

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK  
MANHATTAN DIVISION**

<b>DATREC, LLC,</b>	)	
<b>Plaintiff,</b>	)	
	)	<b>Civil Action No. 1:21-cv-6134</b>
<b>v.</b>	)	
	)	
<b>ICIMS, INC.</b>	)	<b>JURY TRIAL DEMANDED</b>
<b>Defendant.</b>	)	

**PLAINTIFF’S ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT**

DatRec, LLC (“DatRec”) files this Original Complaint and demand for jury trial seeking relief from patent infringement of the claims of U.S. Patent No. 8,381,309 (“the ‘309 patent”) (referred to as the “Patent-in-Suit”) by ICIMS, Inc.

**I. THE PARTIES**

1. Plaintiff DatRec is a Texas Limited Liability Company with its principal place of business located in Harris County, Texas.

2. On ICIMS’s information and belief, ICIMS, Inc. (“ICIMS”) is a corporation existing under the laws of the State of Delaware, with a principal place of business located at 1 Union Square W., Second Floor, New York, NY 10003. On information and belief, ICIMS sells and offers to sell products and services throughout Texas, including in this judicial district, and introduces products and services that perform infringing methods or processes into the stream of commerce knowing that they would be sold in New York and this judicial district. ICIMS may be served through its registered agent Corporation Service Company, 80 State Street, Albany, NY, 12207 or wherever they may be found.

## **II. JURISDICTION AND VENUE**

3. This Court has original subject-matter jurisdiction over the entire action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because Plaintiff's claim arises under an Act of Congress relating to patents, namely, 35 U.S.C. § 271.
4. This Court has personal jurisdiction over Defendant because: (i) Defendant is present within or has minimum contacts within the State of New York and this judicial district; (ii) Defendant has purposefully availed itself of the privileges of conducting business in the State of New York and in this judicial district; and (iii) Plaintiff's cause of action arises directly from Defendant's business contacts and other activities in the State of New York and in this judicial district.
5. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and 1400(b). Defendant has committed acts of infringement and has a regular and established place of business in this District. Further, venue is proper because Defendant conducts substantial business in this forum, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in New York and this District.

## **III. INFRINGEMENT**

### **A. Infringement of the '309 Patent**

6. On February 9, 2013, U.S. Patent No. 8,381,309 ("the '309 patent", attached as Exhibit A) entitled "Method and System for Secure Communication Over a Public Network" was duly and legally issued by the U.S. Patent and Trademark Office. DatRec, LLC owns the '309 patent by assignment.

7. The '309 patent relates to a novel and improved system for secure communication over a public network.

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**ICIMS**

9. A system for enabling communication between users over a communication network, the system comprising;

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ICIMS has a system for enabling communication between users over a communication network.

The reference includes subject matter disclosed by the claims of the patent after the priority date.

8. ICIMS maintains, operates, and administers electronic human resource records (“EHR”) through its website at [www.ICIMS.com](http://www.ICIMS.com), and other sources, that infringe one or more claims of the ‘309 patent, including one or more of claims 1-17, literally or under the doctrine of equivalents. Defendant put the inventions claimed by the ‘309 Patent into service (i.e., used them); but for Defendant’s actions, the claimed-inventions embodiments involving Defendant’s products and services would never have been put into service. Defendant’s acts complained of herein caused those claimed-invention embodiments as a whole to perform, and Defendant’s procurement of monetary and commercial benefit from it.
9. Support for the allegations of infringement may be found in the following preliminary table:

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**ICIMS**

a server system associated with a database comprising verified data relating an individual, said server system being configured and operable to verify at least some of the data so as to authenticate an identity of the individual;

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The reference describes a server system associated with a database comprising verified data relating an individual, said server system being configured and operable to verify at least some of the data so as to authenticate an identity of the individual.

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ICIMS

determining a level of reliability in authenticity based on correspondence between data on said individual entered by a plurality of related individuals; and

✓ Attract

Create inspiring, personalized candidate experiences that bring the best talent right to your door

✓ Engage

Automatically identify top candidates and connect with them in the right place, at the right time

✓ Hire

Simplify interview management, offers, and onboarding with transformative AI-powered capabilities

✓ Advance

Support internal mobility by making it easier for employees to find their next position

[<https://www.icims.com/see-it-in-action/>](https://www.icims.com/see-it-in-action/)

The reference describes determining a level of reliability in authenticity based on correspondence between data on said individual entered by a plurality of related individuals.

