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   IMPLICIT NETWORKS, INC.

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11
                    UNITED STATES DISTRICT COURT
12   FOR THE NORTHERN DISTRICT OF CALIFORNIA
                     SAN FRANCISCO DIVISION
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   IMPLICIT NETWORKS, INC.,
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            Plaintiff,   Case No. CV 10-3746 SI
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   v.   **FIRST AMENDED COMPLAINT AND
17   DEMAND FOR JURY TRIAL**
   HEWLETT-PACKARD COMPANY,
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            Defendant.
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1.   Plaintiff Implicit Networks, Inc. ("Implicit" or "Plaintiff") hereby files its complaint against defendant Hewlett-Packard Company ("HP" or "Defendant"), for patent infringement. For its complaint, Plaintiff alleges, on personal knowledge as to its own acts and on information and belief as to all other matters, as follows:

PARTIES

2.   Implicit is a corporation organized under the laws of the State of Washington, with its principal place of business in Seattle, Washington.

3.   HP is a corporation organized under the laws of the State of Delaware, with its principal place of business in Palo Alto, California.

JURISDICTION AND VENUE

4.   This complaint asserts a cause of action for patent infringement under the Patent Act, 35 U.S.C. § 271. This Court has subject matter jurisdiction over this matter by virtue of 28 U.S.C. § 1338(a). Venue is proper in this Court by virtue of 28 U.S.C. § 1391(b) and (c) and 28 U.S.C. § 1400(b), in that HP may be found in this district, have committed acts of infringement in this district, and a substantial part of the events or omissions giving rise to the claim occurred and a substantial part of property that is the subject of the action is situated in this district.

5.   This Court has personal jurisdiction over HP because Defendant has a place of business in, and provides infringing products and services in, the Northern District of California.

INTRADISTRICT ASSIGNMENT

6.   Pursuant to Civil LR 3-2(c), this case should be subject to district-wide assignment because it is an Intellectual Property Action.

I.   STATEMENT OF FACTS.

A.   Implicit's Dynamic Data Flow Patent Family Patents: Implicit's Inventions, Patents, and Products.

1.   The Problem Implicit Solved.

7.   In the early 1990's, personal computers were stand-alone devices, just like typewriters before them. Consumers would buy shrink-wrapped software applications, such as Lotus Notes or the Berkeley Systems "Flying Toasters" screensaver. They would install the application, the application would run on the computer, and the consumer would use the computer to perform discreet and well-defined tasks, typically turning on data and document processing. Every computer was an island, unique unto itself.

8.   All of this changed with the advent of computer networking, *i.e.*, computers hooked together with other computers and, ultimately, other devices entirely. Suddenly, computers had to be able to *talk* to other computers. With networking, computers moved from being standalone devices for running discreet applications to being constituent parts of much larger linked systems.

9.   This physical change brought a corresponding change in use and the content itself. Computers became **communication** devices, allowing their users to exchange real-time text (e-mail), interactive files (conferencing), and multi-media (photos; video). With the Internet, hyperlinks, and the World Wide Web, computer users could shop online, create individual web pages (Facebook), watch movies on demand (the new Netflix), and do all the other on-line activities now commonplace. Instead of resources being applied to isolated data on non-networked machines, computers could be linked together and resources applied to data as it flowed from one system to the next. The shift was from processing **data** (spreadsheet; word processing) to processing the **data flow**, *e.g.*, data in transit.

10.   This paradigm shift created a host of new problems, however. In the mid-1990's, for example, there were many different media formats (WAV; mpeg; Windows Media Video), each calibrated to do different things and solve different problems; as the richness of what computers could communicate increased, so too did the number of protocols for **how** to communicate. And, along with media formats, there were formats for other forms of content, *e.g.* HTML, X HTML, DHTML, etc…. More, there were numerous network protocols, including point-to-point ("PTP"), SPX and IPX (proprietary protocols for Novell's Network), Apple Talk, Microsoft's NetBEUI, and the telephony RTP standard. There were also different operating systems on computers, *e.g.* Windows versus Mac vs. Linux, along with different devices (phones; computers; PDA's; etc.) with different protocols, needs, and capabilities. It was a three dimensional problem: *different devices*, with *different networks*, sending *different content* – the "3D" problem.

