

**UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.**

**Before The Honorable David P. Shaw
Administrative Law Judge**

In the Matter of

CERTAIN POINT-TO-POINT NETWORK
COMMUNICATION DEVICES AND
PRODUCTS CONTAINING SAME.

Investigation No. 337-TA-892

**RESPONDENTS' RESPONSE TO COMPLAINANT STRAIGHT PATH'S
MOTION TO TERMINATE THE INVESTIGATION
BASED ON WITHDRAWAL OF THE COMPLAINT**
(Motion Docket No. 892-045)

I. INTRODUCTION

Complainant Straight Path's last-minute motion to terminate is the last step in a scheme that, regrettably, the Commission's rules and precedent appear to permit. Those rules should be changed to prevent the sort of gamesmanship in which Straight Path has engaged and bring the Commission in line with federal district courts and other bodies that impose sanctions for last-second surrender in a costly dispute. As for this motion, Respondents do not oppose but urge the ALJ to prevent Straight Path from returning to the Commission and to take action in a precedential ruling to deter similar conduct in the future.¹

On May 5, 2014, only eight days before hearing was set to commence in this Investigation, Straight Path moved to withdraw its Complaint and terminate the Investigation. Though Straight Path provides no explanation whatsoever, its strategy is manifest: avoid a trial on the merits in this matter while increasing litigation costs and permitting Straight Path to threaten others with its near-expired patent portfolio.

It is no coincidence that Straight Path moved to terminate the day before the Staff's pre-hearing brief came due. As explained in Respondents' pre-hearing brief, the asserted patents are hopelessly invalid over several prior-art systems and publications, most prominently Microsoft Corporation's sale of identical technology more than a year prior to the filing date. And Straight Path's attempt to stretch its VoIP patents to cover Netflix, Inc.'s CDNs contradicts Straight Path's own prior representations to the Patent Office (and others) about the limited reach of its patents. The patents Straight Path asserts have never been subject to trial. Straight Path appears committed to ensuring that the asserted patents escape the same test before the Commission and to avoiding any statement on their invalidity, including from Staff.

¹These abbreviations are used throughout this Response: (1) "CDN" means content delivery network; (2) "Respondents" means Toshiba Corporation, Toshiba America, Inc., Toshiba America Information Systems, Inc., Vizio, Inc., LG Electronics, Inc., LG Electronics U.S.A., Inc., and LG Electronics MobileComm U.S.A., Inc.; and (3) "VoIP" means Voice over Internet Protocol.

The same day Straight Path first gave notice that it would pull its ITC Complaint, Straight Path brought those same claims elsewhere. Straight Path failed to disclose in its motion to terminate that it had filed suit against Netflix in the District Court for the Eastern District of Texas, on the same patents asserted in this Investigation (and two others in the same family). Notably, while Netflix is a third party to this Investigation, it provides the only functionality on Respondents' devices that Straight Path accuses of infringing. Those accusations continue, despite Straight Path's retreat from this case to a new forum. And Straight Path has other, similar cases pending against Respondents in the District Court for the Eastern District of Virginia, which Straight Path presumably intends to pursue notwithstanding its withdrawal of the same allegations before the Commission. In short, unable to pressure Respondents or Netflix into a settlement through litigation costs here, and fearful of a judgment that its VoIP patents do not cover the accused CDN functionality and are invalid, Straight Path simply wasted the Commission's time and abused its process as part of a never-ending stream of lawsuits intended to avoid the merits in favor of creating litigation costs. This sort of behavior is anathema to justice and should come at a price.

II. FACTUAL BACKGROUND

Straight Path—a Category 2 non-practicing entity—initiated this Investigation against Respondents in August 2013 as part of its patent-monetization campaign. Simultaneously, Straight Path sued Respondents in Federal District Court in the Eastern District of Virginia, alleging infringement of the same three patents. *See* Ex. A. Separately, again in August of 2013, Straight Path sued Blackberry, Huawei, Samsung, and ZTE corporate entities in four separate actions in the Eastern District of Texas. *See, e.g.,* Ex. B.

Straight Path accused Netflix and Google technologies of infringement in its Complaint. But Straight Path did not name Netflix and Google as respondents in this Investigation.² Instead,

²In an investigation naming Netflix, LG, and VIZIO as respondents, the Commission held that Netflix did not violate Section 337 because, among other reasons, it did not sell for importation its software or user interface to LG or VIZIO. *See* Inv. No. 337-TA-845, *Matter of Certain*

following a blueprint laid down by countless non-practicing entities before them, Straight Path fought a proxy war with Netflix and Google's many partners instead of testing the patents in one consolidated adversarial action against the innovators themselves.³

The hearing in the instant matter was scheduled for May 13, 2014. Between August 2013 and May 5, 2014, the parties engaged in voluminous fact and expert discovery. The parties served and responded to over one thousand interrogatories. The parties took 21 fact depositions, including one in Israel and several in Japan, Korea, and Taiwan. At least 11 third parties were subpoenaed and deposed and 12 corporate witnesses for the remaining Respondents were deposed.

Respondents' experts prepared three separate expert reports detailing 22 separate, primary, independent bases for invalidation of the asserted patents based on the lack of novelty and obviousness of the asserted claims. These were culled from a set of over 1,400 prior art references researched and disclosed (including via 43,083 pages of prior art material produced by Respondents), demonstrating the state of the art and the invalidity of the asserted patents. Respondents' experts also explained how, particularly given the claim scope ascribed by Straight Path to its patents, they were also invalid for lack of enablement, for lack of written description, and as indefinite. Respondents' experts also investigated the accused functionality of third parties Google and Netflix, and provided five reports detailing inconsistencies with Straight Path's expert's infringement theories, five broad categories of claim limitations not met by any

Products Containing Interactive Program Guide and Parental Control Technology, Comm'n Op. 8-15 (Dec. 11, 2013) (holding that complainants failed to demonstrate that Netflix sold for importation its software or user interface). Toshiba was not named a respondent in Investigation No. 337-TA-845.

³ Respondents note that although omitted by Straight Path in its Motion, their understanding is that Google Talk, Google Hangouts, and YouTube are no longer at issue or accused in this Investigation. See Straight Path Commc'ns Inc., Current Report (Form 8-K) (Apr. 29, 2014). Specifically, Respondents understand that the dispute between Straight Path and Google has been resolved; that Straight Path has licensed the Straight Path Patents to Google; and that such license covers any third party activity with respect to all Google Products, including Google Talk, Google Hangouts, and YouTube.

of the accused products or functionalities (counting conservatively as several included additional sub-categories and addressed analogous but distinct claim limitations), and additional reasons why the specific accused products and functionalities do not infringe or violate Section 337. The parties also took 15 expert depositions over 10 days.

The parties additionally engaged in substantial motions practice. The parties filed 97 motions, including two motions for summary determination. On April 29, 2014, the parties collectively filed 941 pages of pre-hearing briefing. The Commission's staff attorney reviewed not only this briefing, but all of the other voluminous pretrial submissions by the parties, and attended at least 15 depositions.

Leading up to the Commission-mandated third and final settlement conference, Straight Path obtained settlements from Sharp, Sony, and Google. *See* Straight Path Commc'ns Inc., Current Report (Form 8-K) (Apr. 29, 2014) (addressing Sony and Google settlements). When Respondents and Netflix refused Straight Path's unreasonable demands and did not agree to similar settlements, Straight Path was forced to confront the fact that its patents might finally be subject to adversarial testing. By this point, Straight Path had voluntarily dropped all but four of sixteen asserted claims of two of the three asserted patents. On Friday, May 2, 2014, on the eve of the hearing in this matter and after the submission of pre-hearing briefs and motions in limine, Straight Path issued notice of its intent to withdraw the Complaint, providing no explanation for its maneuver. That very same day, Straight Path filed yet another complaint in the Eastern District of Texas, this time against Netflix, the lone service whose non-infringement would have been imminently decided in this Investigation. *See* Ex. C. On Monday, May 5, 2014, the same day the Commission's staff attorney was scheduled to issue his pre-hearing brief, Straight Path filed its motion to withdraw the Complaint. Remarkably, Straight Path, in its motion, ***fails to give any reason*** for its last-minute surrender.

III. ARGUMENT

A motion to terminate the Investigation on the basis of withdrawal of the complaint will readily be granted in the absence of “extraordinary circumstances.” *See* Commission Rule 210.21(a); *Matter of Certain Insulin Delivery Devices*, Inv. No. 337-TA-572, 2007 WL 7294373, *1 (Jan. 31, 2007) (citing *Certain Ultrafiltration Systems and Components Thereof*, Inv. No. 337-TA-107, Comm’n Action and Order at 2 (Mar. 11, 1982)). Unfortunately, it appears that the Commission’s rules do not preclude an eve-of-trial decision to withdraw a Complaint, even following thorough and expensive discovery and pre-hearing litigation. Respondents request attention to this loophole in the Commission’s rules in future rulemaking proceedings so as to address the efficiency and fairness problems posed by last-minute withdrawals of complaints without justification. The Commission is anomalous in permitting such unilateral withdrawal. For example, in federal district court, a plaintiff may dismiss without prejudice a complaint only before a defendant has answered or filed a summary-judgment motion, or by stipulation of all parties. Fed. R. Civ. P. 41(a). If a plaintiff later pursues the same case, a defendant may recover costs for the previous action as a deterrent to frivolous and duplicative litigation. Fed. R. Civ. P. 41(d).

Nonetheless, Respondents wish to bring to the ALJ’s attention the serious inefficiencies Straight Path’s strategy raises and request that the ALJ act within its well-recognized power under the Commission Rules to discourage similar conduct by Straight Path (and other non-practicing entities) in the future.

First, Straight Path was long aware that its case against Respondents was without merit, yet delayed withdrawal of its Complaint until only days prior to the hearing. Fact discovery closed over three months ago, on January 24, 2014. Respondents’ interrogatory responses detailing the non-infringement of the accused Netflix functionality were served on January 31, 2014. Expert discovery likewise closed over a month ago, on March 21, 2014. Respondents’ expert reports, served on Straight Path on February 19, 2014 and March 10, 2014, made clear the invalidity of Straight Path’s three asserted patents and the non-infringement of those patents by

Netflix's functionality on Respondents' products. Well aware of the facts, Respondents' contentions, and the weakness of its own case, Straight Path waited until it had extracted as many settlements as possible from other Respondents wary of the costs of hearing, and nearly all of the pre-hearing filings were complete, to finally concede the failures of its case and withdraw its Complaint. This last-minute retreat served Straight Path's purpose: to extend the prehearing procedures as long as possible, maximizing the costs of litigation for Straight Path's opponents.

Second, Straight Path's motion to terminate multiplies the proceedings on these patents but avoids any actual adjudication on its patents or its allegations. By the time Straight Path finally moved to withdraw its Complaint, Respondents were prepared to go to trial, ready to vindicate their non-infringing products and demonstrate the invalidity of Straight Path's patents. Straight Path took advantage of its last possible opportunity to evade judgment in this forum and shift its focus to two new fora for a second bite at the apple. By filing a new case against third-party Netflix in district court in Texas on the *very same day* it provided notice to Respondents of its intention to seek termination of this case, Straight Path made plain its desire to draw out this meritless case as long as possible, in as many fora as possible, to harass the remaining Respondents and their business partners into settlements.

Third, and most importantly, the Commission, the OUII staff, and the parties have expended substantial amounts of time and resources on this Investigation—into the millions of dollars. Straight Path's motion renders that effort all for naught without providing any justification whatsoever for withdrawing its Complaint at this late date. Straight Path apparently intends to repeat this wasteful exercise in various district courts; it should not be rewarded for its abusive and dilatory tactics.

