

**IN THE UNITED STATES DISCTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

VERTIV CORPORATION,

*Plaintiff,*

v.

CYBERPOWER SYSTEMS (USA), INC.,

*Defendant.*

C.A. No. \_\_\_\_\_

JURY TRIAL DEMANDED

**COMPLAINT**

Plaintiff Vertiv Corporation (“Vertiv” or “Plaintiff”), for its complaint against CyberPower Systems (USA), Inc. (“CyberPower” or “Defendant”), alleges the following:

**NATURE OF THE CASE**

1. This is an action for infringement of U.S. Patent No. 7,522,036 (“the ’036 Patent”) brought pursuant to the patent laws of the United States, 35 U.S.C. § 1 *et seq.*

2. Vertiv is global provider of critical digital infrastructure and continuity solutions recognized for its groundbreaking products and services, including innovative power distribution units (“PDUs”) that ensure peak performance through management of power usage and monitoring capabilities.

3. In 2023, Vertiv won the CRN® Annual Report Card (ARC) Award in the Power Protection and Management category, one of the most prestigious honors in the IT industry.

4. Defendant has been making, selling, using, importing, and/or offering for sale PDU products that work with at least the CyberPower Environmental Sensors (ENVIROSENSOR or SNEV001) such as the CyberPower line of Monitored PDUs, the CyberPower line of Switched PDUs, the CyberPower line of Switched Metered-by-Outlet PDUs, the CyberPower line of

Switched Auto Transfer Switch PDUs, each of which in combination with the ENVIROSENSOR or SNEV001 infringe one or more claims of the '036 Patent in violation of 35 U.S.C. § 271 (collectively, “the Accused Products”).

### **THE PARTIES**

5. Vertiv is a corporation organized and existing under the laws of the state of Ohio with a principal place of business located at 505 North Cleveland Ave., Westerville, OH 43082.

6. On information and belief, Defendant is a Delaware corporation organized and existing under the laws of the State of Delaware.

7. On information and belief, Defendant’s headquarters are located at 4241 12th Avenue East, Suite 400, Shakopee, MN 55379.

8. On information and belief, Defendant’s registered agent for service of process is Capitol Services, Inc., 108 Lakeland Drive, Dover, DE 19901.

### **JURISDICTION AND VENUE**

9. This action arises under the patent laws of the United States, Title 35 of the United States Code.

10. Defendant imports or causes to be imported, makes, offers to sell, sells, and/or uses products in the United States and in this District, including, but not limited to, the Accused Products.

11. This Court has exclusive subject matter jurisdiction over this case for patent infringement under 28 U.S.C. §§ 1331 and 1338 because Vertiv’s claim arises under an Act of Congress relating to patents, mainly 35 U.S.C. § 271.

12. This Court has personal jurisdiction over Defendant because, *inter alia*, Defendant is incorporated under the laws of the State of Delaware.

13. This Court also has personal jurisdiction over Defendant because Defendant has committed and continues to commit acts of infringement in violation of the United States Patent Laws, and has made, used, sold, offered for sale, marketed and/or imported infringing products into this District. Defendant's infringement has caused substantial injury to Vertiv, including within this District.

14. Venue is proper in this District under 28 U.S.C. § 1400(b) because, on information and belief, Defendant is incorporated under the laws of the State of Delaware and, therefore, resides in this District.

**U.S. PATENT NO. 7,522,036**

15. On April 21, 2009, U.S. Patent No. 7,522,036 ("the '036 Patent"), entitled "Integrated power and environmental monitoring electrical distribution system," was duly and legally issued by the United States Patent and Trademark Office to inventors Jesse Preuss, Brad Wilson, and Tom Kennedy. A true and correct copy of the '036 Patent is attached as Exhibit 1.

16. Vertiv is the assignee and owner of all right, title, and interest in and to the '036 Patent, including the right to assert all causes of action arising under the '036 Patent and the right to any remedies for infringement of the '036 Patent.

17. The '036 Patent is valid and enforceable under the United States Patent Laws.

18. In accordance with 35 U.S.C. § 287, Vertiv has provided constructive notice to the public that certain of Vertiv's products are covered by the '036 Patent by marking product packaging with patent numbers and by listing patent numbers that cover its products on its website at <https://www.vertiv.com/en-us/patents/>.

