

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

NETWORK INTEGRITY SYSTEMS, INC.,

 Plaintiff,

 v.

 CYBERSECURE IPS LLC,

 Defendant.

Case No.: 8:25-cv-01974-TDC

**DEFENDANT CYBERSECURE IPS LLC'S ANSWER AND COUNTERCLAIMS TO
PLAINTFF NETWORK INTEGRITY SYSTEMS, INC.'S COMPLAINT**

Defendant Cybersecure IPS LLC (“CS”), by and through its undersigned counsel, hereby responds to Plaintiff Network Integrity Systems, Inc.’s (“NIS”) Complaint.

NATURE OF THE SUIT

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code, involving infringement of U.S. Patent No. 7,706,641 (“the ‘641 patent” or “patent-in-suit”, attached as **Exhibit 1**, in reference to the patent claim chart, attached as **Exhibit 2**, incorporated herein by reference).

ANSWER: Admitted that Plaintiff's claims purport to arise under the Patent Laws of the United States pertaining to the patent-in-suit, and that Exhibit 1 appears to be a copy of U.S. Patent No. 7,706,641. Denied that there has been any infringement by CS of the patent-in-suit, or that the patent-in-suit is valid and enforceable.

PARTIES JURISDICTION AND VENUE

2. NIS is a North Carolina corporation with a principal place of business at 1937 Tate Boulevard SE, Hickory, North Carolina 28602.

ANSWER: CS lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph, and therefor denies them.

3. CS is a Maryland limited liability company headquartered in Herndon, Virginia.¹

ANSWER: CS admits that it is a Maryland limited liability company, but denies that it is headquartered in Herndon, Virginia. CS is headquartered in Maryland.

4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 1338(a).

ANSWER: This paragraph contains legal conclusions to which no response is required. To the extent a response is required, CS denies it has committed acts of infringement. CS admits that NIS makes allegations of patent infringement under the patent laws of the United States and that this Court has subject matter jurisdiction over patent infringement actions. CS lacks knowledge or information sufficient to form a belief as to the truth of whether NIS has standing to bring this action and therefore denies that the Court has subject matter jurisdiction over this action.

5. Personal jurisdiction exists over CS because it has its headquarters in Virginia where it also conducts regular business and engaged in infringement.

ANSWER: This paragraph contains legal conclusions to which no response is required. To the extent a response is required, CS denies it has committed acts of infringement and denies that it is headquartered in Virginia. For purposes of this action, CS does not contest jurisdiction in Maryland.

6. Venue is proper under 28 U.S.C. § 1400(b) in this Division and District where CS has committed acts of infringement and has a regular and established place of business.

¹ <https://www.linkedin.com/company/cybersecure-ips/about/>.

ANSWER: This paragraph contains legal conclusions to which no response is required. To the extent a response is required, CS denies it has committed acts of infringement and denies that it is headquartered in Virginia. For purposes of this action, CS does not contest venue in the District of Maryland.

FACTUAL BACKGROUND

7. NIS owns patents in the field of optical fiber security and is a cyber-security business and leading provider of optical sensing technology for cyber and physical security applications specializing in optical fiber monitoring to enhance network infrastructure security across various sectors.

ANSWER: Admitted that NIS is listed as the assignee on the face of the '641 patent which is titled "Monitoring Individual Fibers of an Optical Cable for Intrusion" (Dkt. 1-2) and that NIS is cyber-security business. CS lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in this paragraph, and therefor denies them.

8. CS is also a cyber-security business that specializes in the design and development of prepackaged computer software and fiber-optic-based solutions for network infrastructure security.

ANSWER: Admitted that CS is in the cyber-security industry. To the extent any remaining allegations in this paragraph are not expressly admitted herein, they are denied.

9. The parties have a long history of working together. Effective October 1, 2015, the parties entered into an Exclusive Strategic Relationship Agreement ("ESR Agreement") related to integration and joint sale of technology solutions to customers.

ANSWER: Admitted that the parties have worked together. Admitted that there was an Exclusive Strategic Relationship Agreement and the document speaks for itself. To the extent any remaining allegations in this paragraph are not expressly admitted herein, they are denied.

10. Effective June 23, 2023, the parties terminated the ESR Agreement and entered into a Memorandum of Understanding (“MOU”) to continue working together to service customers after the termination of the ESR Agreement. This Complaint is limited to CS’s infringing activity after the termination of the ESR Agreement on June 23, 2023.

ANSWER: Admitted that the ESR Agreement was terminated on or around June 23, 2023, and that a memorandum of understanding was entered. Admitted that the Complaint alleges infringement limited to activity after June 23, 2023. Denied that there has been any infringement by CS of the patent-in-suit, or that the patent-in-suit is valid and enforceable. To the extent any remaining allegations in this paragraph are not expressly admitted herein, they are denied.

11. Effective September 5, 2024, the parties entered into a “Settlement Agreement” (the “Settlement Agreement”) whereby they resolved various MOU disputes, including claims by NIS that CS improperly hired current and former NIS employees who were subject to non- competition and/or non-solicitation clauses in their employment contracts with NIS, and that CS disclosed and/or misused confidential NIS information.

ANSWER: Admitted that the parties entered a Settlement Agreement and the document speaks for itself. To the extent any remaining allegations in this paragraph are not expressly admitted herein, they are denied.

12. The ‘641 patent is entitled “MONITORING INDIVIDUAL FIBERS OF AN OPTICAL CABLE FOR INTRUSION” and was duly and legally issued by the United States Patent and Trademark Office on April 27, 2010.

ANSWER: Admitted that NIS is listed as the assignee on the face of the ‘641 patent which is titled “Monitoring Individual Fibers of an Optical Cable for Intrusion” which was issued April

27, 2010. (Dkt. 1-2.) To the extent any remaining allegations in this paragraph are not expressly admitted herein, they are denied.

13. The '641 patent includes method claims related to detecting movement of optical fibers of an optical fiber cable and generating an alarm indicating the movement.

ANSWER: Admitted that the '641 patent includes method claims, and the document speaks for itself. To the extent any remaining allegations in this paragraph are not expressly admitted herein, they are denied.

14. The '641 patent is valid and enforceable.

ANSWER: Denied.

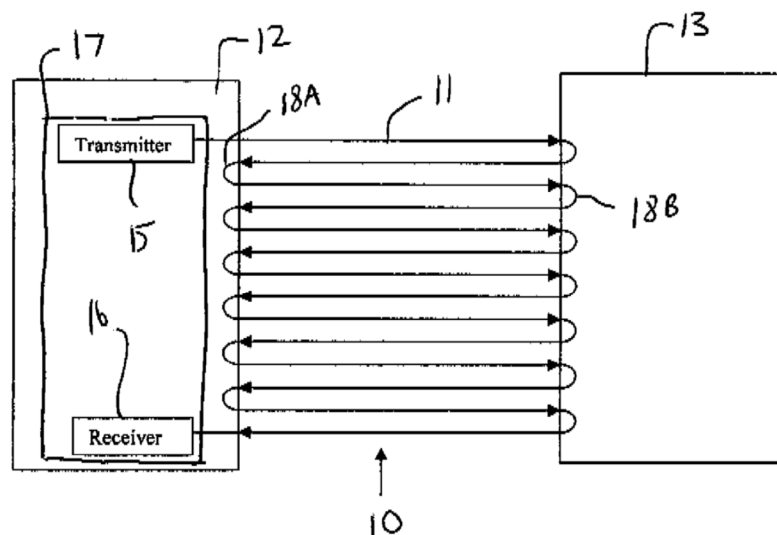
15. NIS is the exclusive owner of all right, title, and interest in the '641 patent. NIS practices the technology disclosed in the patents and has the right to bring this action to recover damages for any current or past infringement of these patents. CS does not have a license to practice the inventions claimed in the '641 patent.

