

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

VALTRUS INNOVATIONS LTD. et al,
Plaintiffs,

v.

DATABANK HOLDINGS LTD,
Defendant.

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

VALTRUS INNOVATIONS LTD. et al,
Plaintiffs,

v.

TIERPOINT, LLC,
Defendant.

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

JURY TRIAL DEMANDED

**DEFENDANT/COUNTER-CLAIMANT TIERPOINT, LLC'S
INITIAL DISCLOSURES PURSUANT TO DISCOVERY ORDER**

Pursuant to the Discovery Order entered in this case (ECF No. 30), Defendant/Counter-Claimant TierPoint, LLC, (“TierPoint”) submits the following initial disclosures.

The disclosures provided herein are based on information presently known and reasonably available to TierPoint and which TierPoint reasonably believes it may use in support of its defenses. TierPoint reserves the right to make additional, supplemental, or amended disclosures and/or identify other potential witnesses, documents, and information as the investigation of the facts and discovery continues. TierPoint is not identifying every document, tangible thing or witness relevant to this action. TierPoint also reserves its right to object to any discovery request, offer to admit, use or proceeding involving or relating to the subject matter of these disclosures,

including, without limitation, on the basis of any privilege, immunity, the work product doctrine, relevancy, undue burden, confidentiality, competency, privilege, relevancy and materiality, or hearsay.

I. INITIAL DISCLOSURES PURSUANT TO SECTION 1 OF THE DISCOVERY ORDER

a) The correct names of the parties to the lawsuit;

The correct name for Defendant TierPoint is TierPoint, LLC.

b) The name, address, and telephone number of any potential parties;

TierPoint is not aware of any additional potential parties to this litigation.

c) The legal theories and, in general, the factual bases of the disclosing party's claims or defenses;

In Plaintiffs' Disclosure of Asserted Claims and Infringement Contentions, Plaintiffs allege that TierPoint infringes certain claims 1-11 and 12-21 of U.S. Patent No. 6,718,277; claims 10-13 and 16-17 of U.S. Patent No. 6,854,284; claims 1-4 and 7-10 of U.S. Patent No. 6,868,682; claims 10-13 and 15 of U.S. Patent No. 6,868,683; claims 1-9 of U.S. Patent No. 6,854,287; claims 1-6, 9-13, and 15 of U.S. Patent No. 6,862,179; and claims 1-2 and 6-12 of U.S. Patent No. 7,031,870.

In its Amended Answer (ECF No. 17), Defendant TierPoint asserted defenses of invalidity and non-infringement for each asserted patent and claims listed above. Defendant TierPoint also asserted defenses of prosecution history estoppel, waiver, estoppel, unclean hands, license and exhaustion, and Section 286 limitations on damages. Counter-Claimant TierPoint asserted counterclaims of declaratory judgments of non-infringement and invalidity of all asserted patents and claims. Legal theories and factual bases for the aforementioned are detailed in TierPoint's Amended Answer at ECF No. 17.

d) The name, address, and telephone number of persons having knowledge of relevant facts, a brief statement of each identified person's connection with the case, and a

brief, fair summary of the substance of the information known by any such person;

All individuals likely to have discoverable information that TierPoint, may use to support its claims or defenses in this case are as follows:

Name	Organization and Title	Address and Telephone Number	Subject Matter
David Foster	Chief Data Center Officer	Contact through TierPoint's Counsel	Data center operations
Pete Abel	Senior Vice President, Sales and Marketing Operations	Contact through TierPoint's Counsel	Sales and marketing
Any individuals or entities named by Valtrus in its disclosures or discovery responses.			
Potential third party equipment manufacturers			
Ratnesh Sharma		Contact through Valtrus's Counsel	Named inventor of U.S. Patent Nos. 6,718,277; 6,854,284; 6,868,682; 6,868,683; and 7,031,870 Inventorship, conception, and reduction to practice of the invention claimed in the asserted patents.
Cullen E. Bash		Contact through Valtrus's Counsel	Named inventor of U.S. Patent Nos. 6,854,284; 6,868,682; 6,868,683; 6,854,287; and 7,031,870 Inventorship, conception, and reduction to practice