In light of Straight Path's abuse of the Commission's process, Respondents are concerned that Straight Path may, as part of its vexatious litigation strategy, renew its Investigation against Respondents in the ITC. Respondents therefore respectfully request that the ALJ state in a precedential termination order that, should Straight Path file a new complaint against Respondents in the future concerning either the same devices accused or the Netflix-provided

functionality accused, its misconduct in the termination here should be investigated by the Commission prior to the Institution of any complaint.⁴ *See Matter of Certain Devices with Secure Commc'n Capabilities*, Inv. No. 337-TA-858, Order No. 20, 2013 WL 1853670, *5 (Apr. 22, 2013) (“The Administrative Law Judge finds, however, that these concerns should . . . be addressed by the Commission or the presiding administrative law judge, as may be appropriate, should Complainants later file an additional complaint against Apple on the same operative facts.”).

Respondents additionally request that the ALJ take any further action that it finds prudent. Respondents invite the ALJ to consider whether to exercise its broad statutory authority to issue an order *sua sponte* to show cause why Straight Path should not be sanctioned for its bad faith conduct in withdrawing the Complaint at such a late juncture in this Investigation. *See* Commission Rule 210.4(d)(1)(ii). The ALJ is, in its discretion, empowered to issue such an order prior to the expiration of the statutory safe harbor period. *See Certain Auto. GPS Navigation Sys.*, Inv. No. 337-TA-814, Notice of Comm’n Determination Not to Review ALJ Orders No. 8 & 9 at 2 (June 7, 2012) (“The Commission investigations cited by petitioners each represent the exercise of discretion by the presiding ALJ in determining whether to issue a show cause order.”).

IV. CONCLUSION

In light of the serious investment of time and resources that this Investigation has represented for the Commission, the parties, and various third parties, Respondents find Straight Path’s conduct in moving to withdraw its Complaint on the eve of hearing in this matter extremely troubling. Respondents recognize that Commission rules permit Straight Path’s belated termination of this Investigation and so do not oppose the termination of this Investigation. However, for the reasons laid out above, Respondents urge the ALJ to use its

⁴In addition, because Netflix technology is provided on other devices by non-parties to this Investigation, Straight Path should not be permitted to launch another proxy attack against Netflix by suing nominally-different respondents in a future complaint.

powers under the Commission rules to deter such conduct by Straight Path and other non-practicing entities in the future.

Respectfully submitted,

Dated: May 8, 2014

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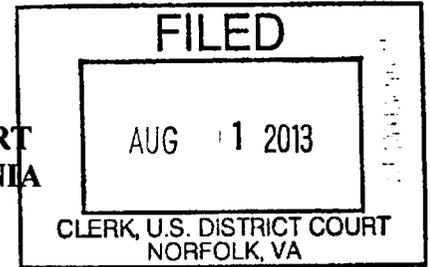
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EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION



STRAIGHT PATH IP GROUP, INC.,

Plaintiff,

v.

LG ELECTRONICS, INC.,
LG ELECTRONICS U.S.A., INC., AND
LG ELECTRONICS MOBILECOMM U.S.A, INC.

Defendants.

Civil Action No. 1:13cv933
CMH/TRJ
JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

1. Plaintiff Straight Path IP Group, Inc. (“Straight Path” or “Plaintiff”), for its Complaint against Defendants LG Electronics, Inc. (“LG Electronics”), LG Electronics U.S.A., Inc. (“LG Electronics USA”), and LG Electronics MobileComm U.S.A, Inc. (“LG Electronics MobileComm”) (collectively, “Defendants”), hereby alleges as follows:

PARTIES

2. Straight Path is a Delaware corporation with its principal place of business at 5300 Hickory Park Dr., Suite 218, Glen Allen, VA 23059.

3. LG Electronics is located at LG Twin Towers, 20 Yeouidodong, Yeongdeungpo-gu Seoul 150-721, South Korea. LG Electronics is in the business of, *inter alia*, developing, manufacturing, and selling consumer electronics, display devices and products containing same, and point-to-point network communications devices and products containing same. Such devices include, but are not limited to, smartphone handsets, tablet computers, computers, smart TVs, Blu-ray players and set-top boxes. LG Electronics maintains operations in many countries

throughout the world. LG Electronics is the parent corporation of defendants LG Electronics USA and LG Electronics MobileComm.

4. LG Electronics USA is a wholly-owned subsidiary of defendant LG Electronics and a corporation organized and existing under the laws of the state of Delaware, with its principal place of business located at 1000 Sylvan Ave., Englewood Cliffs, NJ, 07632. LG Electronics USA manages the North American operations of defendant LG Electronics MobileComm, and the two entities provide sales and marketing support in North America for their ultimate parent, LG Electronics.

5. LG Electronics MobileComm (d/b/a LG Mobile Phones) is a wholly-owned subsidiary of respondent LG Electronics USA. LG Electronics MobileComm is a corporation organized and existing under the laws of the state of California with its principal place of business located at 10101 Old Grove Road, San Diego, CA 92131, and is managed by its parent LG Electronics USA. On information and belief, LG Electronics MobileComm provides a variety of messaging and telephony devices, including mobile telephone handsets and tablet computers, to customers throughout the United States. LG Electronics MobileComm has imported such goods manufactured by LG Electronics from South Korea.

NATURE OF THE ACTION

6. This is a civil action for the infringement of United States Patent No. 6,009,469 (the “469 Patent”) (attached as Exhibit A) entitled “Graphic User Interface for Internet Telephony Application,” United States Patent No. 6,108,704 (the “704 Patent”) (attached as Exhibit B) entitled “Point-to-Point Protocol,” and United States Patent No. 6,131,121 (the “121 Patent”) (attached as Exhibit C) entitled “Point-to-Point Computer Network Communication

Utility Utilizing Dynamically Assigned Network Protocol Addresses” (collectively, the “Patents-in-Suit”) under the patent laws of the United States, 35 U.S.C. § 1, *et seq.*

7. This action involves Defendants’ manufacture, use, sale, offer for sale, and/or importation into the United States of infringing products, methods, processes, services and systems that are primarily used or primarily adapted for use in point-to-point network communications devices and products containing same, including, for example but without limitation, smartphone handsets, tablet computers, computers, smart TVs, Blu-ray players and set-top boxes, that infringe one or more of the claims of the Patents-in-Suit.

JURISDICTION AND VENUE

8. This Court has original jurisdiction over the subject matter of this Complaint under 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, including 35 U.S.C. §§ 1, *et seq.*

9. Defendants are subject to personal jurisdiction in the Commonwealth of Virginia because Defendants regularly transact business in this judicial district by, among other things, offering Defendants’ products and services to customers, business affiliates and partners located in this judicial district. In addition, the Defendants have committed acts of direct infringement of one or more of the claims of one or more of the Patents-in-Suit in this judicial district.

10. Venue in this district is proper under 28 U.S.C. § 1400(b) and 1391(b) and (c), because the Defendants are subject to personal jurisdiction in this district and have committed acts of infringement in this district.

FACTUAL BACKGROUND

11. Plaintiff Straight Path is the lawful assignee of all right, title and interest in and to the Patents-in-Suit.

12. All maintenance fees for the Patents-in-Suit have been timely paid, and there are no fees currently due.

COUNT I
(Defendants' Infringement of the '469 Patent)

13. Paragraphs 1 through 12 are incorporated by reference as if fully restated herein.

14. Defendants make, use, sell, offer to sell and/or import into the United States for subsequent sale or use products, services, methods or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, or that employ systems, components and/or processes that make use of systems or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, claims of the '469 Patent, including at least Claims 1, 2, 3, 9, 10, 17 and 18.

15. Such infringing devices include consumer electronics and display devices, including but not limited to, certain of Defendants' point-to-point network communications devices and products containing same, including, for example but without limitation, the LG Optimus G Smartphone (hereinafter, "the LG Smartphone", which encompasses all LG smartphones, including but not limited to model numbers LG LUCID2 (VS870), LG SPIRIT 4G (MS870), LGE960 (Nexus 4), LG OPTIMUS REGARD (LW770), LG MACH (LS860), LG OPTIMUS G (LS970), LG OPTIMUS L9 (P769), LG OPTIMUS G (E970), LG VENICE (LG730), LG ESCAPE (P870), LG SPECTRUM 2 (VS930), LG SPLENDOR (US730), LG INTUITION (VS950), LG MOTION 4G (MS770), LG OPTIMUS PLUS (AS695), LG ELITE (LS696), LG VIPER (LS840), LG OPTIMUS M+ (MS695), LG LUCID (VS840), LG NITRO (P930), LG SPECTRUM (VS920), LG MARQUEE (LG855), LG CONNECT 4G (MS840), LG OPTIMUS Q (LGL55C), LG OPTIMUS 2 (AS680), LG IGNITE (AS855), LG MYTOUCH Q (LGC800DG), LG MYTOUCH Q (LGC800VL), LG OPTIMUS ONE (P504), LG MYTOUCH

(LGE739BK), LG DOUBLEPLAY (C729), LG OPTIMUS SLIDER (VM701), LG ESTEEM (MS910), LG ENLIGHTEN (VS700), LG MARQUEE (LS855), LG THRILL (P925), LG REVOLUTION (VS910), LG GENESIS (US760), LG G2X (P999), LG THRIVE (P506), LG PHOENIX (P505), LG OPTIMUS C (LW690), LG OPTIMUS V (VM670), LG VORTEX (VS660)), as well as others of Defendants' smartphone handsets, tablet computers, computers, smart TVs, Blu-ray players and set-top boxes.

16. Defendants actively, knowingly, and intentionally induced, and continue to actively, knowingly, and intentionally induce, infringement of the '469 Patent by making, using, offering for sale, importing, and selling infringing consumer electronics and display devices, as well as by contracting with others to use, market, sell, offer to sell, and import infringing consumer electronics and display devices, all with knowledge of the '469 Patent and its claims; with knowledge that its customers and end users will use, market, sell, offer to sell, and import infringing consumer electronics and display devices; and with the knowledge and the specific intent to encourage and facilitate those infringing sales and uses of infringing consumer electronics and display devices through the creation and dissemination of promotional and marketing materials, instructional materials, product manuals, and technical materials.

17. Defendants have also contributed to the infringement by others, including the end users of infringing consumer electronics and display devices, and continue to contribute to infringement by others, by selling, offering to sell, and importing the infringing consumer electronics and display devices into the United States, knowing that those products constitute a material part of the inventions of the '469 Patent, knowing those products to be especially made or adapted to infringe the '469 Patent, and knowing that those products are not staple articles or commodities of commerce suitable for substantial non-infringing use.

18. Defendants have had knowledge of and notice of the '469 Patent and its infringement since at least, and through, the filing and service of this Complaint and, despite this knowledge, continue to commit tortious conduct by way of patent infringement.

19. Defendants have been and continue to be infringing one or more of the claims of the '469 Patent through the aforesaid acts.

20. Plaintiff is entitled to recover damages adequate to compensate for the infringement.

COUNT II
(Defendants' Infringement of the '704 Patent)

21. Paragraphs 1 through 20 are incorporated by reference as if fully restated herein.

22. Defendants make, use, sell, offer to sell and/or import into the United States for subsequent sale or use products, services, methods or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, or that employ systems, components and/or processes that make use of systems or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, claims of the '704 Patent, including at least Claims 1, 11, 12, 19, 22, 23, and 30.