ANSWER: Admitted that NIS is listed as the assignee on the face of the '641 patent. (Dkt. 1-2.) To the extent any remaining allegations in this paragraph are not expressly admitted herein, they are denied.

16. The '641 patent is directed to a system and method for detecting movement of optical fibers for the purpose of intrusion detection. The claims of the '641 patent are method claims that include method steps such as injecting light into fibers to be monitored and receiving light signals that have been transmitted along the fibers being monitored. At least claims 1 and 12 of the '641 patent read on a point-to-multipoint network layout where the number of fibers being monitored is greater than the number of light sources and greater than the number of sensor arrangements that detect the light being transmitted through the monitored fibers.

ANSWER: Admitted that the '641 patent includes method claims, and the document speaks for itself. Admitted that the '641 patent includes claims that include steps such as “injecting light from the at least one source into one end of each of the fibers to be monitored” (Dkt. 1-2, claim 1) and “providing a plurality of optical fiber cables arranged in a hub-and-spoke arrangement where each optical fiber cable extends from a main unit at a central location to one of a plurality of remote units.” (Dkt. 1-2, claim 12). To the extent any remaining allegations in this paragraph are not expressly admitted herein, they are denied.

17. Fig. 1 of the '641 patent (set forth below) depicts an exemplary point-to-multipoint network layout.



ANSWER: Admitted that the image provided in this paragraph appears to be a copy of Figure 1 from the '641 patent. To the extent any remaining allegations in this paragraph are not expressly admitted herein, they are denied.

18. NIS manufactures and sells two products that are relevant to the '641 patent. The “Interceptor” and “Vanguard,” which are both interrogator type devices that provide light to optical fibers being monitored and receive light signals from those fibers. The received light signals are

analyzed for abnormalities that indicate whether there is an intrusion into the cable carrying the fiber or the fiber itself. The analysis of the light signals may be performed by software in the interrogator device or by software on a separate computer providing a user interface, or both. Both the Interceptor and Vanguard devices are capable of protecting up to 8-separate zones or cable paths distributed throughout the building by monitoring strands of fibers within optical cables making up the network infrastructure.

ANSWER: Admitted that NIS has sold the “Interceptor” and “Vanguard” products. CS lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in this paragraph, and therefor denies them.

19. A system operating with a NIS Interceptor or Vanguard device detects and reports tampering or intrusion attempts for the purposes of data theft (tapping) or denial of service attacks. The Interceptor and Vanguard devices are designed to be used in a detection system and method that utilizes a point-to-multipoint network layout.

ANSWER: Admitted that NIS has sold the Interceptor and Vanguard devices advertised for detecting and reporting tampering or intrusion attempts. CS lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in this paragraph, and therefor denies them.

20. On information or belief, CS has had knowledge of the ‘641 patent at least since the parties entered into the ESR Agreement in 2015. CS personnel have frequently visited NIS facilities where a plaque showing the cover page of the ‘641 patent is displayed. In addition, CS personnel attended training at NIS facilities where the NIS innovations (e.g., network intrusion monitoring using point-to-multipoint network layout) covered by the ‘641 patent were described as “patented.” NIS and CS created and distributed co-branded marketing materials that referenced

NIS’ “patented hub and spoke technology.” Two examples of these marketing materials are attached as **Exhibit 3**. In addition, on information and belief, CS conducted a review of NIS’s patent portfolio (including the ‘641 patent) in 2023 when the ESR Agreement was terminated.

ANSWER: Admitted that Exhibit 3 appears to be copies of marketing materials. Admitted that CS employees have visited NIS facilities. Admitted that CS has reviewed NIS patents. To the extent any remaining allegations in this paragraph are not expressly admitted herein, they are denied.

21. Until the parties severed their relationship in 2024, CS partnered with NIS to offer both CS and NIS products to their joint customers. These joint customers included both data center customers who purchased and installed numerous Vanguard devices and practiced the claims of the ‘641 patent, and customers who operated Protective Distribution Systems (PDS) and purchased and installed numerous Interceptor devices. One of the parties’ data center customers (the “Primary Customer”) was responsible for the vast majority of the parties’ data center related business.

ANSWER: Admitted that during the parties’ working relationship, CS partnered with NIS and offered products, including the Interceptor and Vanguard products, to customers jointly, including data center customers and customers who operated PDS. CS lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in this paragraph, and therefor denies them.

22. During the approximately nine years that the parties co-marketed products, CS did not have a product that competed with the NIS Interceptor and Vanguard devices. CS is now offering for sale and selling a product that competes with the NIS Interceptor and Vanguard devices. CS has incorporated the functionality of the Interceptor and Vanguard devices into a newly marketed device named “Opti-Guard.” CS marketing materials for the Opti-Guard device are

attached as **Exhibits 4 and 5**. CS touts its Opti-Guard device to customers as a device that can “replace the [NIS] Interceptor.” Ex. 5 at p. 2.

ANSWER: Admitted that Exhibits 4 and 5 appear to be copies of CS’s marketing materials, and the documents speak for themselves. Admitted that CS did not have a product that competed with the Interceptor and Vanguard devices when the parties co-marketed products. Admitted that Opti-Guard is a product developed by CS. Denied that CS incorporated the functionality of the Interceptor and Vanguard devices into the Opti-Guard product. CS lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in this paragraph, and therefor denies them.

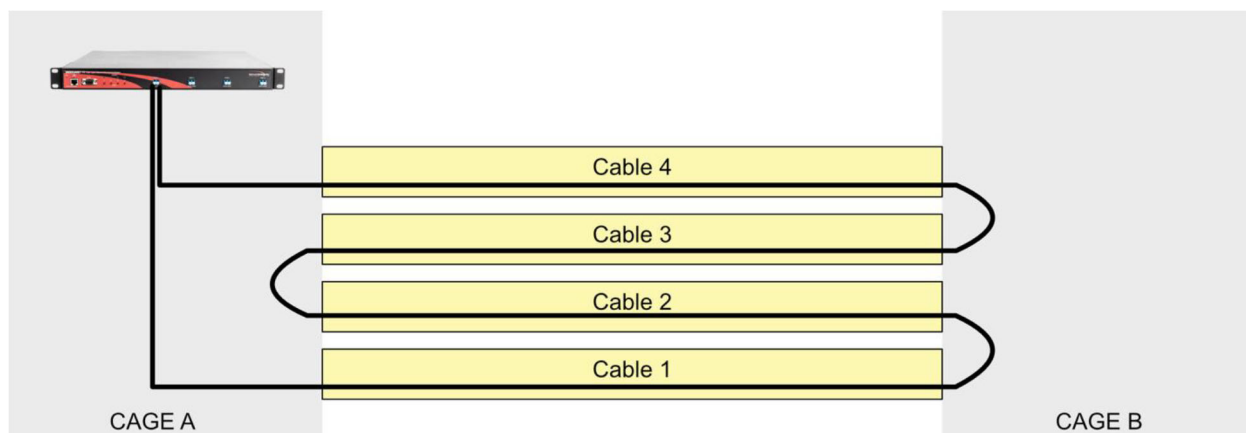
23. As described further below, CS makes, uses, sells, and/or offers for sale products and services that infringe the ‘641 patent. These products and services include intrusion systems and methods that include both software and hardware devices. In particular, CS makes, uses, sells, and/or offers for sale at least the following products and services that infringe the ‘641 patent (“Accused Products and Services”):

