

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

VALTRUS INNOVATIONS LTD. et al,

Plaintiffs,

v.

DATABANK HOLDINGS LTD,

Defendant.

TIERPOINT, LLC

Defendant.

Case No. 2:24-cv-00777-JRG
(Lead Case)

Civil No. 2:24-cv-00776-JRG
(Member Case)

JURY TRIAL DEMANDED

**DEFENDANT TIERPOINT, LLC'S FIRST AMENDED ANSWER, AFFIRMATIVE
DEFENSES, AND COUNTERCLAIMS TO PLAINTIFFS' COMPLAINT**

Defendant TierPoint, LLC. ("TierPoint"), by and through the undersigned counsel, hereby responds to the allegations of Plaintiffs Valtrus Innovations Ltd. ("Valtrus") and Key Patent Innovations Ltd.'s ("KPI") Complaint, Doc. No. 1 (the "Complaint"), and asserts the following amended answers, defenses, and counterclaims. The numbered paragraphs below correspond to the allegations in the Complaint.¹ To the extent not specifically admitted or qualified in this Answer, all remaining allegations of the Complaint are denied.

PARTIES

1. TierPoint lacks sufficient knowledge or information to respond to the allegations set forth in Paragraph 1, and on that basis denies them.

2. TierPoint lacks sufficient knowledge or information to respond to the allegations

¹ TierPoint repeats the headings in the Complaint for reference purposes only. To the extent such headings purport to express factual allegations to which a response is required, TierPoint denies any such allegations

set forth in Paragraph 2, and on that basis denies them.

3. TierPoint admits that TierPoint, LLC is a corporation organized under the laws of the State of Delaware with a principal place of business at 12444 Powerscourt Drive, Suite 450, St. Louis, Missouri 63131. TierPoint also admits that TierPoint, LLC operates a data center at 820 Allen Commerce Pkwy Allen, TX 75013. TierPoint admits their registered agent in Texas is located at 1999 Bryan St., Ste. 900 Dallas, TX 75201. TierPoint denies the remaining allegations in Paragraph 3.

PATENTS IN SUIT

4. TierPoint lacks sufficient knowledge or information to respond to the allegations set forth in Paragraph 4, and on that basis denies them.

5. TierPoint lacks sufficient knowledge or information to respond to the allegations set forth in Paragraph 5, and on that basis denies them.

6. TierPoint admits that, on its face, U.S. Patent No. 6,718,277 (“the ’277 Patent”) is entitled “Atmospheric control within a building.” TierPoint lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 6, and on that basis denies those allegations.

7. TierPoint lacks sufficient knowledge or information to respond to the allegations set forth in Paragraph 7, and on that basis denies them.

8. TierPoint admits that, on its face, U.S. Patent No. 6,854,284 (“the ’284 Patent”) is entitled “Cooling of data centers.” TierPoint lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 8, and on that basis denies those allegations.

9. TierPoint lacks sufficient knowledge or information to respond to the allegations

set forth in Paragraph 9, and on that basis denies them.

10. TierPoint admits that, on its face, U.S. Patent No. 6,868,682 (“the ’682 Patent”) is entitled “Agent based control method and system for energy management.” TierPoint lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 10, and on that basis denies those allegations.

11. TierPoint lacks sufficient knowledge or information to respond to the allegations set forth in Paragraph 11, and on that basis denies them.

12. TierPoint admits that, on its face, U.S. Patent No. 6,868,683 (“the ’683 Patent”) is entitled “Cooling of data centers.” TierPoint lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 12, and on that basis denies those allegations.

13. TierPoint lacks sufficient knowledge or information to respond to the allegations set forth in Paragraph 13, and on that basis denies them.

14. TierPoint admits that, on its face, U.S. Patent No. 6,854,287 (“the ’287 Patent”) is entitled “Cooling system.” TierPoint lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 14, and on that basis denies those allegations.

15. TierPoint lacks sufficient knowledge or information to respond to the allegations set forth in Paragraph 15, and on that basis denies them.

16. TierPoint admits that, on its face, U.S. Patent No. 6,862,179 (“the ’179 Patent”) is entitled “Partition for varying the supply of cooling fluid.” TierPoint lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 16, and on that basis denies those allegations.

17. TierPoint lacks sufficient knowledge or information to respond to the allegations

set forth in Paragraph 17, and on that basis denies them.

18. TierPoint admits that, on its face, U.S. Patent No. 7,031,870 (“the ’870 Patent”) is entitled “Data center evaluation using an air re-circulation index.” TierPoint lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 18, and on that basis denies those allegations.

