

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

REALTIME ADAPTIVE STREAMING LLC,

Plaintiff,

v.

AVAYA INC.

Defendant.

Case

No. 18CV1046

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

This is an action for patent infringement arising under the Patent Laws of the United States of America, 35 U.S.C. § 1 *et seq.* in which Plaintiff Realtime Adaptive Streaming LLC (“Plaintiff” or “Realtime”) makes the following allegations against Defendant Avaya Inc. (“Defendant” or “Avaya”).

PARTIES

1. Realtime is a Texas limited liability company. Realtime has a place of business at 1828 E.S.E. Loop 323, Tyler, Texas 75701. Realtime has researched and developed specific solutions for data compression. As recognition of its innovations rooted in this technological field, Realtime holds multiple United States patents and pending patent applications.

2. On information and belief, Defendant Avaya is a Delaware corporation with its principal place of business in Santa Clara, California. Avaya has regular and established places of business in this District, including, e.g., at 8744 Lucent Boulevard, Highlands Ranch, CO 80129 and 12121 Grant Street, Thornton, CO 80241. Avaya offers its products and/or services, including those accused herein of infringement, to customers and potential customers located in Colorado and in this District. Avaya may be served with process through its registered agent for service at The Corporation Company, 7700

E. Arapahoe Rd. Suite 220, Centennial, CO 80112-1268.

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has original subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. This Court has personal jurisdiction over Defendant Avaya in this action because Avaya has committed acts within the District of Colorado giving rise to this action and has established minimum contacts with this forum such that the exercise of jurisdiction over Avaya would not offend traditional notions of fair play and substantial justice. Defendant Avaya has committed and continues to commit acts of infringement in this District by, among other things, offering to sell and selling products and/or services that infringe the asserted patents.

5. Venue is proper in this district, e.g., under 28 U.S.C. § 1400(b). Avaya is registered to do business in Colorado, and upon information and belief, Avaya has transacted business in the District of Colorado and has committed acts of direct and indirect infringement in the District of Colorado. Avaya has regular and established places of business in this District, as set forth above.

THE PATENTS-IN-SUIT

6. This action arises under 35 U.S.C. § 271 for Avaya's infringement of Realtime's United States Patent Nos. 7,386,046 (the "'046 patent"), 8,934,535 (the "'535 patent"), and 9,769,477 (the "'477 patent") (the "Patents-In-Suit").

7. The '046 patent, titled "Bandwidth Sensitive Data Compression and Decompression," was duly and properly issued by the United States Patent and Trademark Office ("USPTO") on June 10, 2008. A copy of the '046 patent is attached hereto as Exhibit A. Realtime is the owner and assignee of the '046 patent and holds the

right to sue for and recover all damages for infringement thereof, including past infringement.

8. The '535 patent, titled "Systems and methods for video and audio data storage and distribution," was duly and properly issued by the USPTO on January 13, 2015. A copy of the '535 patent is attached hereto as Exhibit B. Realtime is the owner and assignee of the '535 patent and holds the right to sue for and recover all damages for infringement thereof, including past infringement.

9. The '477 patent, titled "Video data compression systems," was duly and properly issued by the USPTO on September 19, 2017. A copy of the '477 patent is attached hereto as Exhibit C. Realtime is the owner and assignee of the '477 patent and holds the right to sue for and recover all damages for infringement thereof, including past infringement.

COUNT I

INFRINGEMENT OF U.S. PATENT NO. 7,386,046

10. Plaintiff re-alleges and incorporates by reference the foregoing paragraphs, as if fully set forth herein.

11. On information and belief, Avaya has made, used, offered for sale, sold and/or imported into the United States Avaya products that infringe the '046 patent, and continues to do so. By way of illustrative example, these infringing products include, without limitation, Avaya's streaming products/services e.g., Avaya Video Collaboration Solution, H100 Series Video Collaboration Stations, Avaya Scopia Streaming & Recording e.g., Avaya Scopia XT5000 Room System, Avaya Scopia XT7100 Room System, Avaya Equinox Conferencing, and all versions and variations

thereof since the issuance of the '046 patent (“Accused Instrumentalities”).

12. On information and belief, Avaya has directly infringed and continues to infringe the '046 patent, for example, through its sale, offer for sale, importation, use and testing of the Accused Instrumentalities, which practices the system claimed by Claim 40 of the '046 patent, namely, a system, comprising: a data compression system for compressing and decompressing data input; a plurality of compression routines selectively utilized by the data compression system, wherein a first one of the plurality of compression routines includes a first compression algorithm and a second one of the plurality of compression routines includes a second compression algorithm; and a controller for tracking throughput and generating a control signal to select a compression routine based on the throughput, wherein said tracking throughput comprises tracking a number of pending access requests to a storage device; and wherein when the controller determines that the throughput falls below a predetermined throughput threshold, the controller commands the data compression engine to use one of the plurality of compression routines to provide a faster rate of compression so as to increase the throughput. Upon information and belief, Avaya uses the Accused Instrumentalities to practice infringing methods for its own internal non-testing business purposes, while testing the Accused Instrumentalities, and while providing technical support and repair services for the Accused Instrumentalities to Avaya's customers.

13. For example, the Accused Instrumentalities utilize H.264 video compression standard, as well as Avaya's HTTP Live Streaming (HLS) technology.

Media Handling

- Audio, video, H.239 content support
- Video resolution: up to 1080p30
- Bandwidth: 256 Kbps to 2 Mbps
- Format: MP4
- Audio codecs: G.711, AAC-LC
- Video codecs: H.264
- H.239 content: H.263, H.264
- Protocols: HTTP Live Streaming (HLS), Advanced Systems Format (ASF), Microsoft Media Server (MMS)

See e.g., Avaya Scopia Streaming & Recording. HLS “protocol specification does not limit the encoder selection. However, the current Apple implementation should interoperate with encoders that produce MPEG-2 Transport Streams containing H.264 video and AAC audio (HE-AAC or AAC-LC).” *See, e.g.*, <https://developer.apple.com/library/content/documentation/NetworkingInternet/Conceptual/StreamingMediaGuide/FrequentlyAskedQuestions/FrequentlyAskedQuestions.html>. As another example, HLS specification also states: “HTTP Live Streaming supports switching between streams dynamically if the available bandwidth changes. The client software uses heuristics to determine appropriate times to switch between the alternates. Currently, these heuristics are based on recent trends in measured network throughput.” <https://developer.apple.com/library/content/documentation/NetworkingInternet/Conceptual/StreamingMediaGuide/UsingHTTPLiveStreaming/UsingHTTPLiveStreaming.html>. Moreover, “The current implementation of the client observes the effective bandwidth while playing a stream. If a higher-quality stream is available and the bandwidth appears sufficient to support it, the client switches to a higher quality. If a lower-quality stream is available and the current bandwidth appears insufficient to support the current stream, the client switches to a lower

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