- a. Detection System and Method used in Data Centers;
- b. Detection System and Method used in Protected Distribution Systems (PDS); and
- c. Detection System and Method used in Manhole, Lockbox, and other Fiber Bragg Grating (FBG) Intrusion Monitoring.

ANSWER: Denied.

24. Until its relationship with NIS ended in 2024, CS partnered with NIS to pair its software with the NIS Vanguard device for use in data centers for monitoring movement of optical fibers. CS now offers an alternative to the NIS Vanguard device, and offers for sale, sells, and has sold its software and hardware for use in a system and method for monitoring intrusion of OSP/ISP

Pathways and Conduits for various data centers having a point-to-multipoint network layout. An exemplary layout of a commercial point-to-multipoint network layout is set forth below:



ANSWER: Admitted that the parties previously worked together in selling products and services, including software and the Vanguard device. Denied that there has been any infringement by CS of the patent-in-suit, or that the patent-in-suit is valid and enforceable. CS lacks knowledge or information sufficient to form a belief as to the truth of the allegations regarding the “exemplary layout” and various data centers having a “point-to-multipoint” network layout, and therefor denies them. To the extent any remaining allegations in this paragraph are not expressly admitted herein, they are denied.

25. Use of these CS products in a system and method for monitoring intrusion of OSP/ISP Pathways and Conduits for use in an intrusion detection system with a point-to-multipoint network layout infringes at least claims 1 and 12 of the ‘641 patent, either literally or under the doctrine of equivalents, because such a detection system including CS products performs all of the steps required in these claims, as set forth in detail in Exhibit 2.

ANSWER: Denied.

26. In particular, CS has offered for sale and sold its products for use in a system and method for monitoring intrusion of OSP/ISP Pathways and Conduits for use in data centers owned

by the Primary Customer that employ an intrusion detection system with point-to-multipoint network layout. The CS products and services for sale and sold for use in data centers are described on the CS website. (“Realize True Data Center Security with CyberSecure IPS”, attached as **Exhibit 6.**)

ANSWER: Admitted that Exhibit 6 appears to be a copy of a screen capture of CS’s website, and the website speaks for itself. Denied that there has been any infringement by CS of the patent-in-suit, or that the patent-in-suit is valid and enforceable. CS lacks knowledge or information sufficient to form a belief as to the truth of the allegations regarding the “point-to-multipoint” network layout, and therefor denies them. To the extent any remaining allegations in this paragraph are not expressly admitted herein, they are denied.

27. For certain Primary Customer data centers, CS has offered for sale and sold its products to replace existing NIS Vanguard device already in use in the point-to-multipoint network layouts in the Primary Customer data centers. In particular, NIS began providing its Vanguard devices to the Primary Customer in 2017 for use in data centers that include a point-to-multipoint network layout and are located in this Division and District. The Primary Customer has a life cycle replacement policy that requires it to replace electronic devices at least every seven years. CS has offered for sale and sold its OptiGuard device to replace Vanguard devices located in this Division and District, in response to the Primary Customer acting according to its life cycle replacement policy. The CS system and method that includes the OptiGuard and is being offered for sale and sold for use in the Primary Customer data centers with a point-to-multipoint network layout infringes at least claims 1 and 12 of the ‘641 patent.

ANSWER: Denied that there has been any infringement by CS of the patent-in-suit, or that the patent-in-suit is valid and enforceable. CS lacks knowledge or information sufficient to form

a belief as to the truth of the allegations regarding the “point-to-multipoint” network layout and the alleged life cycle replacement policy, and therefor denies them. To the extent any remaining allegations in this paragraph are not expressly admitted herein, they are denied.

28. CS, with knowledge of the ‘641 patent and knowledge that the CS intrusion detection system and method used in the point-to-multipoint network layout at Primary Customer data centers infringes the ‘641 patent, provides assistance and instruction in connection with the installation and use of the CS intrusion detection system at the Primary Customer data centers and the knowhow to use the CS intrusion detection system in an infringing manner.

ANSWER: Denied.

29. CS, with knowledge of the ‘641 patent and knowledge that the CS intrusion detection system and method used in the point-to-multipoint network layout at Primary Customer data centers infringes the ‘641 patent, directs its salespeople and technical personnel to conduct troubleshooting and testing on the CS intrusion detection system used in the point-to-multipoint network layout at Primary Customer data centers.

ANSWER: Denied.

30. The infringing CS intrusion detection system and method is designed for use with the point-to-multipoint network layout at Primary Customer data centers in a manner that infringes the ‘641 patent.

ANSWER: Denied.

31. Until its relationship with NIS ended in 2024, CS partnered with NIS to pair its software with the NIS Interceptor device for use with a PDS for monitoring movement of optical fibers. CS now offers an alternative to the NIS Interceptor device – the Opti-Guard device -- and

offers for sale, sells, and has sold its own products for use in a system and method for monitoring intrusion of optical fibers in a PDS.

ANSWER: Admitted that the parties previously worked together in selling products and services, including software and the Interceptor device. Admitted that CS sells the Opti-Guard device and that CS sells products for use in a PDS. Denied that there has been any infringement by CS of the patent-in-suit, or that the patent-in-suit is valid and enforceable. To the extent any remaining allegations in this paragraph are not expressly admitted herein, they are denied.

32. The CS products and services for sale for use with a PDS are described on the CS website. (“Alarmed Carrier PDS Solutions For Military and Government,” attached as **Exhibit 7**.) CS has offered for sale and sold its products for use in a system and method for monitoring intrusion of the PDS used in a secure government facility located in the District of Columbia, Maryland and Virginia region (the “DMV Facility”).

ANSWER: Admitted that Exhibit 7 appears to be a copy of a screen capture of CS’s website, and the website speaks for itself. Denied that there has been any infringement by CS of the patent-in-suit, or that the patent-in-suit is valid and enforceable. To the extent any remaining allegations in this paragraph are not expressly admitted herein, they are denied.

33. The DMV Facility is well known to CS because CS knew it was competing with NIS to provide products and services to monitor PDS intrusion at the DMV Facility. CS and NIS were working with the same integration company that was offering CS and NIS products as alternative solutions to the DMV Facility. The cables used at the DMV Facility include air blown optical fibers which, although not unique, distinguish the DMV Facility from other government facilities that employ a PDS. The CS products and services offered for sale and sold for use at the DMV Facility include an intrusion detection system for a PDS with a point-to-multipoint network

layout. Use of the CS products in a system and method for monitoring intrusion of the PDS used at the DMV Facility infringes at least claims 1 and 12 of the '641 patent, either literally or under the doctrine of equivalents, because such an intrusion detection system including CS products performs all the steps required in these claims, as set forth in detail in Exhibit 2.