Name	Organization and Title	Address and Telephone Number	Subject Matter
			of the invention claimed in the asserted patents.
Chandrakant D. Patel		Contact through Valtrus's Counsel	Named inventor of U.S. Patent Nos. 6,854,284; 6,868,682; 6,868,683; 6,854,287; 6,862,179; and 7,031,870 Inventorship, conception, and reduction to practice of the invention claimed in the asserted patents.
Abdlmonem H. Beitelmal		Contact through Valtrus's Counsel	Named inventor of U.S. Patent Nos. 6,854,284; 6,868,683; and 6,862,179 Inventorship, conception, and reduction to practice of the invention claimed in the asserted patents.

Without prejudice, TierPoint expressly reserves the right to elicit testimony or evidence from any witness timely and/or properly disclosed and deposed by any parties to this litigation.

e) Any indemnity and insuring agreements under which any person or entity carrying on an insurance business may be liable to satisfy part or all of a judgment entered in this action or to indemnify or reimburse for payments made to satisfy the judgment;

TierPoint identifies Vertiv Group Corp. as an indemnifying entity. TierPoint's investigation to identify other potential indemnity obligations is ongoing. TierPoint reserves the right to amend or supplement this response as the litigation proceeds.

f) Any settlement agreements relevant to the subject matter of this action;

Relevant settlement agreements may be in the possession of Plaintiffs. TierPoint's investigation is currently ongoing. TierPoint reserves the right to amend or supplement this response as the litigation proceeds.

g) Any statement of any party to the litigation;

TierPoint is not currently aware of any statements relevant to this matter.

II. ADDITIONAL DISCLOSURES PURSUANT TO SECTION 3 OF THE DISCOVERY ORDER

a) Disclosures required by the Patent Rules for the Eastern District of Texas with the following modifications to P.R. 3-1 and P.R. 3-3:

Pursuant to the Amended Docket Control Order (ECF No. 32), Invalidity Contentions and Document Productions required by P.R. 3-3 and 3-4 are not due until Apr. 1, 2025.

b) Production and Inspection of All Documents, Electronically Stored Information, and Tangible Things

TierPoint provides the following listing without any concession, agreement, admission to, or waiver of any ultimate determination of relevance or admissibility of particular information for any purpose, and without waiver of attorney-client or work product immunity or any other privilege or immunity. Discovery has just begun in this case, and TierPoint's investigation is ongoing. TierPoint's responses are based upon information presently available to it, and therefore, TierPoint expressly reserves the right to amend or supplement this list to identify additional "documents, electronically store information, and tangible things" identified through further investigation and discovery. Moreover, documents in Plaintiffs' possession, custody, or control may also be relevant to TierPoint's counterclaims and defenses.

The documents, electronically stored information, and tangible things of TierPoint's that may be used to support TierPoint's claims or defenses in this case are located as follows. The

documents identified to date are located at TierPoint's corporate headquarters located at 12444 Powerscourt Dr., Suite 450, St. Louis, MO 63131 and/or at the offices of counsel of record for TierPoint. The documents identified to date that will be produced are:

- Documents related to TierPoint facilities
- Documents related to floor plans of TierPoint facilities
- Documents related to equipment inventory at TierPoint facilities
- Documents related to square footage of facilities
- Documents related to marketing and promotion
- Documents related to the acquisition of the Dallas/Fort-Worth facility
- Documents related to indemnity between Vertiv and TierPoint

c) Computation of Any Category of Damages

TierPoint is entitled to recover its costs, expenses, and attorneys' fees incurred in this litigation. Information necessary to compute these amounts is not available at this stage of the litigation. Therefore, TierPoint cannot presently provide a computation of damages. TierPoint reserves the right to amend or supplement this response as the litigation proceeds

Dated: February 11, 2025

Respectfully Submitted,

/s/ Kara R. Fussner

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CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of February 2025, I caused the foregoing to be served via electronic mail upon the following counsel of record:

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