2.   The "Vertical Application" Fix.

11.   The first solution to the 3D problem lay in building greater intelligence into the applications themselves. For example, a media player in 1995 had to be able to digest different types of formats (WAV; mpeg), and work on various operating systems, *e.g.* Windows and Mac OS. The developer of the application had to anticipate who would be using the player, and for which devices and content, and then build-in the ability to handle the anticipated demands. In short, the developer had to anticipate **use** and then **configure** the design accordingly.

12.   This model led to ever-increasing complexity, cost, and processing overhead. Given that all anticipated uses had to be preconfigured at build-time, any **unanticipated** new use, *e.g.*, a different format or a different device, would simply break the system. The

FIRST AMENDED COMPLAINT AND JURY DEMAND   3   Case No. CV 10-3746 SI

developer had to have the foresight to specify explicitly all possible configurations in advance, a difficult task in a rapidly changing world.

13.   Given these inherent inadequacies, there was a real need for a new and different approach to solve the 3D problem.

3.   Implicit's Solution.

14.   In 1994, Edward Balassanian was a computer scientist working on networking issues at Microsoft. Microsoft was then promoting proprietary protocols and trying to establish a proprietary standard. But, with the ever more diverse set of devices and demands, Mr. Balassanian did not think that a monolithic, one size fits all approach would ultimately work. In February 1995, he left Microsoft.

15.   A year later, he founded Implicit Networks, then known as BeComm (hereafter "Implicit").

16.   Mr. Balassanian created Implicit to build a radical new approach to networking – a new solution to the 3D problem. Put simply, instead of stacking intelligence into the application, Mr. Balassanian devised a system where every discrete computer function, *e.g.*, processing http server requests over tcp/ip, streaming a video web-based client, or managing voice-over-ip calls, would be built into a discrete software module, called a "bead." Dynamically, at run-time, a software engine would receive a stream of data --- say video --- determine **what** services were necessary to render that content and **where** the content was to be rendered, and then assemble --- or string together --- the requisite service beads (modules) at run-time. In this fashion, the needs at run-time drove the just-in-time creation of the processing path itself, as against trying to stuff given data into a stack previously hardwired into the application.

17.   Any specific service could be encapsulated as a bead, including:

- **hardware** such as a video display, speaker, microphone, mouse, Ethernet, etc.
- **protocols** such as TCP/IP, HTTP, SOAP, email (POP3, SMTP), etc.
- **transformational algorithms** such as audio/video decoders, etc.
- **SDK technologies** such as speech-recognition engines (e.g., IBM's ViaVoice), text-to-speech generators, etc.
- **backend services** such as Database, CRM, and Content Management Systems.

18.   Ultimately, Implicit built more than 200 discrete software service beads. Beads were the building blocks for the processing element applied to a data flow.

19.   In this new model, services were designed from the outset to process data flows. This meant that the intelligence engine picked the right services for the right data flows, managed the "State" (*e.g.* status) associated with each data flow, and managed the flow across the services. In this new system, the Lego blocks needed to process a particular data flow were assembled when needed and as needed, as against the prior model, where the blocks were immutably glued together at build-time.

20.   The benefits of this new approach were significant: services were reusable, processing faster and more efficient, and data that required more CPU involvement got it, when and as needed. Mr. Balassanian called this system "Strings," as discrete functions were strung together at run-time.

21.   The concept of breaking up applications into discrete services that could be "strung" together on the fly at runtime was an innovation with profound applicability to real world problems. It applied to media players since it allowed media encoding/decoding/transcoding to happen adaptively at runtime. It applied to network stacks since it allowed network stacks to be responsive to real-time changes in the physical network (*e.g.* QoS), transport (*e.g.* support for new protocols), and application layers (*e.g.* virus threats, firewalls etc.).

22.   Implicit made and sold products and technology to numerous large and sophisticated customers. For example, in 2000, Implicit signed a contract to develop all the media processing code for Intel's web tablet, a device very similar to Apple's new iPad. By 2001, Implicit had built the code, and Intel began to manufacture the device.