19. TierPoint lacks sufficient knowledge or information to respond to the allegations set forth in Paragraph 19, and on that basis denies them.

20. TierPoint admits Valtrus sent TierPoint a letter dated March 22, 2024 addressed as alleged, but denies the letter provided the “specific factual basis” for all the allegations of the Complaint.

21. TierPoint admits TierPoint responded, through counsel, to Valtrus’s correspondence by letter dated March 27, 2024. TierPoint denies the remaining allegations in Paragraph 21.

JURISDICTION AND VENUE

22. TierPoint incorporates by reference Paragraphs 1-21 herein.

23. Paragraph 23 contains legal conclusions to which no response is required. To the extent that a response is required, TierPoint admits that this action purports to bring an action for patent infringement under the laws of the United States, but denies any wrongdoing or liability for at least the reasons stated herein. TierPoint admits that to the extent the Plaintiffs make claims under the patent laws of the United States, this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1332, and 1338(a).

24. TierPoint denies it has committed any acts of infringement in this, or any other, District in the State of Texas or otherwise. To the extent not expressly admitted, TierPoint denies

any remaining allegations in Paragraph 24.

25. TierPoint admits it conducts business in the State of Texas and within this District. TierPoint denies the remaining allegations of Paragraph 25.

26. Paragraph 26 contains legal conclusions to which no response is required. To the extent that a response is required, TierPoint denies the allegations of Paragraph 26.

27. Paragraph 27 contains legal conclusions to which no response is required. To the extent that a response is required, TierPoint denies the allegations of Paragraph 27.

28. Paragraph 28 contains legal conclusions to which no response is required. To the extent that a response is required, TierPoint denies the allegations of Paragraph 28.

29. TierPoint admits it conducts business in the State of Texas and within this District. TierPoint denies it has committed any acts of infringement in this, or any other, District in the State of Texas or otherwise. TierPoint admits that it maintains a data center in this District. The remaining allegations of Paragraph 29 contain legal conclusions to which no response is required. To the extent that a response is required, TierPoint denies the remaining allegations of Paragraph 29.

FIRST CLAIM

(Infringement of the '277 Patent)

30. TierPoint incorporates by reference Paragraphs 1-29 herein.

31. TierPoint denies the allegations in Paragraph 31.

32. TierPoint denies each and every allegation in Paragraph 32.

SECOND CLAIM

(Infringement of the '284 Patent)

33. TierPoint incorporates by reference Paragraphs 1-32 herein.

- 34. TierPoint denies the allegations in Paragraph 34.
- 35. TierPoint denies each and every allegation in Paragraph 35.

THIRD CLAIM

(Infringement of the '682 Patent)

- 36. TierPoint incorporates by reference Paragraphs 1-35 herein.
- 37. TierPoint denies the allegations in Paragraph 37.
- 38. TierPoint denies each and every allegation in Paragraph 38.

FOURTH CLAIM

(Infringement of the '683 Patent)

- 39. TierPoint incorporates by reference Paragraphs 1-38 herein.
- 40. TierPoint denies the allegations in Paragraph 40.
- 41. TierPoint denies each and every allegation in Paragraph 41.

FIFTH CLAIM

(Infringement of the '287 Patent)

- 42. TierPoint incorporates by reference Paragraphs 1-41 herein.
- 43. TierPoint denies the allegations in Paragraph 43.
- 44. TierPoint denies each and every allegation in Paragraph 44.

SIXTH CLAIM

(Infringement of the '179 Patent)

- 45. TierPoint incorporates by reference Paragraphs 1-44 herein.
- 46. TierPoint denies the allegations in Paragraph 46.
- 47. TierPoint denies each and every allegation in Paragraph 47.

SEVENTH CLAIM

(Infringement of the '870 Patent)

48. TierPoint incorporates by reference Paragraphs 1-47 herein.

49. TierPoint denies the allegations in Paragraph 49.

50. TierPoint admits Valtrus's Letter referenced the '870 patent. TierPoint denies it has committed any acts of infringement, and otherwise denies the allegations in Paragraph 50.

51. TierPoint denies each and every allegation in Paragraph 51.

52. TierPoint denies the allegations in Paragraph 52.

PLAINTIFFS' PRAYER FOR RELIEF

No response to Plaintiffs' prayer for relief is necessary. To the extent a response is required, TierPoint denies any and all allegations contained in the prayer for relief and denies that Plaintiffs are entitled to any of the requested relief.

