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

BK TECHNOLOGIES, INC. Plaintiff/Counterclaim Defendant, v. AT&T MOBILITY, LLC and AT&T SERVICES, INC. Defendants/Counterclaimants, and StreamWIDE Inc., Intervenor.	Case No.: 2-26-cv-00090-RWS-RSP

MOTION TO INTERVENE BY STREAMWIDE, INC.

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Pursuant to Federal Rule of Civil Procedure 24, Intervenor StreamWIDE, Inc. ("SW") hereby moves to intervene in this action as of right or, alternatively, to intervene permissibly. SW seeks to intervene to protect both its interests, and the interests of its customer, named defendant AT&T Services, Inc. ("AT&T" or "Defendant").

PRELIMINARY STATEMENT

SW seeks leave to intervene in this action for three primary reasons. First, Plaintiff BK Technologies, Inc. ("BKT") has accused SW's technology in this suit by alleging that AT&T's FirstNet Fusion Communication Service ("FirstNet Fusion") infringes its patents. Second, SW has been presented with an indemnity demand by its customer, AT&T, pursuant to a contractual business relationship. Given the high cost of defending this patent case, and the damages sought by BKT, SW must be given the opportunity to protect its sizeable interest in the case firsthand. Third, in attempting to enforce the patents-in-suit, BKT is attempting to claim inventorship to SW's technology.

This patent action squarely implicates SW's technology, its intellectual property rights, and existing contractual relationships with its customers. Although BKT sued AT&T, BKT's infringement allegations are premised on communications functionality designed, invented, implemented, and owned by SW. In addition, BKT further seeks injunctive relief that—unless SW is permitted to participate—would effectively adjudicate SW's rights without SW ever being heard.

Courts in the Fifth Circuit and elsewhere routinely permit manufacturers and developers of software to intervene where, as here, their products form the basis of the infringement allegations and where those entities face potential indemnity exposure. Intervention will not prejudice any party and will promote judicial efficiency by ensuring that the Court hears directly from the entity

best positioned to explain the accused technology and the relevant history of its development. If adjudicated without SW's ability to defend and exonerate its technology, this case will jeopardize SW's other clients and future business prospects across the world.

I. STATEMENT OF FACTS

BKT commenced this action asserting claims of patent infringement against Defendants AT&T Mobility LLC and AT&T Services, Inc. (collectively, "AT&T") under U.S. Patent Nos. 11,997,568 ("the '568 Patent") and 12,375,890 ("the '890 Patent"), each entitled "System and Method for Managing Access to a Push-to-Talk-Over-Cellular Communication Network." (Compl. ¶¶ 14–16). BKT alleges that AT&T's FirstNet Fusion infringes one or more claims of the asserted patents. (Id. ¶¶ 20–21).

Central to BKT's infringement theory is its allegation that that AT&T has advertised, and continues to advertise, FirstNet Fusion as a platform that "allow[s] first responders to rapidly create customizable talkgroups and channels" across carriers even though AT&T knows that BKT's Push-to-Talk ("POC") "non-subscriber technology was the first communications platform of this kind to enable rapid on-demand group creation with broad membership." (Compl. ¶¶ 24-26). Based on these allegations, BKT seeks damages, enhanced damages for willful infringement, and preliminary and permanent injunctive relief prohibiting continued use of the accused technology. (Id. ¶¶ 34–35, 42–43; Prayer for Relief ¶¶ C–G). Although SW is not named as a defendant, BKT's infringement allegations are expressly tied to the functional operation of the accused technology invented and developed by SW.

SW is a communications software developer that designs and provides real-time communications platforms used by public-safety and enterprise customers worldwide. One of SW's major platforms is Team on the Run ("TOTR"), a comprehensive communications system invented and developed by SW that enables secure group communications. SW customizes its

TOTR and tailors it to each customer's specific needs. And, in early 2022, BKT approached SW seeking customization of SW's then-existing TOTR platform for BKT's commercial use, and they entered into a contract concerning the development and use of this technology. Now, BKT is attempting to claim inventorship rights to SW technology by enforcing these patents against a SW customer, AT&T.

Separately, in 2025, SW entered into a contract with AT&T pursuant to which SW agreed to develop, implement, and support communications software for an AT&T service now known as FirstNet Fusion. This contract included an indemnification agreement whereby SW agreed to defend and indemnify AT&T against claims of patent infringement arising from SW's technology. (*See* Decl. of Michelle Schaap).

BKT's infringement allegations have necessarily placed SW's technology at the center of this litigation. BKT's enforcement of the '568 and '890 Patents and its pursuit of injunctive relief against the accused technology impairs SW's use of its own software and interferes with its obligations to existing customers, including AT&T. SW faces actual and continuing harm unless it is permitted to participate directly in this action to defend its technology, assert its property rights, and seek declaratory relief concerning non-infringement, invalidity, and unenforceability of the asserted patents.

II. ARGUMENT

SW is entitled to intervene in this case as a matter of right under Rule 24(a)(2), or in the alternative, the Court should permit SW to intervene pursuant to Rule 24(b)(2). Furthermore, "Rule 24 is aimed at preventing multiple lawsuits when common questions of law or fact are involved." *Reid v. Gen. Motors Corp.*, 240 F.R.D. 257, 258–59 (E.D. Tex. 2006).

A. SW Is Entitled to Intervene as a Matter of Right.

A movant must be permitted to intervene when the four requirements of Fed. R. Civ. P. 24(a)(2) are met:

> (1) the application for intervention must be timely; (2) the applicant must have an interest relating to the property or transaction which is the subject of the action; (3) the applicant must be so situated that the disposition of the action may, as a practical matter, impair or impede his ability to protect that interest; (4) the applicant's interest must be inadequately represented by the existing parties to the suit.

Texas v. United States, 805 F.3d 653, 657 (5th Cir. 2015) (quoting *New Orleans Pub. Serv., Inc. v. United Gas Pipe Line Co.*, 732 F.2d 452, 463 (5th Cir. 1984) (en banc)). Because the issue of intervention is not unique to patent law, Fifth Circuit law controls. *See Stauffer v. Brooks Brothers, Inc.*, 619 F.3d 1321, 1328 (Fed. Cir. 2010) (denial of intervention reviewed under regional circuit's law). Rule 24 is to be "liberally construed," under Fifth Circuit law. *Texas*, 805 F.3d at 656-57 (quoting *Brumfield v. Dodd*, 749 F.3d 339, 341 (5th Cir. 2014)). *See also Sierra Club v. Espy*, 18 F.3d 1202, 1205 (5th Cir. 1994)) ("Federal courts should allow intervention where no one would be hurt and the greater justice could be attained." (quoting *McDonald v. E.J. Lavino Co.*, 430 F.2d 1065, 1074 (5th Cir. 1970)) (internal quotation marks omitted)); *City of Houston v. Am. Traffic Sols., Inc.*, 668 F.3d 291, 293 (5th Cir. 2012) (noting that intervention as of right "must be measured by a practical rather than technical yardstick.") (quoting *Edwards v. City of Houston*, 78 F.3d 983, 999 (5th Cir. 1996) (en banc)) (internal quotation marks omitted). Consistently, this Court has found that Rule 24(a) should be "construed broadly, in favor of the applicant[] for intervention." *Thurmond v. Compaq Computer Corp.*, 2000 U.S. Dist. LEXIS 20893, at *4 (E.D. Tex. June 26, 2000) (citing *Edwards v. City of Houston*, 78 F.3d 983, 1004-05 (5th Cir. 1996) (en banc)).