19. Vertiv has attempted in good faith to resolve this matter amicably before initiating legal proceedings. For example, Vertiv sent a letter to Defendant on or around September 7, 2023,

inviting Defendant to license the '036 Patent. (Attached hereto as Ex. 2). As a result, Defendant has had actual notice of the '036 Patent and Vertiv's infringement allegations since that time.

20. As part of its initial invitation to license, Vertiv provided Defendant with claim charts explaining how Defendant's Accused Products infringe one or more claims of the '036 Patent. (*See* Ex. 2).

21. Vertiv and Defendant initially discussed a potential license, and those discussions continued until around March 2024, when Defendant stopped responding to Vertiv's communications.

22. On September 3, 2024, and September 11, 2024, Vertiv again contacted Defendant, through Defendant's counsel via email correspondence, but Defendant did not respond to either inquiry.

23. On information and belief, Defendant also has lawyers and other agents who regularly review patents and published patent applications relevant to the technology in the field of the '036 Patent. On information and belief, Defendant purposefully reviews the patents and published patent applications of its competitors for purposes of competitive intelligence and to monitor advancements in the technology field.

24. As a result, on information and belief, Defendant had actual notice of the '036 Patent as early as April 21, 2009, when the '036 Patent issued.

#### **THE ACCUSED PRODUCTS**

25. On information and belief, Defendant owns, operates, advertises, and/or controls the website [www.cyberpowersystems.com](http://www.cyberpowersystems.com), through which Defendant advertises, sells, offers to sell, provides and/or educates customers about the Accused Products and services related thereto. For example, Defendant's website provides information regarding its Monitored line of PDUs at <https://www.cyberpower.com/global/en/product/series/monitored>.

26. On information and belief, Vertiv and Defendant are competitors in at least the data center infrastructure market.

27. On information and belief, Defendant derives significant revenue by selling the Accused Products, and Defendant knows that the patented technology is necessary to compete with at least Vertiv's patented Geist™ line of Rack Transfer Switches, Switched Rack PDUs, Universal PDUs, and Monitored Rack PDUs, all of which are covered by the '036 Patent.

28. On information and belief, Defendant has been and continues to be engaged in making, using, importing, selling and/or offering for sale infringing products, including, but not limited to, the Accused Products in the United States generally, and in the state of Delaware specifically.

**COUNT I: INFRINGEMENT OF U.S. PATENT NO. 7,522,036**

29. Vertiv re-alleges and incorporates by reference all of the foregoing paragraphs.

30. On information and belief, and based on publicly available information, each of the Accused Products satisfy each and every limitation of at least claim 1 of the '036 Patent.

31. Vertiv identifies below one exemplary claim to demonstrate infringement by one of Defendant's Accused Products based on the information currently available to Vertiv. The selection of the exemplary claim and exemplary Accused Product should not be considered limiting, and any additional infringing products or services and infringed claims of the '036 Patent will be disclosed pursuant to the Court's rules and scheduling order.

32. Claim 1 of the '036 Patent recites:

A power and environmental monitoring system, comprising:

a power distribution unit having a receptacle for supplying power to equipment coupled with the power distribution unit via the receptacle;

a power monitoring system for monitoring a power consumption characteristic of the power supplied to the equipment coupled with the power distribution unit;

an environmental monitoring system for monitoring an environmental characteristic in a physical environment occupied by the power and environmental monitoring system;

a network connector for connecting the power and environmental monitoring system to a network, and

a common interface accessible via the network connector,

wherein the power monitoring system and the environmental monitoring system share the common interface accessible via the network connector.

33. On information and belief, the Accused Products include a power distribution unit having a receptacle for supplying power to equipment coupled with the power distribution unit via the receptacle. For example, on information and belief, the CyberPower Monitored power distribution unit Model No. PDU31004 contains receptacles of different varieties, including but not limited to IEC-320 C13, which supply power to equipment coupled to the power distribution unit via the receptacle.

34. On information and belief, the Accused Products include a power monitoring system for monitoring a power consumption characteristic of the power supplied to the equipment coupled with the power distribution unit. For example, on information and belief, the CyberPower Monitored power distribution unit Model No. PDU31004 includes a power monitoring system for monitoring the characteristics of the power supplied to the equipment coupled to the power distribution unit, including but not limited to, voltage, current, frequency, and load.

35. On information and belief, the Accused Products include an environmental monitoring system for monitoring an environmental characteristic in a physical environment occupied by the power and environmental monitoring system. For example, on information and belief, the CyberPower Monitored power distribution unit Model No. PDU31004 can include the

ENVIROSENSOR or SNEV001 for monitoring an environmental characteristic of the power distribution unit, including but not limited to, temperature and humidity.

