

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN**

**JDS TECHNOLOGIES, INC.,**  
a Michigan corporation,

**Plaintiff,**

v.

**EXACQ TECHNOLOGIES, INC.,**  
an Indiana corporation,

**Defendant.**

**Case No.** \_\_\_\_\_

**COMPLAINT FOR PATENT  
INFRINGEMENT AND JURY DEMAND**

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Plaintiff, JDS Technologies, Inc., by and through its undersigned counsel, for its Complaint herein against Defendant, Exacq Technologies, Inc. (“Exacq”), alleges as follows:

## **I. THE PARTIES**

1. Plaintiff JDS Technologies, Inc. (“JDS”) is a Michigan corporation having its headquarters at 59992 Ray Center Road, Ray, Michigan 48096.

2. Upon information and belief, Defendant Exacq Technologies, Inc. is an Indiana corporation with its principal place of business at 150 West Market Street, Suite 800, Indianapolis, Indiana 46204.

## **II. JURISDICTION**

3. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35, United States Code. The subject matter jurisdiction for this Court is founded upon 28 U.S.C. § 1338 (patents) and 28 U.S.C. § 1331 (federal question).

4. Upon information and belief, Defendant is subject to this Court’s jurisdiction because the Defendant regularly and continuously engage in substantial sales and other business transactions in the Eastern District of Michigan, and have sold infringing products and/or committed infringing acts in

this District. Further, the Defendant maintains both sales representatives and sales partners in the State of Michigan. The United States District Court for the Eastern District of Michigan therefore has *in personam* jurisdiction over the Defendant.

5. For example, on its website Exacq names several customers within the Eastern District of Michigan, including the University of Michigan in Ann Arbor, Michigan. *See* Exhibit A, Exacq.com Website Capture (<https://exacq.com/customers/>).

6. On its website, [www.exacq.com](http://www.exacq.com), Exacq provides several examples of case studies of various customers including Detroit Country Day School in Beverly Hills, Michigan, which is in the Eastern District of Michigan. *See* Exhibit B, Detroit Country Day Case Study.

7. Upon information and belief, Exacq's infringing video management software and/or associated hardware is used by the Canton Police Department in Canton, Michigan, which is in the Eastern District of Michigan. *See* Exhibit C, Canton Observer Newspaper.

8. Upon information and belief, Interstate Security, Inc. of Shelby Township, Michigan distributes and installs Exacq video management software and/or associated hardware in the Eastern District of Michigan. *See* Exhibit D, Interstate Security Website Capture.

### III. THE INFRINGED PATENTS

9. On May 10, 2005, the U.S. Patent and Trademark Office (“USPTO”) duly and legally issued U.S. Patent No. 6,891,566 (“the ’566 Patent”), titled “Digital Video System Using Networked Cameras.” See Exhibit E, U.S. Patent No. 6,891,566.

10. On May 22, 2012, the U.S. Patent and Trademark Office (“USPTO”) duly and legally issued U.S. Patent No. 8,185,964 (“the ’964 Patent”), titled “Digital Video System Using Networked Cameras.” See Exhibit F, U.S. Patent No. 8,185,964.

11. JDS is the owner of all right, title, and interest in the ’566 and ’964 Patents (hereinafter the “Patents-in-Suit”), including the right to recover for infringement thereof.

12. The Patents-In-Suit are directed, *inter alia*, to software, a digital video system, and/or a method for operating a digital video system. In particular, claims are directed to software that provides for the accessing and displaying of camera images. The Patents-in-Suit include claims directed to enabling or limiting access to specific cameras.

13. JDS both designs and sells video management software and systems. The work includes developing and implementing applications, utilities, and

solutions for customers in a wide variety of industries and markets. JDS markets and sells the Softsite software suite for the security industry.

#### **IV. ACTIONS GIVING RISE TO THE COMPLAINT**

14. JDS and Exacq are competitors for the sales of video management software.

15. Exacq is a large and sophisticated company and is aware of the intellectual property rights of others in the video management software industry. On its website at [www.exacq.com](http://www.exacq.com), Exacq states that it “is a leading manufacturer of video management system (VMS) software and servers used for video surveillance.” *See* [www.exacq.com/about/info](http://www.exacq.com/about/info). Upon information and belief, Exacq conducts searches for patents related to its products. Thus, a reasonable inference is that Exacq is aware of the Patents-in-Suit. Plaintiff asserts that this reasonable inference is true.

16. JDS prominently marks its video management software with the Patents-in-Suit. JDS has marked its video management software with U.S. Patent No. 6,891,566 since shortly after its issuance in 2005. JDS has also marked its video management software with U.S. Patent No. 8,185,964 since shortly after its issuance in 2012. Thus, Plaintiff hereby asserts that there is a reasonable inference

that Exacq has had knowledge of the '566 and '964 Patents prior to the filing of this Complaint. Plaintiff asserts that this reasonable inference is true.

17. JDS and Exacq both regularly attend industry trade shows and have done so for several years. Upon information and belief, employees or associates of Exacq have visited JDS's display at trade shows including ISC West, ISC East, and ASIS. At the trade shows, JDS prominently displays its products and the patent numbers of the '566 and '964 Patents in its materials. It is, therefore, reasonable to infer that Exacq has had knowledge of the Patents-in-Suit prior to the filing of the Complaint in this lawsuit. Plaintiff asserts that this reasonable inference is true.

18. On May 24, 2012, JDS filed a lawsuit for patent infringement against Milestone Systems, Inc. and its parent company Milestone Systems A/S (collectively "Milestone"). Milestone is a direct competitor of both JDS and Exacq. The lawsuit involved both the '566 and '964 Patents and obtained a fair amount of press coverage in the industry throughout the course of the litigation. Accordingly, Plaintiff hereby asserts that it is a reasonable inference that Exacq had knowledge of the '566 and '964 Patents prior to the filing of this Complaint. Plaintiff asserts that this reasonable inference is true.

19. Exacq manufactures, imports, offers for sale, uses, and/or sells software and systems that infringe claims of the Patents-in-Suit.

## **V. COUNT I – DIRECT INFRINGEMENT OF USPN 6,891,566**

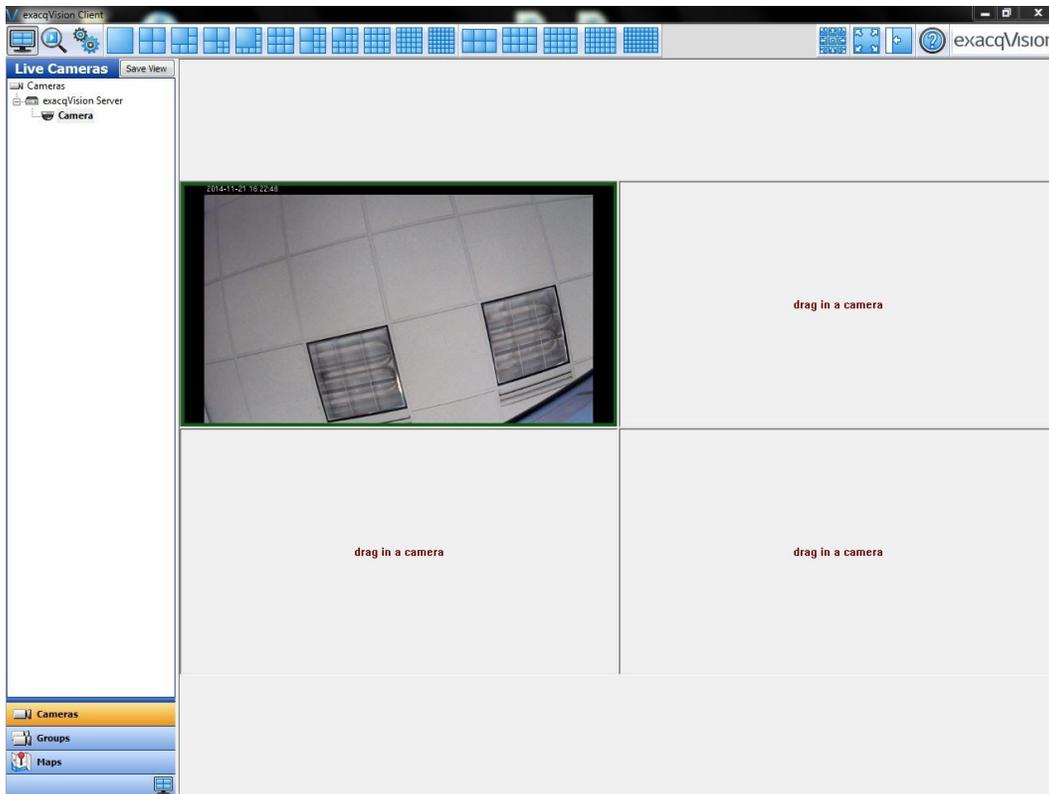
20. Plaintiff repeats and re-alleges the allegations contained in Paragraphs 1-19 above as if fully set forth herein.

21. Exacq has made, used, offered for sale, and sold in the United States, and continues to make, use, offer for sale, and sell in the United States video surveillance software, systems, and components. Exacq's activities infringe, induce others to infringe, and/or contributorily infringe the '566 Patent. These activities include providing exacqVision VMS software to customers and instructing customers regarding use of the software. As a non-limiting example, upon information and belief, the University of Michigan in Ann Arbor, Michigan, is one of those customers. By making, using, offering for sale, and/or selling technology including, but not limited to, its exacqVision Professional VMS in the United States, Exacq is infringing claims of the '566 Patent under 35 U.S.C. § 271(a).

22. Claim 1 of the '566 Patent recites the following: "A computer readable medium for use by a computer in providing an interface to multiple cameras via one or more video servers accessible to the computer via a network, comprising: a digital storage device; a user interface program stored on said digital storage device in computer readable form, said program being operable upon execution by the computer to access server data uniquely identifying each video

server and to attempt access to the video servers over the network, said program also being operable to obtain from each of the accessible video servers a hardware address stored in the video server; wherein said program is further operable to validate the hardware addresses received from the video servers using the server data and, for those video servers having valid hardware address, said program is operable to generate a user interface display on the computer that includes a display window for each of the cameras accessed via the validated servers over the network and to display in each of the display windows an image received from the camera associated with that display window.”

23. Exacq’s exacqVision VMS software, for example, exacqVision Professional, which resides on Exacq’s server(s) and can be installed on a user’s computer, is made up of a number of components. Such components include, among others, the “exacqVision Client,” the “exacqVision Server,” and the “exacqVision Web Service.” These components cooperate to implement features of the exacqVision Professional software. The user interface associated with exacqVision Professional is shown below.



*User Interface – exacqVision Client*

24. During operation, the exacqVision VMS software accesses, over a network, data uniquely identifying servers on which the exacqVision Server software resides. This is shown on page 11 of the User Guide associated with the exacqVision Professional software (hereinafter “exacqVision User Guide”), which is reproduced below.

3
**exacqVision Software Overview**

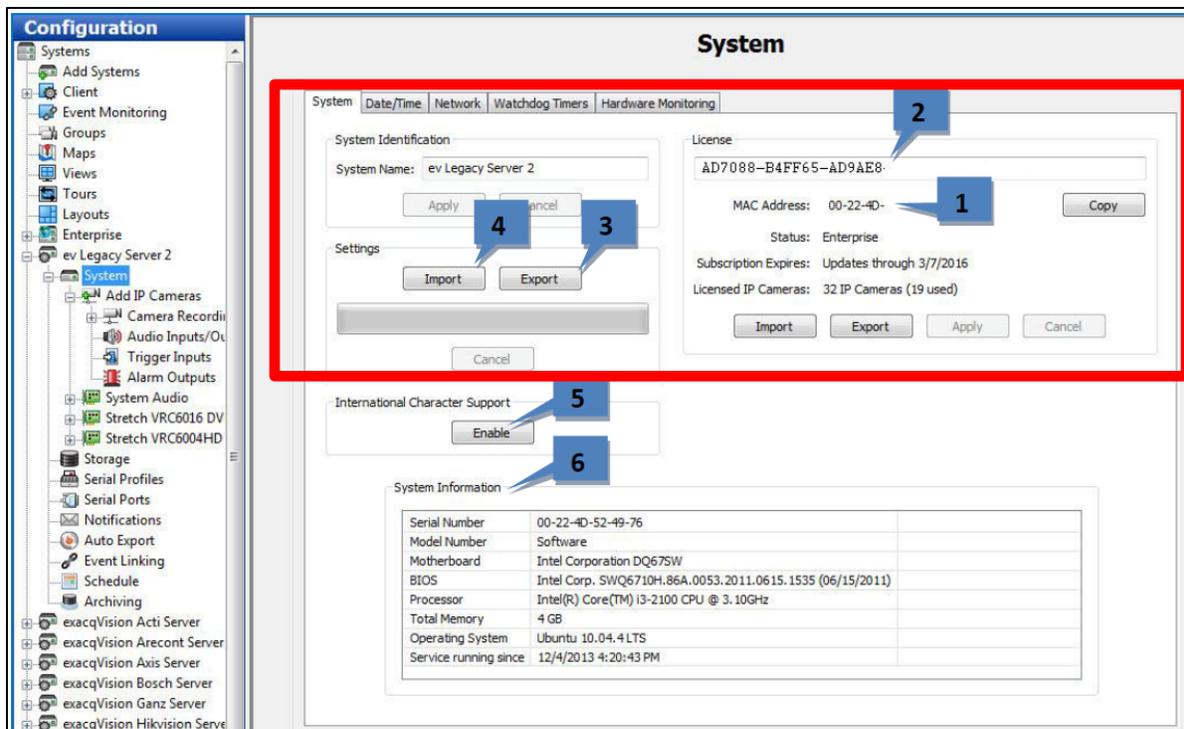
**Client/Server Architecture**

exacqVision software is based on a client/server architecture in which every computer is a client, server, or client/server combination. These configurations are defined as follows:

- A client computer provides access to a remote service on another computer over a TCP/IP network. The exacqVision Client software is a thick client, and the web browser is a thin client.
- A server computer provides services to client computers over the TCP/IP network. An exacqVision server receives and stores video from cameras; provides audio, video, and data as requested by thick clients; and hosts a web server (if enabled) for thin clients. The exacqVision Server software does not have a graphical user interface; only the client software allows interaction. A server can serve multiple simultaneous client connections, within hardware limitations.
- A client/server combination simultaneously operates client and server software. A loopback TCP/IP address of "localhost" (127.0.0.1) allows the client software to communicate with the server software on the same computer. exacqVision servers are configured at the factory as a client/server combination to provide a convenient initial configuration experience.