AFFIRMATIVE AND OTHER DEFENSES

Without assuming any burden TierPoint would otherwise not have, TierPoint asserts the following defenses:

FIRST DEFENSE

(Invalidity)

Each claim of the '277 Patent, each claim of the '284 Patent, each claim of the '682 Patent, each claim of the '683 Patent, each claim of the '287 Patent, each claim of the '179 Patent, and each claim of the '870 Patent is invalid and/or unenforceable for failing to satisfy and comply with the requirements of patentability, including, without limitation, one or more Sections 101, 102, 103, and/or 112 of Title 35 of the United States Code.

SECOND DEFENSE

(Non-infringement)

TierPoint does not infringe and has not infringed, either directly, contributorily, or by inducement, or by any other way, any valid and enforceable claims of the '277 Patent, any valid and enforceable claims of the '284 Patent, any valid and enforceable claims of the '682 Patent, any valid and enforceable claims of the '683 Patent, any valid and enforceable claims of the '287 Patent, any valid and enforceable claims of the '179 Patent, and any valid and enforceable claims of the '870 Patent, either literally or under the doctrine of equivalents.

THIRD DEFENSE

(Prosecution History Estoppel)

Plaintiffs' claims of patent infringement are barred, in whole or in part, by the doctrine of prosecution history estoppel.

FOURTH DEFENSE

(Waiver, Estoppel, Unclean Hands)

Plaintiffs' claims are barred, in whole or in part, by the doctrines of waiver, estoppel, and/or unclean hands.

FIFTH DEFENSE

(License and Exhaustion)

Plaintiffs' claims of patent infringement are barred to the extent the alleged infringement is licensed, either expressly or impliedly, or otherwise authorized. Plaintiffs' claims of patent infringement are also barred to the extent that Plaintiffs have exhausted their rights and remedies as to the alleged infringement.

SIXTH DEFENSE

(Limitations on Damages under Section 286)

Plaintiffs' claims for damages are barred to the extent Valtrus seeks damages beyond the applicable statute of limitations, 35 U.S.C. § 286.

COUNTERCLAIMS

Defendant/Counterclaimant TierPoint, LLC ("TierPoint"), by and through its attorneys, asserts the following counterclaims against Plaintiffs/Counterclaim-Defendants Valtrus Innovations, Ltd. ("Valtrus Innovations") and Key Patent Innovations Ltd. ("KPI") (collectively "Valtrus") and alleges as follows:

THE PARTIES

1. TierPoint is a corporation organized under the laws of the State of Delaware with a principal place of business at 12444 Powerscourt Drive, Suite 450, St. Louis, Missouri 63131.

2. On information and belief, based on the allegations of the Complaint, Valtrus Innovations is an Irish entity with facilities in Houston and Plano, Texas.

3. On information and belief, based on the allegations of the Complaint KPI, an Irish entity, is beneficiary of a trust pursuant to which Valtrus Innovations asserts that it owns the Asserted Patents.

JURISDICTION AND VENUE

4. This action arises under the Patent Laws of the United States, 35 U.S.C. § 1, *et seq.*, and under the Declaratory Judgment Act, 28 U.S. §§ 2201, 2202.

5. This Court has subject matter jurisdiction over these Counterclaims pursuant to 28 U.S.C. §§ 1331, 1338.

6. The Court has personal jurisdiction over the Plaintiffs based on Plaintiffs pursuing a lawsuit in this Court against TierPoint asserting claims of patent infringement.

7. Venue in this District is proper pursuant to 28 U.S.C. §§ 1391 and 1400.

FIRST COUNTERCLAIM
(Declaratory Judgment of Non-infringement of the '277 Patent)

8. TierPoint incorporates by reference the allegations of Paragraphs 1-7 of these Counterclaims as though fully set forth herein.

9. Valtrus purports to be the assignee with all right, title, and interest in the '277 Patent.

10. Valtrus's Complaint in this action alleges that TierPoint infringes the '277 patent.

11. TierPoint's activities in connection with their data centers, do not infringe any valid and enforceable claim of the '277 patent.

12. An actual case or controversy exists between TierPoint and Valtrus over the alleged infringement of the '277 patent.

13. TierPoint seeks a declaration of this Court that it has not infringed and does not infringe, either directly or by any other means, literally or under the doctrine of equivalents, any claim of the '277 patent.

SECOND COUNTERCLAIM
(Declaratory Judgment of Invalidity of the '277 Patent)

14. TierPoint incorporates by reference the allegations of paragraphs 1-13 of these Counterclaims as though fully set forth herein.

15. The asserted claims of the '277 patent are invalid because they fail to comply with one or more requirements of 35 U.S.C. §§ 101, 102, 103, and/or 112.