1. SW's Motion to Intervene Is Timely.

A court's discretionary determination of whether an application to intervene under Rule 24 is timely depends on the facts and circumstances of each case. *See Brown v. Trinity Indus.*, 108

Fed. Appx. 898, 899 (5th Cir. Sept. 2, 2004). In the Fifth Circuit, four factors are used to consider the timeliness of a motion to intervene:

> (1) The length of time during which the would-be intervenor actually knew or reasonably should have known of his interest in the case it sought to intervene; (2) the prejudice that existing parties to the litigation may suffer as a result of the would-be intervenor's failure to apply for intervention as soon as it knew or reasonably should have known of its interest in the case; (3) the prejudice that the would-be intervenor may suffer if intervention is denied; and (4) whether unusual circumstances militate for or against a determination that the application is timely.

Heaton v. Monogram Credit Card Bank, 297 F.3d 416, 422-23 (5th Cir. 2002). The Fifth Circuit also notes that a "district court should apply a more lenient standard of timeliness if the would-be intervenor qualifies for intervention under section (a) of Rule 24 than if he qualified under section (b)." *Ozee v. American Council on Gift Annuities*, Inc., 110 F.3d 1082, 1095 (5th Cir. 1997). Notably, the Fifth Circuit discourages a party from rushing to intervene. *See Sierra Club v. Espy*, 18 F.3d 1202, 1206 (5th Cir. 1994) ("Courts should discourage premature intervention that wastes judicial resources."). An analysis of these factors demonstrates the timeliness of SW's motion to intervene.

With respect to the timeliness factor, SW seeks to intervene six months after BKT commenced this lawsuit and just a few weeks following AT&T's filing of its Answer and Counterclaims. BKT just recently filed its Answer to AT&T's Counterclaims. (*See* ECF No. 15). The patents in suit relate to SW's POC technology and agreements SW has with BKT and separately with AT&T for software development, implementation, and maintenance. In this instance, BKT alleges that AT&T's provision of FirstNet Fusion infringed the '568 and '890 Patents, thus accusing SW's technology. After receiving Plaintiff's complaint, SW diligently investigated BKT's claims and filed this motion without undue delay. Its timeliness is accordingly reasonable. *See Reid*, 240 F.R.D. at 260 (finding the software developer's motion to intervene timely after contentions had been filed and a scheduling order issued); *Ericsson Inc. v. D-Link*

Sys., Inc., No. 6:10-cv-473 (E.D. Tex. May 4, 2012), Dkt. No. 205 (granting Intel's partially opposed motion to intervene filed five months after the scheduling conference took place and nearly one year into the case); *Edwards*, 78 F.3d at 1000-01 (citing Fifth Circuit intervention cases finding delays as long as five months were not unreasonable); *Ozee*, 110 F.3d at 1095-96 (delay of approximately six months was not unreasonable).

As for the second timeliness factor, SW's motion to intervene does not prejudice any party primarily because this suit is in its early stage. *See Reid*, 240 F.R.D. at 260; *Mountain Top Condominium Assoc. v. Dave Stabbert Master Builder, Inc.*, 72 F.3d 361, 370 (3d Cir. 1995) ("[T]he stage of the proceeding is inherently tied to the question of the prejudice the delay in intervention may cause to the parties already involved."). *See also TiVo Inc. v. AT&T, Inc.*, C.A. No. 2:09-CV-259, 2010 WL 10922068, at *18 (E.D. Tex. Mar. 31, 2010) (a motion to intervene was timely where nearly five months elapsed between filing of complaint and motion to intervene, and "the Court ha[d] not held a scheduling conference nor issued a scheduling order"); *Edwards*, 78 F.3d at 1001 ("[M]ost of [the Fifth Circuit's] case law rejecting petitions for intervention as untimely concern motions filed after judgment was entered in the litigation").

There has been no initial conference with the Court, no contentions filed, no discovery order entered, and no *Markman* hearing scheduled, much less a trial date. Notably, BKT just recently filed its Answer to AT&T's Counterclaims. (*See* ECF No. 15). Further, given the fact that SW designed, developed, implemented, and maintains the technology at issue use by both BKT and AT&T, it necessarily has unique knowledge as to the internal workings and capabilities of the technology. Allowing SW to participate in the case will benefit, not prejudice, the existing parties' attempts to accurately understand SW's technology.

The third timeliness factor weighs heavily in favor of intervention as well. SW will suffer substantial prejudice if it is not allowed to intervene and defend and protect its POC technology. *See U.S. Ethernet Innovations, LLC v. Acer, Inc.*, Civ. No. 09-CV-448-JDL, 2010 WL 11488729, at *2 (E.D. Tex. May 10, 2010) ("Courts have held that beyond the injury that might arise from having to indemnify customers, a manufacturer such as [the Intervenor] faces the loss of its customer base and reputation as a result of patent infringement allegations."); *Spread Spectrum Screening LLC v. Eastman Kodak Co.*, 657 F.3d 1349, 1357 (Fed. Cir. 2011) (explaining that the manufacturer is the "true defendant" as it is "presumed to have a greater interest in defending its actions against charges of patent infringement" and noting that it "must protect its customers, either a matter of contract, or good business, in order to avoid the damaging impact of an adverse ruling against it product") (citations omitted). If SW is not permitted to intervene, SW will be unable to properly participate in and represent its interests in claim construction, fact development, and ultimately trial. Not only has BKT alleged that FirstNet Fusion (SW's technology) infringes the'568 and '890 Patents, it is also attempting to claim inventorship to SW's POC technology by enforcing these patents. Given SW's global presence as the premier software developer in communication platforms, an adverse ruling would significantly threaten SW's relationships with existing and future customers. Accordingly, SW would suffer great prejudice if it were not allowed to refute BKT's allegations.

With regard to the fourth timeliness factor, Plaintiff and AT&T's use of technology invented, developed, implemented and maintained by SW militate in favor of finding this application timely. Plaintiff's suit against AT&T instead of SW (despite knowing SW developed and implemented FirstNet Fusion) and enforcement of patents that SW's employees designed and developed renders this case unusual. As noted above, SW is in the best position to explain firsthand

its POC technology as it is intimately knowledgeable about the internal workings of its technology. Further, Plaintiff's enforcement of the patents-in-suit has left SW with no option but to intervene to defend its property, its customers, and its contractual rights.