ANSWER: Admitted that CS is aware of the DMV Facility. CS lacks knowledge or information sufficient to form a belief as to the truth of the allegations regarding whether the DMV Facility is distinguishable from other unidentified government facilities that employ a PDS and the allegations regarding a "point-to-multipoint" network layout, and therefore denies them. Denied that there has been any infringement by CS of the patent-in-suit, or that the patent-in-suit is valid and enforceable. To the extent any remaining allegations in this paragraph are not expressly admitted herein, they are denied.

34. CS, with knowledge of the '641 patent and knowledge that the CS intrusion detection system used in the PDS with a point-to-multipoint network layout at the DMV Facility infringes the '641 patent, provides assistance and instruction in connection with the installation and use of the CS intrusion detection system at the DMV Facility and the knowhow to use the CS intrusion detection system in an infringing manner.

ANSWER: Denied.

35. CS, with knowledge of the '641 patent and knowledge that the CS intrusion detection system used in the PDS with a point-to-multipoint network layout at DMV Facility infringes the '641 patent, directs its salespeople and technical personnel to conduct troubleshooting and testing on the CS intrusion detection system used at the DMV Facility.

ANSWER: Denied.

36. When deployed for use with the PDS with a point-to-multipoint network layout at the DMV Facility, the CS intrusion detection system and method is specifically designed in a manner that infringes the ‘641 patent.

ANSWER: Denied.

37. In addition to those infringing detection systems and methods discussed above that are used with networks arranged in a point-to-multipoint layout, CS also manufactures, distributes, offers to sell and sells its “Controller,” “Opti-Guard,” and “Cyber Sensor” products (<https://www.cybersecureips.com/our-products/>) for use in a system and method for monitoring intrusion of manholes, lockboxes, and other purposes.

ANSWER: Admitted that the “Controller,” “Opti-Guard,” and “Cyber Sensor” products are listed at the linked website, and that webpage speaks for itself. Denied that there has been any infringement by CS of the patent-in-suit, or that the patent-in-suit is valid and enforceable. To the extent any remaining allegations in this paragraph are not expressly admitted herein, they are denied.

38. Use of the CS Controller, Opti-Guard, and/or Cyber Sensor Products for manhole, lockbox, and other FBG monitoring infringes at least claim 8 of the ‘641 patent, either literally or under the doctrine of equivalents, because systems including these CS products perform all the steps required in the claim, as set forth in detail in Exhibit 2. CS has published the following two documents that provide a detailed description of the use of the CS Controller and Cyber Sensor for manhole and lockbox monitoring:

- a. Cyber Sensor Installation Guide (attached as **Exhibit 8**); and
- b. CyberSecure CSS Cyber Sensor Solution (attached as **Exhibit 9**).

As shown in detail in the claim chart attached as Exhibit 2, both these documents provide support for NIS' infringement claims.

ANSWER: Admitted that Exhibit 8 appears to be a copy of a Cyber Sensor Installation Guide, and Exhibit 9 appears to be a copy of a CyberSecure CSS Cyber Sensor Solution document, and these documents speak for themselves. Denied that there has been any infringement by CS of the patent-in-suit, or that the patent-in-suit is valid and enforceable. To the extent any remaining allegations in this paragraph are not expressly admitted herein, they are denied.

39. CS, with knowledge of the '641 patent and knowledge that manhole, lockbox, and other FBG monitoring systems that include the CS Controller, Opti-Guard, and/or Cyber Sensor Products infringe the '641 patent, provides assistance and instruction to customers in connection with the installation and use of these CS products and the knowhow to use these CS products in an infringing manner.

ANSWER: Denied.

40. CS, with knowledge of the '641 patent and knowledge that FBG monitoring systems that include the CS Controller, Opti-Guard, and/or Cyber Sensor Products infringe the '641 patent, directs its salespeople and technical personnel to conduct troubleshooting and testing on monitoring systems that employ these CS products.

ANSWER: Denied.

41. On information and belief, the CS Controller, Opti-Guard, and/or Cyber Sensor Products, when employed in FBG monitoring systems, are specifically designed for use in a manner that infringes the '641 patent, either literally or under the doctrine of equivalents, and these products have no substantially non-infringing use.

ANSWER: Denied.

42. On information and belief, CS offers products and services that infringe the claims of the '641 patent and other NIS patents, and NIS reserves the right to pursue additional infringement in this lawsuit. These products and services include, at least, other detection systems being offered for sale and/or sold to customers for use in fiber optic network layouts arranged in a point-to-multipoint configuration.

ANSWER: Denied.

COUNT I

([Alleged] Direct Infringement of the '641 Patent)

43. NIS adopts and incorporates by reference all the foregoing allegations as if fully set forth herein.

ANSWER: CS adopts and incorporates by reference all the foregoing answers as if fully set forth herein.

44. CS has directly infringed and continues to directly infringe under 35 U.S.C. § 271(a) one or more claims of the '641 patent either literally and/or under the doctrine of equivalents, by making, using, selling, and/or offering for sale in the United States the Accused Products and Services that infringe one or more claims of the '641 patent.

ANSWER: Denied.

45. CS is directly infringing the claims of the '641 patent by conducting the steps of the methods recited in the claims of the '641 patent at least when CS salespeople and technical representatives troubleshoot and test the CS systems and methods both during and after installation at end customer facilities such as the Primary Customer data centers and DMV Facility.

ANSWER: Denied.

46. On information and belief, CS has been aware of the '641 patent at least since the date that the parties entered into the ESR Agreement.

ANSWER: Denied.

COUNT II

([Alleged] Inducing of Infringement of the '641 Patent)

47. NIS adopts and incorporates by reference all the foregoing allegations as if fully set forth herein.

ANSWER: CS adopts and incorporates by reference all the foregoing answers as if fully set forth herein.

48. CS has induced infringement and continues to induce infringement under 35 U.S.C. § 271(b).

ANSWER: Denied.

49. CS offers for sale, sells, and has sold the Accused Products and Services to entities in the networking sector including, but not limited to, the DMV Facility and the Primary Customer data centers.

ANSWER: Denied.

50. CS's customers have directly infringed and continue to directly infringe, under 35 U.S.C. § 271(a), one or more claims of the '641 patent, either literally and/or under the doctrine of equivalents, by using the Accused Products and Services in the United States that infringe one or more claims of the '641 patent, as described in detail above.

ANSWER: Denied.

51. CS has actively, knowingly, and intentionally induced, and continues to actively, knowingly, and intentionally induce, infringement of the '641 patent, by offering to sell, selling and/or otherwise supplying the Accused Products and Services, with the knowledge and intent that

third parties will use the Accused Products and Services in the United States, for their intended purpose to infringe the '641 patent, and with the knowledge and intent to encourage and facilitate infringement through the dissemination of the Accused Products and Services and/or the creation and dissemination of documentation and technical information to customers and prospective customers related to the Accused Products and Services.