23. Such infringing devices include consumer electronics and display devices, including but not limited to, certain of Defendants' point-to-point network communications devices and products containing same, including, for example but without limitation, the LG Optimus G Smartphone (hereinafter, "the LG Smartphone", which encompasses all LG smartphones, including but not limited to model numbers LG LUCID2 (VS870), LG SPIRIT 4G (MS870), LGE960 (Nexus 4), LG OPTIMUS REGARD (LW770), LG MACH (LS860), LG OPTIMUS G (LS970), LG OPTIMUS L9 (P769), LG OPTIMUS G (E970), LG VENICE (LG730), LG ESCAPE (P870), LG SPECTRUM 2 (VS930), LG SPLENDOR (US730), LG

INTUITION (VS950), LG MOTION 4G (MS770), LG OPTIMUS PLUS (AS695), LG ELITE (LS696), LG VIPER (LS840), LG OPTIMUS M+ (MS695), LG LUCID (VS840), LG NITRO (P930), LG SPECTRUM (VS920), LG MARQUEE (LG855), LG CONNECT 4G (MS840), LG OPTIMUS Q (LGL55C), LG OPTIMUS 2 (AS680), LG IGNITE (AS855), LG MYTOUCH Q (LGC800DG), LG MYTOUCH Q (LGC800VL), LG OPTIMUS ONE (P504), LG MYTOUCH (LGE739BK), LG DOUBLEPLAY (C729), LG OPTIMUS SLIDER (VM701), LG ESTEEM (MS910), LG ENLIGHTEN (VS700), LG MARQUEE (LS855), LG THRILL (P925), LG REVOLUTION (VS910), LG GENESIS (US760), LG G2X (P999), LG THRIVE (P506), LG PHOENIX (P505), LG OPTIMUS C (LW690), LG OPTIMUS V (VM670), LG VORTEX (VS660)), as well as others of Defendants' smartphone handsets, tablet computers, computers, smart TVs, Blu-ray players and set-top boxes.

24. Defendants actively, knowingly, and intentionally induced, and continue to actively, knowingly, and intentionally induce, infringement of the '704 Patent by making, using, offering for sale, importing, and selling infringing consumer electronics and display devices, as well as by contracting with others to use, market, sell, offer to sell, and import infringing consumer electronics and display devices, all with knowledge of the '704 Patent and its claims; with knowledge that its customers and end users will use, market, sell, offer to sell, and import infringing consumer electronics and display devices; and with the knowledge and the specific intent to encourage and facilitate those infringing sales and uses of infringing consumer electronics and display devices through the creation and dissemination of promotional and marketing materials, instructional materials, product manuals, and technical materials.

25. Defendants have also contributed to the infringement by others, including the end users of infringing consumer electronics and display devices, and continue to contribute to

infringement by others, by selling, offering to sell, and importing the infringing consumer electronics and display devices into the United States, knowing that those products constitute a material part of the inventions of the '704 Patent, knowing those products to be especially made or adapted to infringe the '704 Patent, and knowing that those products are not staple articles or commodities of commerce suitable for substantial non-infringing use.

26. Defendants have had knowledge of and notice of the '704 Patent and its infringement since at least, and through, the filing and service of this Complaint and, despite this knowledge, continue to commit tortious conduct by way of patent infringement.

27. Defendants have been and continue to be infringing one or more of the claims of the '704 Patent through the aforesaid acts.

28. Plaintiff is entitled to recover damages adequate to compensate for the infringement.

COUNT III
(Defendants' Infringement of the '121 Patent)

29. Paragraphs 1 through 28 are incorporated by reference as if fully restated herein.

30. Defendants make, use, sell, offer to sell and/or import into the United States for subsequent sale or use products, services, methods or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, or that employ systems, components and/or processes that make use of systems or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, claims of the '121 Patent, including at least Claims 6 and 13.

31. Such infringing devices include consumer electronics and display devices, including but not limited to, certain of Defendants' point-to-point network communications devices and products containing same, including, for example but without limitation, the LG

Optimus G Smartphone (hereinafter, “the LG Smartphone”, which encompasses all LG smartphones, including but not limited to model numbers LG LUCID2 (VS870), LG SPIRIT 4G (MS870), LGE960 (Nexus 4), LG OPTIMUS REGARD (LW770), LG MACH (LS860), LG OPTIMUS G (LS970), LG OPTIMUS L9 (P769), LG OPTIMUS G (E970), LG VENICE (LG730), LG ESCAPE (P870), LG SPECTRUM 2 (VS930), LG SPLENDOR (US730), LG INTUITION (VS950), LG MOTION 4G (MS770), LG OPTIMUS PLUS (AS695), LG ELITE (LS696), LG VIPER (LS840), LG OPTIMUS M+ (MS695), LG LUCID (VS840), LG NITRO (P930), LG SPECTRUM (VS920), LG MARQUEE (LG855), LG CONNECT 4G (MS840), LG OPTIMUS Q (LGL55C), LG OPTIMUS 2 (AS680), LG IGNITE (AS855), LG MYTOUCH Q (LGC800DG), LG MYTOUCH Q (LGC800VL), LG OPTIMUS ONE (P504), LG MYTOUCH (LGE739BK), LG DOUBLEPLAY (C729), LG OPTIMUS SLIDER (VM701), LG ESTEEM (MS910), LG ENLIGHTEN (VS700), LG MARQUEE (LS855), LG THRILL (P925), LG REVOLUTION (VS910), LG GENESIS (US760), LG G2X (P999), LG THRIVE (P506), LG PHOENIX (P505), LG OPTIMUS C (LW690), LG OPTIMUS V (VM670), LG VORTEX (VS660)), as well as others of Defendants’ smartphone handsets, tablet computers, computers, smart TVs, Blu-ray players and set-top boxes.

32. Defendants actively, knowingly, and intentionally induced, and continue to actively, knowingly, and intentionally induce, infringement of the ‘121 Patent by making, using, offering for sale, importing, and selling infringing consumer electronics and display devices, as well as by contracting with others to use, market, sell, offer to sell, and import infringing consumer electronics and display devices, all with knowledge of the ‘121 Patent and its claims; with knowledge that its customers and end users will use, market, sell, offer to sell, and import infringing consumer electronics and display devices; and with the knowledge and the specific

intent to encourage and facilitate those infringing sales and uses of infringing consumer electronics and display devices through the creation and dissemination of promotional and marketing materials, instructional materials, product manuals, and technical materials.

33. Defendants have also contributed to the infringement by others, including the end users of infringing consumer electronics and display devices, and continue to contribute to infringement by others, by selling, offering to sell, and importing the infringing consumer electronics and display devices into the United States, knowing that those products constitute a material part of the inventions of the '121 Patent, knowing those products to be especially made or adapted to infringe the '121 Patent, and knowing that those products are not staple articles or commodities of commerce suitable for substantial non-infringing use.

34. Defendants have had knowledge of and notice of the '121 Patent and its infringement since at least, and through, the filing and service of this Complaint and, despite this knowledge, continue to commit tortious conduct by way of patent infringement.

35. Defendants have been and continues to be infringing one or more of the claims of the '121 Patent through the aforesaid acts.

36. Plaintiff is entitled to recover damages adequate to compensate for the infringement.

PRAYER FOR RELIEF

WHEREFORE, Straight Path IP Group, Inc., respectfully requests the following relief:

- a) A judgment that Defendants have infringed the '469 Patent;
- b) A judgment that Defendants have infringed the '704 Patent;
- c) A judgment that Defendants have infringed the '121 Patent; and

- d) A judgment that awards Straight Path all appropriate damages under 35 U.S.C. § 284 for the Defendants' past infringement, and any continuing or future infringement of the Patents-in-Suit, up until the date such judgment is entered, including interest, costs, and disbursements as justified under 35 U.S.C. § 284 and, if necessary, to adequately compensate Straight Path for Defendants' infringement, an adjudication;
- i. that this case is exceptional within the meaning of 35 U.S.C. § 285;
 - ii. that Straight Path be awarded the attorneys' fees, costs, and expenses it incurs in prosecuting this action; and
 - iii. that Straight Path be awarded such further relief at law or in equity as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Straight Path hereby demands trial by jury on all claims and issues so triable.

DATED: August 1, 2013

Respectfully submitted,



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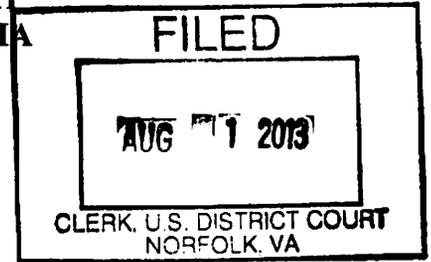
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*Counsel for Plaintiff
Straight Path IP Group, Inc.*

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION



STRAIGHT PATH IP GROUP, INC.,

Plaintiff,

v.

TOSHIBA CORPORATION,
TOSHIBA AMERICA, INC., and
TOSHIBA AMERICA INFORMATION
SYSTEMS, INC.,

Defendants.

Civil Action No. 3:13cv503 REP

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

1. Plaintiff Straight Path IP Group, Inc. ("Straight Path" or "Plaintiff"), for its Complaint against Defendants Toshiba Corporation ("Toshiba"), Toshiba America, Inc. ("Toshiba America"), and Toshiba America Information Systems, Inc. ("Toshiba America IS") (collectively, "Defendants"), hereby alleges as follows:

PARTIES

2. Straight Path is a Delaware corporation with its principal place of business at 5300 Hickory Park Dr., Suite 218, Glen Allen, VA 23059.

3. Toshiba is a corporation organized and existing under the laws of Japan, with its principal place of business located at 1-1-1 Shibaura, Minato-ku, 105-8001 Japan. Toshiba is in the business of, *inter alia*, selling point-to-point network communications devices and products containing same for importation into the United States. Such devices include, but

are not limited to smartphone handsets, tablet computers, computers, smart TVs, Blu-ray players, gaming devices, set-top boxes, and VoIP phone systems.

4. Toshiba America is a corporation organized and existing under the laws of the state of Delaware, with its principal place of business located at 1251 Avenue of the Americas, Ste. 4110, New York, New York 10020. Toshiba America is a wholly owned subsidiary of Toshiba, and as such oversees the North American operations of Toshiba. Toshiba America is the immediate parent of Toshiba America IS and is in the business of, *inter alia*, developing, manufacturing, importing, and selling electronic devices. Such devices include, but are not limited to smartphone handsets, tablet computers, computers, smart TVs, Blu-ray players, gaming devices, set-top boxes, and VoIP phone systems.

5. Toshiba America IS is a corporation organized and existing under the laws of the state of California, with its principal place of business located at 9740 Irvine Blvd, Irvine, California 92618. Toshiba America IS is a consolidated subsidiary of Toshiba America, with an ultimate parent of Toshiba, and is in the business of selling electronic devices for importation into the United States. Toshiba America IS's products include, *inter alia*, Internet protocol-based surveillance equipment, televisions, Blu-ray players, portable computers, notebooks, tablets, and VoIP telephone systems.

NATURE OF THE ACTION

6. This is a civil action for the infringement of United States Patent No. 6,009,469 (the "469 Patent") (attached as Exhibit A) entitled "Graphic User Interface for Internet Telephony Application," United States Patent No. 6,108,704 (the "704 Patent") (attached as Exhibit B) entitled "Point-to-Point Protocol," and United States Patent No. 6,131,121 (the "121 Patent") (attached as Exhibit C) entitled "Point-to-Point Computer Network Communication

Utility Utilizing Dynamically Assigned Network Protocol Addresses” (collectively, the “Patents-in-Suit”) under the patent laws of the United States, 35 U.S.C. § 1, *et seq.*

7. This action involves Defendants’ manufacture, use, sale, offer for sale, and/or importation into the United States of infringing products, methods, processes, services and systems that are primarily used or primarily adapted for use in point-to-point network communications devices and products containing same, including, for example but without limitation, smartphone handsets, tablet computers, computers, smart TVs, Blu-ray players, set-top boxes, and VoIP phone systems, that infringe one or more of the claims of the Patents-in-Suit.