23.   In January 2001, Intel signed a second contract with Implicit, under which Implicit was to build all the software for the Intel equivalent of iTunes. As per this signed contract, Implicit received $850,000, plus a 5% revenue share going forward of all the Intel Consumer Products Division related revenue.

24.   In 2004, Intel hired Implicit to use its streaming technology to build the Intel media player, a device that synchronized multiple computers in a home to play music and video, both locally and over a network.

25.   Along with these Intel contracts, in 2004, Implicit signed a contract with chip maker AMD to develop a media player referenced design for AMD. Implicit built the media player, using its technology, finishing in 2004.

26.   Along the same lines, Thompson Multimedia hired Implicit to build all of the media processing software for the first Thompson digital set-box that allowed for streaming of HD content into the home. The resulting Implicit-Thompson set-box won Best of Show at the annual Consumer Electronics Show ("CES") in 2005.

27.   Along the same lines, in 2003, Implicit built a distributed knowledge management solution for Raytheon, using Strings technology. The solution allowed disparate databases to be connected to a single user interface such that data was normalized on the fly by software components. The system was used as part of a Raytheon product for knowledge discovery in the defense sector.

28.   In addition to these specific contractual relationships, Implicit, through its

CEO and others, met with numerous large technology companies to introduce them to the

novel Implicit technology. These companies included Cisco Systems, HP predecessor 3Com,

Motorola, and numerous others. All such technical discussions were conducted pursuant to

respective NDA's.

29.   Implicit's work, inventions, and patents were the subject of numerous articles

in the trade press. For example, in March, 2001, the EETimes reported on Implicit's work

with the Intel Tablet, and specifically called out the Implicit patent portfolio, as follows:

> Intel intends to introduce the tablet in North America later
> this year. One technology that will make the Web Tablet
> stand out among other Internet appliances is BeComm's
> Strings. And by extension, Strings could weave disparate
> distributed appliances into a global peer-to-peer
> communications architecture.

<div align="center">***</div>

> **Bead-dazzled**
>
> While the Strings core has many similarities to traditional
> operating systems, it is also significantly different. Strings
> defines a new middleware layer of software focused on
> delivering digital media to end users, rather than relying on
> hardware or networks to deliver that media. To address the
> fluid nature of Internet appliances, every Strings-based
> appliance is able to dynamically generate the feature set
> needed to enable instant access to content. Strings achieves
> this by leveraging highly discrete software objects called
> Beads. Any Strings-enabled appliance can instantly string
> together a series of Beads to dynamically enable the
> required functionality. Since an appliance can string Beads
> together across a network of appliances, the functionality
> required to manage any given type of media can be
> distributed across a network.
>
> Strings provides an environment where users have instant
> access to any type of content from any appliance. For
> example, a handheld device with a screen, speaker and
> microphone could provide access any content that can be

rendered in audio or video formats. This handheld could morph into an MP3 player, serve as an Internet telephone, or function as a universal remote control. That requires managing not only the appliance's user interface, but also its interface to multimedia content as well, and to the appliance's interface to the network.
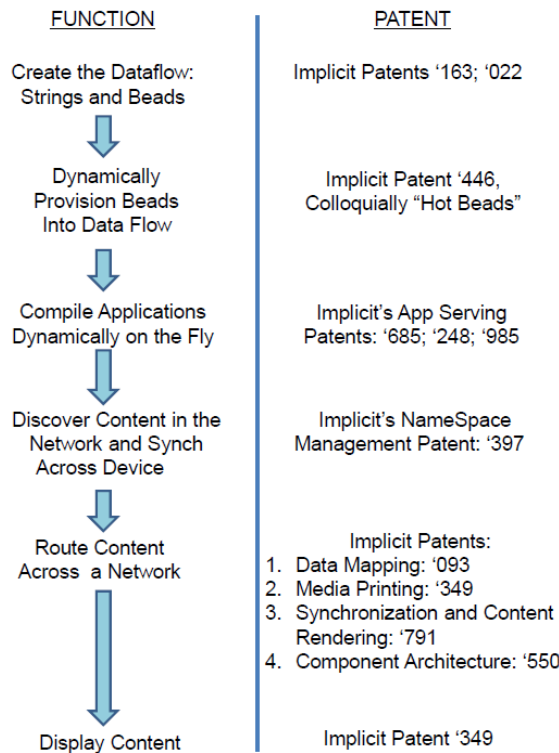
Complete infrastructure