2. SW Has a Significant Interest in the Property and Transactions That Are the Subject of This Litigation.

A party is entitled to intervene in an action when it has a "direct, substantial, legally protectable interest in the proceedings." *Ozee*, 110 F.3d at 1096. Here, SW has at least two distinct interests to protect. First, as developer of the POC technology at issue, SW has an interest in litigating its own technology. Second, as the supplier of FirstNet Fusion to AT&T and potential indemnitor of AT&T in this case, SW has a strong interest in ensuring that the merits of the action are fully and vigorously litigated.

(a) *SW Has a Strong Interest in Determining Whether or FirstNet Fusion Infringes the '568 and '890 Patents*.

Plaintiff's infringement allegations against AT&T specifically implicate SW's POC technology. Plaintiff alleges that AT&T has advertised, and continues to advertise, FirstNet Fusion as a platform that "allow[s] first responders to rapidly create customizable talkgroups and channels" across carriers even though AT&T knows that BKT's POC "non-subscriber technology was the first communications platform of this kind to enable rapid on-demand group creation with broad membership." (Compl. ¶¶ 24-26).

In this instance, SW developed FirstNet Fusion for AT&T Fusion, and courts routinely allow intervention by developers and manufacturers. *See, e.g.*, *Team Worldwide Corp. v. Wal-Mart Stores, Inc*., Civ. No. 17-00235-JRG, 2017 WL 6059303, at *13 (E.D. Tex. Dec. 7, 2017) (finding an intervening manufacturer had an interest in "the ongoing sale and distribution of their products [which] is put at risk by [the Plaintiff's] allegations of infringement."); *Intellectual Ventures I LLC v. AT&T Mobility LLC*, Civ. No. 12-193-LPS, 2014 WL 4445953, at *2 (D. Del.

Sept. 8, 2014) ("[In a patent infringement action,] intervention is necessary to enable Intervenors to protect their interest in products which Intervenors manufacture for Defendants, an interest put at risk by the litigation as Plaintiffs accuse these products of infringement."); *International Business Machines, Corp. v. Conner Peripherals, Inc.*, 1994 WL 706208, *5 (N.D. Cal. 1994) ("To the extent [manufacturer] Adaptec's products are implicated by IBM's infringement claims, Adaptec has a direct interest in the subject matter of the action. Adaptec played an important role in manufacturing and designing the controllers that allegedly infringed IBM and Western Digital's products. . . . Adaptec, as the designer of the subject controllers should be able to present facts relevant to whether the controllers actually did infringe the IBM and Western Digital products before the court"); *Lemelson v. Larami Corp.*, 32 Fed. R. Serv. 2d 1133, 1134 (S.D.N.Y. 1981) (permitting intervention by manufacturer/vendor in suit against its customer where the two intended to defend on the basis of patent invalidity and the manufacturer was obligated by prior agreement to indemnify the customer); *see also Chandler & Price Co. v. Brandtjen & Kluge, Inc.*, 296 U.S. 53, 55 (1936) (holding that a manufacturer's intervention in a patent infringement action against its customers was "necessary for the protection of its interest"); *Stewart-Warner Corp. v. Westinghouse Elec. Corp.*, 325 F.2d 822, 826 (2d Cir. 1963) (holding there was "no doubt of the propriety of [a party's] intervention" as the manufacturer and vendor to defendants of equipment accused of infringement).

Further, public policy favors the rule that litigation for the purpose of ascertaining and sustaining alleged rights of a patentee should involve the manufacturer of the accused technology, rather than the manufacturer's customers. *See Honeywell Int'l, Inc. v. Audiovox Comm.'s. Corp.*, 2005 WL 2465898, *3 (D. Del., May 18, 2005) (stating that "[i]t is impracticable to try an infringement case against 40 some defendants or third-party defendants with many different

accused devices, and it is unwise to attempt any such thing when liability depends exclusively upon infringement being found as to an LCD component that the defendants do not manufacture and when at least some of the manufacturers of the LCDs are before the court and are willing to stand behind their products in this litigation."); *see also International Business Machines*, 1994 WL 706208 at *5; *Arquest, Inc. v. Jewel Food Stores, Inc.*, 2002 WL 1803746, *2 (N.D. Ill., Aug. 6, 2002) ("the manufacturer of an allegedly infringing device is the real party in interest in a lawsuit against a mere customer.") (internal citation omitted); *Engineered Sports Prods. v. Brunswick Corp.*, 362 F. Supp. 722, 729 (D. Utah 1973); *Salem Eng'g v. Nat'l Supply Co.*, 75 F. Supp. 993, 999-1000 (W.D. Penn. 1948).

SW has a direct, substantial, and legally protectable interest in this action because it designed, invented, and implemented the technology at issue—both the patented technology and FirstNet Fusion. An adverse ruling regarding infringement in this case would not only impair SW's business relationship with AT&T but also jeopardize its business and contractual relationship with its other customers worldwide. Moreover, any adverse rulings of the Court in this case will carry weight with courts hearing similar issues in subsequent cases involving SW's POC technology.

(b) *SW Has a Direct, Substantial and Legally Protectable Interest in Ensuring that Any Indemnification of Its Customers Is Well-Founded.*

SW stands behind its technology. SW entered into indemnification agreement with AT&T as it pertains to FirstNet Fusion. After BKT commenced this action, AT&T requested indemnification from SW for the patent infringement claims asserted by BKT against AT&T. SW accepted its indemnification obligation. This legal (contractual) interest provides separate and ample grounds for SW's intervention. *See Reid*, 240 F.R.D. at 259 (permitting intervention where Microsoft was presented with an indemnity demand by one of the defendants in a patent infringement action implicating Microsoft's technology); *Martin v. Travelers Indem. Co.*, 450 F.2d

542 (5th Cir. 1971) (holding that the driver of a vehicle in a personal injury case, who was an employee of the vehicle owner and who claimed insured status under the owner's insurance contract, had an obvious interest under Rule 24(a), since he had an interest in seeking to avoid paying a judgment).

3. SW's Ability to Protect Its Interests Will Be Impaired If It Cannot Intervene.

"[I]t is a simple fact of life that a manufacturer must protect its customers, either as a matter of contract, or good business, or in order to avoid the damaging impact of an adverse ruling against its products." *Codex Corp. v. Milgo Elec. Corp.*, 553 F.2d 735, 738 (1st Cir. 1977). SW should not be forced to take a piecemeal approach to its defense of its technology and customers. If SW is not allowed to intervene, it will be defenseless in protecting AT&T and other customers against an adverse judgement implicating SW's POC technology. In that case, SW may need to defend infringement lawsuits by Plaintiff against other SW customers using such technology. Thus, as a matter of preserving the resources of both the courts and the parties, SW is in the best position to protect its intellectual property rights as well as its customers.