JURISDICTION AND VENUE

8. This Court has original jurisdiction over the subject matter of this Complaint under 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, including 35 U.S.C. §§ 1, *et seq.*

9. Defendants are subject to personal jurisdiction in the Commonwealth of Virginia because Defendants regularly transact business in this judicial district by, among other things, offering Defendants’ products and services to customers, business affiliates and partners located in this judicial district. In addition, the Defendants have committed acts of direct infringement of one or more of the claims of one or more of the Patents-in-Suit in this judicial district.

10. Venue in this district is proper under 28 U.S.C. § 1400(b) and 1391(b) and (c), because the Defendants are subject to personal jurisdiction in this district and have committed acts of infringement in this district.

FACTUAL BACKGROUND

11. Plaintiff Straight Path is the lawful assignee of all right, title and interest in and to the Patents-in-Suit.

12. All maintenance fees for the Patents-in-Suit have been timely paid, and there are no fees currently due.

COUNT I
(Defendants' Infringement of the '469 Patent)

13. Paragraphs 1 through 12 are incorporated by reference as if fully restated herein.

14. Defendants make, use, sell, offer to sell and/or import into the United States for subsequent sale or use products, services, methods or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, or that employ systems, components and/or processes that make use of systems or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, claims of the '469 Patent, including at least Claims 1, 2, 3, 9, 10, 17 and 18.

15. Such infringing devices include consumer electronics and display devices, including but not limited to, certain of Defendants' point-to-point network communications devices and products containing same, including, for example but without limitation, the Toshiba Excite 10se Tablet (which encompasses all Toshiba tablets, including but not limited to model numbers AT305SE-T16 and AT305SE-T32), as well as others of Defendants' smartphone handsets, tablet computers, computers, smart TVs, Blu-ray players, set-top boxes, and VoIP phone systems.

16. Defendants actively, knowingly, and intentionally induced, and continue to actively, knowingly, and intentionally induce, infringement of the '469 Patent by making, using, offering for sale, importing, and selling infringing consumer electronics and display devices, as

well as by contracting with others to use, market, sell, offer to sell, and import infringing consumer electronics and display devices, all with knowledge of the '469 Patent and its claims; with knowledge that its customers and end users will use, market, sell, offer to sell, and import infringing consumer electronics and display devices; and with the knowledge and the specific intent to encourage and facilitate those infringing sales and uses of infringing consumer electronics and display devices through the creation and dissemination of promotional and marketing materials, instructional materials, product manuals, and technical materials.

17. Defendants have also contributed to the infringement by others, including the end users of infringing consumer electronics and display devices, and continue to contribute to infringement by others, by selling, offering to sell, and importing the infringing consumer electronics and display devices into the United States, knowing that those products constitute a material part of the inventions of the '469 Patent, knowing those products to be especially made or adapted to infringe the '469 Patent, and knowing that those products are not staple articles or commodities of commerce suitable for substantial non-infringing use.

18. Defendants have had knowledge of and notice of the '469 Patent and its infringement since at least, and through, the filing and service of this Complaint and, despite this knowledge, continue to commit tortious conduct by way of patent infringement.

19. Defendants have been and continue to be infringing one or more of the claims of the '469 Patent through the aforesaid acts.

20. Plaintiff is entitled to recover damages adequate to compensate for the infringement.

COUNT II
(Defendants' Infringement of the '704 Patent)

21. Paragraphs 1 through 20 are incorporated by reference as if fully restated herein.

22. Defendants make, use, sell, offer to sell and/or import into the United States for subsequent sale or use products, services, methods or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, or that employ systems, components and/or processes that make use of systems or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, claims of the '704 Patent, including at least Claims 1, 11, 12, 19, 22, 23, and 30.

23. Such infringing devices include consumer electronics and display devices, including but not limited to, certain of Defendants' point-to-point network communications devices and products containing same, including, for example but without limitation, the Toshiba Excite 10se Tablet (which encompasses all Toshiba tablets, including but not limited to model numbers AT305SE-T16 and AT305SE-T32), as well as others of Defendants' smartphone handsets, tablet computers, computers, smart TVs, Blu-ray players, set-top boxes, and VoIP phone systems.

24. Defendants actively, knowingly, and intentionally induced, and continue to actively, knowingly, and intentionally induce, infringement of the '704 Patent by making, using, offering for sale, importing, and selling infringing consumer electronics and display devices, as well as by contracting with others to use, market, sell, offer to sell, and import infringing consumer electronics and display devices, all with knowledge of the '704 Patent and its claims; with knowledge that its customers and end users will use, market, sell, offer to sell, and import infringing consumer electronics and display devices; and with the knowledge and the specific intent to encourage and facilitate those infringing sales and uses of infringing consumer electronics and display devices through the creation and dissemination of promotional and marketing materials, instructional materials, product manuals, and technical materials.

25. Defendants have also contributed to the infringement by others, including the end users of infringing consumer electronics and display devices, and continue to contribute to infringement by others, by selling, offering to sell, and importing the infringing consumer electronics and display devices into the United States, knowing that those products constitute a material part of the inventions of the '704 Patent, knowing those products to be especially made or adapted to infringe the '704 Patent, and knowing that those products are not staple articles or commodities of commerce suitable for substantial non-infringing use.

26. Defendants have had knowledge of and notice of the '704 Patent and its infringement since at least, and through, the filing and service of this Complaint and, despite this knowledge, continue to commit tortious conduct by way of patent infringement.

27. Defendants have been and continue to be infringing one or more of the claims of the '704 Patent through the aforesaid acts.

28. Plaintiff is entitled to recover damages adequate to compensate for the infringement.

COUNT III
(Defendants' Infringement of the '121 Patent)

29. Paragraphs 1 through 28 are incorporated by reference as if fully restated herein.

30. Defendants make, use, sell, offer to sell and/or import into the United States for subsequent sale or use products, services, methods or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, or that employ systems, components and/or processes that make use of systems or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, claims of the '121 Patent, including at least Claims 6 and 13.

31. Such infringing devices include consumer electronics and display devices, including but not limited to, certain of Defendants' point-to-point network communications devices and products containing same, including, for example but without limitation, the Toshiba Excite 10se Tablet (which encompasses all Toshiba tablets, including but not limited to model numbers AT305SE-T16 and AT305SE-T32), as well as others of Defendants' smartphone handsets, tablet computers, computers, smart TVs, Blu-ray players, set-top boxes, and VoIP phone systems.

32. Defendants actively, knowingly, and intentionally induced, and continue to actively, knowingly, and intentionally induce, infringement of the '121 Patent by making, using, offering for sale, importing, and selling infringing consumer electronics and display devices, as well as by contracting with others to use, market, sell, offer to sell, and import infringing consumer electronics and display devices, all with knowledge of the '121 Patent and its claims; with knowledge that its customers and end users will use, market, sell, offer to sell, and import infringing consumer electronics and display devices; and with the knowledge and the specific intent to encourage and facilitate those infringing sales and uses of infringing consumer electronics and display devices through the creation and dissemination of promotional and marketing materials, instructional materials, product manuals, and technical materials.

33. Defendants have also contributed to the infringement by others, including the end users of infringing consumer electronics and display devices, and continue to contribute to infringement by others, by selling, offering to sell, and importing the infringing consumer electronics and display devices into the United States, knowing that those products constitute a material part of the inventions of the '121 Patent, knowing those products to be especially made

or adapted to infringe the '121 Patent, and knowing that those products are not staple articles or commodities of commerce suitable for substantial non-infringing use.

34. Defendants have had knowledge of and notice of the '121 Patent and its infringement since at least, and through, the filing and service of this Complaint and, despite this knowledge, continue to commit tortious conduct by way of patent infringement.

35. Defendants have been and continues to be infringing one or more of the claims of the '121 Patent through the aforesaid acts.

36. Plaintiff is entitled to recover damages adequate to compensate for the infringement.

PRAYER FOR RELIEF

WHEREFORE, Straight Path IP Group, Inc., respectfully requests the following relief:

- a) A judgment that Defendants have infringed the '469 Patent;
- b) A judgment that Defendants have infringed the '704 Patent;
- c) A judgment that Defendants have infringed the '121 Patent; and
- d) A judgment that awards Straight Path all appropriate damages under 35 U.S.C. § 284 for the Defendants' past infringement, and any continuing or future infringement of the Patents-in-Suit, up until the date such judgment is entered, including interest, costs, and disbursements as justified under 35 U.S.C. § 284 and, if necessary, to adequately compensate Straight Path for Defendants' infringement, an adjudication;
 - i. that this case is exceptional within the meaning of 35 U.S.C. § 285;
 - ii. that Straight Path be awarded the attorneys' fees, costs, and expenses it incurs in prosecuting this action; and

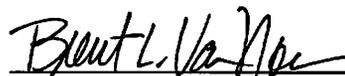
- iii. that Straight Path be awarded such further relief at law or in equity as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Straight Path hereby demands trial by jury on all claims and issues so triable.

DATED: August 1, 2013

Respectfully submitted,



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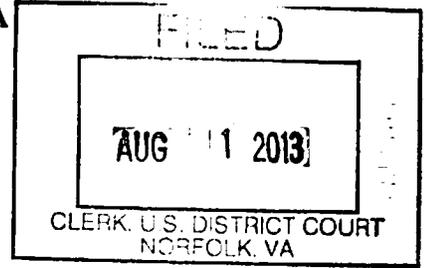
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*Counsel for Plaintiff
Straight Path IP Group, Inc.*

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**



STRAIGHT PATH IP GROUP, INC.,

Plaintiff,

v.

VIZIO, INC., AMTRAN TECHNOLOGY CO., LTD.,
& AMTRAN LOGISTICS, INC.

Defendants.

Civil Action No. 1:13cv934

JURY TRIAL DEMANDED TSE/IDD

COMPLAINT FOR PATENT INFRINGEMENT

1. Plaintiff Straight Path IP Group, Inc. (“Straight Path” or “Plaintiff”), for its Complaint against Defendants Vizio, Inc. (“Vizio”), AmTRAN Technology Co., Ltd. (“AmTRAN Technology”), and AmTRAN Logistics, Inc. (“AmTRAN LOGISTICS”) (collectively, “Defendants”), hereby alleges as follows:

PARTIES

2. Straight Path is a Delaware corporation with its principal place of business at 5300 Hickory Park Dr., Suite 218, Glen Allen, VA 23059.

3. Vizio is a corporation organized and existing under the laws of the state of California, with its principal place of business located at 39 Tesla, Irvine, California 92618. Vizio is in the business of developing and selling electronic devices. Such devices include, but are not limited to, televisions and laptop and tablet computers.

4. AmTRAN Technology is a corporation organized and existing under the laws of Taiwan, with its principal place of business at 17f, 268, Lien Cheng Rd., 23553 New Taipei City, Taiwan. AmTRAN Technology is in the business of manufacturing, selling for importation,

offering for sale for importation, and importing into the United States certain consumer electronics with display and processing capabilities on behalf of Vizio. AmTRAN Technology maintains manufacturing facilities in China, Taiwan, and possibly other countries. AmTRAN Technology owns approximately 23% of Vizio, Inc.

5. AmTRAN Logistics is a corporation organized and existing under the laws of the state of California, with its principal place of business at 9 Goddard, Irvine, California, 92618. AmTRAN Logistics is a wholly owned subsidiary of AmTRAN Technology. AmTRAN Logistics is in the business of importing certain consumer electronics with display and processing capabilities manufactured by AmTRAN Technology on behalf of Vizio.