16. Because Valtrus has asserted the '277 patent against TierPoint, declaratory relief is both appropriate and necessary to establish that the '277 patent is invalid and thus cannot be asserted against TierPoint.

THIRD COUNTERCLAIM
(Declaratory Judgment of Non-infringement of the '284 Patent)

17. TierPoint incorporates by reference the allegations of Paragraphs 1-16 of these Counterclaims as though fully set forth herein.

18. Valtrus purports to be the assignee with all right, title, and interest in the '284 Patent.

19. Valtrus's Complaint in this action alleges that TierPoint infringes the '284 patent.

20. TierPoint's activities in connection with their data centers, do not infringe any valid and enforceable claim of the '284 patent.

21. An actual case or controversy exists between TierPoint and Valtrus over the alleged infringement of the '284 patent.

22. TierPoint seeks a declaration of this Court that it has not infringed and does not infringe, either directly or by any other means, literally or under the doctrine of equivalents, any claim of the '284 patent.

FOURTH COUNTERCLAIM
(Declaratory Judgment of Invalidity of the '284 Patent)

23. TierPoint incorporates by reference the allegations of paragraphs 1-22 of these Counterclaims as though fully set forth herein.

24. The asserted claims of the '284 patent are invalid because they fail to comply with one or more requirements of 35 U.S.C. §§ 101, 102, 103, and/or 112.

25. Because Valtrus has asserted the '284 patent against TierPoint, declaratory relief is both appropriate and necessary to establish that the '284 patent is invalid and thus cannot be asserted against TierPoint.

FIFTH COUNTERCLAIM
(Declaratory Judgment of Non-infringement of the '682 Patent)

26. TierPoint incorporates by reference the allegations of Paragraphs 1-25 of these Counterclaims as though fully set forth herein.

27. Valtrus purports to be the assignee with all right, title, and interest in the '682 Patent.

28. Valtrus's Complaint in this action alleges that TierPoint infringes the '682 patent.

29. TierPoint's activities in connection with their data centers, do not infringe any valid and enforceable claim of the '682 patent.

30. An actual case or controversy exists between TierPoint and Valtrus over the alleged infringement of the '682 patent.

31. TierPoint seeks a declaration of this Court that it has not infringed and does not infringe, either directly or by any other means, literally or under the doctrine of equivalents, any claim of the '682 patent.

SIXTH COUNTERCLAIM
(Declaratory Judgment of Invalidity of the '682 Patent)

32. TierPoint incorporates by reference the allegations of paragraphs 1-31 of these Counterclaims as though fully set forth herein.

33. The asserted claims of the '682 patent are invalid because they fail to comply with one or more requirements of 35 U.S.C. §§ 101, 102, 103, and/or 112.

34. Because Valtrus has asserted the '682 patent against TierPoint, declaratory relief is both appropriate and necessary to establish that the '682 patent is invalid and thus cannot be asserted against TierPoint.

SEVENTH COUNTERCLAIM
(Declaratory Judgment of Non-infringement of the '683 Patent)

35. TierPoint incorporates by reference the allegations of Paragraphs 1-34 of these Counterclaims as though fully set forth herein.

36. Valtrus purports to be the assignee with all right, title, and interest in the '683 Patent.

37. Valtrus's Complaint in this action alleges that TierPoint infringes the '683 patent.

38. TierPoint's activities in connection with their data centers, do not infringe any valid and enforceable claim of the '683 patent.

39. An actual case or controversy exists between TierPoint and Valtrus over the alleged infringement of the '683 patent.

40. TierPoint seeks a declaration of this Court that it has not infringed and does not infringe, either directly or by any other means, literally or under the doctrine of equivalents, any claim of the '683 patent.

EIGHTH COUNTERCLAIM
(Declaratory Judgment of Invalidity of the '683 Patent)

41. TierPoint incorporates by reference the allegations of paragraphs 1-40 of these Counterclaims as though fully set forth herein.

42. The asserted claims of the '683 patent are invalid because they fail to comply with one or more requirements of 35 U.S.C. §§ 101, 102, 103, and/or 112.

43. Because Valtrus has asserted the '683 patent against TierPoint, declaratory relief is both appropriate and necessary to establish that the '683 patent is invalid and thus cannot be asserted against TierPoint.

NINTH COUNTERCLAIM
(Declaratory Judgment of Non-infringement of the '287 Patent)

44. TierPoint incorporates by reference the allegations of Paragraphs 1-43 of these Counterclaims as though fully set forth herein.