(exacqVision User Guide, p. 11)

25. The exacqVision VMS software identifies each exacqVision server to which one or more cameras and/or camera servers may be connected. The exacqVision VMS software displays a "License Key" and a "MAC Address" associated with, and received from, each of a number of connected servers. This is illustrated on page 18 of the exacqVision User Guide, which is reproduced below.



1. The MAC Address of the system's primary network adaptor is used to generate a license key. To obtain a license key online, provide the system MAC address to your dealer. Unlicensed exacqVision servers can connect to only one IP device at a time.
2. After the dealer obtains a license key from Exacq, enter the key in this box.

(exacqVision User Guide, p. 18)

26. As noted above, Exacq generates a License Key based on the particular MAC address of the hardware on which exacqVision software will be installed. As further explained in the exacqVision User Guide, “**MAC addressing requirements**... exacqVision software is licensed based on MAC addressing. Servers with teamed NICs or other arrangements that obscure the MAC require an additional USB-based NIC to provide a licensing MAC.” exacqVision User Guide, p. 9.

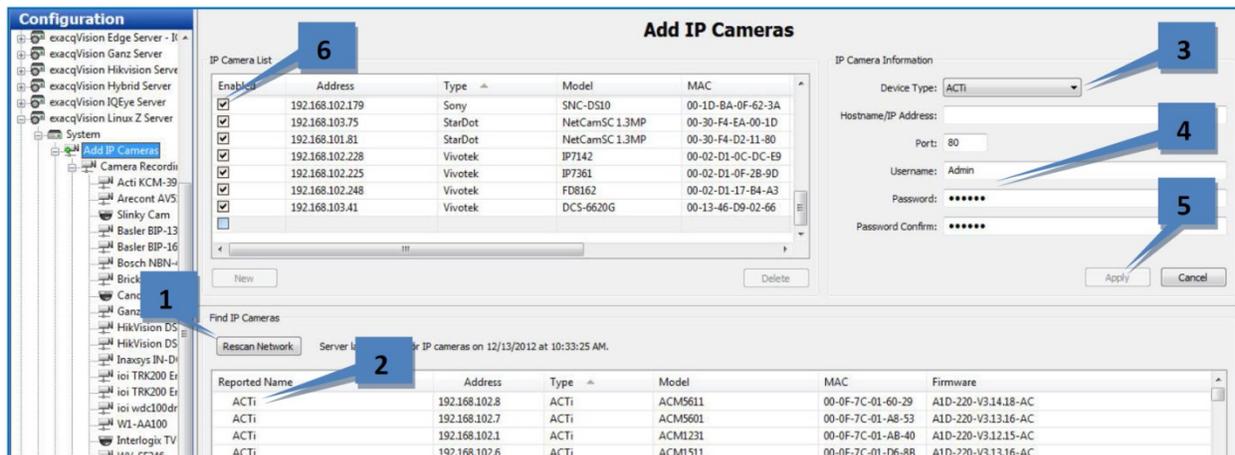
27. Exacq offers distinct license types that may be associated with each server in a video management system operating Exacq's exacqVision software.

The different license types of the exacqVision software currently offered by Exacq—Start, Professional, and Enterprise—are set forth in the exacqVision Product Brochure, as illustrated below.

exacqVision		VMS Software Solutions Overview (effective October 2014)		
Software specifications are subject to change without notice.		Start	Professional	Enterprise
Max Cameras Per Server		16 Analog / 16 IP	64 Analog / 128 IP	64 Analog / 128 IP
Max Server Connections Per Client		1	512 (client) / 16 (web browser client)	512 (client) / 16 (web browser client)
Windows & Linux Server Compatibility		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Free Windows, Linux & Mac Clients		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Browser-Based Viewing of Live/Stored Events		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Compatible with Free Exacq Mobile App		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
EasyConnect Auto-Detect/Connect to Compatible IP Cameras		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

(exacqVision Product Brochure, p. 3)

28. The exacqVision User Guide further describes how each server license may include a certain limited number of cameras that can be enabled under each license associated with a particular server. The exacqVision User Guide excerpt shown below depicts an “Add IP Cameras” interface indicating that the number of enabled cameras is “subject to licensing limits,” in accordance with the particular server license.

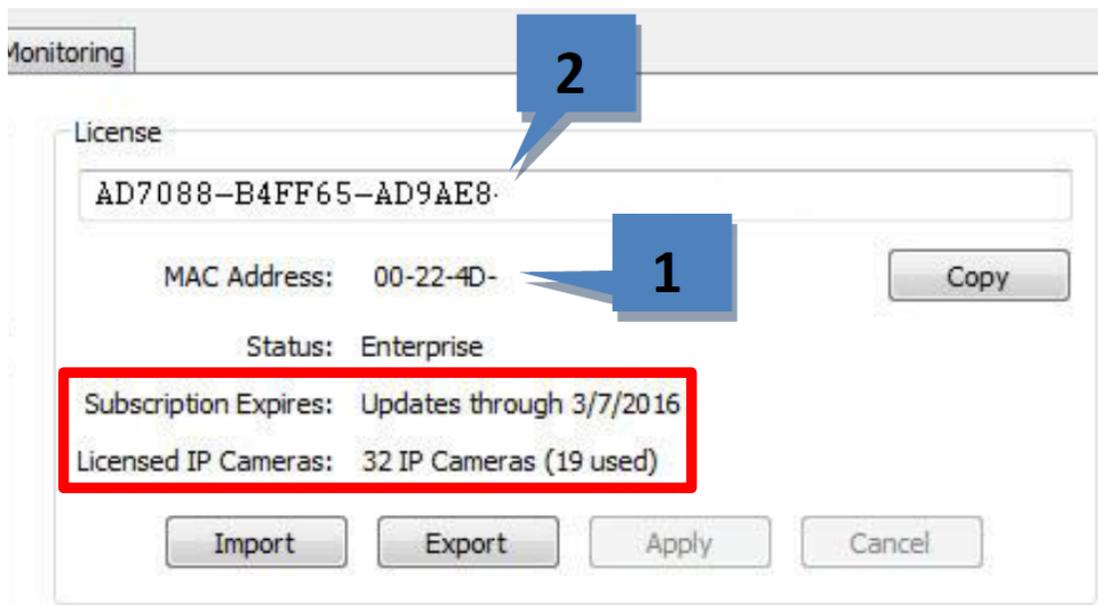


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6. To enable a camera, select its checkbox in the IP Camera List. The number of cameras you can enable is subject to licensing limits.

(exacqVision User Guide, p. 23)

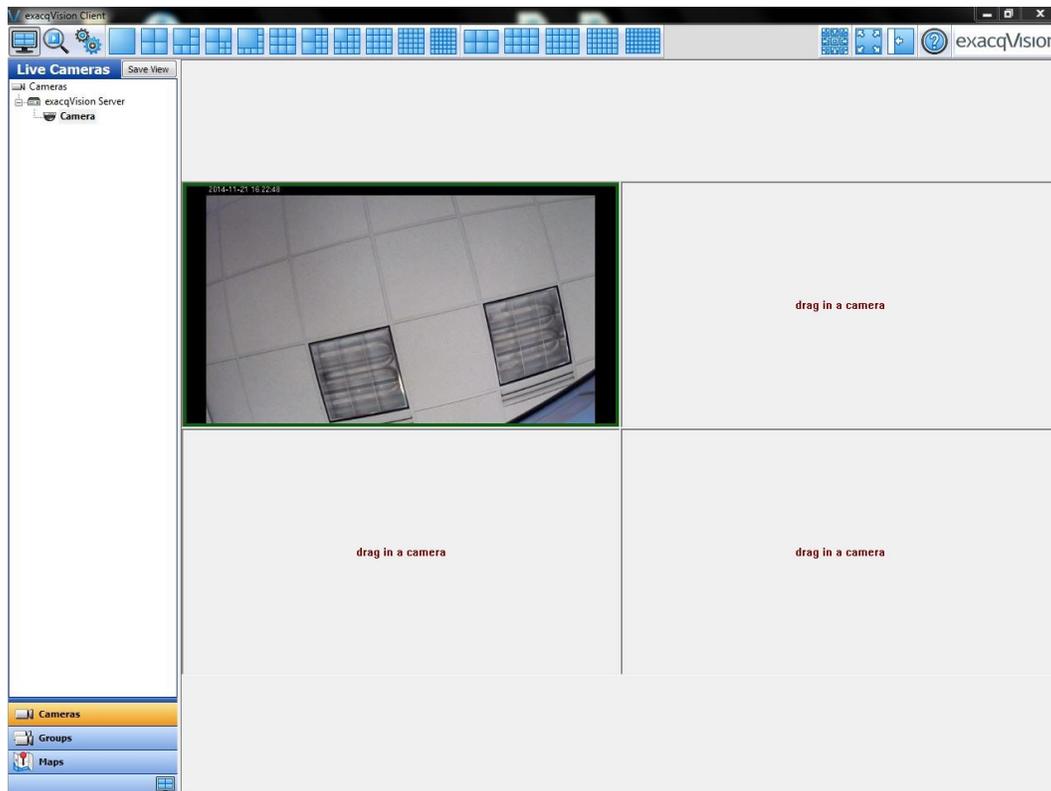
29. The exacqVision software's "System" interface page also summarizes the number of cameras that are licensed to a particular exacqVision server. By way of example, the exacqVision User Guide excerpt reproduced below illustrates a scenario where 32 cameras are available to be enabled in connection with a particular License Key. Once a License Key for a particular exacqVision server is obtained from Exacq, the user is instructed to enter the License Key into the exacqVision VMS software. As illustrated below, the number of cameras enabled and authorized to be enabled is updated within the exacqVision Client interface.



1. The MAC Address of the system's primary network adaptor is used to generate a license key. To obtain a license key online, provide the system MAC address to your dealer. Unlicensed exacqVision servers can connect to only one IP device at a time.
2. After the dealer obtains a license key from Exacq, enter the key in this box.