NATURE OF THE ACTION

6. This is a civil action for the infringement of United States Patent No. 6,009,469 (the “469 Patent”) (attached as Exhibit A) entitled “Graphic User Interface for Internet Telephony Application,” United States Patent No. 6,108,704 (the “704 Patent”) (attached as Exhibit B) entitled “Point-to-Point Protocol,” and United States Patent No. 6,131,121 (the “121 Patent) (attached as Exhibit C) entitled “Point-to-Point Computer Network Communication Utility Utilizing Dynamically Assigned Network Protocol Addresses” (collectively, the “Patents-in-Suit”) under the patent laws of the United States, 35 U.S.C. § 1, *et seq.*

7. This action involves Defendants’ manufacture, use, sale, offer for sale, and/or importation into the United States of infringing products, methods, processes, services and systems that are primarily used or primarily adapted for use in point-to-point network communications devices and products containing same, including, for example but without limitation, smartphone handsets, tablet computers, smart TVs, Blu-ray players and set-top boxes, that infringe one or more of the claims of the Patents-in-Suit.

JURISDICTION AND VENUE

8. This Court has original jurisdiction over the subject matter of this Complaint under 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, including 35 U.S.C. §§ 1, et seq.

9. Defendants are subject to personal jurisdiction in the Commonwealth of Virginia because Defendants regularly transact business in this judicial district by, among other things, offering Defendants' products and services to customers, business affiliates and partners located in this judicial district. In addition, the Defendants have committed acts of direct infringement of one or more of the claims of one or more of the Patents-in-Suit in this judicial district.

10. Venue in this district is proper under 28 U.S.C. § 1400(b) and 1391(b) and (c), because the Defendants are subject to personal jurisdiction in this district and have committed acts of infringement in this district.

FACTUAL BACKGROUND

11. Plaintiff Straight Path is the lawful assignee of all right, title and interest in and to the Patents-in-Suit.

12. All maintenance fees for the Patents-in-Suit have been timely paid, and there are no fees currently due.

COUNT I
(Defendants' Infringement of the '469 Patent)

13. Paragraphs 1 through 12 are incorporated by reference as if fully restated herein.

14. Defendants make, use, sell, offer to sell and/or import into the United States for subsequent sale or use products, services, methods or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, or that employ systems, components and/or processes that make use of systems or processes that directly and/or indirectly infringe,

literally and/or under the doctrine of equivalents, claims of the '469 Patent, including at least Claims 1, 2, 3, 9, 10, 17 and 18.

15. Such infringing devices include consumer electronics and display devices, including but not limited to, certain of Defendants' point-to-point network communications devices and products containing same, including, for example but without limitation, the Vizio E420i-A1 Television (which encompasses all Vizio Smart TVs, including but not limited to model numbers E500I-A1, E241I-A1W, E291I-A1, E650I-A2, E390I-A1; E550I-A0; E551D-A0, E241I-A1, E551I-A2, E500D-A0, E500I-A0, E420D-A0, E470I-A0, E401I-A2, E420I-A0, E502AR, E701I-A3, E320I-A2, E601I-A3, E420I-A1, E320I-A0, M3D550KDK), as well as others of Defendants' smartphone handsets, tablet computers, smart TVs, Blu-ray players and set-top boxes.

16. Defendants actively, knowingly, and intentionally induced, and continue to actively, knowingly, and intentionally induce, infringement of the '469 Patent by making, using, offering for sale, importing, and selling infringing consumer electronics and display devices, as well as by contracting with others to use, market, sell, offer to sell, and import infringing consumer electronics and display devices, all with knowledge of the '469 Patent and its claims; with knowledge that its customers and end users will use, market, sell, offer to sell, and import infringing consumer electronics and display devices; and with the knowledge and the specific intent to encourage and facilitate those infringing sales and uses of infringing consumer electronics and display devices through the creation and dissemination of promotional and marketing materials, instructional materials, product manuals, and technical materials.

17. Defendants have also contributed to the infringement by others, including the end users of infringing consumer electronics and display devices, and continue to contribute to

infringement by others, by selling, offering to sell, and importing the infringing consumer electronics and display devices into the United States, knowing that those products constitute a material part of the inventions of the '469 Patent, knowing those products to be especially made or adapted to infringe the '469 Patent, and knowing that those products are not staple articles or commodities of commerce suitable for substantial non-infringing use.

18. Defendants have had knowledge of and notice of the '469 Patent and its infringement since at least, and through, the filing and service of this Complaint and, despite this knowledge, continue to commit tortious conduct by way of patent infringement.

19. Defendants have been and continue to be infringing one or more of the claims of the '469 Patent through the aforesaid acts.

20. Plaintiff is entitled to recover damages adequate to compensate for the infringement.

COUNT II
(Defendants' Infringement of the '704 Patent)

21. Paragraphs 1 through 20 are incorporated by reference as if fully restated herein.

22. Defendants make, use, sell, offer to sell and/or import into the United States for subsequent sale or use products, services, methods or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, or that employ systems, components and/or processes that make use of systems or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, claims of the '704 Patent, including at least Claims 1, 11, 12, 19, 22, 23, and 30.

23. Such infringing devices include consumer electronics and display devices, including but not limited to, certain of Defendants' point-to-point network communications devices and products containing same, including, for example but without limitation, the Vizio

E420i-A1 Television (which encompasses all Vizio Smart TVs, including but not limited to model numbers E500I-A1, E241I-A1W, E291I-A1, E650I-A2, E390I-A1; E550I-A0; E551D-A0, E241I-A1, E551I-A2, E500D-A0, E500I-A0, E420D-A0, E470I-A0, E401I-A2, E420I-A0, E502AR, E701I-A3, E320I-A2, E601I-A3, E420I-A1, E320I-A0, M3D550KDK), as well as others of Defendants' smartphone handsets, tablet computers, smart TVs, Blu-ray players and set-top boxes.

24. Defendants actively, knowingly, and intentionally induced, and continue to actively, knowingly, and intentionally induce, infringement of the '704 Patent by making, using, offering for sale, importing, and selling infringing consumer electronics and display devices, as well as by contracting with others to use, market, sell, offer to sell, and import infringing consumer electronics and display devices, all with knowledge of the '704 Patent and its claims; with knowledge that its customers and end users will use, market, sell, offer to sell, and import infringing consumer electronics and display devices; and with the knowledge and the specific intent to encourage and facilitate those infringing sales and uses of infringing consumer electronics and display devices through the creation and dissemination of promotional and marketing materials, instructional materials, product manuals, and technical materials.

25. Defendants have also contributed to the infringement by others, including the end users of infringing consumer electronics and display devices, and continue to contribute to infringement by others, by selling, offering to sell, and importing the infringing consumer electronics and display devices into the United States, knowing that those products constitute a material part of the inventions of the '704 Patent, knowing those products to be especially made or adapted to infringe the '704 Patent, and knowing that those products are not staple articles or commodities of commerce suitable for substantial non-infringing use.

26. Defendants have had knowledge of and notice of the '704 Patent and its infringement since at least, and through, the filing and service of this Complaint and, despite this knowledge, continue to commit tortious conduct by way of patent infringement.

27. Defendants have been and continue to be infringing one or more of the claims of the '704 Patent through the aforesaid acts.

28. Plaintiff is entitled to recover damages adequate to compensate for the infringement.

COUNT III
(Defendants' Infringement of the '121 Patent)

29. Paragraphs 1 through 28 are incorporated by reference as if fully restated herein.

30. Defendants make, use, sell, offer to sell and/or import into the United States for subsequent sale or use products, services, methods or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, or that employ systems, components and/or processes that make use of systems or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, claims of the '121 Patent, including at least Claims 6 and 13.

31. Such infringing devices include consumer electronics and display devices, including but not limited to, certain of Defendants' point-to-point network communications devices and products containing same, including, for example but without limitation, the Vizio E420i-A1 Television (which encompasses all Vizio Smart TVs, including but not limited to model numbers E500I-A1, E241I-A1W, E291I-A1, E650I-A2, E390I-A1; E550I-A0; E551D-A0, E241I-A1, E551I-A2, E500D-A0, E500I-A0, E420D-A0, E470I-A0, E401I-A2, E420I-A0, E502AR, E701I-A3, E320I-A2, E601I-A3, E420I-A1, E320I-A0, M3D550KDK), as well as

others of Defendants' smartphone handsets, tablet computers, smart TVs, Blu-ray players and set-top boxes.

32. Defendants actively, knowingly, and intentionally induced, and continue to actively, knowingly, and intentionally induce, infringement of the '121 Patent by making, using, offering for sale, importing, and selling infringing consumer electronics and display devices, as well as by contracting with others to use, market, sell, offer to sell, and import infringing consumer electronics and display devices, all with knowledge of the '121 Patent and its claims; with knowledge that its customers and end users will use, market, sell, offer to sell, and import infringing consumer electronics and display devices; and with the knowledge and the specific intent to encourage and facilitate those infringing sales and uses of infringing consumer electronics and display devices through the creation and dissemination of promotional and marketing materials, instructional materials, product manuals, and technical materials.

33. Defendants have also contributed to the infringement by others, including the end users of infringing consumer electronics and display devices, and continue to contribute to infringement by others, by selling, offering to sell, and importing the infringing consumer electronics and display devices into the United States, knowing that those products constitute a material part of the inventions of the '121 Patent, knowing those products to be especially made or adapted to infringe the '121 Patent, and knowing that those products are not staple articles or commodities of commerce suitable for substantial non-infringing use.

34. Defendants have had knowledge of and notice of the '121 Patent and its infringement since at least, and through, the filing and service of this Complaint and, despite this knowledge, continue to commit tortious conduct by way of patent infringement.

35. Defendants have been and continues to be infringing one or more of the claims of the '121 Patent through the aforesaid acts.

36. Plaintiff is entitled to recover damages adequate to compensate for the infringement.

PRAYER FOR RELIEF

WHEREFORE, Straight Path IP Group, Inc., respectfully requests the following relief:

- a) A judgment that Defendants have infringed the '469 Patent;
- b) A judgment that Defendants have infringed the '704 Patent;
- c) A judgment that Defendants have infringed the '121 Patent;
- d) A judgment that awards Straight Path all appropriate damages under 35 U.S.C. § 284 for the Defendants' past infringement, and any continuing or future infringement of the Patents-in-Suit, up until the date such judgment is entered, including interest, costs, and disbursements as justified under 35 U.S.C. § 284 and, if necessary, to adequately compensate Straight Path for Defendants' infringement; and
- e) An adjudication:
 - i. that this case is exceptional within the meaning of 35 U.S.C. § 285;
 - ii. that Straight Path be awarded the attorneys' fees, costs, and expenses it incurs in prosecuting this action; and
 - iii. that Straight Path be awarded such further relief at law or in equity as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Straight Path hereby demands trial by jury on all claims and issues so triable.

DATED: August 1, 2013

Respectfully submitted,



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*Counsel for Plaintiff
Straight Path IP Group, Inc.*

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

STRAIGHT PATH IP GROUP, INC.,

Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD., SAMSUNG
ELECTRONICS AMERICA, INC., & SAMSUNG
TELECOMMUNICATIONS AMERICA, L.L.C.

Defendants.

Civil Action No. 6:13-cv-606
Jury Trial Demanded

COMPLAINT

1. Plaintiff Straight Path IP Group, Inc. (“Straight Path” or “Plaintiff”), for its Complaint against Defendants Samsung Electronics Co., Ltd. (“Samsung”), Samsung Electronics America, Inc. (“Samsung Electronics America”), and Samsung Telecommunications America, L.L.C. (“Samsung Telecommunications”) (collectively, “Defendants”), hereby alleges as follows:

PARTIES

2. Straight Path is a Delaware corporation with its principal place of business at 5300 Hickory Park Dr. Suite 218, Glen Allen, VA 23059.

3. Samsung Electronics Co., Ltd. is a corporation organized and existing under the laws of South Korea, with its principal place of business located at 1320-10 Seocho-2-dong, Seocho-gu, Seoul, South Korea 137-857. Samsung is in the business of manufacturing, selling for importation, offering for sale for importation, and importing into the United States certain point-to-point network communications devices and products containing same.