4. The Defendants Cannot Adequately Represent SW's Interest in Defending Against Plaintiffs' Infringement Allegations.

SW should be allowed to intervene because the present Defendants cannot adequately represent SW's interests. Because the product SW developed is the actual accused instrumentality, SW has the greatest interest in defending the infringement claim and possesses the most critical technical knowledge needed to do so. Defendant AT&T cannot vigorously defend the infringement allegations because it does not have the same depth of knowledge and understanding as SW does with respect to FirstNet Fusion. Moreover, SW also developed the POC technology BKT improperly patented and continues to use. No other party has as much knowledge about SW's POC technology. The requirement of showing inadequate representation of interests is satisfied when

the movant shows that its interests might be inadequately represented by the existing parties to the suit. *Sierra Club*, 18 F.3d at 1207. The burden of making such a showing is minimal. *See id.* ("The applicant has the burden of demonstrating inadequate representation, but this burden is 'minimal.' The applicant need only show that representation 'may be' inadequate."); *see also Ozee*, 110 F.3d at 1096.

Notably, while SW and AT&T share an interest in defending against Plaintiff's allegations of infringement, the adverse impact of failing to vigorously defend SW's intellectual property rights is significantly less on AT&T than it is on SW. That is, AT&T can discontinue its use of SW's technology. In contrast, SW's interests lie with protecting all of its current and potential customers worldwide because its POC technology is at issue in this case. Thus, no entity has a greater interest in proving the invalidity of the '568 and '890 Patents, or alternatively its non-infringement, than SW itself. *See Bush v. Viterna*, 740 F.2d 350, 357 (5th Cir. 1984) (finding intervention as of right allowed when intervenors may potentially make a "more vigorous presentation" of their interests than existing parties).

B. In the Alternative, SW Should Be Permitted To Intervene Permissively.

Rule 24(b)(2) is construed liberally and permits intervention "when an applicant's claim or defense and the main action have a question of law or fact in common." Fed. R. Civ. P. 24(b)(2); *Stallworth v. Monsanto Co.*, 558 F.2d 257, 269 (5th Cir. 1977); *Dayton Indep. Sch. Dist. v. U.S. Mineral Prods. Co.*, 1989 WL 237732, *4 (E.D. Tex., Feb. 14, 1989) (allowing permissive intervention, Judge Fisher stated that "Rule 24(b) 'plainly dispenses with any requirement that the intervenor [shall] have a direct, personal or pecuniary interest in the subject of the litigation.'") (alteration in original). The rule may be satisfied where a common question of law or fact is involved despite the existence of factual differences between the parties. *See McNeil v. New York Housing Auth.*, 719 F. Supp. 233, 250 (S.D.N.Y. 1989).

In the Fifth Circuit, permissive intervention is a two-stage process. The district court must first "decide whether 'the applicant's claim or defense and the main action have a question of law or fact in common.' If this threshold requirement is met, the district court must exercise its discretion in deciding whether intervention should be allowed." *Stallworth*, 558 F.2d at 269 (quoting Fed. R. Civ. P. 24(b)(2)). *See Reid*, 240 F.R.D. at 259 (finding common questions of law and fact where "Microsoft's software [was] a substantial part of an allegedly infringing system operated by defendant Haliburton," and "Microsoft's claims of invalidity and unenforceability raise[d] the same questions of law and fact as similar claims by Defendants because they are all asserted against the '120 patent.").

Here, there are numerous questions of law and fact common to both the existing action and those involved in SW's counterclaims. The common factual and legal issues include: (1) discovery of the patentee and of SW's POC technology, including FirstNet Fusion; (2) construction of the disputed terms in the '568 and '890 Patents; (3) whether any of the claims asserted in the '568 and '890 Patents are valid; and (4) whether FirstNet Fusion and SW's POC products infringe any claim of the '568 and '890 Patents. Based on these commonalities, SW's substantial interest in this matter, and the lack of any prejudice imposed on any of the existing parties, the Court should exercise its discretion to allow SW to intervene permissively under Rule 24(b)(2) even if the Court determines that SW is not entitled to intervene as of right. *See U.S. Ethernet*, 2010 WL 11488729, at *2 (finding permissive intervention warranted because indemnification "establishes a legal relationship that traditionally warrants declaratory jurisdiction in a dispute between the manufacturer and a patentee who has threatened or brought suit against the manufacturer's customers").

III. CONCLUSION

For the foregoing reasons, the Court should grant SW's leave to intervene as a matter of right or, alternatively, leave to intervene permissively.

May 6, 2026

Respectfully Submitted

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CERTIFICATE OF SERVICE

The undersigned certifies that, on this 6th day of May 2026, all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document through the Court's CM/ECF system under Local Rule CV-5. Any other counsel of record will be served by a facsimile transmission and/or first-class mail.

/s/ Joseph V. Saphia

Joseph V. Saphia

CERTIFICATE OF CONFERENCE

The undersigned certifies that, on the 5th day of May 2026, counsel for Streamwide Inc. ("Streamwide") met and conferred with counsel for Plaintiff BK Technologies, Inc. ("BKT"), Barry Herman, Esq., via a Zoom video conference concerning Streamwide's Motion to Intervene. Counsel for Streamwide explained the basis for the motion during the conference, and counsel for BKT is opposed to the relief requested herein. The parties were unable to reach an agreement and concluded, in good faith, that discussions have conclusively ended in an impasse, leaving an open issue for the court to resolve. The parties have complied with the meet and confer requirement in Local Rule CV-7(h).

/s/ Joseph V. Saphia

Joseph V. Saphia

EXHIBIT B

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

BK TECHNOLOGIES, INC., Plaintiff/Counterclaim Defendant, vs. AT&T MOBILITY, LLC and AT&T SERVICES, INC., Defendants/Counterclaimants, and StreamWIDE Inc., Intervenor.	Civil Action No. 2-26-cv-00090-RWS-RSP

DECLARATION OF MICHELLE A. SCHAAP, ESQ. IN SUPPORT OF STREAMWIDE INC.'S MOTION TO INTERVENE

Pursuant to 28 U.S.C. § 1746, I, Michelle A. Schaap, Esq., hereby declare as follows:

1. I am more than eighteen (18) years of age, and I am competent to make this declaration. I have personal knowledge of the facts stated herein and would testify to such facts under oath if asked to do so.

2. I am a member of the law firm Chiesa, Shahinian & Giantomasi PC and am corporate counsel for StreamWIDE Inc. ("Streamwide") listed as Intervenor in the above-captioned matter.

3. I submit this Declaration in support of Streamwide's Motion to Intervene pursuant to Federal Rule of Civil Procedure 24.

4. Streamwide entered into indemnification agreements with AT&T Service, Inc. ("AT&T"), whereby SW agreed to indemnify AT&T against claims of patent infringement.