ANSWER: Denied.

52. CS, through its sales people and technical field representatives, over whom CS exerts control and direction, provides assistance and instruction in connection with installation and use of the Accused Product and Services at facilities and the knowhow to use the Accused Product and Services in an infringing manner, at all times having knowledge of the '641 patent and with the intent that personnel at the facilities operate the Accused Product and Services so that there is infringement of the '641 patent.

ANSWER: Denied.

53. On information and belief, CS, through its sales people and technical field representatives, troubleshoot operation of the Accused Product and Services at customer facilities during and after installation of the Accused Product and Services with full knowledge of the '641 patent and that the Accused Product and Services operate in a manner that infringes the '641 patent and with the intent that the customers operate the Accused Product and Services in a manner that infringes the '641 patent.

ANSWER: Denied.

54. On information and belief, CS has been aware of the '641 patent at least since the date that the parties entered into the ESR Agreement.

ANSWER: Denied.

COUNT III

([Alleged] Contributory Infringement of the '641 Patent)

55. NIS adopts and incorporates by reference all the foregoing allegations as if fully set forth herein.

ANSWER: CS adopts and incorporates by reference all the foregoing answers as if fully set forth herein.

56. CS offers for sale, sells, and has sold the Accused Products and Services to entities in the networking sector including, but not limited to, the DMV Facility and the Primary Customer data centers.

ANSWER: Denied.

57. CS's customers have directly infringed and continue to directly infringe, under 35 U.S.C. § 271(a), one or more claims of the '641 patent, either literally and/or under the doctrine of equivalents, by using the Accused Products and Services in the United States that infringe one or more claims of the '641 patent, as described in detail above.

ANSWER: Denied.

58. CS has contributed and continues to contribute to the infringement by third parties, including its customers, of one or more claims of the '641 patent under 35 U.S.C. § 271(c), by selling and/or offering for sale in the United States the Accused Products and Services knowing that those products and services constitute a material part of the inventions of the '641 patent, knowing that those products and services are especially made or adapted to infringe the '641 patent, and knowing that when sold for use with a point-to-multipoint network layout those products are not staple articles of commerce suitable for substantial non-infringing use.

ANSWER: Denied.

59. CS, through its sales people and technical field representatives, over whom CS exerts control and direction, provides assistance and instruction in connection with installation and use of the Accused Product and Services at facilities and the knowhow to use the Accused Product and Services in an infringing manner at all times having knowledge of the '641 patent and with the intent that personnel at the facilities operate the Accused Product and Services so that there is infringement of the '641 patent.

ANSWER: Denied.

60. On information and belief, CS, through its sales people and technical field representatives, troubleshoot operation of the Accused Product and Services at customer facilities during and after installation of the Accused Product and Services with full knowledge of the '641 patent and that the Accused Product and Services operate in a manner that infringes the '641 patent and with the intent that the customers operate the Accused Product and Services in a manner that infringes the '641 patent.

ANSWER: Denied.

61. The Accused Products and Services are designed in a manner that infringe one or more claims of the '641 patent, and the Accused Products and Services when sold for use with a point-to-multipoint network layout are not staple articles of commerce suitable for substantial non-infringing use.

ANSWER: Denied.

62. On information and belief, CS has been aware of the '641 patent at least since the date that the parties entered into the ESR Agreement.

ANSWER: Denied.

CS [ALLEGEDLY] WILLFULLY INFRINGES THE '641 PATENT

63. NIS adopts and incorporates by reference all the foregoing allegations as if fully set forth herein.

ANSWER: CS adopts and incorporates by reference all the foregoing answers as if fully set forth herein.

64. On information and belief, CS has been aware of the '641 patent at least since the date that the parties entered into the ESR Agreement in 2015. Despite this knowledge, and an objectively high likelihood that its actions constitute direct and other infringement of the '641 patent, CS has engaged in infringement of the '641 patent.

ANSWER: Denied.

65. CS has sought to replace NIS products with its own products thereby ensuring that the resulting CS optical fiber intrusion monitoring system and method would infringe the '641 patent.

ANSWER: Denied.

66. The infringing conduct by CS of the '641 patent renders this case exceptional within the meaning of 35 U.S.C. § 285.

ANSWER: Denied.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Network Integrity Systems, Inc. respectfully requests that this Court enter judgment against Defendant CyberSecure IPS LLC:

- A. That Defendant has directly infringed the patent-in-suit;
- B. That Defendant has induced infringement of the patent-in-suit;
- C. That Defendant has contributed to infringement of the patent-in-suit;

- D. That Plaintiff be awarded all damages adequate to compensate it for Defendant's infringement of the patent-in-suit, such damages to be determined by a jury with pre-judgment and post-judgment interest;
- E. That Defendant's infringement was willful and that such damages be trebled pursuant to 35 U.S.C. § 284;
- F. For an order permanently enjoining Defendant and its officers, agents, servants and employees, privies, and all persons in concert or participation with it, from further infringement of the patent-in-suit;
- G. That this case be declared an exceptional case within the meaning of 35 U.S.C. § 285 and that Plaintiff be awarded its attorney's fees, costs and expenses incurred relating to this action; and
- H. That Plaintiff be awarded such other and further relief as the Court deems just and proper.

ANSWER: Denied that NIS is entitled to any relief.

AFFIRMATIVE AND OTHER DEFENSES

Without assuming any burden that it would not otherwise bear and reserving the right to assert additional defenses, CS, without waiver, limitation, or prejudice, hereby asserts the following defenses to NIS's Complaint.

First Defense: Failure to State a Claim

Every claim asserted in the Complaint fails to state a claim upon which relief can be granted

Second Defense: Non-Infringement

CS does not infringe any claim of the asserted patent-in-suit, either literally or under the doctrine of equivalents. CS does not infringe either directly or indirectly.

Third Defense: Invalidity

The patent-in-suit is invalid under one or more of 35 U.S.C. §§ 101, 102, 103, 112, 115, 116, 132, and/or under the doctrine of obviousness-type double patenting.

Fourth Defense: Equitable Defenses and Unenforceability

Plaintiff's claims are barred, in whole or in part, by one or more of the doctrine of waiver, equitable estoppel, unclean hands and/or other applicable equitable defenses.

Fifth Defense: No Ensnarement

Plaintiff's claims are barred, in whole or in part, by the doctrine of ensnarement. Plaintiff is precluded from asserting infringement under the doctrine of equivalents if it will encompass or ensnare the prior art.

Sixth Defense: License and Exhaustion

Plaintiff's claims are barred, in whole or in part, by defenses of license (either express or implied) and/or patent exhaustion.

Seventh Defense: Failure to State a Claim for Willful Infringement

Plaintiff's claims, and each and every claim stated therein, fails to state a claim for willful infringement upon which relief can be granted.

Eighth Defense: Limitation on Damages

Plaintiff's claims for damages are limited (including lack of any pre-suit damages) as a consequence of failing to comply with the requirements of 35 U.S.C. §§ 286, 287 (including but not limited to failure to mark and/or provide pre-suit notice of infringement), and/or 288 (asserted Patents-in-Suit are invalid).

