may be found in the following exemplary table included as Exhibit A. These allegations of infringement are preliminary and are therefore subject to change.

20. Defendant has and continues to induce infringement. Defendant has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to use its systems, products and services (e.g., facilitating providing an indication of a missed telephone call) such as to cause infringement of one or more of claims 1-13 of the '872 patent, literally or under the doctrine of equivalents. Moreover, Defendant has known of the '872 patent and the technology underlying it from at least the filing date of the lawsuit.[11] For clarity, direct infringement is previously alleged in this complaint.

21. Defendant has and continues to contributorily infringe. Defendant has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continue to do so, on how to use its products and services (e.g., facilitating providing an indication of a missed telephone call) and related services such as to cause infringement of one or more of claims 1-13 of the '872 patent, literally or under the doctrine of equivalents. Further, there are no substantial noninfringing uses for Defendant's products and services. Moreover, Defendant has known of the '872 patent and the technology underlying it from at least the filing date of the lawsuit. [12] For clarity, direct infringement is previously alleged in this complaint.

[11] Plaintiff reserves the right to amend if discovery reveals an earlier date of knowledge.
[12] Plaintiff reserves the right to amend if discovery reveals an earlier date of knowledge.

22. Defendant has caused and will continue to cause Plaintiff damage by direct and indirect infringement of (including inducing infringement of) the claims of the '872 patent.

IV. CONDITIONS PRECEDENT

23. Plaintiff is a non-practicing entity, with no products to mark. Plaintiff has plead all statutory requirements to obtain pre-suit damages. Further, all conditions precedent for recovery are met.

24. JURY DEMAND

Plaintiff hereby requests a trial by jury on issues so triable by right.

V. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief as follows:

a. enter judgment that Defendant has infringed the claims of the '872 patent;

b. award Plaintiff damages in an amount sufficient to compensate it for Defendant's infringement, in an amount no less than a reasonable royalty or lost profits, together with pre-judgment and post-judgment interest and costs under 35 U.S.C. § 284;

c. award Plaintiff an accounting for acts of infringement not presented at trial and an award by the Court of additional damage for any such acts of infringement;

d. declare this case to be "exceptional" under 35 U.S.C. § 285 and award Plaintiff its attorneys' fees, expenses, and costs incurred in this action;

e. declare Defendant's infringement to be willful and treble the damages, including attorneys' fees, expenses, and costs incurred in this action and an increase in the damage award pursuant to 35 U.S.C. § 284;

f. a decree addressing future infringement that either (i) awards a permanent injunction enjoining Defendant and its agents, servants, employees, affiliates, divisions, and

subsidiaries, and those in association with Defendant from infringing the claims of the Patents-in-Suit, or (ii) awards damages for future infringement in lieu of an injunction in an amount consistent with the fact that for future infringement the Defendants will be an adjudicated infringer of a valid patent, and trebles that amount in view of the fact that the future infringement will be willful as a matter of law; and,

g. award Plaintiff such other and further relief as this Court deems just and proper.

Respectfully submitted,

Ramey LLP

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CERTIFICATE OF SERVICE

Pursuant to the Federal Rules of Civil Procedure, I hereby certify that all counsel of record who have appeared in this case are being served on this day of January 8, 2024, with a copy of the foregoing via CM/ECF Filing.

/s/ William P. Ramey, III
William P. Ramey, III