5. After BK Technologies, Inc. ("BKT") commenced this action, AT&T requested indemnification from Streamwide for the claims asserted by BKT against AT&T.

6. Streamwide has accepted its indemnification obligation.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: May 5, 2026

/s/ Michelle A. Schaap

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

BK TECHNOLOGIES, INC., Plaintiff/Counterclaim Defendant, vs. AT&T MOBILITY, LLC and AT&T SERVICES, INC., Defendants/Counterclaimants, and StreamWIDE Inc., Intervenor.	Civil Action No. 2-26-cv-00090-RWS-RSP **PROPOSED ORDER**

Pending before the Court is StreamWIDE's Motion to Intervene pursuant to Federal Rule of Civil Procedure 24. The Court has considered the Motion, any responses and replies, and the applicable law.

The Court finds that StreamWIDE Inc. has satisfied the requirements for intervention under Rule 24. Accordingly, it is ORDERED that:

1. The Motion is GRANTED;

2. StreamWIDE Inc. is permitted to intervene in this action pursuant to Federal Rule of Civil Procedure 24

SO ORDERED.

EXHIBIT A

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

BK TECHNOLOGIES, INC. Plaintiff/Counterclaim Defendant, v. AT&T MOBILITY, LLC and AT&T SERVICES, INC. Defendants/Counterclaimants, and StreamWIDE Inc., Intervenor.	Case No.: 2-26-cv-00090-RWS-RSP **JURY TRIAL DEMANDED**

ANSWER AND COUNTERCLAIMS OF
STREAMWIDE INC. IN INTERVENTION

Intervenor StreamWIDE, Inc. ("SW") hereby submits its Answer in Intervention to the Complaint for Patent Infringement (ECF No. 1) filed by Plaintiff BK Technologies, Inc. ("Plaintiff"):

THE PARTIES

1. SW is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and, therefore, denies them.

2. Admitted.

3. Admitted.

JURISDICTION AND VENUE

4. SW admits that the Complaint purports to assert causes of action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 1, et seq.

5. SW admits that the Complaint purports to bring an action under Title 35 of the United States Code and that the Complaint purports to state claims over which the Court would have subject matter jurisdiction generally under 28 U.S.C. §§ 1331 and 1338(a) but denies that Plaintiff is entitled to any relief. Except as expressly admitted, denied.

6. SW does not contest personal jurisdiction in this District solely for purposes of this action only but denies that SW has committed any act of infringement of the asserted patents. SW otherwise denies the remaining allegations of this paragraph.

7. The allegations of paragraph 7 contain legal conclusions to which no response is required. To the extent that a response is deemed required, SW denies any remaining allegations of this paragraph.

8. SW lacks information or knowledge sufficient to form a belief as to the truth of the allegations in paragraph 8 and, therefore, denies them.

9. SW lacks information or knowledge sufficient to form a belief as to the truth of the allegations in paragraph 9 and, therefore, denies them.

10. SW lacks information or knowledge sufficient to form a belief as to the truth of the allegations in paragraph 10 and, therefore, denies them.

11. Denied.

12. To the extent that Paragraph 12 of the Complaint purports to characterize the contents of a webpage, the webpage speaks for itself. SW lacks information or knowledge

sufficient to form a belief as to the truth of the allegations in paragraph 12 and, therefore, denies them.

FACTUAL BACKGROUND

13. SW is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and, therefore, denies them.

14. To the extent that Paragraph 14 of the Complaint purports to characterize the patents, the patents speak for themselves. SW is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and, therefore, denies them

15. SW admits that Exhibit A to the Complaint purports to be the ’568 Patent entitled “SYSTEM AND METHOD FOR MANAGING ACCESS TO A PUSH-TO-TALK-OVER-CELLULAR COMMUNICATION NETWORK” and indicates on its face that it issued on May 28, 2024, and was assigned to Plaintiff. SW denies that the ’568 Patent is valid and enforceable. SW is without knowledge or information sufficient to admit or deny the remaining allegations of paragraph 15 and, therefore, denies them.

16. SW admits that Exhibit B to the Complaint purports to be the U.S. Patent 12,375,890 (the ‘’890 Patent”) entitled “SYSTEM AND METHOD FOR MANAGING ACCESS TO A PUSH-TO-TALK-OVER-CELLULAR COMMUNICATION NETWORK” and indicates on its face that it issued on July 29, 2025, and was assigned to Plaintiff. SW denies that the ’890 Patent is valid and enforceable. SW is without knowledge or information sufficient to admit or deny the remaining allegations of paragraph 16 and, therefore, denies them

17. SW is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and, therefore, denies them.

18. SW is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and, therefore, denies them.

19. SW admits that Exhibit C to the Complaint purports to be a printout from the AT&T website and that Exhibit D to the Complaint purports to be a printout from the FirstNet website. To the extent that Paragraph 19 of the Complaint purports to authenticate or characterize the contents of written documents, these documents speak for themselves.

20. SW denies the allegations in this paragraph, including that the FirstNet Fusion Communication Service infringes one or more claims of the ’568 Patent.

21. SW denies the allegations in this paragraph, including that the FirstNet Fusion Communication Service infringes one or more claims of the ’890 Patent.

22. SW is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and, therefore, denies them.

23. Denied.

24. SW admits that Plaintiff purports to quote from a webpage, which webpage speaks for itself. To the extent that Plaintiff has mischaracterized such content, SW denies the same. SW denies any remaining allegations of this paragraph.

25. SW admits that Plaintiff purports to quote from a webpage, which webpage speaks for itself. To the extent that Plaintiff has mischaracterized such content, SW denies the same. SW denies any remaining allegations of this paragraph.

26. SW is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph and, therefore, denies them.

27. SW is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and, therefore, denies them.

COUNT I

28. SW repeats its responses to each preceding paragraph as if fully set forth herein.

29. SW admits that the face of the ’568 Patent indicates that it is assigned to Plaintiff but denies that the recorded inventorship and/or ownership of the ’568 Patent is correct. The remaining allegations in this paragraph are legal conclusions to which no responsive pleading is required. To the extent a response is required, denied.

30. Denied.

31. Denied.

32. Denied.

33. Denied.

34. Denied.

35. SW denies that it has infringed directly or indirectly, by inducement or by contribution, or under the doctrine of equivalents, any valid, enforceable claim of the ’568 Patent. SW is without knowledge or information sufficient to admit or deny the remaining allegations of paragraph 35 and, therefore, denies them.

COUNT II

36. SW repeats its responses to each preceding paragraph as if fully set forth herein.

37. SW admits that the face of the ’890 Patent indicates that it is assigned to Plaintiff but denies that the recorded inventorship and/or ownership of the ’890 Patent is correct. The remaining allegations in this paragraph are legal conclusions to which no responsive pleading is required. To the extent a response is required, denied

38. Denied.

39. Denied.

40. Denied.

41. Denied.

42. Denied.

43. SW denies that it has infringed directly or indirectly, by inducement or by contribution, or under the doctrine of equivalents, any valid, enforceable claim of the '890 Patent. SW is without knowledge or information sufficient to admit or deny the remaining allegations of paragraph 43 and, therefore, denies them.