(exacqVision User Guide, p. 18)

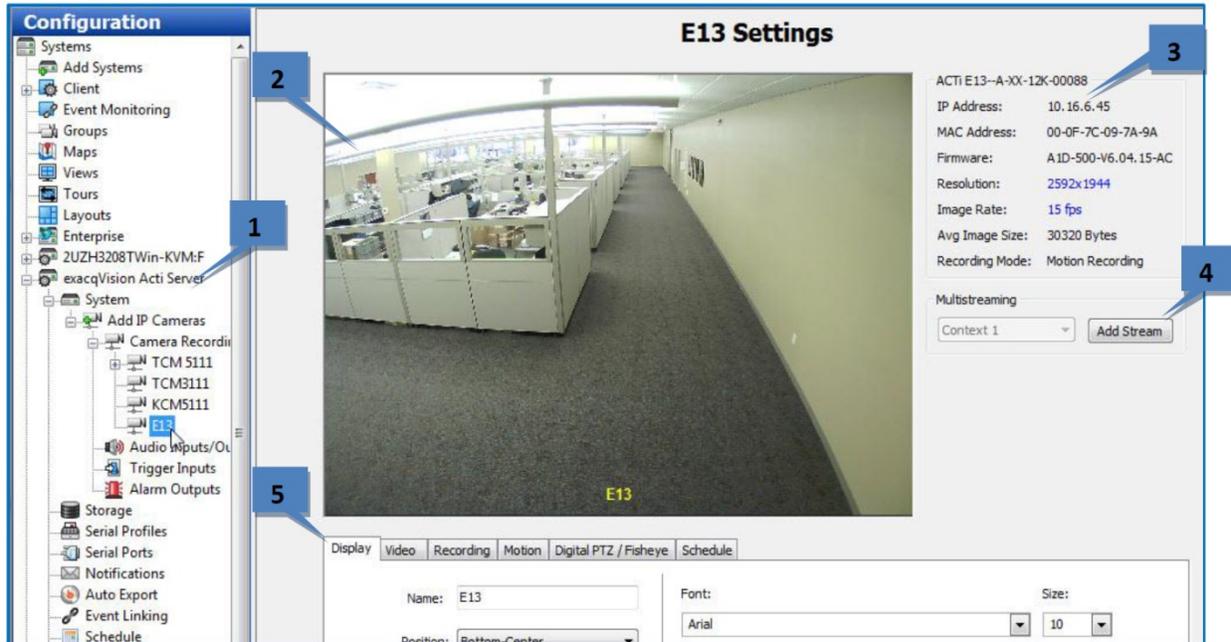
30. Each authorized and enabled camera provides images over a network to the exacqVision server under which it is licensed. In turn, the exacqVision Client software accesses both the licensed exacqVision server and images from enabled cameras. As shown below, the exacqVision VMS software provides a user interface display on a computer that includes a display window for each of the cameras accessed via the servers over the network.



*User Interface – exacqVision Client*

31. Additionally, exacqVision VMS software includes a “Camera Settings” interface that allows users to configure the settings of individual cameras. As shown below, such settings include how images are displayed and recorded.

## Camera Settings



(exacqVision User Guide, p. 26)

32. The exacqVision VMS software also allows multiple exacqVision servers to be administered from a single exacqVision Client. Each exacqVision server may include any number of enabled cameras, limited by its corresponding license. As illustrated below, the exacqVision Client’s “Systems” interface page arranges the multiple servers based on licensing information that is associated with each server’s MAC address.

## Systems

The screenshot shows a web-based interface titled 'Systems'. It features a search bar at the top right and a table with the following columns: System Name, Serial Number, Connection Status, License, MAC Address, Subscription, and Version. The table lists 13 servers. The 'License' column for all servers is 'Enterprise'. A red rectangular box highlights the 'License' column. Below the table are buttons for 'Import Licenses', 'Export Licenses', 'Connect All', 'Disconnect All', and 'Product Registration'. There is also a checkbox for 'Send usage statistics' and a 'Learn more' link.

	System Name	Serial Number	Connection Status	License	MAC Address	Subscription	Version
1	Enterprise - Case Managemen		Not connected.				
2	ev Legacy Server 3		Not connected.				
3	exacqVision Acti Server	38-60-77-9C-31-56	Connected.	Enterprise	00-1C-C0-41-C2-DD	updates through 2020-11-28	6.2.0.61821
4	exacqVision American Dynamic	70-54-D2-AB-08-5F	Connected.	Enterprise	70-54-D2-AB-08-5F	updates through 2016-12-04	6.2.0.61821
5	exacqVision Arecont Server	70-54-D2-AB-08-87	Connected.	Enterprise	70-54-D2-AB-08-87	updates through 2016-06-03	6.2.0.61821
6	exacqVision Axis Server	evAxisDemo	Connected.	Enterprise	00-1E-67-34-0E-65	updates through 2015-07-19	6.2.0.61821
7	exacqVision Bosch Server	EVA1.0ServerOVA	Connected.	Enterprise	00-50-56-A7-16-41	updates through 2015-11-17	6.2.0.61821
8	exacqVision Edge Server - Axi	00-40-8C-CE-50-32	Connected.	Enterprise	00-40-8C-CE-50-32	updates through 2015-03-03	6.2.0.61821
9	exacqVision Edge Server - Axi	00-40-8C-CE-4D-95	Login failed - invalid usernam				
10	exacqVision Ganz Server	EVA1.0ServerOVA	Connected.	Enterprise	00-50-56-A7-16-40	updates through 2015-11-17	6.2.0.61821
11	exacqVision Hikvision Server	EVA1.0ServerOVA	Connected.	Enterprise	00-50-56-A7-1D-6A	updates through 2015-10-23	6.2.0.61821
12	exacqVision Hybrid Server	ER0123456789	Connected.	Enterprise	00-30-48-B3-34-2A	updates through 2019-06-13	6.2.0.61821
13	exacqVision IQEye Server	00-19-D1-05-04-AD	Connected.	Enterprise	70-54-D2-AB-08-5A	updates through 2016-06-03	6.2.0.61821

(exacqVision User Guide, p. 73)

33. The manufacture, use, sale, offer for sale, and importation of Exacq's exacqVision software directly infringes at least claim 1 of the '566 Patent. Plaintiff has suffered damages as a result of the infringing activities of Exacq, and will continue to suffer such damages as long as those infringing activities continue.

34. Exacq was notified of its infringement of the '566 Patent at least as early as the filing of this Complaint.

35. Exacq had knowledge of the '566 Patent at least as early as the filing of this Complaint.

36. Upon information and belief, Exacq has had knowledge of the '566 Patent for several years. Based on the facts alleged above in Paragraphs 14-18, it is reasonable to infer that Exacq has had knowledge of the '566 Patent since its issuance or since JDS filed suit against Milestone in May of 2012. Alternatively, if

Exacq asserts that it had no knowledge of the '566 Patent prior to the filing of this Complaint, Exacq was willfully blind to a competitor's patent rights.

37. With knowledge of the '566 Patent, Exacq continues to infringe the '566 Patent.

38. Exacq is a substantially larger company than JDS. It would, therefore, be reasonable to infer that Exacq believed that it could infringe the '566 Patent with impunity based on its size advantage over JDS.

39. It is reasonable to infer based on the facts set forth above in Paragraphs 14-38 above, that Exacq's conduct has been willful, wanton and deliberate. It is also reasonable to infer that Exacq's actions have been objectively reckless based on the facts set forth in Paragraphs 14-38 above. The actions of Exacq with regard to infringement of the '566 Patent are willful such that Plaintiff is entitled to treble damages under 35 U.S.C. § 284.

40. Plaintiff has suffered damages as a result of the infringing activities of Exacq and will continue to suffer such damages as long as those infringing activities continue.

41. Plaintiff has no adequate remedy at law. Unless enjoined by this Court, Exacq will continue such acts of infringement, causing Plaintiff to incur substantial and irreparable damage.

## **VI. COUNT II – DIRECT INFRINGEMENT OF USPN 8,185,964**

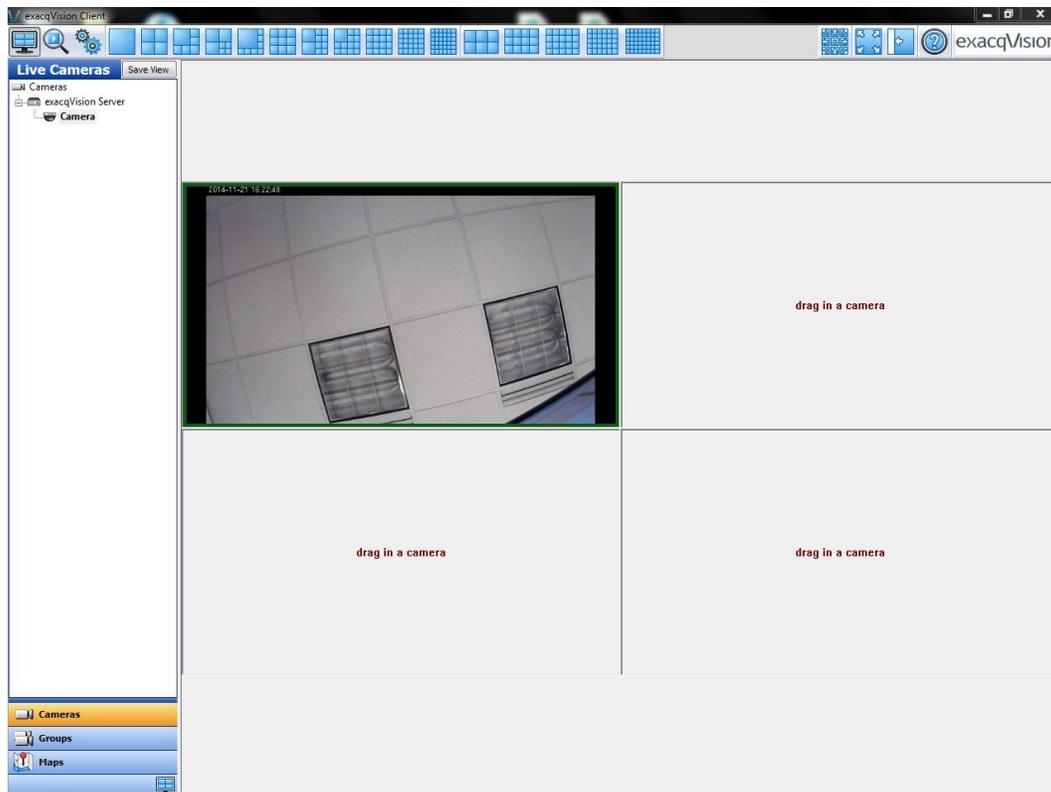
42. Plaintiff repeats and re-alleges the allegations contained in Paragraphs 1-41 above as if fully set forth herein.

43. Exacq has made, used, offered for sale, and sold in the United States, and continues to make, use, offer for sale, and sell in the United States video surveillance software, systems, and components. Exacq's activities infringe, induce others to infringe, and/or contributorily infringe the '964 Patent. These activities include providing exacqVision VMS software to customers and instructing customers regarding use of the software. As a non-limiting example, upon information and belief, the University of Michigan in Ann Arbor, Michigan, is one of those customers. By making, using, offering for sale, and/or selling technology including, but not limited to, its exacqVision Professional VMS in the United States, Exacq is infringing claims of the '964 Patent under 35 U.S.C. § 271(a).

44. Claim 1 of the '964 Patent recites the following: "A method of controlling access by a computer to a video server, comprising the steps of: sending a request from the computer to a video server over a network; receiving at the computer from the video server a unique identifier stored in and identifying the video server, wherein the unique identifier is received by the computer over the network; determining that access to the video server is authorized by comparing

the unique identifier received by the computer to one or more authorized unique identifiers; and in response to the determination, obtaining at the computer one or more images from the video server for displaying.”

45. Exacq’s exacqVision VMS software, for example, exacqVision Professional, resides on Exacq’s server(s) and can be installed on a user’s computer, is made up of a number of components. Such components include, among others, the “exacqVision Client,” the “exacqVision Server,” and the “exacqVision Web Service.” These components cooperate to implement features of the exacqVision Professional software. The user interface associated with exacqVision Professional is shown below.



*User Interface – exacqVision Client*

46. During operation, the exacqVision VMS software accesses, over a network, data uniquely identifying servers on which the exacqVision Server software resides. This is shown on page 11 of the User Guide of the exacqVision Professional software (hereinafter “exacqVision User Guide”), which is reproduced below.