4. Samsung Electronics America, Inc. is a corporation organized and existing under the laws of the State of New York, with its principal place of business located at 105 Challenger Road, Ridgefield Park, NJ 07660. Samsung Electronics America is a wholly owned subsidiary of Samsung Electronics Co., Ltd. and is the managing entity for the North American operations of Defendant Samsung Telecommunications.

5. Samsung Telecommunications America, L.L.C. is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 1301 E. Lookout Dr., Richardson, TX 75082. Samsung Telecommunications is a wholly-owned subsidiary of Samsung. On information and belief, Samsung Telecommunications manufactures, sells, and/or supplies a variety of personal and business communications products, including cellular telephones; home theater audio and video components; ultra-mobile personal computers; and LCD, digital light processing (“DLP”), and plasma televisions, to customers the United States.

NATURE OF THE ACTION

6. This is a civil action for the infringement of United States Patent No. 6,009,469 (the “469 Patent”) (attached as Exhibit A) entitled “Graphic User Interface for Internet Telephony Application,” United States Patent No. 6,108,704 (the “704 Patent”) (attached as Exhibit B) entitled “Point-to-Point Protocol,” and United States Patent No. 6,131,121 (the “121 Patent”) (attached as Exhibit C) entitled “Point-to-Point Computer Network Communication Utility Utilizing Dynamically Assigned Network Protocol Addresses” (collectively, the “Patents-in-Suit”) under the patent laws of the United States, 35 U.S.C. § 1, et seq.

7. This action involves Defendants’ manufacture, use, sale, offer for sale, and/or importation into the United States of infringing products, methods, processes, services and

systems that are primarily used or primarily adapted for use in point-to-point network communications devices and products containing same, including, for example but without limitation, smartphone handsets, tablet computers, smart TVs, Blu-ray players and set-top boxes, that infringe one or more of the claims of the Patents-in-Suit.

JURISDICTION AND VENUE

8. This Court has original jurisdiction over the subject matter of this Complaint under 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, including 35 U.S.C. §§ 1, et seq.

9. Defendants are subject to personal jurisdiction in the Tyler Division of the Eastern District of Texas because Defendants regularly transact business in this judicial district by, among other things, offering Defendants' products and services to customers, business affiliates and partners located in this judicial district. In addition, the Defendants have committed acts of direct infringement of one or more of the claims of one or more of the Patents-in-Suit in this judicial district.

10. Venue in this district is proper under 28 U.S.C. § 1400(b) and 1391(b) and (c), because the Defendants are subject to personal jurisdiction in this district and have committed acts of infringement in this district.

FACTUAL BACKGROUND

11. Plaintiff Straight Path is the lawful assignee of all right, title and interest in and to the Patents-in-Suit.

12. All maintenance fees for the Patents-in-Suit have been timely paid, and there are no fees currently due.

COUNT I
(Defendants' Infringement of the '469 Patent)

13. Paragraphs 1 through 12 are incorporated by reference as if fully restated herein.

14. Defendants make, use, sell, offer to sell and/or import into the United States for subsequent sale or use products, services, methods or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, or that employ systems, components and/or processes that make use of systems or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, one or more claims of the '469 Patent.

15. Such infringing devices include consumer electronics and display devices, including but not limited to, certain of Defendants' point-to-point network communications devices and products containing same, including, for example but without limitation, the Samsung Galaxy S4 (which encompasses all Samsung Smartphones), the Samsung Galaxy Tab 3 (which encompasses all Samsung Tablets), the Samsung BD-E5400 Wi-Fi Blu-ray Player (which encompasses all Samsung Blu-ray Players), and the Samsung UN32EH5300 Smart TV (which encompasses all Samsung Smart TVs), as well as others of Defendants' smartphone handsets, tablet computers, smart TVs, Blu-ray players and set-top boxes.

16. Defendants actively, knowingly, and intentionally induced, and continue to actively, knowingly, and intentionally induce, infringement of the '469 Patent by making, using, offering for sale, importing, and selling infringing consumer electronics and display devices, as well as by contracting with others to use, market, sell, offer to sell, and import infringing consumer electronics and display devices, all with knowledge of the '469 Patent and its claims; with knowledge that its customers and end users, including same in the Eastern District of Texas, will directly infringe the '469 patent by using, marketing, selling, offering to sell, and importing infringing consumer electronics and display devices; and with the knowledge and the specific

intent to encourage and facilitate those infringing sales and uses of infringing consumer electronics and display devices through the creation and dissemination of promotional and marketing materials, instructional materials, product manuals, and technical materials.

17. Defendants have also contributed to the infringement by others, including the end users of infringing consumer electronics and display devices, and continue to contribute to infringement by others, by selling, offering to sell, and importing the infringing consumer electronics and display devices into the United States, knowing that those products constitute a material part of the inventions of the '469 Patent, knowing those products to be especially made or adapted to infringe the '469 Patent, knowing that those products are not staple articles or commodities of commerce suitable for substantial non-infringing use, and knowing that end users of those products, including end users in the Eastern District of Texas, would directly infringe the '469 patent.

18. Defendants have had knowledge of and notice of the '469 Patent and its infringement since at least, and through, the filing and service of this Complaint and, despite this knowledge, continue to commit tortious conduct by way of patent infringement.

19. Defendants have been and continue to be infringing one or more of the claims of the '469 Patent through the aforesaid acts.

20. Plaintiff is entitled to recover damages adequate to compensate for the infringement.

COUNT II
(Defendants' Infringement of the '704 Patent)

21. Paragraphs 1 through 20 are incorporated by reference as if fully restated herein.

22. Defendants make, use, sell, offer to sell and/or import into the United States for subsequent sale or use products, services, methods or processes that directly and/or indirectly

infringe, literally and/or under the doctrine of equivalents, or that employ systems, components and/or processes that make use of systems or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, one or more claims of the '704 Patent.

23. Such infringing devices include consumer electronics and display devices, including but not limited to, certain of Defendants' point-to-point network communications devices and products containing same, including, for example but without limitation, the Samsung Galaxy S4 (which encompasses all Samsung Smartphones), the Samsung Galaxy Tab 3 (which encompasses all Samsung Tablets), the Samsung BD-E5400 Wi-Fi Blu-ray Player (which encompasses all Samsung Blu-ray Players), and the Samsung UN32EH5300 Smart TV (which encompasses all Samsung Smart TVs), as well as others of Defendants' smartphone handsets, tablet computers, smart TVs, Blu-ray players and set-top boxes.

24. Defendants actively, knowingly, and intentionally induced, and continue to actively, knowingly, and intentionally induce, infringement of the '704 Patent by making, using, offering for sale, importing, and selling infringing consumer electronics and display devices, as well as by contracting with others to use, market, sell, offer to sell, and import infringing consumer electronics and display devices, all with knowledge of the '704 Patent and its claims; with knowledge that its customers and end users, including same in the Eastern District of Texas, will directly infringe the '704 patent by using, marketing, selling, offering to sell, and importing infringing consumer electronics and display devices; and with the knowledge and the specific intent to encourage and facilitate those infringing sales and uses of infringing consumer electronics and display devices through the creation and dissemination of promotional and marketing materials, instructional materials, product manuals, and technical materials.

25. Defendants have also contributed to the infringement by others, including the end users of infringing consumer electronics and display devices, and continue to contribute to infringement by others, by selling, offering to sell, and importing the infringing consumer electronics and display devices into the United States, knowing that those products constitute a material part of the inventions of the '704 Patent, knowing those products to be especially made or adapted to infringe the '704 Patent, knowing that those products are not staple articles or commodities of commerce suitable for substantial non-infringing use, and knowing that end users of those products, including end users in the Eastern District of Texas, would directly infringe the '704 patent.

26. Defendants have had knowledge of and notice of the '704 Patent and its infringement since at least, and through, the filing and service of this Complaint and, despite this knowledge, continue to commit tortious conduct by way of patent infringement.

27. Defendants have been and continue to be infringing one or more of the claims of the '704 Patent through the aforesaid acts.

28. Plaintiff is entitled to recover damages adequate to compensate for the infringement.

COUNT III
(Defendants' Infringement of the '121 Patent)

29. Paragraphs 1 through 28 are incorporated by reference as if fully restated herein.

30. Defendants make, use, sell, offer to sell and/or import into the United States for subsequent sale or use products, services, methods or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, or that employ systems, components and/or processes that make use of systems or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, one or more claims of the '121 Patent.

31. Such infringing devices include consumer electronics and display devices, including but not limited to, certain of Defendants' point-to-point network communications devices and products containing same, including, for example but without limitation, the Samsung Galaxy S4 (which encompasses all Samsung Smartphones), the Samsung Galaxy Tab 3 (which encompasses all Samsung Tablets), the Samsung BD-E5400 Wi-Fi Blu-ray Player (which encompasses all Samsung Blu-ray Players), and the Samsung UN32EH5300 Smart TV (which encompasses all Samsung Smart TVs), as well as others of Defendants' smartphone handsets, tablet computers, smart TVs, Blu-ray players and set-top boxes.

32. Defendants actively, knowingly, and intentionally induced, and continue to actively, knowingly, and intentionally induce, infringement of the '121 Patent by making, using, offering for sale, importing, and selling infringing consumer electronics and display devices, as well as by contracting with others to use, market, sell, offer to sell, and import infringing consumer electronics and display devices, all with knowledge of the '121 Patent and its claims; with knowledge that its customers and end users, including same in the Eastern District of Texas, will directly infringe the '121 patent by using, marketing, selling, offering to sell, and importing infringing consumer electronics and display devices; and with the knowledge and the specific intent to encourage and facilitate those infringing sales and uses of infringing consumer electronics and display devices through the creation and dissemination of promotional and marketing materials, instructional materials, product manuals, and technical materials.

33. Defendants have also contributed to the infringement by others, including the end users of infringing consumer electronics and display devices, and continue to contribute to infringement by others, by selling, offering to sell, and importing the infringing consumer electronics and display devices into the United States, knowing that those products constitute a

material part of the inventions of the '121 Patent, knowing those products to be especially made or adapted to infringe the '121 Patent, knowing that those products are not staple articles or commodities of commerce suitable for substantial non-infringing use, and knowing that end users of those products, including end users in the Eastern District of Texas, would directly infringe the '121 patent.

34. Defendants have had knowledge of and notice of the '121 Patent and its infringement since at least, and through, the filing and service of this Complaint and, despite this knowledge, continue to commit tortious conduct by way of patent infringement.

35. Defendants have been and continue to be infringing one or more of the claims of the '121 Patent through the aforesaid acts.

36. Plaintiff is entitled to recover damages adequate to compensate for the infringement.

PRAYER FOR RELIEF

Wherefore, Straight Path IP Group, Inc., respectfully requests the following relief:

- a) A judgment that Defendants have infringed the '469 Patent;
- b) A judgment that Defendants have infringed the '704 Patent;
- c) A judgment that Defendants have infringed the '121 Patent;
- d) A judgment that awards Straight Path all appropriate damages under 35 U.S.C.

§ 284 for the Defendants' past infringement, and any continuing or future infringement of the Patents-in-Suit, up until the date such judgment is entered, including interest, costs, and disbursements as justified under 35 U.S.C. § 284 and, if necessary, to adequately compensate Straight Path for Defendants' infringement; and

- e) An adjudication:
 - i. that this case is exceptional within the meaning of 35 U.S.C. § 285;
 - ii. that Straight Path be awarded the attorneys' fees, costs, and expenses it

incurs in prosecuting this action; and

- iii. that Straight Path be awarded such further relief at law or in equity as the

Court deems just and proper.