To make this possible, Strings leverages a patented technology that allows Beads to be strung together on the fly to provide the precise functionality required by the end user. Since Beads can encapsulate everything from device drivers and user interface components to multimedia codecs and network protocols, Strings is able to provide a complete infrastructure for intelligent appliances.

Emphasis added.

30.   Implicit indeed did patent all of the core aspects of its String architecture.

Captured graphically by function, below is the portfolio:

FUNCTION	PATENT
Create the Dataflow: Strings and Beads	Implicit Patents '163; '022
Dynamically Provision Beads Into Data Flow	Implicit Patent '446, Colloquially "Hot Beads"
Compile Applications Dynamically on the Fly	Implicit's App Serving Patents: '685; '248; '985
Discover Content in the Network and Synch Across Device	Implicit's NameSpace Management Patent: '397
Route Content Across a Network	Implicit Patents: 1. Data Mapping: '093 2. Media Printing: '349 3. Synchronization and Content Rendering: '791 4. Component Architecture: '550
Display Content	Implicit Patent '349

31.   As particularly germane to this Complaint, on September 30, 2003, United States Patent No. 6,629,163 ("the '163 patent") entitled "Method and System for Demultiplexing a First Sequence of Packet Components to Identify Specific Components Wherein Subsequent Components are Processed Without Re-Identifying Components," was duly and legally issued, and assigned to Plaintiff. On December 18, 2008, the '163 patent was put in re-exam. The '163 patent emerged from re-examination on June 22, 2010, carrying U.S. Patent No. 6,629,163. In its Reasons For Allowance, the PTO called out the novelty of the Implicit Dynamic Data Flow technology. It is assigned to Plaintiff, Implicit. True and correct copies of the '163 patent and the Ex Parte Reexamination Certificate are attached as Exhibit A and Exhibit B.

32.   On October 31, 2007, Edward Balassanian filed a continuation application, which on May 4, 2010, issued as U.S. Patent No. 7,711,857 ("'857"). Mr. Balassanian assigned the patent to Implicit and Implicit is the sole owner of the patent. *See* Exhibit C.

B.   Implicit's Application Server Patent Family.

33.   Along with the data path problem, the Internet created a related problem: how to get to numerous, diverse clients the numerous, diverse applications those clients wished to download. In a world where static webpages were sent to serried ranks of identical computers, all would be simple. But, with network computers, the reality quickly became otherwise. By the mid-1990's, a web designer had to worry about which devices would host which pages, which formats would be acceptable, which languages would work, and what the client's execution environment would require. More, for webpages, **content** often differs depending on the viewer – a Facebook friend gets one version of the site, a "non-friend," something quite different.

34.   Mr. Balassanian understood these problems and found a solution. Instead of having the developer try to anticipate every content/device/standards combination, the web equivalent of the 3D described above, a new system was needed – a system that dynamically compiled the application on the fly to match the individual client requests. This meant true server-side compilation, to generate the application that the client requested per that client's requirements.

35.   This approach would make the developer's life far easier; instead of trying to hardwire every eventuality into a cumbersome website, or writing a site multiple times in multiple formats for multiple devices, the developer would write in the language the developer choses, and check the code into the server. When the server, subsequently, received a request for the page, it would know from the header on the request what the individual client required, both in terms of browser type, compression needs, language basis, capacity, and so forth. With true server-side compilation, the server could then generate the app required, cache it for subsequent hits, and send the generated app to the requesting client.

36.   Implicit filed its first application on this invention in March, 1998. Entitled "Applet Server that Provides Applets in Various Forms," it issued in November of 2001. A second application followed in October 2001. It was called "Application Server Facilitating With Client's Computer for Applets Along With Various Formats," and it issued in December, 2005. A continuation was filed in October, 2005, and issued in August, 2010 with the title, "Application Server." Implicit filed the current pending application in this family, also entitled "Application Server," on October 31, 2007.