45. Valtrus purports to be the assignee with all right, title, and interest in the '287 Patent.

46. Valtrus's Complaint in this action alleges that TierPoint infringes the '287 patent.

47. TierPoint's activities in connection with their data centers, do not infringe any valid and enforceable claim of the '287 patent.

48. An actual case or controversy exists between TierPoint and Valtrus over the alleged infringement of the '287 patent.

49. TierPoint seeks a declaration of this Court that it has not infringed and does not infringe, either directly or by any other means, literally or under the doctrine of equivalents, any claim of the '287 patent.

TENTH COUNTERCLAIM
(Declaratory Judgment of Invalidity of the '287 Patent)

50. TierPoint incorporates by reference the allegations of paragraphs 1-49 of these Counterclaims as though fully set forth herein.

51. The asserted claims of the '287 patent are invalid because they fail to comply with one or more requirements of 35 U.S.C. §§ 101, 102, 103, and/or 112.

52. Because Valtrus has asserted the '287 patent against TierPoint, declaratory relief is both appropriate and necessary to establish that the '287 patent is invalid and thus cannot be asserted against TierPoint.

ELEVENTH COUNTERCLAIM
(Declaratory Judgment of Non-infringement of the '179 Patent)

53. TierPoint incorporates by reference the allegations of Paragraphs 1-52 of these Counterclaims as though fully set forth herein.

54. Valtrus purports to be the assignee with all right, title, and interest in the '179 Patent.

55. Valtrus's Complaint in this action alleges that TierPoint infringes the '179 patent.

56. TierPoint's activities in connection with their data centers, do not infringe any valid and enforceable claim of the '179 patent.

57. An actual case or controversy exists between TierPoint and Valtrus over the alleged infringement of the '179 patent.

58. TierPoint seeks a declaration of this Court that it has not infringed and does not infringe, either directly or by any other means, literally or under the doctrine of equivalents, any claim of the '179 patent.

TWELFTH COUNTERCLAIM
(Declaratory Judgment of Invalidity of the '179 Patent)

59. TierPoint incorporates by reference the allegations of paragraphs 1-58 of these Counterclaims as though fully set forth herein.

60. The asserted claims of the '179 patent are invalid because they fail to comply with one or more requirements of 35 U.S.C. §§ 101, 102, 103, and/or 112.

61. Because Valtrus has asserted the '179 patent against TierPoint, declaratory relief is both appropriate and necessary to establish that the '179 patent is invalid and thus cannot be asserted against TierPoint.

THIRTEENTH COUNTERCLAIM
(Declaratory Judgment of Non-infringement of the '870 Patent)

62. TierPoint incorporates by reference the allegations of Paragraphs 1-61 of these Counterclaims as though fully set forth herein.

63. Valtrus purports to be the assignee with all right, title, and interest in the '870 Patent.

64. Valtrus's Complaint in this action alleges that TierPoint infringes the '870 patent.

65. TierPoint's activities in connection with their data centers, do not infringe any valid and enforceable claim of the '870 patent.

66. An actual case or controversy exists between TierPoint and Valtrus over the alleged infringement of the '870 patent.

67. TierPoint seeks a declaration of this Court that it has not infringed and does not infringe, either directly or by any other means, literally or under the doctrine of equivalents, any claim of the '870 patent.

FOURTEENTH COUNTERCLAIM
(Declaratory Judgment of Invalidity of the '870 Patent)

68. TierPoint incorporates by reference the allegations of paragraphs 1-67 of these Counterclaims as though fully set forth herein.

69. The asserted claims of the '870 patent are invalid because they fail to comply with one or more requirements of 35 U.S.C. §§ 101, 102, 103, and/or 112.

70. Because Valtrus has asserted the '870 patent against TierPoint, declaratory relief is both appropriate and necessary to establish that the '870 patent is invalid and thus cannot be asserted against TierPoint.

**RESERVATION OF RIGHT TO ASSERT
ADDITIONAL COUNTERCLAIMS AND DEFENSES**

TierPoint's investigation is ongoing and discovery has not been taken. As many relevant facts are likely in the possession of Valtrus, TierPoint reserves the right to amend, or seek to amend, this Answer, including affirmative and other defenses. TierPoint has not knowingly or intentionally waived any applicable defenses, and reserves the right to assert and rely upon other applicable defenses that may become available or apparent throughout the course of this action.

Dated: December 20, 2024

Respectfully Submitted,

/s/ Michael Smith
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**Pro Hac Vice Forthcoming*

Attorneys for Defendant TierPoint, LLC

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of December, 2024, I caused the foregoing to be filed electronically with the Clerk of the Court, and therefore served upon all counsel of record.

/s/ Michael Smith