36. On information and belief, the Accused Products include a network connector for connecting the power and environmental monitoring system to a network. For example, on information and belief, the CyberPower Monitored power distribution unit Model No. PDU31004 includes a network connector such as an RJ45 connector for connecting the power and environmental monitoring system to a network.

37. On information and belief, the Accused Products include a common interface accessible via the network connector. For example, on information and belief, the CyberPower Monitored power distribution unit Model No. PDU31004 can be accessed by a common interface including, but not limited to, a web server, simple network management protocol (SNMP), or Dynamic Host Configuration Protocol.

38. On information and belief, the Accused Products include a power monitoring system and an environmental monitoring system that share a common interface via the network connector. For example, on information and belief, the power and environmental monitoring system in the CyberPower Monitored power distribution unit Model No. PDU31004 is accessible at a common interface such as a web server or SNMP, via a network connector, such as an RJ45 connector.

39. On information and belief, the exemplary Accused Product is substantially the same as the other Accused Products in all relevant respects, and thus is representative of all Accused Products.

40. Defendant has and continues to directly infringe one or more claims, including at least claim 1, of the '036 Patent in violation of 35 U.S.C. § 271(a) by making, using, selling,

offering to sell, and/or importing the Accused Products in this District and into the United States which satisfy, literally or under the doctrine of equivalents, each and every claim limitation of at least claim 1 of the '036 Patent.

41. Defendant has and continues to induce infringement of one or more claims, including at least claim 1, of the '036 Patent in violation of 35 U.S.C. § 271(b). Defendant has and continues to knowingly and actively encourage or instruct others, including its customers, on how to use its products and services (*e.g.*, the Accused Products) to cause infringement of at least claim 1 of the '036 Patent, literally or under the doctrine of equivalents.

42. Defendant has and continues to contributorily infringe one or more claims, including at least claim 1, of the '036 Patent in violation of 35 U.S.C. § 271(c). Defendant has and continues to sell or offer to sell a power and environmental monitoring system for use in a power distribution unit knowing it is specially made or adapted for practicing the invention of the '036 Patent and is not a staple article or commodity of commerce suitable for substantial non-infringing use.

43. Each of Defendant's aforementioned activities has been without authority and/or license from Vertiv.

44. Defendant's acts complained of herein are damaging and will continue to cause irreparable injury and damage to Vertiv for which there is no adequate remedy at law.

45. Vertiv is therefore entitled to preliminary and permanent injunctions restraining and enjoining Defendant from infringing the '036 Patent.

46. By reason of Defendant's infringing activities, Vertiv has suffered, and will continue to suffer, substantial damages in an amount to be determined at trial.



47. Defendant's infringement of the '036 Patent following Defendant's knowledge of the '036 Patent has been and continues to be willful, wanton, and deliberate.

48. Vertiv is entitled to treble damages and attorneys' fees and costs incurred in this action under 35 U.S.C. §§ 284 and 285.

**JURY DEMAND**

49. Vertiv hereby demands a jury trial for all issues so triable.

**PRAYER FOR RELIEF**

WHEREFORE, Vertiv respectfully requests that this Court enter judgment in its favor as follows:

A. An adjudication that Defendant has infringed one or more claims of the '036 Patent, literally and/or under the doctrine of equivalents;

B. An adjudication that Defendant has induced infringement of one or more claims of the '036 Patent, literally and/or under the doctrine of equivalents;

C. An adjudication that Defendant has contributed to infringement of one or more claims of the '036 Patent, literally and/or under the doctrine of equivalents;

D. An award of damages to be paid by Defendant to adequately compensate Vertiv for its past infringement and any continuing or future infringement up until the date judgment is entered, including interest, costs, and disbursements as justified under 35 U.S.C. § 284;

E. A grant of permanent injunction pursuant to 35 U.S.C. § 283, enjoining the Defendant and its respective officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them who

receive actual notice of the order by personal service or otherwise, from further acts of infringement with respect to any one or more of the claims of the '036 patent;

F. Increased damages as permitted under 35 U.S.C. § 284;

G. That this court declare this to be an exceptional case and award Vertiv its reasonable attorneys' fees and costs in accordance with 35 U.S.C. § 285; and,

H. Any further relief that this Court deems just and proper.

Dated: October 7, 2024

Respectfully submitted,

BENESCH FRIEDLANDER  
COPLAN & ARONOFF LLP

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