UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

LUMINATI NETWORKS LTD. Plaintiff, v. TEFINCOM S.A. D/B/A NORDVPN Defendant.	Case No. 2:19-cv-00414-JRG **JURY TRIAL DEMANDED**

AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Luminati Networks Ltd. ("Luminati" or "Plaintiff") brings this action under the patent laws of the United States, Title 35 of the United States Code, and makes the following allegations against Tefincom S.A. doing business as NordVPN ("NordVPN" or "Defendant"):

THE PARTIES

1.   Plaintiff Luminati is an Israeli company having a principal place of business at 3 Hamahshev St., Netanya 42507, Israel.

2.   Upon information and belief, Defendant NordVPN, is a Panamanian corporation, organized under the laws of the Republic of Panama. NordVPN's principal place of business is in Panama City, Republic of Panama.

3.   Upon information and belief, Defendant has and continues to use, provide, sell, and offer to sell as well as import into the United States virtual private network ("VPN") services ("Accused Instrumentalities") to customers, including customers located in the United States, where the Accused Instrumentalities include both a proxy server service with servers located

throughout the United States, including Texas, as well as a residential proxy service including such service that is, for example, implemented via NordVPN's "SmartPlay" feature ("SmartPlay") and "NordVPN Extensions" feature ("NordVPN Extensions").Upon information and belief, SmartPlay and NordVPN Extensions include third-party proxy devices located in the United States and Texas under the control of Defendant.   https://nordvpn.com/blog/smartplay-explained/ (Exhibit F); https://nordvpn.com/servers/usa/ (Exhibit G); https://medium.com/@derek./how-is-nordvpn-unblocking-disney-6c51045dbc30 (Exhibit H); and https://nordvpn.com/features/proxy-extension/ (Exhibit I).

JURISDICTION AND VENUE

4.   This is an action for patent infringement under the patent laws of the United States of America, 35 U.S.C. § 1, *et seq*.

5.   This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331, 1338, and 1367.

6.   This Court has personal jurisdiction over Defendant because it, directly or through its subsidiaries, divisions, groups, distributors, and/or residential proxy partners/suppliers has sufficient minimum contacts with this forum as a result of business conducted within the State of Texas, and/or pursuant to Fed. R. Civ. P. 4(k)(2). On information and belief, Defendant transacts substantial business in the State of Texas, directly or through agents, including: (i) at least a portion of the infringement alleged herein, and (ii) regularly does or solicits business in Texas, engages in other persistent courses of conduct, maintains continuous and systematic contacts within this Judicial District, purposefully avails itself of the privilege of doing business in Texas, and/or derives substantial revenue from services provided in Texas. For example, upon information and belief, Defendant controls software executed on various components located in the United States

and Texas including Defendant's servers, client devices of Defendant's customers ("API") and proxy client devices ("Proxy Software") including, for example, through its third-party partners, which is the subject of infringement alleged herein and is embedded in a number of software applications, with the software placed into the stream of commerce with the knowledge, understanding, and/or intention that they be downloaded and executed by servers and client devices located in the State of Texas. *See e.g.* https://nordvpn.com/servers/usa/ (Exhibit G); https://medium.com/@derek./how-is-nordvpn-unblocking-disney-6c51045dbc30 (Exhibit H); https://nordvpn.com/features/proxy-extension/ (Exhibit I). Upon information and belief, the Proxy Software effectively turns the client devices on which it is installed into residential proxy devices that operate as part of the service of residential proxy systems including the Accused Instrumentalities offered, operated and provided by Defendant. https://medium.com/@derek./how-is-nordvpn-unblocking-disney-6c51045dbc30 (Exhibit H). As a further example, on information and belief, Defendant also has customers and proxy servers located in the United States and the State of Texas that use and are used as part of Defendant's proxy server VPN service which is part of the infringement alleged herein. https://nordvpn.com/servers/usa/ (Exhibit G); https://nordvpn.com/features/proxy-extension/ (Exhibit I).

7. Upon information and belief, Defendant owns or controls servers, including but not limited to servers throughout the United States, including Texas, that are used to implement its proxy server VPN service. *See e.g.* Exhibit G. Defendant touts the use of Proxy Software and their associated residential proxy devices in the United States, as part of the Accused Instrumentalities as shown in the image below. *See e.g.* Exhibit F. Similarly, Defendant's

customers, including upon information and belief customers located in the United States and Texas, also use software including the API to implement the Accused Instrumentalities.

(Exhibit G)

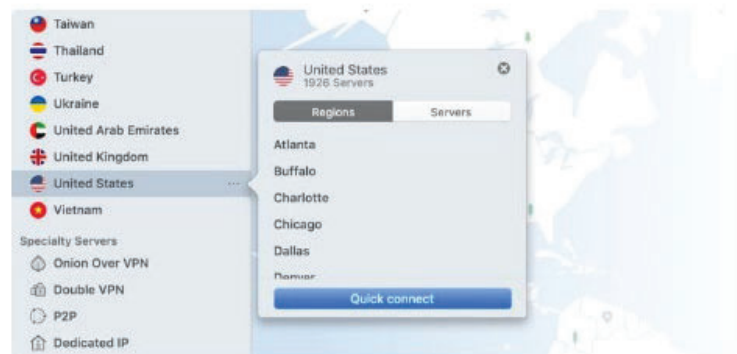8.   Upon information and belief, residential proxy devices with Defendant's Proxy Software are located throughout the United States, including Texas. *See e.g.* Exhibits F and H. Defendant touts the use of Proxy Software and their associated residential proxy devices as part of the Accused Instrumentalities as shown in the image below. Exhibit F.

SmartPlay is a NordVPN feature that helps you securely access content that would otherwise be unavailable. It does so by combining the best features of the VPN and Smart DNS technologies. So how does it work?

NordVPN has a huge server network all over the world, but this is not always enough to ensure the best possible experience for our customers. That's why we use SmartPlay technology.

SmartPlay is based on DNS rerouting and uses an additional pool of IP addresses to improve the connection when users try to access certain websites. This technology is not new and is used by almost all major VPN service providers. Here's how it goes:

1. We purchase services that provide pools of IP addresses.

2. There are two types of pools. The first one consists of IPs purchased from ISPs directly. The second one consists of the IPs of people who have **voluntarily downloaded** specific applications on their devices. The sole purpose of these applications is to reward the end user for **voluntarily sharing** part of their bandwidth with various services. Each individual who has the app downloaded **is fully aware of this purpose** and receives a reward for the traffic sent and received through their device.

Exhibit F.

        9.   Defendant is subject to this Court's jurisdiction because it has committed patent infringement in the State of Texas and this jurisdiction, including for example upon information

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