C.   Implicit's Historical Relationship With HP Predecessor, 3Com.

37.   In late 1996, Implicit inaugurated a detailed business relationship with HP predecessor, 3Com. HP acquired 3Com in April, 2010.

38.   The Implicit-3Com relationship began with the parties negotiating and executing a Non-Disclosure Agreement ("NDA"). The NDA was designed to "facilitate the exchange of proprietary information and/or technical data concerning concept, plans, proposals, markets… and goals relating to [both] party's development, research, design" of "products." For 3Com, the NDA was executed by Jim Basiji, then Vice President of Engineering; Implicit's CEO Edward Balassanian executed the agreement for Implicit.

39.   On October 12, 1996, pursuant to the executed NDA, Implicit representatives met with 3Com executives to exchange detailed technical information and discuss a strategic business partnership.

40.   Following this meeting, and at 3Com's request, Implicit sent to 3Com four confidential Implicit whitepapers. The cover letter enclosing the whitepapers underscored the purpose of the strategic talks between the two companies as follows:

> An integral part of our consumer connectivity strategy is
> providing low cost COMM hardware for appliance
> manufacturers. Information appliances can not be built
> with direct network (i.e. Internet or Cable) connectivity. It
> is far too expensive to build in cable, or analog modems
> into all consumer devices. As such, a low cost connectivity
> option to a central hub (the Consumer Network Tap) will
> be required. BeComm is not a hardware company and we
> do not have the expertise to design such a product. 3Com
> is clearly an ideal candidate for such a task. With BeComm
> providing connectivity software and 3Com providing low
> cost NICs, I see an excellent opportunity for both
> companies to support the emergence of communicative
> consumer appliances.

41.   Although these discussions and disclosures continued, Implicit and 3Com did not enter into a definitive contractual relationship.

D.   HP's Infringement.

1.   HP's Dynamic Data Flow Patent Family Infringement.

42.   HP is infringing the Dynamic Data Flow patents by making and selling its TippingPoint Intrusion Prevention System ("TIPS") and Intelligent Management Center ("iMC") Quality of Service Manager ("iMCQoSM").

43.   HP's TIPS processes incoming/outgoing data flow using the TIPS Threat Suppression Engine. This engine performs demultiplexing operations such as IP defragmentation, TCP flow reassembly, traffic shaping, flow blocking, and flow state tracking on incoming/outgoing packets at layers 2 through 7 of the TCP stack. These operations allow TIPS to perform application protection, infrastructure protection, and performance optimization. Through these approaches, HP's TIPS demultiplexes data packets and dynamically selects components for processing of an incoming data flow, as claimed by the Implicit Dynamic Data Flow patents.

44.   HP's iMC is an integrated network management platform for end to end resource management. iMC's Quality of Service Manager, an iMC module, manages quality service configurations and network devices. The platform permits different configurations, behaviors, and policies for data packet traffic within a network. Comware, the network OS of H3C routers, switches, and other security appliances, provide the basic components for enforcing QoS features for the data flow. It first inspects the incoming/outgoing data packets and then classifies the network flow into different traffic classes. A non-pre-defined sequence of data process and components, determined by QoS policy, can be used to enforce Generic Traffic Shaping, Committed Access Rate, queuing, and Weighted Random Early Detection, along with other QoS features. As fashioned, the platform demultiplexes data packets and dynamically selects components for processing of an incoming data flow, all while maintaining state information of said components, as claimed by the Implicit Dynamic Data Flow patents.

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2.   HP's App Serving Patent Infringement.

2   45.   HP's UX server with web server suite is a J2EE compliant server capable of

3   serving up Java server pages. This app server platform directly infringes the Implicit '685

4   patent family.

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COUNT I

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PATENT INTRINGEMENT
7   **(Dynamic Data Flow Patents)**

8   46.   On September 30, 2003, United States Patent No. 6,629,163 ("the

9   Dynamic Data Flow Patents-in-Suit") entitled "Method and System for Demultiplexing a

10   First Sequence of Packet Components to Identify Specific Components Wherein

11   Subsequent Components are Processed Without Re-Identifying Components" was duly

12   and legally issued. A true and correct copy of the '163 patent is attached as Exhibit A.