3
exacqVision Software Overview

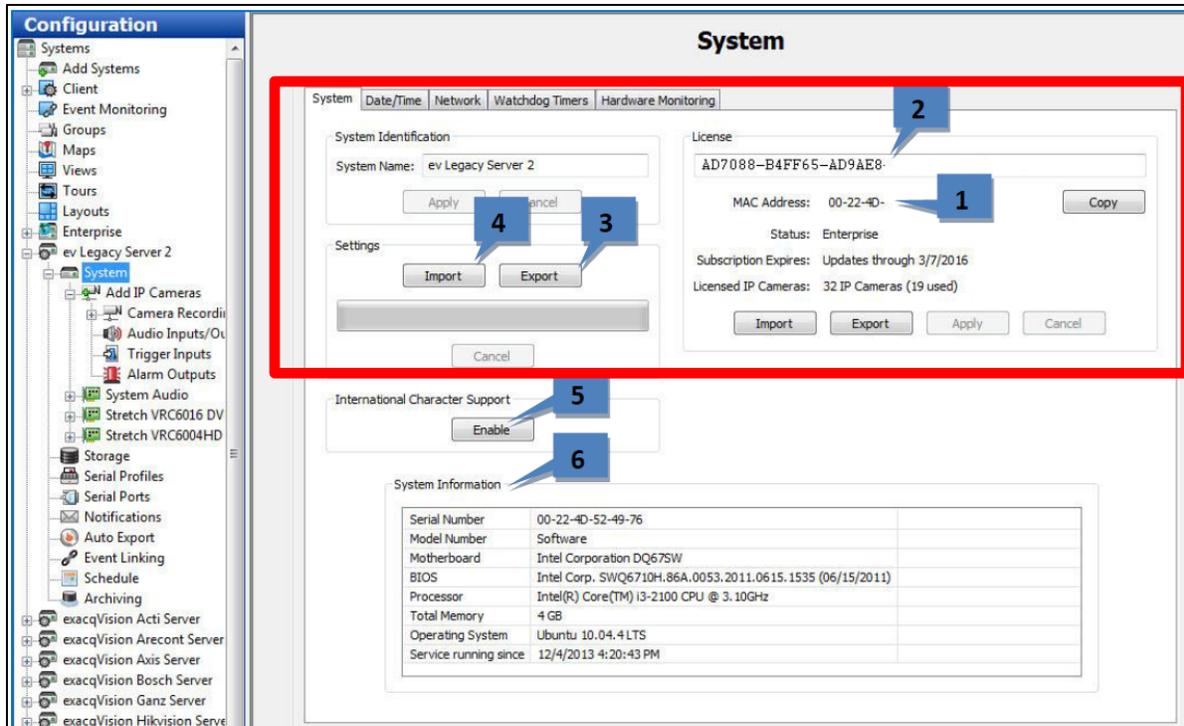
**Client/Server Architecture**

exacqVision software is based on a client/server architecture in which every computer is a client, server, or client/server combination. These configurations are defined as follows:

- A client computer provides access to a remote service on another computer over a TCP/IP network. The exacqVision Client software is a thick client, and the web browser is a thin client.
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- A client/server combination simultaneously operates client and server software. A loopback TCP/IP address of “localhost” (127.0.0.1) allows the client software to communicate with the server software on the same computer. exacqVision servers are configured at the factory as a client/server combination to provide a convenient initial configuration experience.

(exacqVision User Guide, p. 11)

47. The exacqVision VMS software identifies each exacqVision server to which one or more cameras and/or camera servers may be connected. The exacqVision VMS software displays a “License Key” and a “MAC Address” associated with, and received from, each of a number of connected servers. This is illustrated on page 18 of the exacqVision User Guide, which is reproduced below.



1. The MAC Address of the system's primary network adaptor is used to generate a license key. To obtain a license key online, provide the system MAC address to your dealer. Unlicensed exacqVision servers can connect to only one IP device at a time.
2. After the dealer obtains a license key from Exacq, enter the key in this box.

(exacqVision User Guide, p. 18)

48. As noted above, Exacq generates a License Key based on the particular MAC address of the hardware on which exacqVision software will be installed. As further explained in the exacqVision User Guide, “**MAC addressing requirements**... exacqVision software is licensed based on MAC addressing. Servers with teamed NICs or other arrangements that obscure the MAC require an additional USB-based NIC to provide a licensing MAC.” exacqVision User Guide, p. 9.

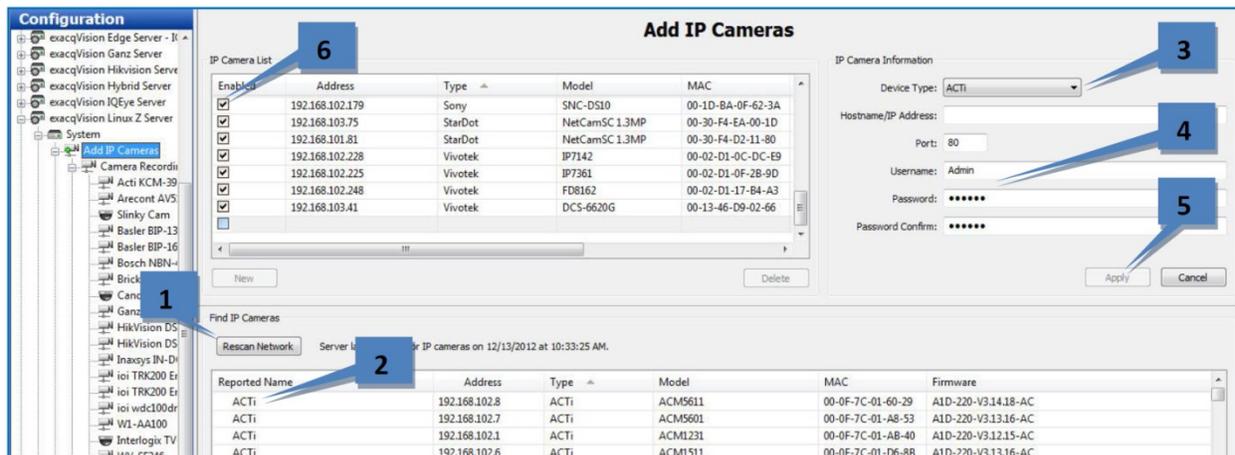
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The different license types of the exacqVision software currently offered by Exacq—Start, Professional, and Enterprise—are set forth in the exacqVision Product Brochure, as illustrated below.

exacqVision		VMS Software Solutions Overview (effective October 2014)		
Software specifications are subject to change without notice.		Start	Professional	Enterprise
Max Cameras Per Server		16 Analog / 16 IP	64 Analog / 128 IP	64 Analog / 128 IP
Max Server Connections Per Client		1	512 (client) / 16 (web browser client)	512 (client) / 16 (web browser client)
Windows & Linux Server Compatibility		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Free Windows, Linux & Mac Clients		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Browser-Based Viewing of Live/Stored Events		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Compatible with Free Exacq Mobile App		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
EasyConnect Auto-Detect/Connect to Compatible IP Cameras		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

(exacqVision Product Brochure, p. 3)

50. The exacqVision User Guide further describes how each server license may include a certain limited number of cameras that can be enabled under each license associated with a particular server. The exacqVision User Guide excerpt shown below depicts an “Add IP Cameras” interface indicating that the number of enabled cameras is “subject to licensing limits,” in accordance with the particular server license.



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6. To enable a camera, select its checkbox in the IP Camera List. The number of cameras you can enable is subject to licensing limits.

(exacqVision User Guide, p. 23)

51. The exacqVision software's "System" interface page also summarizes the number of cameras that are licensed to a particular exacqVision server. By way of example, the exacqVision User Guide excerpt reproduced below illustrates a scenario where 32 cameras are available to be enabled in connection with a particular License Key. Once a License Key for a particular exacqVision server is obtained from Exacq, the user is instructed to enter the License Key into the exacqVision VMS software. As illustrated below, the number of cameras enabled and authorized to be enabled is updated within the exacqVision Client interface.

The screenshot shows the 'Monitoring' tab in the exacqVision software. The 'License' section contains the following information:

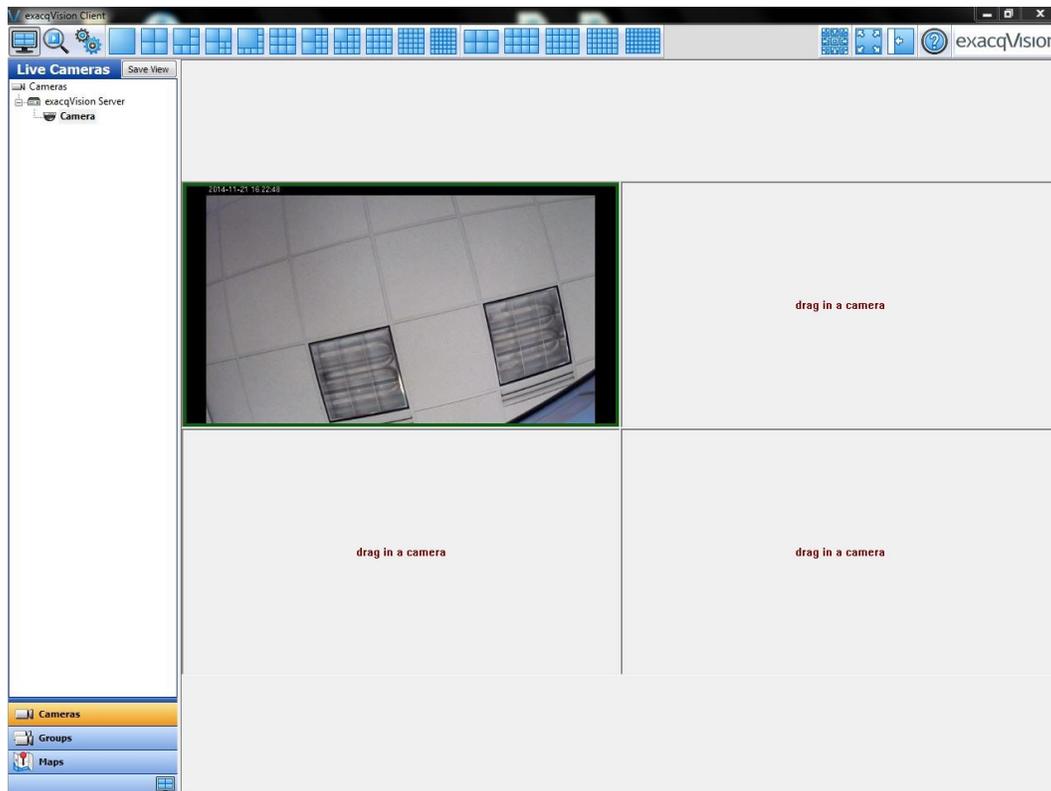
- License Key: AD7088-B4FF65-AD9AE8
- MAC Address: 00-22-4D- (with a 'Copy' button to the right)
- Status: Enterprise
- Subscription Expires: Updates through 3/7/2016
- Licensed IP Cameras: 32 IP Cameras (19 used)

At the bottom of the license section are buttons for 'Import', 'Export', 'Apply', and 'Cancel'.

1. The MAC Address of the system's primary network adaptor is used to generate a license key. To obtain a license key online, provide the system MAC address to your dealer. Unlicensed exacqVision servers can connect to only one IP device at a time.
2. After the dealer obtains a license key from Exacq, enter the key in this box.

(exacqVision User Guide, p. 18)

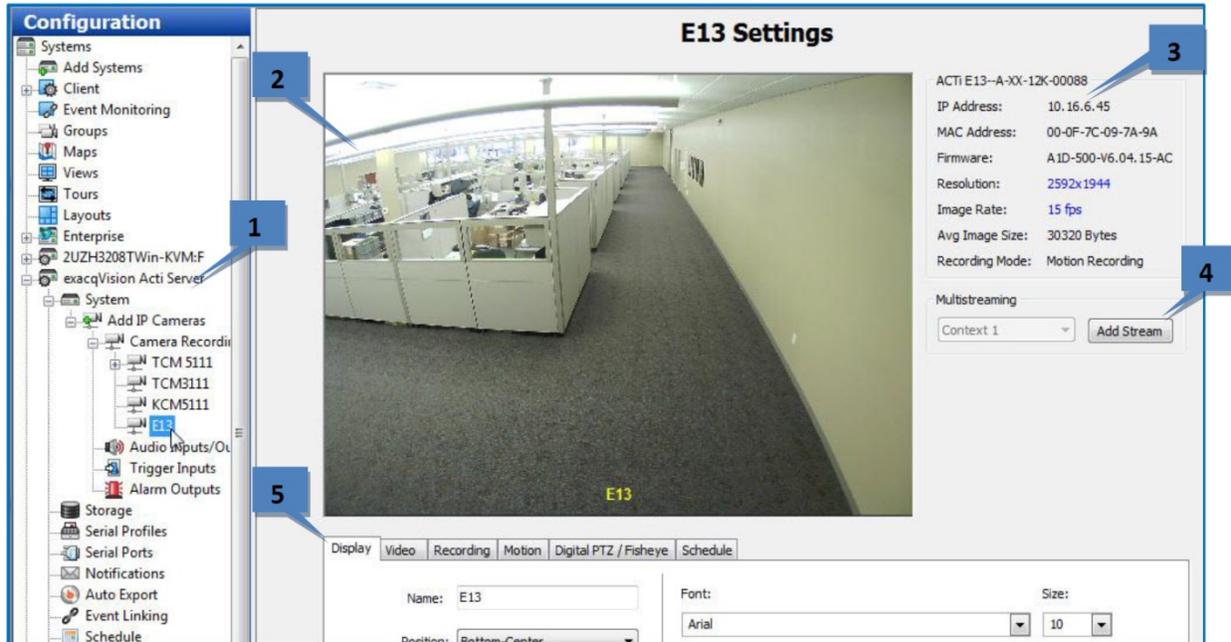
52. Each authorized and enabled camera provides images over a network to the exacqVision server under which it is licensed. In turn, the exacqVision Client software accesses both the licensed exacqVision server and images from enabled cameras. As shown below, the exacqVision VMS software provides a user interface display for displaying images from each of the cameras accessed via the servers over the network.