ATTORNEYS' FEES

44. SW denies that Plaintiff is entitled to any relief whatsoever, including attorneys' fees.

JURY DEMAND

45. The allegations of paragraph 45 contain legal conclusions to which no response is required. To the extent that a response is deemed required, SW demands a jury trial pursuant to Fed. R. Civ. P. 38.

STREAMWIDE DENIES PLAINTIFF IS ENTITLED TO ITS PRAYER FOR RELIEF

SW denies all the allegations contained in Plaintiff's Prayer for Relief, and SW further denies that Plaintiff is entitled to any relief whatsoever, including any relief sought in paragraphs A through I of its Prayer for Relief. Plaintiff's Prayer for Relief should, therefore, be denied in its entirety and with prejudice.

DENIAL OF ANY REMAINING ALLEGATIONS

Except as specifically admitted herein, SW denies any remaining allegations in Plaintiff's Complaint.

JURY TRIAL DEMAND

SW respectfully requests a trial by jury of all issues so triable, pursuant to Rule 38 of the Federal Rules of Civil Procedure.

STREAMWIDE'S DEFENSES

Upon information and belief, and subject to its responses above, SW alleges and asserts the following defenses in response to the allegations of the Complaint, without admitting or acknowledging that SW bears the burden of proof as to any of them or that any must be pleaded as defenses. Regardless of how such defenses are listed herein, SW undertakes the burden of proof only as to those defenses that are deemed affirmative defenses as a matter of law. SW expressly reserves the right to amend or raise additional defenses pursuant to any docket control order as additional information becomes available through further investigation and discovery.

FIRST DEFENSE
(Non-Infringement)

SW does not infringe and has not infringed the asserted patents directly, indirectly, by inducement or by contribution, literally, or under the doctrine of equivalents, or in any other manner, and is not liable for infringement of any valid and enforceable claim of the asserted patents.

SECOND DEFENSE
(Invalidity/ Ineligibility)

The claims of the asserted patents are invalid for failure to comply with the requirements of Title 35 of the United States Code, including, without limitation, 35 U.S.C. §§ 101, 102, 103, 112, and/or 116.

THIRD DEFENSE
(Limitation on Equivalents)

To the extent that Plaintiff asserts infringement of any asserted patents under the doctrine of equivalents, such doctrine is barred by prosecution history estoppel, the Festo bar, ensnarement, and/or claim vitiation.

FOURTH DEFENSE
(Limit on Damages)

Plaintiff's claim for damages, equitable relief, and/or costs is statutorily limited by 35 U.S.C. §§ 252, 286, 287, 288, and/or 28 U.S.C. § 1498. Plaintiff's claims for relief are limited by the doctrines of full compensation, exhaustion, and/or first sale, and Plaintiff is not entitled to a double recovery.

FIFTH DEFENSE
(No Willful Infringement)

Plaintiff is not entitled to enhanced or increased damages for willful infringement because SW has not engaged in any conduct that meets the applicable standard for willful infringement.

SIXTH DEFENSE
(No Exceptional Case)

Plaintiff cannot prove that this is an exceptional case justifying award of attorney's fees against SW pursuant to 35 U.S.C. § 285.

SEVENTH DEFENSE
(No Injunctive Relief)

Plaintiff's claims for relief are barred in whole or in part because Plaintiff is not entitled to injunctive relief. Any alleged injury to Plaintiff is not immediate or irreparable and Plaintiff has an adequate remedy at law.

EIGHTH DEFENSE
(Prosecution History Estoppel)

Plaintiff's claims for relief are barred in whole or in part by prosecution history estoppel and/or prosecution history disclaimer based on amendments, statements, admission, omissions, representations, disclaimers, and/or disavowals made by the applicants for the asserted patents.

NINTH DEFENSE
(Equitable Bars)

Plaintiff's claims are barred, in whole or in part, or its remedies limited, by the doctrines of waiver, implied waiver, equitable estoppel, acquiescence, unclean hands, laches, prosecution laches, and/or other equitable doctrines, including inequitable conduct during prosecution of the asserted patent before the U.S. Patent and Trademark Office.

TENTH DEFENSE
(Statutory Limitation)

To the extent certain products accused of infringing the asserted patents are used by and/or manufactured for the United States Government and/or the public good, Plaintiff's claims involving SW may not be pursued in this Court and are subject to other limitations, including limitations to damages, pursuant to 28 U.S.C. § 1498.

ELEVENTH DEFENSE
(License, Implied License, Exhaustion)

Plaintiff's claims for patent infringement are precluded in whole or in part to the extent that any allegedly infringing products or components thereof are supplied, directly or indirectly, to SW by any entity or entities having express or implied licenses or covenants not to sue or assert the asserted patents. Plaintiff's claims are further barred by the doctrine of patent exhaustion.

TWELFTH DEFENSE
(Standing/Ownership)

To the extent that Plaintiff was not the sole and total owner of all substantial rights in the asserted patents as of the filing date of the Complaint, Plaintiff lacks standing to bring one or more claims in this lawsuit.

THIRTEENTH DEFENSE
(Failure to State a Claim)

The Complaint fails to state a claim upon which relief can be granted.

FOURTEENTH DEFENSE
(Ensnarement)

Plaintiff cannot assert the claims of the Asserted Patents under the doctrine of equivalents to cover the accused products because such an asserted scope of equivalency would encompass or ensnare the prior art.

COUNTERCLAIMS

Intervenor StreamWIDE, Inc. ("SW"), on personal knowledge as to its own acts and upon information and belief formed after reasonable inquiry as to the acts of third parties, for its Answer and Counterclaims in Intervention against BK Technologies, Inc. ("BKT"), hereby avers the following:

THE PARTIES

1. SW is a corporation organized under the laws of the State of Delaware with its principal place of business located at 1099 Wall St. W, Suite 354, Lyndhurst NJ 07071.

2. Upon information and belief and based on paragraph 1 of the Complaint as pleaded by Counterclaim-Defendant, BKT is a corporation registered to do business in the State of Florida, with a principal place of business at 7100 Technology Drive, West Melbourne, Florida, 32904

3. AT&T Services, Inc. ("AT&T") is a corporation organized under the laws of the State of Delaware, with its principal place of business in Dallas, Texas.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action concerns a federal question relating to patents arising under Title 35 of the United States Code and in Title 37 of the Code of Federal Regulations, and pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202 because this is an action for declaratory judgment.

5. This Court has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367(a) and Fed. R. Civ. P. 13 because they are so related and form part of the same case or controversy presented in the underlying lawsuit (Civil Action No. 2:26-cv-00090-RWS-RSP) (the "Existing Lawsuit") and the patent-related Counterclaims.