DEMAND FOR JURY TRIAL

- 37. Straight Path hereby demands trial by jury on all claims and issues so triable.

DATED: August 23, 2013

Respectfully submitted

WARD & SMITH LAW FIRM

By: /s/ Michael T. Renaud by permission T. John Ward, Jr.

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Straight Path IP Group, Inc.

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EXHIBIT C

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

_____	:	
STRAIGHT PATH IP GROUP, INC.,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 6:14-cv-405
	:	Jury Trial Demanded
NETFLIX, INC.	:	
	:	
Defendant.	:	
_____	:	

COMPLAINT

1. Plaintiff Straight Path IP Group, Inc. (“Straight Path” or “Plaintiff”), for its Complaint against Defendant Netflix, Inc. (“Netflix” or “Defendant”), hereby alleges as follows:

PARTIES

2. Straight Path is a Delaware corporation with its principal place of business at 5300 Hickory Park Dr. Suite 218, Glen Allen, VA 23059.

3. Netflix, Inc. is a corporation organized and existing under the laws of the State of Delaware, with its headquarters and principal place of business located at 100 Winchester, Los Gatos, California 95032. On information and belief, Netflix, Inc. engages in business in this State and has designated as an agent for service of process in this State National Registered Agents, Inc., 16055 Space Center Blvd., Ste. 235, Houston, TX 77002. On information and belief, Netflix resides within this jurisdiction within the meaning of 28 U.S.C. § 1400(b). This proceeding arises, in part, out of business done in this State. Netflix is a provider of on-demand Internet streaming media to end users throughout the United States, including the Eastern District of Texas. Netflix bills itself as “the world’s leading Internet television network with over 48

million members in more than 40 countries enjoying more than one billion hours of TV shows and movies per month, including original series.”

NATURE OF THE ACTION

6. This is a civil action for the infringement of United States Patent No. 6,009,469 (the “469 Patent”) (attached as Exhibit A) entitled “Graphic User Interface for Internet Telephony Application,” United States Patent No. 6,108,704 (the “704 Patent”) (attached as Exhibit B) entitled “Point-to-Point Protocol,” United States Patent No. 6,131,121 (the “121 Patent) (attached as Exhibit C) entitled “Point-to-Point Computer Network Communication Utility Utilizing Dynamically Assigned Network Protocol Addresses,” United States Patent No. 6,701,365 (the “365 Patent) (attached as Exhibit D) entitled “Point-to-Point Internet Protocol,” and United States Patent No. 6,513,066 (the “066 Patent) (attached as Exhibit E) entitled “Establishing a Point-to-Point Internet Communication” (collectively, the “Patents-in-Suit”) under the patent laws of the United States, 35 U.S.C. § 1, et seq.

7. This action involves Defendant’s making, use, sale, offer for sale, and/or importation into the United States of infringing products, methods, processes, services and systems that are primarily used or primarily adapted for use in point-to-point network communications devices and products containing same, that infringe one or more of the claims of the Patents-in-Suit. Said infringing products, methods, processes, services include, for example but without limitation, software for point-to-point network communications between an end user and the Netflix streaming media service, the Netflix streaming media service itself, and servers Defendant employs in facilitating point-to-point network communications between end users and said streaming media service.

JURISDICTION AND VENUE

8. This Court has original jurisdiction over the subject matter of this Complaint under 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, including 35 U.S.C. §§ 1, et seq.

9. On information and belief, Defendant is subject to this Court's specific and general personal jurisdiction, pursuant to due process and/or the Texas Long Arm Statute, due at least to its substantial business in this District, including at least a portion of the infringements alleged herein. Without limitation, on information and belief, within this state Defendant has engaged in at least the making, using, selling, offering to sell, and/or importing of the accused methods and apparatuses identified herein, or has at least induced or contributed to same. In addition, on information and belief, Defendant has derived substantial revenues from the foregoing, including from transactions in this District. Further, on information and belief, Defendant is subject to this Court's general jurisdiction, including from regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantive revenue from goods and services provided to persons or entities in Texas.

10. Venue in this district is proper under 28 U.S.C. § 1400(b) and 1391(b), (c), and (d) because Netflix is subject to personal jurisdiction in this district and have committed acts of infringement in this district.

FACTUAL BACKGROUND

11. Plaintiff Straight Path is the lawful assignee of all right, title and interest in and to the Patents-in-Suit.

12. All maintenance fees for the Patents-in-Suit have been timely paid, and there are no fees currently due.

COUNT I
(Defendant's Infringement of the '469 Patent)

13. Paragraphs 1 through 12 are incorporated by reference as if fully restated herein.

14. Defendant makes, uses, sells, offers to sell and/or imports into the United States for subsequent sale or use products, services, methods or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, or that employ systems, components and/or processes that make use of systems or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, one or more claims of the '469 Patent.

15. Such infringing products, services, methods or processes include software for point-to-point network communications between an end user and the Netflix streaming media service, including without limitation Netflix client-side applications and the website <http://www.netflix.com>.

16. Such infringing products, services, methods or processes also include the Netflix streaming media service and servers employed in facilitating point-to-point network communications between end users and said streaming media service.

17. Defendant actively, knowingly, and intentionally induced, and continues to actively, knowingly, and intentionally induce, infringement of the '469 Patent by making, using, marketing, selling, offering for sale, and/or importing infringing software, as well as by contracting with others to make, use, market, sell, offer to sell, and/or import infringing software, all with knowledge of the '469 Patent and its claims; with knowledge that those with which it contracts will directly infringe the '469 patent by making, using, marketing, selling, offering to sell, and importing infringing software; with knowledge that end users of the Netflix streaming media service, including same in the Eastern District of Texas, will directly infringe the '469 patent by using said streaming media service; and with the knowledge and the specific intent to

encourage and facilitate those infringing sales and uses of infringing software through the creation and dissemination of promotional and marketing materials, instructional materials, product manuals, and technical materials.

18. Defendant actively, knowingly, and intentionally induced, and continues to actively, knowingly, and intentionally induce, infringement of the '469 Patent by making, using, marketing, selling, offering for sale, and/or importing the Netflix streaming media service and servers employed in facilitating point-to-point network communications between end users and said streaming media service, all with knowledge of the '469 Patent and its claims; with knowledge that end users of the Netflix streaming media service, including same in the Eastern District of Texas, will directly infringe the '469 patent by using said streaming service; and with the knowledge and the specific intent to encourage and facilitate those infringing sales and uses of the Netflix streaming media service through the creation and dissemination of promotional and marketing materials, instructional materials, product manuals, and technical materials.

19. Defendant has also contributed and continues to contribute to the infringement of the '469 Patent by others, including end users, by making, using, marketing, selling, offering to sell, and/or importing the infringing Netflix streaming media service software into the United States, knowing that said software constitutes a material part of the inventions of the '469 Patent, knowing said software to be especially made or adapted to infringe the '469 Patent, knowing said software not to be a staple article or commodity of commerce suitable for substantial non-infringing use, and knowing that end users of said software, including end users in the Eastern District of Texas, would directly infringe the '469 patent.

20. Defendant has also contributed and continues to contribute to the infringement by others by contracting with others to make, use, market, sell, offer to sell, and/or import the

infringing software into the United States, knowing that said software constitutes a material part of the inventions of the '469 Patent, knowing said software to be especially made or adapted to infringe the '469 Patent, knowing said software not to be a staple article or commodity of commerce suitable for substantial non-infringing use, and knowing that end users of said software, including end users in the Eastern District of Texas, would directly infringe the '469 patent.

21. Defendant has had knowledge of and notice of the '469 Patent and its infringement since at least October 25, 2013, and, despite this knowledge, continues to commit tortious conduct by way of patent infringement.

22. Defendant has been and continues to be infringing one or more of the claims of the '469 Patent through the aforesaid acts.

23. Plaintiff is entitled to recover damages adequate to compensate for the infringement.

COUNT II
(Defendant's Infringement of the '704 Patent)

24. Paragraphs 1 through 23 are incorporated by reference as if fully restated herein.

25. Defendant makes, uses, sells, offers to sell and/or imports into the United States for subsequent sale or use products, services, methods or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, or that employ systems, components and/or processes that make use of systems or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, one or more claims of the '704 Patent.

26. Such infringing products, services, methods or processes include software for point-to-point network communications between an end user and the Netflix streaming media

service , including without limitation Netflix client-side applications and the website <http://www.netflix.com>.

27. Such infringing products, services, methods or processes also include the Netflix streaming media service and servers employed in facilitating point-to-point network communications between end users and said streaming media service.

28. Defendant actively, knowingly, and intentionally induced, and continues to actively, knowingly, and intentionally induce, infringement of the '704 Patent by making, using, marketing, selling, offering for sale, and/or importing infringing software, as well as by contracting with others to make, use, market, sell, offer to sell, and/or import infringing software, all with knowledge of the '704 Patent and its claims; with knowledge that those with which it contracts will directly infringe the '704 patent by making, using, marketing, selling, offering to sell, and importing infringing software; with knowledge that end users of the Netflix streaming media service, including same in the Eastern District of Texas, will directly infringe the '704 patent by using said streaming media service; and with the knowledge and the specific intent to encourage and facilitate those infringing sales and uses of infringing software through the creation and dissemination of promotional and marketing materials, instructional materials, product manuals, and technical materials.

29. Defendant actively, knowingly, and intentionally induced, and continues to actively, knowingly, and intentionally induce, infringement of the '704 Patent by making, using, marketing, selling, offering for sale, and/or importing the Netflix streaming media service and servers employed in facilitating point-to-point network communications between end users and said streaming media service, all with knowledge of the '704 Patent and its claims; with knowledge that end users of the Netflix streaming media service, including same in the Eastern

District of Texas, will directly infringe the '704 patent by using said streaming service; and with the knowledge and the specific intent to encourage and facilitate those infringing sales and uses of the Netflix streaming media service through the creation and dissemination of promotional and marketing materials, instructional materials, product manuals, and technical materials.

30. Defendant has also contributed and continues to contribute to the infringement of the '704 Patent by others, including end users, by making, using, marketing, selling, offering to sell, and/or importing the infringing Netflix streaming media service software into the United States, knowing that said software constitutes a material part of the inventions of the '704 Patent, knowing said software to be especially made or adapted to infringe the '704 Patent, knowing said software not to be a staple article or commodity of commerce suitable for substantial non-infringing use, and knowing that end users of said software, including end users in the Eastern District of Texas, would directly infringe the '704 patent.

31. Defendant has also contributed and continues to contribute to the infringement by others by contracting with others to make, use, market, sell, offer to sell, and/or import the infringing software into the United States, knowing that said software constitutes a material part of the inventions of the '704 Patent, knowing said software to be especially made or adapted to infringe the '704 Patent, knowing said software not to be a staple article or commodity of commerce suitable for substantial non-infringing use, and knowing that end users of said software, including end users in the Eastern District of Texas, would directly infringe the '704 patent.

32. Defendant has had knowledge of and notice of the '704 Patent and its infringement since at least October 25, 2013, and, despite this knowledge, continues to commit tortious conduct by way of patent infringement.

33. Defendant has been and continues to be infringing one or more of the claims of the '704 Patent through the aforesaid acts.

34. Plaintiff is entitled to recover damages adequate to compensate for the infringement.

COUNT III
(Defendant's Infringement of the '121 Patent)

35. Paragraphs 1 through 34 are incorporated by reference as if fully restated herein.

36. Defendant makes, uses, sells, offers to sell and/or imports into the United States for subsequent sale or use products, services, methods or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, or that employ systems, components and/or processes that make use of systems or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, one or more claims of the '121 Patent.

37. Such infringing products, services, methods or processes include software for point-to-point network communications between an end user and the Netflix streaming media service , including without limitation Netflix client-side applications and the website <http://www.netflix.com>.