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the system being configured to define one or more levels of permitted communication between individuals in the database and the verified individual on the basis of said verification.

Our candidate relationship management software can help you:

-  Reach candidates anywhere via one-to-one or one-to-many email and text campaigns
-  Grow your talent pools with virtual career fairs
-  Automatically identify the best candidates with AI
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-  Highlight employees with video-integrated emails to bring your company brand to life

<https://www.icims.com/talent-cloud-recruiting/products/candidate-relationship-management-software/>

The reference describes the system being configured to define one or more levels of permitted communication between individuals in the database and the verified individual on the basis of said verification.

These allegations of infringement are preliminary and are therefore subject to change.

10. ICIMS has and continues to induce infringement. ICIMS has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to use its products and services (e.g., electronic human resource

records) such as to cause infringement of one or more of claims 1–17 of the '309 patent, literally or under the doctrine of equivalents. Moreover, ICIMS has known of the '309 patent and the technology underlying it from at least the date of issuance of the patent.

**11.** ICIMS has and continues to contributorily infringe. ICIMS has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to use its products and services (e.g., electronic human resource records) such as to cause infringement of one or more of claims 1–17 of the '309 patent, literally or under the doctrine of equivalents. Moreover, ICIMS has known of the '309 patent and the technology underlying it from at least the date of issuance of the patent.

**12.** ICIMS has caused and will continue to cause DatRec damage by direct and indirect infringement of (including inducing infringement of) the claims of the '309 patent.

#### **IV. JURY DEMAND**

DatRec hereby requests a trial by jury on issues so triable by right.

#### **V. PRAYER FOR RELIEF**

WHEREFORE, DatRec prays for relief as follows:

- a. enter judgment that Defendant has infringed the claims of the '309 patent;
- b. award DatRec damages in an amount sufficient to compensate it for Defendant's infringement of the '309 patent in an amount no less than a reasonable royalty or lost profits, together with pre-judgment and post-judgment interest and costs under 35 U.S.C. § 284;
- c. award DatRec an accounting for acts of infringement not presented at trial and an award by the Court of additional damage for any such acts of infringement;

- d. declare this case to be “exceptional” under 35 U.S.C. § 285 and award DatRec its attorneys’ fees, expenses, and costs incurred in this action;
- e. declare Defendant’s infringement to be willful and treble the damages, including attorneys’ fees, expenses, and costs incurred in this action and an increase in the damage award pursuant to 35 U.S.C. § 284;
- f. a decree addressing future infringement that either (i) awards a permanent injunction enjoining Defendant and its agents, servants, employees, affiliates, divisions, and subsidiaries, and those in association with Defendant from infringing the claims of the Patents-in-Suit, or (ii) awards damages for future infringement in lieu of an injunction in an amount consistent with the fact that for future infringement the Defendant will be an adjudicated infringer of a valid patent, and trebles that amount in view of the fact that the future infringement will be willful as a matter of law; and
- g. award DatRec such other and further relief as this Court deems just and proper.

Respectfully submitted,

/s/ David J. Hoffman

David J. Hoffman  
254 W 15th St., Apt. 2C  
New York, New York 10011  
(917) 701-3117 (telephone)  
djhoffman@djhoffmanlaw.com

RAMEY & SCHWALLER, LLP

/s/William P. Ramey, III

William P. Ramey, III (*Pro Hac Vice Anticipated*)  
Texas State Bar No. 24027643  
Jeffrey Kubiak (*Pro Hac Vice Anticipated*)  
Texas State Bar No. 24028470  
5020 Montrose Blvd., Suite 800  
Houston, Texas 77006  
(713) 426-3923 (telephone)  
(832) 900-4941 (fax)  
wramey@rameyfirm.com

jkubiak@rameyfirm.com

***ATTORNEYS FOR RIGGS TECHNOLOGY  
HOLDINGS, LLC***

***Attorneys for DatRec, LLC***