*User Interface – exacqVision Client*

53. Additionally, exacqVision VMS software includes a “Camera Settings” interface that allows users to configure the settings of individual cameras. As shown below, such settings include how images are displayed and recorded.

## Camera Settings



(exacqVision User Guide, p. 26)

54. The exacqVision VMS software also allows multiple exacqVision servers to be administered from a single exacqVision Client. Each exacqVision server may include any number of enabled cameras, limited by its corresponding license. As illustrated below, the exacqVision Client’s “Systems” interface page arranges the multiple servers based on licensing information that is associated with each server’s MAC address.

## Systems

The screenshot shows a web-based interface titled "Systems" with a search bar and a table of server data. The table has columns for System Name, Serial Number, Connection Status, License, MAC Address, Subscription, and Version. A red rectangular box highlights the "License" column, which contains the word "Enterprise" for all 13 listed servers. Below the table are buttons for "Import Licenses", "Export Licenses", "Connect All", "Disconnect All", and "Product Registration". There is also a checkbox for "Send usage statistics" and a "Learn more" link.

	System Name	Serial Number	Connection Status	License	MAC Address	Subscription	Version
1	Enterprise - Case Managemen		Not connected.				
2	ev Legacy Server 3		Not connected.				
3	exacqVision Acti Server	38-60-77-9C-31-56	Connected.	Enterprise	00-1C-C0-41-C2-DD	updates through 2020-11-28	6.2.0.61821
4	exacqVision American Dynamic	70-54-D2-AB-08-5F	Connected.	Enterprise	70-54-D2-AB-08-5F	updates through 2016-12-04	6.2.0.61821
5	exacqVision Arecont Server	70-54-D2-AB-08-87	Connected.	Enterprise	70-54-D2-AB-08-87	updates through 2016-06-03	6.2.0.61821
6	exacqVision Axis Server	evAxisDemo	Connected.	Enterprise	00-1E-67-34-0E-65	updates through 2015-07-19	6.2.0.61821
7	exacqVision Bosch Server	EVA1.0ServerOVA	Connected.	Enterprise	00-50-56-A7-16-41	updates through 2015-11-17	6.2.0.61821
8	exacqVision Edge Server - Axi	00-40-8C-CE-50-32	Connected.	Enterprise	00-40-8C-CE-50-32	updates through 2015-03-03	6.2.0.61821
9	exacqVision Edge Server - Axi	00-40-8C-CE-4D-95	Login failed - invalid usernam				
10	exacqVision Ganz Server	EVA1.0ServerOVA	Connected.	Enterprise	00-50-56-A7-16-40	updates through 2015-11-17	6.2.0.61821
11	exacqVision Hikvision Server	EVA1.0ServerOVA	Connected.	Enterprise	00-50-56-A7-1D-6A	updates through 2015-10-23	6.2.0.61821
12	exacqVision Hybrid Server	ER0123456789	Connected.	Enterprise	00-30-48-B3-34-2A	updates through 2019-06-13	6.2.0.61821
13	exacqVision IQEye Server	00-19-D1-05-04-AD	Connected.	Enterprise	70-54-D2-AB-08-5A	updates through 2016-06-03	6.2.0.61821

(exacqVision User Guide, p. 73)

55. The manufacture, use, sale, offer for sale, and importation of Exacq's exacqVision software directly infringes at least claim 1 of the '964 Patent. Plaintiff has suffered damages as a result of the infringing activities of Exacq, and will continue to suffer such damages as long as those infringing activities continue.

56. Exacq was notified of its infringement of the '964 Patent at least as early as the filing of this Complaint.

57. Exacq had knowledge of the '964 Patent at least as early as the filing of this Complaint.

58. Upon information and belief, Exacq has had knowledge of the '964 Patent for several years. Based on the facts alleged above in Paragraphs 14-18, it is reasonable to infer that Exacq has had knowledge of the '964 Patent since its issuance or since JDS filed suit against Milestone in May of 2012. Alternatively, if

Exacq asserts that it had no knowledge of the '964 Patent prior to the filing of this Complaint, Exacq was willfully blind to a competitor's patent rights.

59. With knowledge of the '964 Patent, Exacq continues to infringe the '964 Patent.

60. Exacq is a substantially larger company than JDS. It would, therefore, be reasonable to infer that Exacq believed that it could infringe the '964 Patent with impunity based on its size advantage over JDS.

61. It is reasonable to infer based on the facts set forth above in Paragraphs 14-18 and 42-60 above, that Exacq's conduct has been willful, wanton and deliberate. It is also reasonable to infer that Exacq's actions have been objectively reckless based on the facts set forth in Paragraphs 14-18 and 42-60 above. The actions of Exacq with regard to infringement of the '566 Patent are willful such that Plaintiff is entitled to treble damages under 35 U.S.C. § 284.

62. Plaintiff has suffered damages as a result of the infringing activities of Exacq and will continue to suffer such damages as long as those infringing activities continue.

63. Plaintiff has no adequate remedy at law. Unless enjoined by this Court, Exacq will continue such acts of infringement, causing Plaintiff to incur substantial and irreparable damage.

## VII. COUNT III – INDIRECT INFRINGEMENT OF USPN 6,891,566

64. Plaintiff repeats and re-alleges the allegations contained in Paragraphs 1-63 above as if fully set forth herein.

65. Claim 49 of the '566 Patent is directed to video management software installed on a computer with cameras connected to the computer.

66. In order for any video management software to provide any intended function, it must be installed on a computer, which is connected—or otherwise has access—to cameras. As shown below, Exacq states on a data sheet associated with its exacqVision “ELP-Series IP Camera Server” that the device is “Pre-Loaded with exacqVision Professional VMS.” exacqVision ELP-Series Data Sheet, p. 1.



Pre-Loaded with exacqVision Professional VMS

\*\*\*

- **View Video From Anywhere**

- Pre-loaded with exacqVision VMS software for immediate use
- View video and manage servers on multiple Windows/Linux/Mac PCs with free client software
- View live and recorded video on any browser, iOS, Android or Windows Phone 8 mobile device

(exacqVision ELP-Series Data Sheet, p. 1)

67. The exacqVision ELP-Series Data Sheet adds that an initial server license is included with the device, which allows 4 cameras, and is “expandable to 24 per server.” Each of the servers having a unique server license may be managed over a network by a single “unified client.”

- |   |
|---|
| <ul style="list-style-type: none"> <li>• <b>Up to 24 Cameras Per Server</b> <ul style="list-style-type: none"> <li>• Continuously record up to 200 Mbps of video, audio and data</li> <li>• Includes 4 IP camera licenses, expandable to 24 per server</li> <li>• Compatible with over 1,800 IP cameras</li> </ul> </li> <li>• <b>Unlimited Scalability</b> <ul style="list-style-type: none"> <li>• Add unlimited servers for greater capacity or dispersed geographic location</li> <li>• Easily expand license to record additional high definition IP cameras</li> <li>• Easily manage multiple NVRs from a single, unified client</li> </ul> </li> </ul> |
|---|

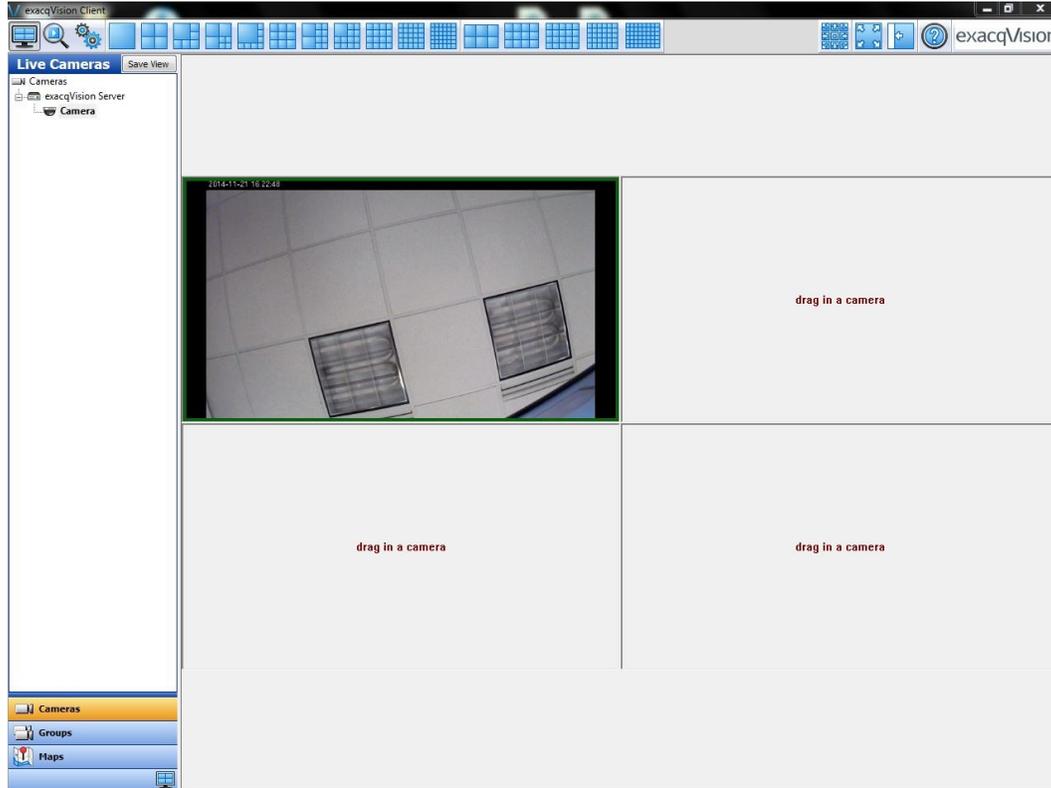
(exacqVision ELP-Series Data Sheet, p. 1)

68. Exacq offers distinct license types that may be associated with each server in a video management system operating its exacqVision software. The different license types of the exacqVision software currently offered by Exacq—Start, Professional, and Enterprise—are set forth in the exacqVision Product Brochure, as illustrated below.

exacqVision		VMS Software Solutions Overview <small>(effective October 2014)</small>		
Software specifications are subject to change without notice.		Start	Professional	Enterprise
Max Cameras Per Server		16 Analog / 16 IP	64 Analog / 128 IP	64 Analog / 128 IP
Max Server Connections Per Client		1	512 (client) / 16 (web browser client)	512 (client) / 16 (web browser client)
Windows & Linux Server Compatibility		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Free Windows, Linux & Mac Clients		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Browser-Based Viewing of Live/Stored Events		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Compatible with Free Exacq Mobile App		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
EasyConnect Auto-Detect/Connect to Compatible IP Cameras		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

(exacqVision Product Brochure, p. 3)

69. Exacq’s exacqVision VMS software, for example, exacqVision Professional, which resides on Exacq’s server(s) and can be installed on a user’s computer, is made up of a number of components. Such components include, among others, the “exacqVision Client,” the “exacqVision Server,” and the “exacqVision Web Service.” These components cooperate to implement features of the exacqVision Professional software. The user interface associated with exacqVision Professional is shown below.



*User Interface – exacqVision Client*

70. During operation, the exacqVision Client accesses, over a network, data uniquely identifying servers on which the exacqVision Server software resides. This is shown on page 11 of the User Guide of the exacqVision

Professional software (hereinafter “exacqVision User Guide”), which is reproduced below.

3
**exacqVision Software Overview**

**Client/Server Architecture**

exacqVision software is based on a client/server architecture in which every computer is a client, server, or client/server combination. These configurations are defined as follows:

- A client computer provides access to a remote service on another computer over a TCP/IP network. The exacqVision Client software is a thick client, and the web browser is a thin client.
- A server computer provides services to client computers over the TCP/IP network. An exacqVision server receives and stores video from cameras; provides audio, video, and data as requested by thick clients; and hosts a web server (if enabled) for thin clients. The exacqVision Server software does not have a graphical user interface; only the client software allows interaction. A server can serve multiple simultaneous client connections, within hardware limitations.
- A client/server combination simultaneously operates client and server software. A loopback TCP/IP address of “localhost” (127.0.0.1) allows the client software to communicate with the server software on the same computer. exacqVision servers are configured at the factory as a client/server combination to provide a convenient initial configuration experience.

(exacqVision User Guide, p. 11)

71. The exacqVision VMS software identifies each exacqVision server to which one or more cameras and/or camera servers may be connected. The exacqVision VMS software displays a “License Key” and a “MAC Address” associated with, and received from, each of a number of connected servers. This is illustrated on page 18 of the exacqVision User Guide, which is reproduced below.

