

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

REALTIME ADAPTIVE STREAMING,
LLC

Plaintiff,

v.

AVAYA INC.

Defendant.

Case No. 1:18-cv-01046-PAB-STV

JURY TRIAL DEMANDED

**DEFENDANT AVAYA INC.'S ANSWER, AFFIRMATIVE DEFENSES, AND
COUNTERCLAIMS TO PLAINTIFF REALTIME
ADAPTIVE STREAMING L.L.C.'S COMPLAINT**

Defendant Avaya Inc. (“Defendant” or “Avaya”), by and through its undersigned counsel, hereby answers the Complaint for Patent Infringement (the “Complaint,” Dkt. No. 1) of Plaintiff Realtime Adaptive Streaming LLC (“Plaintiff” or “Realtime”), on personal knowledge as to its own activities and on information and belief as to the activities of others. Avaya denies each and every allegation in the Complaint, unless expressly admitted herein.

PARTIES

1. Avaya lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 1 of the Complaint, and therefore denies all such allegations.
2. Avaya admits that it is a Delaware corporation with its principal place of business in Santa Clara, California. Avaya admits that it has locations at 8744 Lucent Boulevard, Highlands Ranch, CO 80129 and 12121 Grant Street, Thornton, CO 80241. Avaya admits that

it offers products and/or services, including those accused of infringement in the Complaint, to customers located in the District of Colorado. Avaya admits that it may be served through its registered agent, the Corporation Company, 7700 E. Arapahoe Rd. Suite 220, Centennial, CO 80112-1268. Avaya denies the remaining allegations of Paragraph 2 of the Complaint.

JURISDICTION AND VENUE

3. Paragraph 3 of the Complaint sets forth conclusions of law to which no response is required. To the extent a response is deemed to be required, however, Avaya admits that the Complaint is styled as an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code and that the Complaint purports to assert that subject matter jurisdiction exists over such claims under 28 U.S.C. § 1331 and § 1338(a). Avaya denies the remaining allegations in Paragraph 3 of the Complaint.

4. Paragraph 4 of the Complaint sets forth conclusions of law to which no response is required. To the extent a response is deemed to be required, however, Avaya does not dispute for purposes of this case that it is subject to personal jurisdiction in this Court. Avaya denies that it has committed acts of direct or indirect infringement in the District of Colorado. Avaya denies the remaining allegations of paragraph 4 of the Complaint.

5. Paragraph 5 of the Complaint sets forth conclusions of law to which no response is required. To the extent a response is deemed to be required, however, does not dispute that venue lies in this Court as to the present case under 28 U.S.C. § 1400(b). Avaya admits that it is registered to do business in Colorado, that it has transacted business in the District of Colorado, and that it has facilities in the District of Colorado. Avaya denies that it has committed acts of

direct or indirect infringement in the District of Colorado. Avaya denies the remaining allegations in Paragraph 5 of the Complaint.

THE PATENTS-IN-SUIT

6. Avaya admits that the Complaint purports to assert U.S. 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”). Avaya denies that it has committed any act of infringement

7. Avaya admits that a purported copy of the ’046 Patent is attached to the Complaint as Exhibit A, which lists the patent title as “Bandwidth Sensitive Data Compression and Decompression,” and lists the patent as being issued on June 10, 2008. Avaya lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 7 of the Complaint, and therefore denies all such allegations.

8. Avaya admits that a purported copy of the ’535 Patent is attached to the Complaint as Exhibit B, which lists the patent title as “Systems and methods for video and audio data storage and distribution,” and lists the patent as being issued on January 13, 2015. Avaya lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 8 of the Complaint, and therefore denies all such allegations.

9. Avaya admits that a purported copy of the ’477 Patent is attached to the Complaint as Exhibit C, which lists the patent title as “Video data compression systems,” and lists the patent as being issued on September 19, 2017. Avaya lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 9 of the Complaint, and therefore denies all such allegations.

RESPONSE TO COUNT I

[ALLEGED] INFRINGEMENT OF U.S. PATENT NO. 7,386,046

10. Avaya repeats and incorporates by reference the foregoing paragraphs, as if fully set forth herein.

11. Denied.

12. Denied.

13. The documents cited in paragraph 13 of the Complaint speak for themselves. Avaya denies that these documents contain a full, complete, and accurate description of the Accused Instrumentalities. Avaya admits that certain Accused Instrumentalities utilize or support certain aspects of the H.264 standard and/or HLS technology. Avaya denies the remaining allegations of paragraph 13 of the Complaint.

14. The documents cited in paragraph 14 of the Complaint speak for themselves. Avaya denies that these documents contain a full, complete, and accurate description of the Accused Instrumentalities. Avaya admits that certain Accused Instrumentalities utilize or support certain aspects of the H.264 standard. Avaya denies the remaining allegations of paragraph 14 of the Complaint.

15. The documents cited in paragraph 15 of the Complaint speak for themselves. Avaya denies that these documents contain a full, complete, and accurate description of the Accused Instrumentalities. Avaya admits that certain Accused Instrumentalities utilize or support certain aspects of the H.264 standard. Avaya denies the remaining allegations of paragraph 15 of the Complaint.

16. The documents cited in paragraph 16 of the Complaint speak for themselves. Avaya denies the remaining allegations of paragraph 16 of the Complaint at least because Avaya lacks sufficient information or belief as to the content or accuracy of the referenced Wikipedia articles.

17. The documents cited in paragraph 17 of the Complaint speak for themselves. Avaya denies that these documents contain a full, complete, and accurate description of the Accused Instrumentalities. Avaya denies the remaining allegations of paragraph 17 of the Complaint.

18. The documents cited in paragraph 18 of the Complaint speak for themselves. Avaya denies these documents contain a full, complete, and accurate description of the Accused Instrumentalities. Avaya denies the remaining allegations of paragraph 18 of the Complaint.

19. The documents cited in paragraph 19 of the Complaint speak for themselves. Avaya denies that these documents contain a full, complete, and accurate description of the Accused Instrumentalities. Avaya denies the remaining allegations of paragraph 19 of the Complaint.

20. Denied.

21. Denied.

22. Denied.

23. Avaya admits that it had knowledge of the '046 Patent as of the service of the Complaint. Avaya denies the remaining allegations in Paragraph 23 of the Complaint.

24. Denied.

25. Denied.

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