Ninth Defense: Limitation on Damages

Any recovery of damages by Plaintiff is limited in whole or in part by the failure to mitigate damages.

Tenth Defense: No Injunctive Relief

Plaintiff is not entitled to injunctive relief because any alleged injury to Plaintiff is not immediate or irreparable, and Plaintiff has an adequate remedy at law.

Reservation of Defenses

CS reserves the right to assert other defenses, including inequitable conduct, based upon evidence adduced in discovery.

COUNTERCLAIMS

These are counterclaims by CyberSecure IPS LLC (“CS”) for declaratory judgment of invalidity and noninfringement of U.S. Patent No. 7,706,641 (“the ’641 patent”) (Dkt. 1-2), as well as patent infringement against Network Integrity Systems, Inc. (“NIS”).

NATURE OF THE ACTION

1. CS’s counterclaims for declaratory judgment of invalidity and noninfringement arise under the Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.* CS’s counterclaims for patent infringement arise under the Patent Laws of the United States, 35 U.S.C. § 1, *et. seq.*, resulting from NIS’s infringement of at least four patents through its unauthorized manufacture, use, offers to sell, and sale of products in the United States, and

THE PARTIES

2. CS is a corporation organized and existing under the laws of the State of Maryland with a principal place of business located at 3 Bethesda Metro Center Suite 700, Bethesda, MD 20814.

3. Network Integrity Systems, Inc. alleges it is corporation organized and existing under the laws of North Carolina with its principal place of business at 1937 Tate Blvd SE, Hickory, NC 28602-1430.

JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, 35 U.S.C. § 1, *et seq.* Accordingly, this Court has original and subject-matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1338(a), 2201, and 2202.

5. This Court has personal jurisdiction over NIS because the parties have stipulated to litigate in this District. (Dkt. 12.)

6. Venue is proper in this District pursuant to 28 U.S. Code §§ 1391(b), 1391(c), and 1400(b) because the parties have stipulated to litigate in this District. (Dkt. 12.)

THE PATENTS-IN-SUIT

NIS Patent

7. The '641 patent is titled "Monitoring Individual Fibers of an Optical Cable for Intrusion" and was issued on April 27, 2010. The '641 patent names NIS as the assignee on its face. (Dkt. 1-2.)

CS Patents

8. On November 29, 2022, U.S. Patent No. 11,515,940 ("the '940 Patent") titled "Test device for verifying operation of an optical fiber monitoring system" was duly and legally issued by the United States Patent and Trademark Office. A copy of the '940 Patent is attached as **Exhibit 1**. The '940 Patent is presumed valid pursuant to 35 U.S.C. § 282.

9. On July 12, 2022, U.S. Patent No. 11,388,181 ("the '181 Patent") is titled "Cable assembly disturbance detection method" was duly and legally issued by the United States Patent and Trademark Office. A copy of the '181 Patent is attached as **Exhibit 2**. The '181 Patent is presumed valid pursuant to 35 U.S.C. § 282.

10. On September 27, 2016, U.S. Patent No. 9,455,999 ("the '999 Patent") titled "Method and system for protective distribution system (PDS) and infrastructure protection and management" was duly and legally issued by the United States Patent and Trademark Office. A copy of the '999 Patent is attached as **Exhibit 3**. The '999 Patent is presumed valid pursuant to 35 U.S.C. § 282.

11. On June 21, 2022, U.S. Patent No. 11,367,342 ("the '342 Patent") was duly and legally issued by the United States Patent and Trademark Office. A copy of the '342 Patent is attached as **Exhibit 4**. The '342 Patent is presumed valid pursuant to 35 U.S.C. § 282.

12. Collectively, the '940 Patent, '181 Patent, '999 Patent, and '342 Patent are the "Patents-in-Suit" or "Asserted Patents."

BACKGROUND

13. CS created the first-of-its-kind critical infrastructure end-to-end solution that protects data centers from physical threats and cyber-attacks. CS protects its innovative and valuable solutions via patent protection.

14. CS and NIS both operate in the field of data center network security technology and infrastructure. Originally, NIS prosecuted the '940 Patent, as well as other patents covering similar technology. Then, on May 5, 2023, NIS assigned the '940 Patent, as well as the other related patents, to CS. A copy of the assignment agreement is attached as **Exhibit 5**.

15. The '181 Patent, '999 Patent, and '342 Patent were prosecuted by and assigned to CS.

16. On January 24, 2025, CS, through counsel, sent a cease and desist letter to NIS to demand immediate termination of infringing activities related to the Asserted Patents. A copy of the January 24, 2025 cease and desist letter is attached as **Exhibit 6**.

17. On February 24, 2025, NIS responded through counsel, declining to cease its infringing activities. A copy of the February 24, 2025 NIS responding correspondence is attached as **Exhibit 7**.

COUNTERCLAIM I – DECLARATORY JUDGMENT OF INVALIDITY OF U.S. PATENT NO. 7,706,641

18. CS repeats and realleges the allegations in each of the preceding paragraphs as if fully set forth herein.

19. All of the claims of the '641 patent are invalid for failure to meet one or more of the requirements of §§ 101, 102, 103, and/or 112 of Title 35 of the United States Code.

20. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*, Defendant is entitled to a declaratory judgment of invalidity of the '641 patent.

COUNTERCLAIM II – DECLARATORY JUDGMENT OF NONINFRINGEMENT OF U.S. PATENT NO. 7,706,641

21. CS repeats and realleges the allegations in each of the preceding paragraphs as if fully set forth herein.

22. CS has not infringed, either directly or indirectly, any valid and enforceable claim of the '641 patent.

23. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*, Defendant is entitled to a declaratory judgment of noninfringement of the '641 patent.

COUNTERCLAIM III – PATENT INFRINGEMENT OF U.S. PATENT NO. 11,515,940

24. CS repeats and realleges the allegations in each of the preceding paragraphs as if fully set forth herein.

25. CS is the assignee of all right, title, and interest in the '940 Patent.

26. The '940 Patent is directed to improved methods “for periodically, or on demand, checking and verifying proper operation of a monitoring system of an optical fiber.” **Exhibit 1**, at 1:5-7.

27. The U.S. Patent Office considered the claims of the '940 Patent against the background of prior technology to determine if the claims of the '940 Patent identified a patentable advance over prior art systems before issuing the patent. The face of the '940 Patent identifies some of the prior art considered in allowing the various claims of the '940 Patent, including for example U.S. Patent No. 5,384,635 entitled “Remote sensing in optical fiber networks by synchronously detecting backscattered optical signals.”

28. A person of ordinary skill in the art would understand that the separate claims in the '940 Patent did not pre-empt any field, but are improvements in methods and systems for checking and verifying proper operation of a monitoring system of an optical fiber. A person of ordinary skill in the art would also recognize that the claims of the '940 Patent do not relate to implementation of a business method on a general purpose computer, but are specific improvements to checking and verifying proper operation of a monitoring system of an optical fiber.

29. NIS was on notice of the '940 Patent from the moment it issued, because NIS prosecuted the patent. *See Exhibit 5*. NIS further had notice of the '940 Patent and its infringing activities as of the January 24, 2025 cease and desist letter from CS. *See Exhibit 6*. Alternatively, at minimum, the filing of this Complaint constitutes notice and actual knowledge in accordance with 35 U.S.C. § 287.