The screenshot shows the 'System' configuration page in exacqVision. The 'License' section is highlighted with a red box. It contains a text input field for the license key (AD7088-B4FF65-AD9AE8) and a MAC Address field (00-22-4D-...). Numbered callouts 1 through 6 point to specific elements: 1 points to the MAC Address field, 2 points to the License input field, 3 points to the Cancel button, 4 points to the Apply button, 5 points to the Enable button in the International Character Support section, and 6 points to the System Information table.

1. The MAC Address of the system's primary network adaptor is used to generate a license key. To obtain a license key online, provide the system MAC address to your dealer. Unlicensed exacqVision servers can connect to only one IP device at a time.

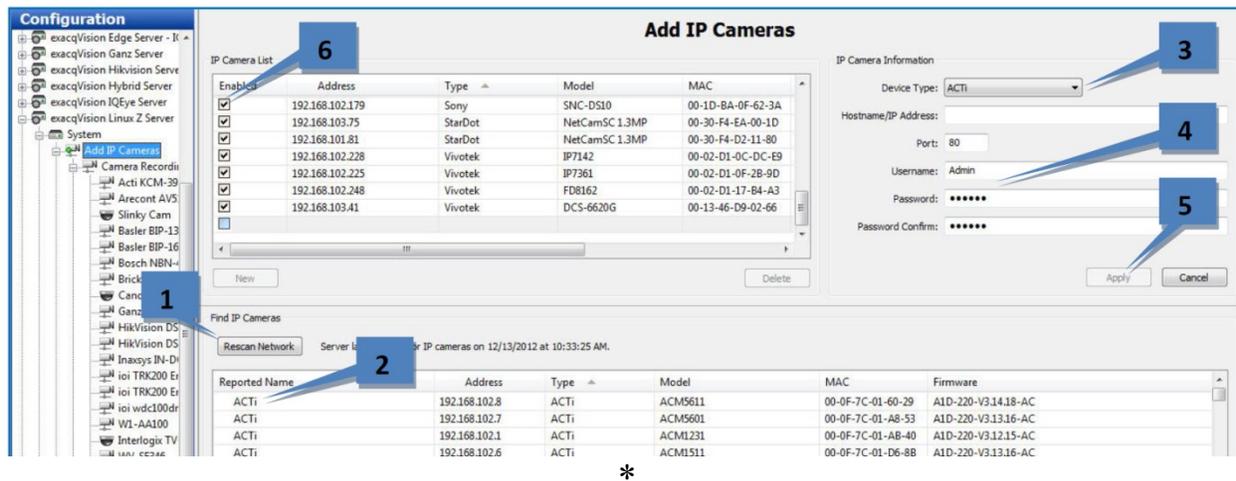
2. After the dealer obtains a license key from Exacq, enter the key in this box.

(exacqVision User Guide, p. 18)

72. As noted above, Exacq generates a License Key based on the particular MAC address of the hardware on which exacqVision software will be installed. Also further explained in the exacqVision User Guide, “**MAC addressing requirements**... exacqVision software is licensed based on MAC addressing. Servers with teamed NICs or other arrangements that obscure the MAC require an additional USB-based NIC to provide a licensing MAC.” exacqVision User Guide, p. 9.

73. The exacqVision User Guide further describes how each server license may include a certain limited number of cameras that can be enabled under

each license associated with a particular server. The exacqVision User Guide excerpt shown below depicts an “Add IP Cameras” interface indicating that the number of enabled cameras is “subject to licensing limits,” in accordance with the particular server license.



6. To enable a camera, select its checkbox in the IP Camera List. The number of cameras you can enable is subject to licensing limits.

(exacqVision User Guide, p. 23)

74. The exacqVision software’s “System” interface page also summarizes the number of cameras that are licensed to a particular exacqVision server. By way of example, the exacqVision User Guide excerpt reproduced below illustrates a scenario where 32 cameras are available to be enabled in connection with a particular License Key. Once a License Key for a particular exacqVision server is obtained from Exacq, the user is instructed to enter the License Key into the exacqVision VMS software. As illustrated below, the number of cameras enabled and authorized to be enabled is updated within the exacqVision Client interface.

monitoring

License

AD7088-B4FF65-AD9AE8

MAC Address: 00-22-4D-

Copy

Status: Enterprise

Subscription Expires: Updates through 3/7/2016

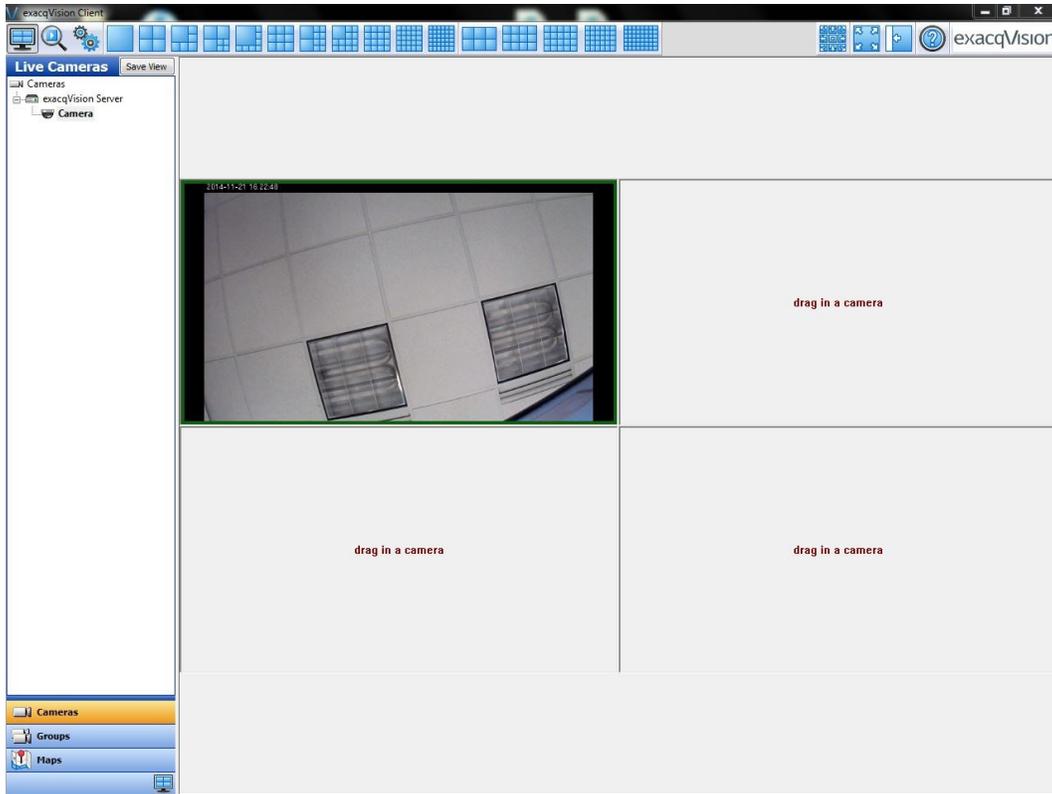
Licensed IP Cameras: 32 IP Cameras (19 used)

Import Export Apply Cancel

1. The MAC Address of the system's primary network adaptor is used to generate a license key. To obtain a license key online, provide the system MAC address to your dealer. Unlicensed exacqVision servers can connect to only one IP device at a time.
2. After the dealer obtains a license key from Exacq, enter the key in this box.

(exacqVision User Guide, p. 18)

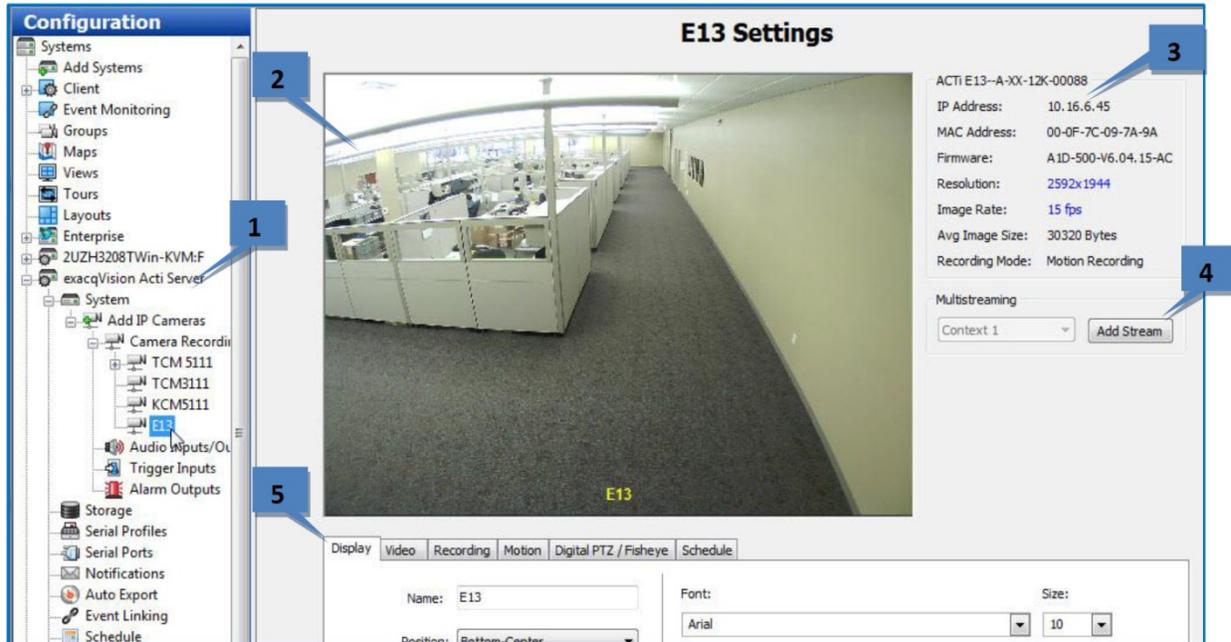
75. Each authorized and enabled camera provides images over a network to the exacqVision server under which it is licensed. In turn, the exacqVision Client software accesses both the licensed exacqVision server and images from enabled cameras. As shown below, the exacqVision VMS software provides a user interface display on a computer that includes a display window for each of the cameras accessed via the servers over the network.



*User Interface – exacqVision Client*

76. Additionally, exacqVision VMS software includes a “Camera Settings” interface that allows users to configure the settings of individual cameras. As shown below, such settings include how images are displayed and recorded.

## Camera Settings



(exacqVision User Guide, p. 26)

77. The exacqVision VMS software also allows multiple exacqVision servers to be administered from a single exacqVision Client. Each exacqVision server may include any number of enabled cameras, limited by its corresponding license. As illustrated below, the exacqVision Client’s “Systems” interface page arranges the multiple servers based on licensing information that is associated with each server’s MAC address.

## Systems

The screenshot shows a web-based interface titled "Systems" with a search bar and a table of server information. The table has columns for System Name, Serial Number, Connection Status, License, MAC Address, Subscription, and Version. A red box highlights the License and MAC Address columns for rows 3 through 13. Below the table are buttons for "Import Licenses", "Export Licenses", "Connect All", "Disconnect All", "Product Registration", and a checkbox for "Send usage statistics".

	System Name	Serial Number	Connection Status	License	MAC Address	Subscription	Version
1	Enterprise - Case Managemen		Not connected.				
2	ev Legacy Server 3		Not connected.				
3	exacqVision Acti Server	38-60-77-9C-31-56	Connected.	Enterprise	00-1C-C0-41-C2-DD	updates through 2020-11-28	6.2.0.61821
4	exacqVision American Dynamic	70-54-D2-AB-08-5F	Connected.	Enterprise	70-54-D2-AB-08-5F	updates through 2016-12-04	6.2.0.61821
5	exacqVision Arecont Server	70-54-D2-AB-08-87	Connected.	Enterprise	70-54-D2-AB-08-87	updates through 2016-06-03	6.2.0.61821
6	exacqVision Axis Server	evAxisDemo	Connected.	Enterprise	00-1E-67-34-0E-65	updates through 2015-07-19	6.2.0.61821
7	exacqVision Bosch Server	EVA1.0ServerOVA	Connected.	Enterprise	00-50-56-A7-16-41	updates through 2015-11-17	6.2.0.61821
8	exacqVision Edge Server - Axi	00-40-8C-CE-50-32	Connected.	Enterprise	00-40-8C-CE-50-32	updates through 2015-03-03	6.2.0.61821
9	exacqVision Edge Server - Axi	00-40-8C-CE-4D-95	Login failed - invalid usernam				
10	exacqVision Ganz Server	EVA1.0ServerOVA	Connected.	Enterprise	00-50-56-A7-16-40	updates through 2015-11-17	6.2.0.61821
11	exacqVision Hikvision Server	EVA1.0ServerOVA	Connected.	Enterprise	00-50-56-A7-1D-6A	updates through 2015-10-23	6.2.0.61821
12	exacqVision Hybrid Server	ER0123456789	Connected.	Enterprise	00-30-48-B3-34-2A	updates through 2019-06-13	6.2.0.61821
13	exacqVision IQEye Server	00-19-D1-05-04-AD	Connected.	Enterprise	70-54-D2-AB-08-5A	updates through 2016-06-03	6.2.0.61821

(exacqVision User Guide, p. 73)

78. Exacq’s exacqVision User Guide contains a section titled “Installing exacqVision Software on Third-Party Clients and Servers,” which provides users and/or customers instructions regarding software installation. The section states that “exacqVision software is licensed based on MAC addressing.” exacqVision User Guide, p. 9.