13   On June 22, 2010, an Ex Parte Reexamination Certificate was duly and legally issued.   A

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15   true and correct copy of the Reexamination Certificate is attached as Exhibit B.

16   47.   On May 4, 2010, a continuation patent, United States Patent No.

17   7,711,857 ("the '857 patent") entitled "Method and System for Data Demultiplexing"

18   was duly and legally issued. A true and correct copy of the '857 patent is attached as

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    Exhibit C.
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21   48.   Edward Balassanian is the sole inventor of the '163 and '857 patents.

22   These patents have been assigned to Plaintiff. Plaintiff Implicit is the sole legal and

23   rightful owner of the Dynamic Data Flow Patents.

24   49.   HP makes, uses, and sells products that infringe the Dynamic Data Flow

25   Patents, such products including without limitation, TippingPoint Threat Suppression

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FIRST AMENDED COMPLAINT AND JURY DEMAND   13   Case No. CV 10-3746 SI

Engine, H3C Intelligent Management Center (IMC) Quality of Service Manager (QoSM),

and HP IMC Network Traffic Analyzer, as alleged above.

50.   In addition, HP has infringed and is still infringing the Dynamic Data Flow

Patents patents in this country, through, *inter alia*, its active inducement of others to make,

use, and/or sell the systems, products and methods claimed in one or more claims of the

patents. Numerous HP customers directly infringe the Dynamic Data Flow Patents. HP has

been selling its infringing TippingPoint Threat Suppression Engine since its acquisition of

3Com in 2010, and its predecessors sold earlier versions of these products for many years.

HP continues to sell these products today. Customer case studies for numerous customers,

including such companies and organizations as Sara Lee, T Rowe Price and The American

Red Cross, are maintained on HP's website. HP advertises infringing uses, provides support,

and instructs customers to use HP products in an infringing manner, as alleged above.

51.   HP knew of the Dynamic Data Flow Patents and their contents, based upon,

inter alia, HP's actual notice of the patents, and by way of 3Com's direct contacts with

Implicit. HP actively and knowingly encouraged, aided and abetted its customers to directly

infringe the Dynamic Data Flow Patents. HP offered its infringing products for sale with the

intent of promoting their use to infringe, and with that object, HP intentionally encouraged its

customers to infringe the Dynamic Data Flow Patents by advertising its products for

infringing uses, and instructing its customers how to use the products to engage in

infringement. HP specifically intended that its customers infringe the Dynamic Data Flow

Patents.

52.   In addition, HP has infringed and is still infringing the Dynamic Data Flow

Patents in this country through, *inter alia*, providing and selling goods and services including

Dynamic Data Flow products designed for use in practicing one or more claims of the

Dynamic Data Flow Patents, where the goods and services constitute a material part of the

invention and are not staple articles of commerce, and which have no use other than

infringing one or more claims of the Dynamic Data Flow Patents. HP's customers commit

the entire act of direct infringement. HP has committed these acts with knowledge that the

goods and services it provides are specially made for use in a manner that directly infringes

the Dynamic Data Flow Patents. This conduct constitutes infringement under 35 U.S.C. §

271(c).

53.   As a result of the infringement by HP, Plaintiff has been damaged, and will

continue to be damaged, until this Defendant is enjoined from further acts of infringement.

54.   HP will continue to infringe unless enjoined by this Court. Plaintiff faces real,

substantial and irreparable damage and injury of a continuing nature from infringement for

which Plaintiff has no adequate remedy at law.

COUNT II

PATENT INFRINGEMENT
(Application Server Patents)

55.   On November 27, 2001, United States Patent No. 6,324,685 ("the '685

patent") entitled "Applet Server that Provides Applets in Various Forms" was duly and

legally issued. A true and correct copy of the '685 patent is attached as Exhibit D.

56.   On December 13, 2005, United States Patent No. 6,976,248 ("the '248

patent") entitled "Application Server Facilitating with Client's Computer for Applets

along with Various Formats" was duly and legally issued. A true and correct copy of the

'248 patent is attached as Exhibit E.