30. Without permission or authorization from CS, in violation of 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, NIS has been, and still is, infringing one or more claims of the '940 Patent by using at least the products identified in the chart incorporated into this Claim below (“the '940 Patent Exemplary Products”).

31. For example, and not by way of limitation, the '940 Patent Exemplary Products practice at least claim 9 of the '940 Patent. A claim chart comparing claim 9 to the '940 Patent Exemplary Products is attached as **Exhibit 8**. CS reserves the right to modify its infringement theories as discovery progress in the case; it shall not be estopped for infringement contention or claim construction purposes by the information contained herein.

32. Without permission or authorization from CS, in violation of 35 U.S.C. § 271(b), NIS is inducing the direct infringement of at least claim 9 of the '940 Patent by aiding, abetting,

and encouraging its customers' use of the '940 Patent Exemplary Products with knowledge of the infringement of the '940 Patent and with the intent to cause such infringement.

33. For example, NIS provides product literature and maintains a website advertising the infringing use of the '940 Patent Exemplary Products. *See Exhibit 8* (citing relevant portions of NIS's website and marketing material).

34. NIS's infringement of the '940 Patent has been, and continues to be, willful and deliberate.

35. As a result of NIS's infringement, CS has suffered and will continue to suffer damages in an amount to be proven at trial and irreparable harm.

36. The conduct of NIS presents an exceptional case such that CS is entitled to an award of its reasonable attorneys' fees, as provided by 35 U.S.C. § 285.

COUNTERCLAIM IV – PATENT INFRINGEMENT OF U.S. PATENT NO. 11,388,181

37. CS repeats and realleges the allegations in each of the preceding paragraphs as if fully set forth herein.

38. CS is the assignee of all right, title, and interest in the '181 Patent.

39. The '181 Patent is directed to improved methods for “detection of a disturbance on an information transmission line, including, for example, disturbance location identification, disturbance type identification, disturbance-triggered sensory indicators, disturbance detection handling, or cable assemblies with respect to a physical transmission line,” including implementing machine learning techniques. **Exhibit 2**, at 1:23-28; 25:10-40.

40. The U.S. Patent Office considered the claims of the '181 Patent against the background of prior technology to determine if the claims of the '181 Patent identified a patentable advance over prior art systems before issuing the patent. Among other things, the U.S. Patent Office searched multiple sets of prior art in classifications including, but not limited to, H04L

63/1416 (2013.01); G08B 13/186 (2013.01); H04L 41/22 (2013.01); H04L 63/1425; H04L 63/1408; H04L 63/1433; H04L 41/22; H04L 43/0864 (2013.01); H04L 43/16 (2013.01); H04L 63/1425 (2013.01); H04L 41/0213 (2013.01); H04L 63/1408 (2013.01); H04L 63/1433 (2013.01); and H04L 67/12 (2013.01). The face of the '181 Patent identifies some of the prior art from the classifications and other prior art considered in allowing the various claims of the '181 Patent, including for example U.S. Patent No. 7,092,586 entitled "Intrusion detection system for use on an optical fiber using a translator of transmitted data for optimum monitoring conditions."

41. A person of ordinary skill in the art would understand that the separate claims in the '181 Patent did not pre-empt any field, but are improvements in methods for detection of a disturbance on an information transmission line. A person of ordinary skill in the art would also recognize that the claims of the '181 Patent do not relate to implementation of a business method on a general purpose computer, but are specific improvements to detection of a disturbance on an information transmission line, including via machine learning techniques.

42. NIS at least had notice of the '181 Patent and its infringing activities as of the January 24, 2025 cease and desist letter from CS. *See Exhibit 6*. Alternatively, at minimum, the filing of this Complaint constitutes notice and actual knowledge in accordance with 35 U.S.C. § 287.

43. Without permission or authorization from CS, in violation of 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, NIS has been, and still is, infringing one or more claims of the '181 Patent by, without authority, at least making, using, selling, and/or offering to sell at least the products identified in the chart incorporated into this Claim below ("the '181 Patent Exemplary Products").

44. For example, and not by way of limitation, the '181 Patent Exemplary Products practice at least claim 14 of the '181 Patent. A claim chart comparing claim 14 to the '181 Patent Exemplary Products is attached as **Exhibit 9**. CS reserves the right to modify its infringement theories as discovery progress in the case; it shall not be estopped for infringement contention or claim construction purposes by the information contained herein.

45. Without permission or authorization from CS, in violation of 35 U.S.C. § 271(b), NIS is inducing the direct infringement of at least claim 14 of the '181 Patent by aiding, abetting, and encouraging its customers' use of the '181 Patent Exemplary Products with knowledge of the infringement of the '181 Patent and with the intent to cause such infringement.

46. For example, NIS provides product literature and maintains a website advertising the infringing use of the '181 Patent Exemplary Products. *See Exhibit 9* (citing relevant portions of NIS's website and marketing material).

47. NIS's infringement of the '181 Patent has been, and continues to be, willful and deliberate.

48. As a result of NIS's infringement, CS has suffered and will continue to suffer damages in an amount to be proven at trial and irreparable harm.

49. The conduct of NIS presents an exceptional case such that CS is entitled to an award of its reasonable attorneys' fees, as provided by 35 U.S.C. § 285.

COUNTERCLAIM V – PATENT INFRINGEMENT OF U.S. PATENT NO. 9,455,999

50. CS repeats and realleges the allegations in each of the preceding paragraphs as if fully set forth herein.

51. CS is the assignee of all right, title, and interest in the '999 Patent.

52. The '999 Patent is directed to improved systems and methods for “managing a protective distribution system.” **Exhibit 3**, at 1:18-20.

53. The U.S. Patent Office considered the claims of the '999 Patent against the background of prior technology to determine if the claims of the '999 Patent identified a patentable advance over prior art systems before issuing the patent. Among other things, the U.S. Patent Office searched multiple sets of prior art in classifications including, but not limited to, H04L 63/1416 (2013.01); H04L 63/1408 (2013.01); H04L 63/1425 (2013.01); H04L 63/1433 (2013.01). The face of the '999 Patent identifies some of the prior art from the classifications and other prior art considered in allowing the various claims of the '999 Patent, including for example U.S. Patent Publ. No. US 2014/0091929A1 entitled "Systems and Methods for Secure Alarmed Armored Protective Distribution Systems and Management."

54. A person of ordinary skill in the art would understand that the separate claims in the '999 Patent did not pre-empt any field, but are improvements in systems and methods for detection of managing a protective distribution system. A person of ordinary skill in the art would also recognize that the claims of the '999 Patent do not relate to implementation of a business method on a general purpose computer, but are specific improvements to managing a protective distribution system.

55. Upon information and belief, NIS was on notice of the '999 Patent shortly after issuance because NIS monitors CS's patent portfolio.

56. NIS at least had notice of the '999 Patent and its infringing activities as of the January 24, 2025 cease and desist letter from CS. *See Exhibit 6.* Alternatively, at minimum, the filing of this Complaint constitutes notice and actual knowledge in accordance with 35 U.S.C. § 287.