38. Such infringing products, services, methods or processes also include the Netflix streaming media service and servers employed in facilitating point-to-point network communications between end users and said streaming media service.

39. Defendant actively, knowingly, and intentionally induced, and continues to actively, knowingly, and intentionally induce, infringement of the '121 Patent by making, using, marketing, selling, offering for sale, and/or importing infringing software, as well as by contracting with others to make, use, market, sell, offer to sell, and/or import infringing software, all with knowledge of the '121 Patent and its claims; with knowledge that those with which it

contracts will directly infringe the '121 patent by making, using, marketing, selling, offering to sell, and importing infringing software; with knowledge that end users of the Netflix streaming media service, including same in the Eastern District of Texas, will directly infringe the '121 patent by using said streaming media service; and with the knowledge and the specific intent to encourage and facilitate those infringing sales and uses of infringing software through the creation and dissemination of promotional and marketing materials, instructional materials, product manuals, and technical materials.

40. Defendant actively, knowingly, and intentionally induced, and continues to actively, knowingly, and intentionally induce, infringement of the '121 Patent by making, using, marketing, selling, offering for sale, and/or importing the Netflix streaming media service and servers employed in facilitating point-to-point network communications between end users and said streaming media service, all with knowledge of the '121 Patent and its claims; with knowledge that end users of the Netflix streaming media service, including same in the Eastern District of Texas, will directly infringe the '121 patent by using said streaming service; and with the knowledge and the specific intent to encourage and facilitate those infringing sales and uses of the Netflix streaming media service through the creation and dissemination of promotional and marketing materials, instructional materials, product manuals, and technical materials.

41. Defendant has also contributed and continues to contribute to the infringement of the '121 Patent by others, including end users, by making, using, marketing, selling, offering to sell, and/or importing the infringing Netflix streaming media service software into the United States, knowing that said software constitutes a material part of the inventions of the '121 Patent, knowing said software to be especially made or adapted to infringe the '121 Patent, knowing said software not to be a staple article or commodity of commerce suitable for substantial non-

infringing use, and knowing that end users of said software, including end users in the Eastern District of Texas, would directly infringe the '121 patent.

42. Defendant has also contributed and continues to contribute to the infringement by others by contracting with others to make, use, market, sell, offer to sell, and/or import the infringing software into the United States, knowing that said software constitutes a material part of the inventions of the '121 Patent, knowing said software to be especially made or adapted to infringe the '121 Patent, knowing said software not to be a staple article or commodity of commerce suitable for substantial non-infringing use, and knowing that end users of said software, including end users in the Eastern District of Texas, would directly infringe the '121 patent.

43. Defendant has had knowledge of and notice of the '121 Patent and its infringement since at least October 25, 2013, and, despite this knowledge, continues to commit tortious conduct by way of patent infringement.

44. Defendant has been and continues to be infringing one or more of the claims of the '121 Patent through the aforesaid acts.

45. Plaintiff is entitled to recover damages adequate to compensate for the infringement.

COUNT IV
(Defendant's Infringement of the '365 Patent)

46. Paragraphs 1 through 45 are incorporated by reference as if fully restated herein.

47. Defendant makes, uses, sells, offers to sell and/or imports into the United States for subsequent sale or use products, services, methods or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, or that employ systems, components

and/or processes that make use of systems or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, one or more claims of the '365 Patent.

48. Such infringing products, services, methods or processes include software for point-to-point network communications between an end user and the Netflix streaming media service, including without limitation Netflix client-side applications and the website <http://www.netflix.com>.

49. Such infringing products, services, methods or processes also include the Netflix streaming media service and servers employed in facilitating point-to-point network communications between end users and said streaming media service.

50. Defendant actively, knowingly, and intentionally induced, and continues to actively, knowingly, and intentionally induce, infringement of the '365 Patent by making, using, marketing, selling, offering for sale, and/or importing infringing software, as well as by contracting with others to make, use, market, sell, offer to sell, and/or import infringing software, all with knowledge of the '365 Patent and its claims; with knowledge that those with which it contracts will directly infringe the '365 patent by making, using, marketing, selling, offering to sell, and importing infringing software; with knowledge that end users of the Netflix streaming media service, including same in the Eastern District of Texas, will directly infringe the '365 patent by using said streaming media service; and with the knowledge and the specific intent to encourage and facilitate those infringing sales and uses of infringing software through the creation and dissemination of promotional and marketing materials, instructional materials, product manuals, and technical materials.

51. Defendant actively, knowingly, and intentionally induced, and continues to actively, knowingly, and intentionally induce, infringement of the '365 Patent by making, using,

marketing, selling, offering for sale, and/or importing the Netflix streaming media service and servers employed in facilitating point-to-point network communications between end users and said streaming media service, all with knowledge of the '365 Patent and its claims; with knowledge that end users of the Netflix streaming media service, including same in the Eastern District of Texas, will directly infringe the '365 patent by using said streaming service; and with the knowledge and the specific intent to encourage and facilitate those infringing sales and uses of the Netflix streaming media service through the creation and dissemination of promotional and marketing materials, instructional materials, product manuals, and technical materials.

52. Defendant has also contributed and continues to contribute to the infringement of the '365 Patent by others, including end users, by making, using, marketing, selling, offering to sell, and/or importing the infringing Netflix streaming media service software into the United States, knowing that said software constitutes a material part of the inventions of the '365 Patent, knowing said software to be especially made or adapted to infringe the '365 Patent, knowing said software not to be a staple article or commodity of commerce suitable for substantial non-infringing use, and knowing that end users of said software, including end users in the Eastern District of Texas, would directly infringe the '365 patent.

53. Defendant has also contributed and continues to contribute to the infringement by others by contracting with others to make, use, market, sell, offer to sell, and/or import the infringing software into the United States, knowing that said software constitutes a material part of the inventions of the '365 Patent, knowing said software to be especially made or adapted to infringe the '365 Patent, knowing said software not to be a staple article or commodity of commerce suitable for substantial non-infringing use, and knowing that end users of said

software, including end users in the Eastern District of Texas, would directly infringe the '365 patent.

54. Defendant has had knowledge of and notice of the '365 Patent and its infringement since at least the filing of this complaint, and, despite this knowledge, continues to commit tortious conduct by way of patent infringement.

55. Defendant has been and continues to be infringing one or more of the claims of the '365 Patent through the aforesaid acts.

56. Plaintiff is entitled to recover damages adequate to compensate for the infringement.

COUNT V
(Defendant's Infringement of the '066 Patent)

57. Paragraphs 1 through 56 are incorporated by reference as if fully restated herein.

58. Defendant makes, uses, sells, offers to sell and/or imports into the United States for subsequent sale or use products, services, methods or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, or that employ systems, components and/or processes that make use of systems or processes that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, one or more claims of the '066 Patent.

59. Such infringing products, services, methods or processes include software for point-to-point network communications between an end user and the Netflix streaming media service, including without limitation Netflix client-side applications and the website <http://www.netflix.com>.

60. Such infringing products, services, methods or processes also include the Netflix streaming media service and servers employed in facilitating point-to-point network communications between end users and said streaming media service.

61. Defendant actively, knowingly, and intentionally induced, and continues to actively, knowingly, and intentionally induce, infringement of the '066 Patent by making, using, marketing, selling, offering for sale, and/or importing infringing software, as well as by contracting with others to make, use, market, sell, offer to sell, and/or import infringing software, all with knowledge of the '066 Patent and its claims; with knowledge that those with which it contracts will directly infringe the '066 patent by making, using, marketing, selling, offering to sell, and importing infringing software; with knowledge that end users of the Netflix streaming media service, including same in the Eastern District of Texas, will directly infringe the '066 patent by using said streaming media service; and with the knowledge and the specific intent to encourage and facilitate those infringing sales and uses of infringing software through the creation and dissemination of promotional and marketing materials, instructional materials, product manuals, and technical materials.

62. Defendant actively, knowingly, and intentionally induced, and continues to actively, knowingly, and intentionally induce, infringement of the '066 Patent by making, using, marketing, selling, offering for sale, and/or importing the Netflix streaming media service and servers employed in facilitating point-to-point network communications between end users and said streaming media service, all with knowledge of the '066 Patent and its claims; with knowledge that end users of the Netflix streaming media service, including same in the Eastern District of Texas, will directly infringe the '066 patent by using said streaming service; and with the knowledge and the specific intent to encourage and facilitate those infringing sales and uses of the Netflix streaming media service through the creation and dissemination of promotional and marketing materials, instructional materials, product manuals, and technical materials.

63. Defendant has also contributed and continues to contribute to the infringement of the '066 Patent by others, including end users, by making, using, marketing, selling, offering to sell, and/or importing the infringing Netflix streaming media service software into the United States, knowing that said software constitutes a material part of the inventions of the '066 Patent, knowing said software to be especially made or adapted to infringe the '066 Patent, knowing said software not to be a staple article or commodity of commerce suitable for substantial non-infringing use, and knowing that end users of said software, including end users in the Eastern District of Texas, would directly infringe the '066 patent.

64. Defendant has also contributed and continues to contribute to the infringement by others by contracting with others to make, use, market, sell, offer to sell, and/or import the infringing software into the United States, knowing that said software constitutes a material part of the inventions of the '066 Patent, knowing said software to be especially made or adapted to infringe the '066 Patent, knowing said software not to be a staple article or commodity of commerce suitable for substantial non-infringing use, and knowing that end users of said software, including end users in the Eastern District of Texas, would directly infringe the '066 patent.

65. Defendant has had knowledge of and notice of the '066 Patent and its infringement since at least the filing of this complaint, and, despite this knowledge, continues to commit tortious conduct by way of patent infringement.

66. Defendant has been and continues to be infringing one or more of the claims of the '066 Patent through the aforesaid acts.

67. Plaintiff is entitled to recover damages adequate to compensate for the infringement.

PRAYER FOR RELIEF

Wherefore, Straight Path IP Group, Inc., respectfully requests the following relief:

- a) A judgment that Defendant has infringed the '469 Patent;
- b) A judgment that Defendant has infringed the '704 Patent;
- c) A judgment that Defendant has infringed the '121 Patent;
- d) A judgment that Defendant has infringed the '365 Patent;
- e) A judgment that Defendant has infringed the '066 Patent;
- f) A judgment that awards Straight Path all appropriate damages under 35 U.S.C. § 284 for the Defendant's past infringement, and any continuing or future infringement of the Patents-in-Suit, up until the date such judgment is entered, including interest, costs, and disbursements as justified under 35 U.S.C. § 284 and, if necessary, to adequately compensate Straight Path for Defendant's infringement;
- g) A judgment that awards Straight Path a preliminary and permanent injunction preventing Defendant and its respective officers, directors, agents, servants, employees, attorneys, licensees, successors, and assigns, and those in active concert or participation with any of them, from directly infringing, contributorily infringing, and/or inducing the infringement of the patents-in-suit; and
- h) An adjudication:
 - i. that this case is exceptional within the meaning of 35 U.S.C. § 285;
 - ii. that Straight Path be awarded the attorneys' fees, costs, and expenses it incurs in prosecuting this action; and
 - iii. that Straight Path be awarded such further relief at law or in equity as the Court deems just and proper.

DEMAND FOR JURY TRIAL

42. Straight Path hereby demands trial by jury on all claims and issues so triable.

DATED: May 2, 2013

Respectfully submitted

WARD & SMITH LAW FIRM

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CERTIFICATE OF SERVICE

I, Robert W. Thomas, hereby certify that on this 8th day of May, 2014, copies of foregoing document[s] were filed and served upon the following parties as indicated:

**Respondents' Response to Complainant Straight Path's Motion to Terminate
the Investigation Based on Withdrawal of the Complaint**

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/s/ Robert W. Thomas