57.   On August 10, 2010, United States Patent No. 7,774,740 ("the '740 patent") entitled "Application Server" was duly and legally issued. A true and correct copy of the '740 patent is attached as Exhibit F, hereafter Application Server Patents.

58.   Pursuant to 35 U.S.C. § 282, the above-listed United States Patents are presumed valid.

59.   Edward Balassanian is the sole inventor of the '685, '248 and '740 patents (collectively "Application Server Patents"). The Application Server Patents have been assigned to Plaintiff. Plaintiff Implicit is the sole legal and rightful owner of the Application Server Patents.

60.   HP has infringed and is still infringing the Application Server Patents in this country, through, *inter alia*, its active inducement of others to make, use, and/or sell the systems, products and methods claimed in one or more claims of the patents. HP's customers directly infringed the Application Server Patents, and were actually induced to do so by HP. HP knew of the Application Server Patents and their contents, based upon, *inter alia*, HP's actual notice of the patents, and by way of 3Com's direct contacts with Implicit. HP actively and knowingly encouraged, aided and abetted its customers to directly infringe the Application Server Patents. HP offered its infringing products for sale with the intent of promoting their use to infringe, and with that object, HP intentionally encouraged its customers to infringe the Application Server Patents by advertising its products for infringing uses, and instructing its customers how to use the products to engage in infringement. HP specifically intended that its customers infringe the Application Server Patents. This conduct constitutes infringement under 35 U.S.C. § 271(b).

61.   In addition, HP has infringed and is still infringing the Application Server Patents in this country through, *inter alia*, providing and selling goods and services including Application Server products designed for use in practicing one or more claims of the Application Server Patents, where the goods and services constitute a material part of the invention and are not staple articles of commerce, and which have no use other than infringing one or more claims of the Application Server Patents. HP's customers commit the entire act of direct infringement. HP has committed these acts with knowledge that the goods and services it provides are specially made for use in a manner that directly infringes the Application Server Patents. This conduct constitutes infringement under 35 U.S.C. § 271(c).

62.   HP's infringing conduct is unlawful and willful. This conduct makes this an exceptional case as provided in 35 U.S.C. § 285.

63.   The infringement of the Application Server Patents alleged above has injured the Plaintiff and thus, it is entitled to recover damages adequate to compensate for HP's infringement, which in no event can be less than a reasonable royalty.

64.   As a result of the infringement by HP, Plaintiff has been damaged, and will continue to be damaged, until these defendants are enjoined from further acts of infringement. HP will continue to infringe unless enjoined by this Court. Plaintiff faces real, substantial and irreparable damage and injury of a continuing nature from infringement for which Plaintiff has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for entry of judgment:

A.   that the Patents-in-Suit are valid and enforceable;

B.   that Defendant has infringed one or more claims of the Patents-in-Suit;

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C.   that Defendant account for and pay to Plaintiff all damages caused by the

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infringement of the Patents-in-Suit, which by statute can be no less than a reasonable

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royalty;

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D.   that Plaintiff be granted pre-judgment and post-judgment interest on the

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damages caused to them by reason of Defendant's infringement of the Patents-in-Suit;

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E.   that this Court require Defendant to file with this Court, within thirty (30)

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days after entry of final judgment, a written statement under oath setting forth in detail

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the manner in which Defendant has complied with the injunction;

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F.   that this be adjudged an exceptional case and the Plaintiff be awarded its

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attorney's fees in this action pursuant to 35 U.S.C. § 285;

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G.   that this Court award Plaintiff its costs and disbursements in this civil

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action, including reasonable attorney's fees; and

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H.   that Plaintiff be granted such other and further relief as the Court may

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deem just and proper under the current circumstances.

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Dated: November 23, 2010   Respectfully submitted,

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Attorneys for Plaintiff
IMPLICIT NETWORKS, INC.

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DEMAND FOR JURY TRIAL

2   Plaintiff, by its undersigned attorneys, demands a trial by jury on all issues so triable.

3   Dated: November 23, 2010   Respectfully submitted,

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