57. Without permission or authorization from CS, in violation of 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, NIS has been, and still is, infringing one or more

claims of the '999 Patent by, without authority, at least making, using, selling, and/or offering to sell at least the products identified in the chart incorporated into this Claim below (“the '999 Patent Exemplary Products”).

58. For example, and not by way of limitation, the '999 Patent Exemplary Products practice at least claim 1 of the '999 Patent. A claim chart comparing claim 1 to the '999 Patent Exemplary Products is attached as **Exhibit 10**. CS reserves the right to modify its infringement theories as discovery progress in the case; it shall not be estopped for infringement contention or claim construction purposes by the information contained herein.

59. Without permission or authorization from CS, in violation of 35 U.S.C. § 271(b), NIS is inducing the direct infringement of at least claim 1 of the '999 Patent by aiding, abetting, and encouraging its customers' use of the '999 Patent Exemplary Products with knowledge of the infringement of the '999 Patent and with the intent to cause such infringement.

60. For example, NIS provides product literature and maintains a website advertising the infringing use of the '999 Patent Exemplary Products. *See Exhibit 10* (citing relevant portions of NIS's website and marketing material).

61. NIS's infringement of the '999 Patent has been, and continues to be, willful and deliberate.

62. As a result of NIS's infringement, CS has suffered and will continue to suffer damages in an amount to be proven at trial and irreparable harm.

63. The conduct of NIS presents an exceptional case such that CS is entitled to an award of its reasonable attorneys' fees, as provided by 35 U.S.C. § 285.

COUNTERCLAIM VI – PATENT INFRINGEMENT OF U.S. PATENT NO. 11,367,342

64. CS repeats and realleges the allegations in each of the preceding paragraphs as if fully set forth herein.

65. CS is the assignee of all right, title, and interest in the '342 Patent.

66. CS has complied with the marking requirements of 35 U.S.C. § 287.

67. The '342 Patent is directed to improved systems and methods for “facilitating real-time playback modification for activity event playback.” **Exhibit 4**, at 1:17-18.

68. The U.S. Patent Office considered the claims of the '342 Patent against the background of prior technology to determine if the claims of the '342 Patent identified a patentable advance over prior art systems before issuing the patent. Among other things, the U.S. Patent Office searched multiple sets of prior art in classifications including, but not limited to, GOSB 29/185; G08B 21/182; G08B 13/186; G08B 29/24; GOIV 8/14; G06K 9/6277; G06K 9/6288; G06K 9/6271; HO4L 67/12; G06V 10/82; G06V 20/52. The face of the '342 Patent identifies some of the prior art from the classifications and other prior art considered in allowing the various claims of the '342 Patent, including for example U.S. Patent No. 10,516,689 entitled “Distributed data surveillance in a community capture environment.”

69. A person of ordinary skill in the art would understand that the separate claims in the '342 Patent did not pre-empt any field, but are improvements in systems and methods for facilitating real-time playback modification for activity event playback. A person of ordinary skill in the art would also recognize that the claims of the '342 Patent do not relate to implementation of a business method on a general purpose computer, but are specific improvements to facilitating real-time playback modification for activity event playback.

70. Upon information and belief, NIS was on notice of the '342 Patent shortly after issuance because NIS monitors CS's patent portfolio.

71. NIS at least had notice of the '342 Patent and its infringing activities as of the January 24, 2025 cease and desist letter from CS. *See Exhibit 6*. Alternatively, at minimum, the

filing of this Complaint constitutes notice and actual knowledge in accordance with 35 U.S.C. § 287.

72. Without permission or authorization from CS, in violation of 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, NIS has been, and still is, infringing one or more claims of the '342 Patent by, without authority, at least making, using, selling, and/or offering to sell at least the products identified in the chart incorporated into this Claim below ("the '342 Patent Exemplary Products").

73. For example, and not by way of limitation, the '342 Patent Exemplary Products practice each and every element of at least claim 17 of the '342 Patent. A claim chart comparing claim 17 with the '342 Patent Exemplary Products is attached as **Exhibit 11**. CS reserves the right to modify its infringement theories as discovery progress in the case; it shall not be estopped for infringement contention or claim construction purposes by the information contained herein.

74. Without permission or authorization from CS, in violation of 35 U.S.C. § 271(b), NIS is inducing the direct infringement of at least claim 14 of the '342 Patent by aiding, abetting, and encouraging its customers' use of the '342 Patent Exemplary Products with knowledge of the infringement of the '342 Patent and with the intent to cause such infringement.

75. For example, NIS provides product literature and maintains a website advertising the infringing use of the '342 Patent Exemplary Products. *See Exhibit 11* (citing relevant portions of NIS's website and marketing material).

76. NIS's infringement of the '342 Patent has been, and continues to be, willful and deliberate.

77. As a result of NIS's infringement, CS has suffered and will continue to suffer damages in an amount to be proven at trial and irreparable harm.

78. The conduct of NIS presents an exceptional case such that CS is entitled to an award of its reasonable attorneys' fees, as provided by 35 U.S.C. § 285.

PRAYER FOR RELIEF

WHEREFORE, CS respectfully requests that this Court enter judgment against NIS as follows:

- A. Dismiss NIS's Complaint with prejudice and find that NIS takes nothing by its claims against CS;
- B. Enter judgment in favor of CS, and against NIS, on the Complaint;
- C. For judgment in CS's favor on each Counterclaim asserted herein;
- D. Declare that the claims of the '641 patent are invalid;
- E. Declare that CS does not and has not infringed any claim of the '641 patent;
- F. For judgment that NIS has infringed the CS Patents-in-Suit;
- G. For judgment that NIS's patent infringement has been willful;
- H. For judgment that NIS's conduct is "exceptional" under 35 U.S.C. § 284;
- I. Awarding all damages sustained by CS as a result of NIS's acts of patent infringement, including supplemental damages for any continuing post-verdict infringement up until entry of the final judgment with an accounting as needed;
- J. For a permanent injunction enjoining NIS from infringing the claims of the CS Patents-in-Suit;
- K. Awarding CS its attorneys' fees pursuant to 35 U.S.C. § 285 or as otherwise permitted by law, together with the costs and disbursements of this action;
- L. Awarding all pre-judgment interest and post-judgment interest; and
- M. Awarding such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

CS demands a trial by jury of all issues so triable.

Dated: July 21, 2025

By: /s/ Jarren N. Ginsburg

Jarren N. Ginsburg (D.Md. Bar No 19688)
FOLEY & LARDNER LLP
Washington Harbour, 3000 K Street N.W.
Suite 600, Washington, DC 20007-5101
Telephone: (202) 672-5300
Facsimile: (202) 672-5399
Email: JGinsburg@foley.com

Kimberly K. Dodd (admission pending)
FOLEY & LARDNER LLP
777 East Wisconsin Avenue
Milwaukee, WI 53202-5306
Telephone: (414) 271-2400
Facsimile: (414) 297-4900
Email: kdodd@foley.com

Jack T. Carroll (*pro hac vice* forthcoming)
FOLEY & LARDNER LLP
150 E Gilman St, Suite 5000,
Madison, WI 53703
Telephone: (608) 257-5035
Facsimile: (608) 258-4258
Email: jcarroll@foley.com

Attorneys for Cybersecure IPS, LLC