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11 **UNITED STATES DISTRICT COURT**
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13 **CENTRAL DISTRICT OF CALIFORNIA**
14

15 Nitetek Licensing LLC,
16
17 Plaintiff,
18
19 v.
20 ICP DAS USA, INC.,
21
22 Defendant.

CASE NO.

COMPLAINT FOR INFRINGEMENT

JURY TRIAL DEMANDED

23
24
25 **COMPLAINT FOR PATENT INFRINGEMENT**

26 1. Nitetek Licensing LLC (“Nitetek” or “Plaintiff”), by and through
27 counsel, hereby brings this action for patent infringement against ICP DAS USA,
28 Inc. (“ICP DAS” or “Defendant”), alleging infringement of U.S. Patent No.
6,661,783 (“Patent-in-Suit” or the ’783 Patent) titled “CDMA Transmission
Apparatus” attached hereto as Exhibit A.

NATURE OF THE ACTION

2. This is an action for patent infringement arising under the United

1 States Patent Act 35 U.S.C. §§ 1 *et seq.*, including 35 U.S.C. § 271.

2 **PARTIES**

3 3. Plaintiff Nitetek Licensing LLC (“Nitetek”) is a Texas company
4 and has a principal place of business at 6001 W Parmer Ln, Ste 370 - 1070,
5 Austin, TX 78727-3908.

6 4. On information and belief, Defendant ICP DAS USA, Inc. is a
7 corporation organized under the laws of the State of California, having a principal
8 place of business at 24309 Narbonne Ave., Suite 200, Lomita, California 90717.

9 **JURISDICTION AND VENUE**

10 5. This is an action for patent infringement in violation of the Patent Act
11 of the United States, 35 U.S.C. §§ 1 *et seq.*

12 6. This Court has original and exclusive subject matter jurisdiction over
13 the patent infringement claims for relief under 28 U.S.C. §§ 1331 and 1338(a).

14 7. This Court has personal jurisdiction over ICP DAS because it maintains
15 its principal place of business in the state of California. On information and belief,
16 ICP DAS has transacted and is continuing to transact business in this District that
17 includes, but is not limited to, the use of products and systems that practice the
18 subject matter claimed in the patents involved in this action.

19 8. Venue is proper in this district under 28 U.S.C. § 1400(b) because ICP
20 DAS is formed under the laws of California and registered with the Secretary of
21 State in the State of California; and thus resides in this district under the Supreme
22 Court’s opinion in *TC Heartland LLC v. Kraft Foods Group Brands LLC*, 137 S. Ct.
23 1514 (2017). Further, upon information and belief, ICP DAS has committed acts of
24 infringement in this district and a regular and established place of business in this
25 district.

26 **PATENT IN SUIT**

1 transmission signal composed of the known reference signal and transmission
2 power bit above than the transmission rate for symmetric communications. *See*
3 Ex. A, '783 Patent, 1:10.

4 15. The claims of the Patent-in-Suit do not merely recite the
5 performance of a familiar practice, and instead the claims recite one or more
6 inventive concepts that are rooted in improving the asymmetric CDMA
7 communications. The Patent- in-Suit addresses problems rooted in improving
8 asymmetric communication by providing a method that avoids downlink failure
9 and improves the quality and system capacity of the uplink, the solutions it
10 teaches are not merely drawn to longstanding human activities. Thus, the
11 Patent-in-Suit provides an invention that cannot be performed with pen and
12 paper or in the human mind, nor are the solutions it teaches drawn from
13 longstanding human activities.

14 **ACCUSED PRODUCTS**

15 16. Defendant makes, uses, offers for sale, sells in the U.S., and/or
16 imports into the U.S. products, systems, and/or services that infringe the Patent-
17 in- Suit, including, but not limited to the ICP DAS G-4513 (“the Accused
18 Product”).

19 17. The Accused Product utilizes UMTS-FDD technology using
20 WCDMA technology performing uplink and downlink on different frequencies
21 over a CDMA system. A non-limiting exemplary claim chart comparing the
22 Accused Product to Claim 4 of the '783 Patent is attached hereto as Exhibit B and
23 is incorporated herein as if fully rewritten.

24 **COUNT 1 – INFRINGEMENT OF THE '783 Patent**

25 18. Plaintiff incorporates the above paragraphs herein by reference.

1 19. The '783 Patent is valid, enforceable, and was duly and legally issued
2 by the United States Patent and Trademark Office ("USPTO") on December 9,
3 2003. The '783 Patent is presumed valid and enforceable. *See* 35 U.S.C. § 282.

4 20. Plaintiff is the owner by assignment of the '783 Patent and possesses
5 all rights of recovery under the '783 Patent, including the exclusive right enforce
6 the '783 Patent and pursue lawsuits against infringers.

7 21. Without a license or permission from Plaintiff, Defendant has
8 infringed, directly and indirectly, one or more claims of the '783 Patent by
9 importing, making, using, offering for sale, or selling products and devices that
10 embody the patented inventions, including, without limitation, one or more of the
11 patented '783 systems and methods, in violation of 35 U.S.C. § 271.

12 **Direct Infringement – 35 U.S.C. § 271(a)**

13 22. Plaintiff incorporates the above paragraphs herein by reference, the
14 same as if set forth herein.

15 23. Without a license or permission from Plaintiff, Defendant has infringed
16 one or more claims of the '783 Patent by importing, making, using, offering for
17 sale, or selling products and devices that embody the patented invention,
18 including, without limitation, one or more of the patented '783 systems and
19 methods, in violation of 35 U.S.C. § 271.

20 24. Defendant has infringed by, among other things, practicing all of the
21 steps of the '783 Patent, for example, through internal testing, quality assurance,
22 research and development, and troubleshooting. *See Joy Techs., Inc. v. Flakt, Inc.*, 6
23 F.3d 770, 775 (Fed. Cir. 1993); see also 35 U.S.C. § 271(2006).

24 25. By way of example, Defendant has infringed and continues to infringe
25 at least one or more claims of the '783 Patent, including at least Claim 4. Attached
26

1 hereto as Exhibit B is an exemplary claim chart detailing representative
2 infringement of Claim 4 of the '783 Patent.

3 **Plaintiff Suffered Damages**

4 26. Defendant's acts of infringement of the Patent-in-Suit have caused
5 damage to Plaintiff, and Plaintiff is entitled to recover from Defendant the damages
6 sustained as a result of Defendant's wrongful acts in an amount subject to proof at
7 trial pursuant to 35 U.S.C. 271. The precise amount of damages will be determined
8 through discovery in this litigation and proven at trial.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff prays for relief as follows:

11 A. Judgment that Defendant has directly infringed one or more claims of
12 the '783 Patent either literally and/or under the doctrine of equivalents;

13 B. Judgment awarding Defendant general and/or specific damages,
14 including a reasonable royalty and/or lost profits, in amounts to be fixed by the
15 Court in accordance with proof, including enhanced and/or exemplary damages, as
16 appropriate, as well as all of Defendant's profits or gains of any kind from its acts of
17 patent infringement;

18 C. Judgment awarding Plaintiff pre-judgment and post-judgment interest;
19 and

20 D. Judgment awarding Plaintiff such other and further relief as the Court
21 may deem just and proper.

22 **JURY DEMAND**

23 Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff respectfully
24 requests a trial by jury on all issues triable to a jury.

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Respectfully Submitted,

Dated: November 30, 2022

/s/ Jennifer Ishimoto
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