6. This Court has personal jurisdiction over BKT by virtue of it having submitted to the jurisdiction of this Court when it filed the Existing Lawsuit.

7. Venue is proper under 28 U.S.C. §§ 1391 and 1400 and because BKT has consented to venue in this Court by bringing the Existing Lawsuit although a different venue may be more convenient to hear the dispute.

FACTUAL BACKGROUND

8. SW's Complaint arises out of BKT's attempt to enforce U.S. Patent No. 11,997,568 (the "'568 Patent") and U.S. Patent No. 12,375,890 (the "'890 Patent") in the Existing Lawsuit Against SW's customer AT&T Services Inc. ("AT&T").

9. In the Existing Lawsuit, BKT has alleged that AT&T's FirstNet Fusion Communication Service ("FirstNet") infringes the '568 Patent and the '890 Patent.

10. Specifically, BKT contends that AT&T Defendants have advertised and continue to advertise that FirstNet is a platform that "allow[s] first responders to rapidly create customizable talkgroups and channels for always-on or on-demand needs" and that FirstNet "works across carriers." BKT alleges that its "Push-to-Talk over Cellular ('POC') non-subscriber technology was the first communications platform of this kind to enable rapid on-demand group creation with broad membership."

11. SW's customer, AT&T, does not infringe, directly or indirectly, any claim of the '568 Patent and the '890 Patent by virtue of such customer's use of any SW technology as intended.

12. SW entered into indemnification agreements with AT&T whereby SW agreed to indemnify AT&T against claims of patent infringement.

STREAMWIDE'S CONTRACT WITH BK TECHNOLOGIES

13. SW is a global communication software technology developer and provider that offers real-time communications solutions, geolocation services, and digital transformation of operational processes across various sectors, including for public safety organizations.

14. One of SW's core platforms is Team On The Run ("TOTR"), a comprehensive communication platform that allows instant and secure connection between remote teams.

15. In the POC context, SW started developing TOTR's guest function as early as 2019, and it was sold and in use by 2021. That version of TOTR contained a guest function that allowed users to securely invite guests to join either a private one-on-one or group conversation by sending the guest (non subscriber) a URL to download the application or connect to the web interface. In the login process, guests receive an activation code by SMS or email. Upon joining a conversation, guests would have limited access to an organization. The guest users could only see the users with whom they are interacting in the conversation.

16. SW's TOTR guest function had already been developed and in use prior to 2022 when BKT first met SW in March 2022.

17. In April 2022, BKT asked SW to develop and maintain a custom communications solution for commercial use (the "Product") and to design and implement a specific workflow on top of its solution TOTR and especially its guest feature in the POC context.

18. Around this time, SW started working with BKT to customize and tailor SW's existing TOTR to meet BKT's specific needs, including but not limited to developing a specific module on top of its guest user feature for POC.

19. In working with BKT, SW designed, invented, and deployed an external module enabling designated organization users ("Primary Users"), operating from a BKT mobile client,

to: 1) invite guest users; 2) create and manage groups/channels to facilitate communications during incidents; 3) control participation by adding or removing users from groups/channels, including guest users when applicable; and 4) revoke guest user access, including deletion of guest users, as required. All such capabilities are enabled through native functionalities of the TOTR platform.

20. By June 20, 2022, nearly two months later, SW had fully designed and invented the Product, and a functioning version of the Product was fully developed and released by July 8, 2022.

21. After designing the Product, SW and BKT finalized and executed a Reseller Agreement on or around July 22, 2022, governing the use of the Product and services to be provided. The Product went live by late 2022.

22. Pursuant to the Reseller Agreement, SW "own[s] all legal right, title and interest in and to the Product, including any intellectual property rights which subsist in the Product (whether those rights happen to be registered or not, and wherever in the world those rights may exist). Notwithstanding the foregoing, [BKT] shall own all right, title and interest in and to the Reseller Improvements, as described in Exhibit E. [SW] agrees to assign and hereby assigns to [BKT] all rights, title, and interest in and to the Reseller Improvements including, but not limited to, any invention that the Reseller Improvements embody and copyright in the Reseller Improvements. [SW] shall cooperate with Reseller to obtain a signed assignment agreement from any personnel of Supplier that may be deemed an inventor of any Reseller Improvement."

23. Under Exhibit E of the Reseller Agreement, SW acknowledged that BKT "claim[ed] it [was] planning to independently, through third parties, and/or collaboration with [SW], make certain customizations to the Product ordered and delivered by [SW] to [BKT] pursuant to a Purchase Order and that [BKT] considers such changes or customization to constitute

its proprietary improvements, inventions, and/or developments (Reseller Improvements). [SW] acknowledge[d] that, except to the extent it has independently developed such changes prior to the date of disclosure of the Reseller Improvements to [SW], the Reseller Improvements, as embodied in the Product, are and shall remain the proprietary (Intellectual Property) and Confidential Information of Reseller."

24. The Reseller Agreement included by reference a detailed scope of work for the TOTR solution developed for BKT, which included the guest feature developed for BKT.

25. On or around June 20, 2022, after SW had fully designed the Product, BKT filed U.S. Patent Application 17/844,488 on June 20, 2022, which matured into the '568 and '890 Patents.

COUNT I
(Inequitable Conduct)

26. Despite BKT's knowledge of SW's then existing TOTR platform with a guest function, BKT failed to disclose its existence to the United States Patent & Trademark Office ("USPTO") during prosecution of the '568 Patent and the '890 Patent. Not only did BKT know about SW's TOTR product because SW had disclosed it to BKT in early 2022, but SW's TOTR had already been developed and in use (i.e., publicly accessible) by January 2022 prior to BKT engaging with SW for the development of a custom solution.

27. SW was responsible for designing, inventing, and implementing the specific guest feature BKT sought. SW employees invented said feature and should have been disclosed as inventors of the BKT system to the USPTO.

28. BKT committed Inequitable Conduct before the USPTO. First, BKT did not disclose that SW employees were inventors of both the '568 Patent and the '890 Patent. By

intentionally and deliberately withholding information material to the patentability of the ’568 and ’890 Patents, BKT is guilty of Inequitable Conduct.

29. Second, BKT failed to disclose material prior art during patent prosecution. SW’s TOTR was publicly known, offered for sale, and in use before the relevant priority date of the patents-in-suit. BKT was well-aware of TOTR and clearly breached its obligation to disclose that system to the USPTO.