79. In view of the facts alleged above in Paragraphs 64-78, a video management system based on Exacq’s exacqVision software cannot function for its intended purpose without practicing the claims of the ’566 Patent. It is thus a reasonable inference that the exacqVision VMS software is useless without infringing the ’566 Patent. Plaintiff asserts that this reasonable inference is true.

80. As illustrated below, in its exacqVision User Guide, Exacq instructs users to install both the exacqVision Server software and the exacqVision Client software on a computer.

<p><b>Server Software Installation</b></p> <ol style="list-style-type: none"> <li>1. For Windows servers, download the latest server and web services software installation from <a href="http://downloads.exacq.com/reseller/exacqVision.exe">http://downloads.exacq.com/reseller/exacqVision.exe</a></li> <li>2. For Linux servers, download the latest server and web services software installation from <a href="http://downloads.exacq.com/reseller/Ubuntu/Dapper/exacqVisionServer.deb">http://downloads.exacq.com/reseller/Ubuntu/Dapper/exacqVisionServer.deb</a>.</li> <li>3. Using an administrator account, run the executable to start the installation wizard.</li> <li>4. Configure the IP address, username, and password on all cameras by following the manufacturer's instructions or the <i>exacqVision IP Camera Quickstart Guide</i> found at <a href="https://www.exacq.com/downloads/ev-ip-quickstart-0311.pdf">https://www.exacq.com/downloads/ev-ip-quickstart-0311.pdf</a>.</li> <li>5. Test connectivity to each camera with the ping command.</li> </ol> <p><b>Client Software Installation</b></p> <ol style="list-style-type: none"> <li>1. Download the latest client software from <a href="https://downloads.exacq.com/downloads/exacqVisionClient.exe">https://downloads.exacq.com/downloads/exacqVisionClient.exe</a>.</li> <li>2. Using an administrator account, run the executable to start the installation wizard.</li> <li>3. Confirm connectivity with the server using the ping command and server IP address. If the client PC cannot communicate with the server, contact the network administrator.</li> <li>4. Start the exacqVision Client software and enter the configuration page.</li> <li>5. In the site tree, select Add Systems.</li> <li>6. Click New and enter the username admin, password admin256, and IP address (static) or hostname (fixed) that was configured in previous steps. Click Apply. If the new server appears in the system list table with a status of Connected, the initial server configuration is complete. If the server does NOT connect, but server connectivity was confirmed in previous steps, ensure that the PC anti-virus software is not blocking communications with the server IP addresses and ports.</li> <li>7. Proceed to Chapter 4 to start exacqVision server configuration.</li> </ol>
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(exacqVision User Guide, p. 10)

81. In its exacqVision User Guide, Exacq also instructs users—as part of a “System Installation Checklist”—to “See the IP Camera Quick Start Guide for information on configuring the camera IP addresses, usernames, and passwords. This document can be found at <http://www.exacq.com/support/specsheets.html>.”

exacqVision User Guide, p. 9.

	<p><b>Configure IP Cameras</b></p> <p><input type="checkbox"/> See the IP Camera Quick Start Guide for information on configuring the camera IP addresses, usernames, and passwords. This document can be found at <a href="http://www.exacq.com/support/specsheets.html">http://www.exacq.com/support/specsheets.html</a>.</p>
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	<b>Add IP Cameras</b> <input type="checkbox"/> Add IP cameras to the exacqVision servers.
	<b>Camera Recording (IP cameras)</b> <input type="checkbox"/> Set resolutions <sup>1</sup> . <input type="checkbox"/> Set frame rate <sup>1</sup> .
	<b>Camera Recording (analog cameras)</b> <input type="checkbox"/> Set resolutions <sup>1</sup> . <input type="checkbox"/> Set frame rates <sup>1</sup> . <input type="checkbox"/> Disable cameras that are not connected.

(exacqVision User Guide, p. 6)

82. As shown on page 6 of the exacqVision User Guide, during installation of Exacq’s software, users are both directed and required to “add IP cameras to the exacqVision servers.” Indeed, claim 49 of the ’566 Patent is practiced in this set up procedure mandated and required by Exacq.

83. Exacq’s website also states that it provides “Technical Support” for its partners and end users. Exacq further provides various training courses, videos, and certifications related to its video management software.

84. On Exacq’s website—and also in many informational documents and instructional materials it makes available through its website—Exacq illustrates how its software must be installed on a computer and connected to cameras to provide its intended function as video management software.

85. In the “Knowledge Base” portion of its website, Exacq provides responses to several frequently asked questions. One such question is “**How is exacqVision NVR software licensed?**” The provided response states, “The exacqVision NVR software licenses a specific number of cameras to a key based

upon the server NIC's MAC address." *See*

[https://exacq.com/kb/#loadAnswer~478d1508-29ba-c777-1219-](https://exacq.com/kb/#loadAnswer~478d1508-29ba-c777-1219-4bc3755facf0~df800adf-789d-08a2-203a-4bd1f6931baf)

[4bc3755facf0~df800adf-789d-08a2-203a-4bd1f6931baf](https://exacq.com/kb/#loadAnswer~478d1508-29ba-c777-1219-4bc3755facf0~df800adf-789d-08a2-203a-4bd1f6931baf).

86. In the "Knowledge Base" portion of its website, another frequently asked question inquires "**How do I apply a license to an exacqVision server?**"

In response, Exacq provides a step-by-step explanation of how users obtain a unique license key specific to a particular video server. Notably, the .key file includes a "filename identical to the MAC address of the system." *See*

[https://exacq.com/kb/#loadAnswer~62da871d-3c79-8664-db36-](https://exacq.com/kb/#loadAnswer~62da871d-3c79-8664-db36-4d515f2d3d87~df800adf-789d-08a2-203a-4bd1f6931baf)

[4d515f2d3d87~df800adf-789d-08a2-203a-4bd1f6931baf](https://exacq.com/kb/#loadAnswer~62da871d-3c79-8664-db36-4d515f2d3d87~df800adf-789d-08a2-203a-4bd1f6931baf).

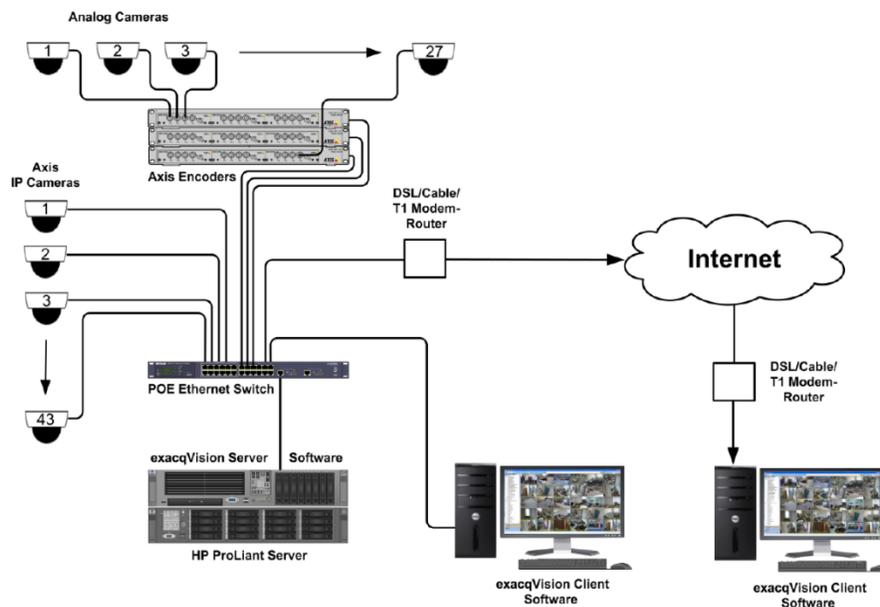
87. On its website, Exacq also presents numerous "Case Studies" describing various implementations of its VMS products. *See*

<https://www.exacq.com/markets/all/>. As expected, these studies illustrate that

Exacq's software is to be installed on a computer and connected to cameras at each customer location. As an example, Exacq states that Detroit Country Day School (located in Beverly Hills, Michigan) uses exacqVision video management system software. *See*

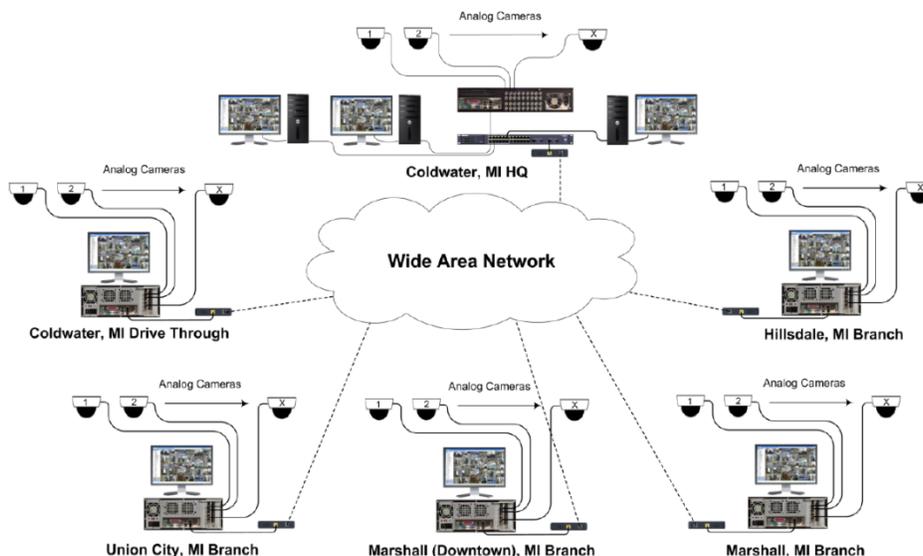
[https://d17z1y1zntmbht.cloudfront.net/auto/casestudy/pdf/5532e91b-65b2-be94-](https://d17z1y1zntmbht.cloudfront.net/auto/casestudy/pdf/5532e91b-65b2-be94-49f9-637c67b8e939.pdf?rand=0.035439656360659044)

[49f9-637c67b8e939.pdf?rand=0.035439656360659044](https://d17z1y1zntmbht.cloudfront.net/auto/casestudy/pdf/5532e91b-65b2-be94-49f9-637c67b8e939.pdf?rand=0.035439656360659044). In the same "Case Study," Exacq provides a system diagram exemplifying the installation.

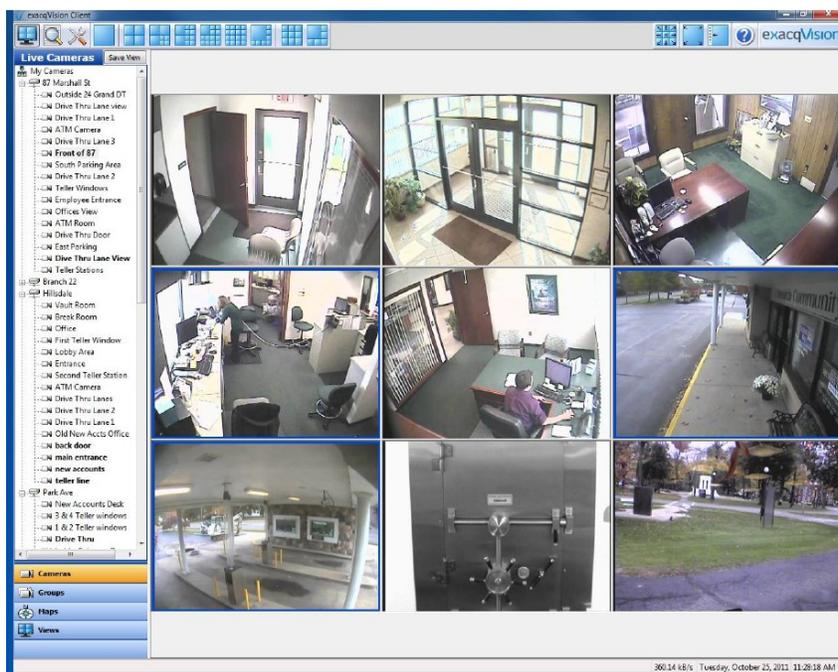


(Exacq Detroit Country Day School Case Study, p. 2)

88. Another of Exacq’s advertised “Case Studies” shows that customer Monarch Community Bank (located in Coldwater, Michigan) deploys 6 video servers, 90 cameras, and client PC’s across several branches. *See* [https://d17z1y1zntmbht.cloudfront.net/auto/case\\_study/pdf/7472b2d1-3c10-8cf4-0114-fa0d1da135f4.pdf?rand=0.7250131361826806](https://d17z1y1zntmbht.cloudfront.net/auto/case_study/pdf/7472b2d1-3c10-8cf4-0114-fa0d1da135f4.pdf?rand=0.7250131361826806). As shown below, the case study includes a similar system diagram of the installation.