COUNT II
(Breach of Contract)

30. BKT asserts that its ’568 and ’890 Patents cover systems employing guest functions. BKT ignores the fact that SW’s TOTR product already contained a guest function and BKT agreed that SW’s guest function was SW’s preexisting system and free of any ownership claim by BKT. Yet, BKT asserts in the Existing Lawsuit that guest functions will infringe its claims. Therefore, BKT is breaching its contract with SW by asserting that systems like SW’s infringe the patents-in-suit. Also, by attempting to enforce ’568 and ’890 Patents through the Existing Lawsuit, patents that BKT knows are invalid, BKT is endeavoring to claim ownership of SW’s TOTR’s guest function—one of SW’s major platforms used by first responders across the world.

31. Pursuant to the Reseller Agreement, SW’s ownership interest in any product or knowhow that existed prior to the BKT project remains SW’s property. The Reseller Agreement specifically limited BKT’s intellectual property rights to only those portions of the Product that SW customized for BKT’s use—i.e., the “Reseller Improvements.”

32. BKT’s attempt to claim inventorship of SW’s TOTR violates the Code of Conduct (Exhibit A) under the Reseller Agreement (the “Code”). Additionally, BKT’s failure to make material disclosures to the USPTO concerning prior art constitutes a material breach of the Reseller

Agreement. In engaging in this conduct, BKT has failed "to adhere to the highest ethical principles in conducting [its] business and to avoid engaging in any activity that involves even the appearance of impropriety."

33. The Code applies to "all of [BKT's] activities related to [its] business relationship with [SW] throughout the world." The Code "defines minimum standards of business conduct and acceptable business practices" and clarifies that when "local laws and regulations are more restrictive," as here, BKT is "expected to comply with the Code."

34. Violation of the Code is expressly considered a material breach under the Reseller Agreement.

35. As a result of BKT's action, SW has suffered actual damages and/or loss occurred, and it will continue to do so.

36. If the '568 Patent and the '890 Patent are not invalidated, a judicial declaration that SW's TOTR guest function does not infringe any claim of the '568 Patent and the '890 Patent is necessary and appropriate at this time so that SW can ascertain its rights and duties with respect to designing, developing, making, selling, and using SW's technology. Absent such a declaration, BKT will continue to assert the '568 Patent and the '890 Patent against SW and/or SW's customers and thereby cause SW irreparable injury and damages.

COUNT III
(Tortious Interference with Existing Contract)

37. On August 25, 2025, SW and AT&T entered into the General Master Agreement whereby SW agreed to develop and supply AT&T with a Mission Critical Push-To-Talk ("MCPTT") platform to deliver FirstNet to public-safety customers.

38. SW also agreed to provide the software, infrastructure, and operational support for AT&T's FirstNet Mission Critical communications.

39. Upon information and belief, BKT knew about SW's existing contractual relationship with AT&T

40. Though the product SW developed for AT&T is outside the boundaries of the BKT patent claims, BKT filed the Existing Lawsuit in an attempt to enforce its over broad and invalid '568 and '890 Patents to strategically disrupt, prevent, or make more difficult SW's performance under the General Master Agreement.

41. BKT willfully and intentionally filed the Existing Lawsuit to interfere with SW's existing contractual relationship with AT&T.

42. As a result of BKT action, SW has suffered actual damages or loss occurred and will continue to do so.

COUNT IV
(DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF THE '568 PATENT)

43. SW repeats and realleges the allegations in each of the foregoing paragraphs as if fully set forth herein.

44. SW seeks and is entitled to a declaration that SW does not infringe directly or indirectly, by inducement or by contribution, or under the doctrine of equivalents, any valid, enforceable claim of the '568 Patent, and that it is not liable for damages or injunctive relief based on any claim of the '568 Patent.

45. Absent a declaration that SW does not infringe the '568 Patent, BKT will continue to wrongfully assert the '568 Patent against SW and thereby cause SW irreparable harm and injury.

COUNT V
(DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF THE '890 PATENT)

46. SW repeats and realleges the allegations in each of the foregoing paragraphs as if fully set forth herein.

47. SW seeks and is entitled to a declaration that SW does not infringe directly or indirectly, by inducement or by contribution, or under the doctrine of equivalents, any valid, enforceable claim of the ’890 Patent, and that it is not liable for damages or injunctive relief based on any claim of the ’890 Patent.

48. Absent a declaration that SW does not infringe the ’890 Patent, BKT will continue to wrongfully assert the ’890 Patent against SW and thereby cause AT&T irreparable harm and injury.

COUNT VI
(DECLARATORY JUDGMENT OF INVALIDITY OF THE ’568 PATENT)

49. SW repeats and realleges the allegations in each of the foregoing paragraphs as if fully set forth herein.

50. The ’568 patent claims are invalid and/or patent ineligible for failing to meet one or more of the requisite statutory and decisional requirements and/or conditions for patentability and/or patent eligibility under Title 35 of the United States Code, including, without limitation, §§ 101, 102, 103, 112, and/or 116. To resolve the legal and factual questions raised by BKT and to afford relief from uncertainty and controversy that BKT’s allegations have created, SW is entitled to a declaratory judgment that the ’568 patent is invalid and/or patent ineligible.

COUNT VII
(DECLARATORY JUDGMENT OF INVALIDITY OF THE ’890 PATENT)

51. SW repeats and realleges the allegations in each of the foregoing paragraphs as if fully set forth herein.

52. The ’890 patent claims are invalid and/or patent ineligible for failing to meet one or more of the requisite statutory and decisional requirements and/or conditions for patentability and/or patent eligibility under Title 35 of the United States Code, including, without limitation,

§§ 101, 102, 103, 112, and/or 116. To resolve the legal and factual questions raised by BKT and to afford relief from uncertainty and controversy that BKT's allegations have created, SW is entitled to a declaratory judgment that the '890 patent is invalid and/or patent ineligible.

EXCEPTIONAL CASE

53. This case is an exceptional case entitling SW to an award of its reasonable attorneys' fees incurred in connection with this action pursuant to 35 U.S.C. § 285, as a result of, *inter alia*, BKT's assertion of its asserted patent against SW with the knowledge that it is not infringed, invalid, and/or unenforceable.

PRAYER FOR RELIEF

WHEREFORE, SW respectfully requests that this Court:

A. Enter judgment against BKT and dismiss the claims filed by BKT against AT&T with prejudice;

B. Determine and declare that the claims of the asserted patents are invalid and/or patent-ineligible;

C. Enter judgment declaring that AT&T and SW's TOTR product have not and do not infringe any asserted claim of the asserted patent under any theory;

D. Enter judgment that BKT takes nothing by way of its Complaint;

E. Award AT&T and SW its costs, disbursements, and reasonable attorneys' fees incurred in this action; and,

F. Grant such other and further relief as the Court may deem just and proper.

May 6, 2026 Respectfully Submitted

By: /s/ Joseph V. Saphia

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CERTIFICATE OF SERVICE

The undersigned certifies that, on this 6th day of May 2026, all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document through the Court's CM/ECF system under Local Rule CV-5. Any other counsel of record will be served by a facsimile transmission and/or first-class mail.

/s/ Joseph V. Saphia

Joseph V. Saphia