(Exacq Monarch Community Bank Case Study, p. 2)



(Exacq Monarch Community Bank Case Study, p. 3)

89. Exacq’s exacqVision Video Management Software has no substantial non-infringing uses other than use with a computer and connected to cameras. Indeed, software has no use if not installed on a computer. And video management software has no use without being connected to a source of video, *i.e.*, a camera.

In order to use Exacq's exacqVision software to provide any intended use, the claims of the '566 Patent are practiced.

90. The reasonable inference drawn from the facts set forth above in Paragraphs 64-89 is that Exacq's exacqVision software is a material part of the system claimed in the '566 Patent and that it is not a staple item of commerce. Exacq's exacqVision software has no use without infringing the '566 Patent. Plaintiff asserts that this reasonable inference is true.

91. Another reasonable inference from the facts set forth above is that Exacq knowingly and actively induced—and continues to induce—its customers to install its exacqVision Software on a computer with connected servers and cameras. Exacq knowingly and actively requires its customers to infringe the '566 Patent. Plaintiff asserts that this reasonable inference is true.

92. Exacq's customers directly infringe the '566 Patent by their use of Exacq exacqVision software on a computer connected to cameras. As stated above, upon information and belief, Detroit Country Day and Monarch Community Bank are among such customers. Exacq lists on its website hundreds of other customers of its VMS software in addition to those covered in its detailed "Case Studies." For example, Exacq identifies the following customers as having exacqVision software installed on a computer and connected to cameras: the University of Michigan, Temple University Health System, Frito Lay, Coca-Cola,

Crate & Barrel, City of Palm Beach Florida, North Carolina Department of Corrections, MGM Grand Casino Las Vegas, and many others. *See* <https://www.exacq.com/customers/customers.html>.

93. Claim 49 of the '566 Patent recites the following: "A digital video system, comprising: a client computer, one or more video servers accessible by the client computer over a network; a plurality of cameras connected to the video server(s), said video server(s) providing an interface between the cameras and client computer in which images from the cameras are accessed by the video server(s) and then sent to the client computer upon request by the client computer; the video server(s) including a unique number that is stored in memory within the video server(s) and that is accessible to the client computer over the network; wherein the client computer provides a user interface display on the computer that includes a display window for each of the cameras accessed over the network and that displays in each of the display windows an image received from the camera associated with that display window; and wherein the client computer uses the unique number obtained from a particular video server to determine whether to enable or disable the display of images from one or more cameras connected to that particular video server."

94. Prior to any use of Exacq's software, it must be installed on a computer as described above.

95. Prior to any use of Exacq's exacqVision software for its intended function, the user is instructed to "add IP cameras to the exacqVision servers" as part of the "System Installation Checklist," as described above.

96. Prior to any use of Exacq's exacqVision software for its intended function, the software ensures that one or more video servers are made accessible over a network. A unique number associated with the video server is accessible by Exacq's software.

97. Prior to any use of Exacq's exacqVision software for its intended function, the user is instructed to add hardware devices that are connected to the computer via a network and are thus accessible to the software. Each camera or server includes a unique number stored in memory that Exacq's exacqVision software obtains prior to any use of the system to display images from the cameras, as illustrated and described in in the "Config (Setup) Page Overview" section of Exacq's User Manual.

98. As shown below, Exacq uses the MAC address of the video server to generate a "License Key"—which is obtained from Exacq through a dealer—to allow the software to be operable for its intended purpose.

**System**

System Identification

System Name: ev Legacy Server 2

Apply Cancel

Settings

Import Export

License

License: AD7088-B4FF65-AD9AE8

MAC Address: 00-22-4D- Copy

Status: Enterprise

Subscription Expires: Updates through 3/7/2016

Licensed IP Cameras: 32 IP Cameras (19 used)

Import Export Apply Cancel

International Character Support

Enable

System Information

Serial Number	00-22-4D-52-49-76
Model Number	Software
Motherboard	Intel Corporation DQ67SW
BIOS	Intel Corp. SWQ6710H.86A.0053.2011.0615.1535 (06/15/2011)
Processor	Intel(R) Core(TM) i3-2100 CPU @ 3.10GHz
Total Memory	4 GB
Operating System	Ubuntu 10.04.4 LTS
Service running since	12/4/2013 4:20:43 PM

1. The MAC Address of the system's primary network adaptor is used to generate a license key. To obtain a license key online, provide the system MAC address to your dealer. Unlicensed exacqVision servers can connect to only one IP device at a time.
2. After the dealer obtains a license key from Exacq, enter the key in this box.

(exacqVision User Guide, p. 18)

99. The exacqVision software uses the unique number associated with a particular server to determine whether to enable or disable the display of images from one or more connected cameras. As set forth above, a server's MAC address is obtained and displayed by the software.

100. Exacq's exacqVision software provides a user interface display on the computer that includes a display window for each of the cameras accessed over the network. As illustrated below, images received from each camera are displayed in corresponding display windows.



Live Page is the primary page for viewing live video.

(exacqVision User's Manual, p. 86)

101. Exacq's exacqVision software is a material part of the system claimed in claim 49 of the '566 Patent. Exacq's exacqVision software, like all software, is required to be installed on a computer. Specifically, in order to use Exacq's exacqVision software for the accessing and displaying of camera images (which is the purpose of the software) it must be installed on a computer connected to cameras. The Exacq video management software manages and dictates the interaction between these devices as set forth in claim 49.

102. As set forth above, Exacq's exacqVision software has no substantial non-infringing use and is not a staple article of commerce. Without infringing, the software is not permitted to access and view images from cameras—its sole use.

103. Based on the facts alleged above, it is a reasonable inference that Exacq knew that its software was especially made or adapted for use to infringe the '566 Patent when it sells its exacqVision software.

104. Plaintiff has suffered damages as a result of the infringing activities of Exacq, and will continue to suffer such damages as long as those infringing activities continue.

105. Exacq had knowledge of the '566 Patent at least as early as the filing of this Complaint.

106. Upon information and belief, Exacq has had knowledge of the '566 Patent for several years. Based on the facts alleged above in Paragraphs 14-18, it is reasonable to infer that Exacq has had knowledge of the '566 Patent since its issuance or since JDS filed suit against Milestone in May of 2012. Alternatively, if Exacq asserts that it had no knowledge of the '566 Patent prior to the filing of this Complaint, Exacq was willfully blind to a competitor's patent rights.

107. After knowledge of the '566 Patent, Exacq continues to infringe the '566 Patent by its sale of exacqVision software. After knowledge of the '566 Patent, Exacq continues to take active steps to market, sell, instruct and support to

customers and potential customers of Exacq's exacqVision software to infringe the '566 Patent. After knowledge of the '566 Patent, Exacq continues to advertise on its website its exacqVision software used specifically in combination with a computer and cameras in practicing the '566 Patent.

108. It is reasonable to infer based on the facts set forth above in Paragraphs 64-107, that Exacq knowingly and affirmatively intends to actively induce and contribute to the infringement of the '566 Patent. Plaintiff asserts that this reasonable inference is true.

109. Exacq has made, used, offered for sale, and sold in the United States, and continues to make, use, offer for sale, and sell in the United States video surveillance software and systems. Exacq's activities contributorily infringe the '566 Patent. These activities include selling the exacqVision software to partners and/or customers. By making, using, offering for sale and selling technology including, but not limited to, its exacqVision software in the United States, Exacq is infringing claims of the '566 Patent under 35 U.S.C. § 271(c).

110. Exacq has made, used, offered for sale, and sold in the United States, and continues to make, use, offer for sale, and sell in the United States video surveillance software and systems. Exacq's activities induce infringement the '566 Patent. These activities include selling the exacqVision software to partners and/or customers, requiring, instructing and supporting their use to infringe the '566

Patent, and designing the software so that the only use of the software is to infringe the '566 Patent. Exacq is infringing claims of the '566 Patent under 35 U.S.C. § 271(b).

111. It is reasonable to infer based on the facts set forth above in Paragraphs 14-38, that Exacq's conduct has been willful, wanton and deliberate. It is also reasonable to infer that Exacq's actions have been objectively reckless based on the facts set forth in Paragraphs 14-38 above. The actions of Exacq with regard to infringement of the '566 Patent are willful such that JDS is entitled to treble damages under 35 U.S.C. § 284.

112. After knowledge of the '566 Patent, Exacq continues to infringe the '566 Patent.

113. Exacq is a substantially larger company than JDS. It would, therefore, be reasonable to infer that Exacq believed that it could infringe the '566 Patent with impunity based on its size advantage over JDS.

114. Plaintiff has suffered damages as a result of the infringing activities of Exacq, and will continue to suffer damages as long as those infringing activities continue.

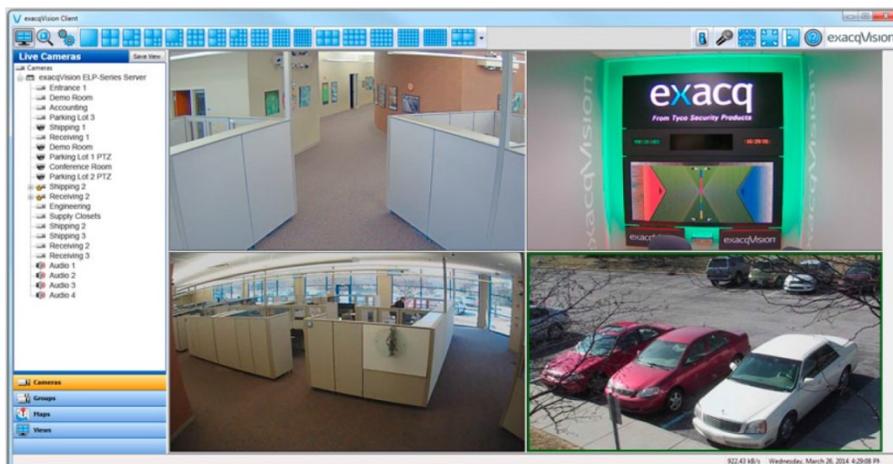
115. Plaintiff has no adequate remedy at law. Unless enjoined by this Court, Exacq will continue such willful acts of infringement, causing Plaintiff to incur substantial and irreparable damages.

## VIII. COUNT IV – INDIRECT INFRINGEMENT OF USPN 8,185,964

116. Plaintiffs repeat and re-allege the allegations contained in Paragraphs 1-115 above as if fully set forth herein

117. Claim 1 of the '964 Patent is directed to method of using video management software installed on a computer with cameras connected to the computer.

118. In order for any video management software to provide any intended function, it must be installed on a computer, which is connected—or otherwise has access—to cameras. As shown below, Exacq states on a data sheet associated with its exacqVision “ELP-Series IP Camera Server” that the device is “Pre-Loaded with exacqVision Professional VMS.” exacqVision ELP-Series Data Sheet, p. 1.



Pre-Loaded with exacqVision Professional VMS

\*\*\*

- **View Video From Anywhere**

- Pre-loaded with exacqVision VMS software for immediate use
- View video and manage servers on multiple Windows/Linux/Mac PCs with free client software
- View live and recorded video on any browser, iOS, Android or Windows Phone 8 mobile device

(exacqVision ELP-Series Data Sheet, p. 1)

119. The exacqVision ELP-Series Data Sheet adds that an initial server license is included with the device, which allows 4 cameras, and is “expandable to 24 per server.” Each of the servers having a unique server license may be managed over a network by a single “unified client.”

- **Up to 24 Cameras Per Server**

- Continuously record up to 200 Mbps of video, audio and data
- Includes 4 IP camera licenses, expandable to 24 per server
- Compatible with over 1,800 IP cameras

- **Unlimited Scalability**

- Add unlimited servers for greater capacity or dispersed geographic location
- Easily expand license to record additional high definition IP cameras
- Easily manage multiple NVRs from a single, unified client

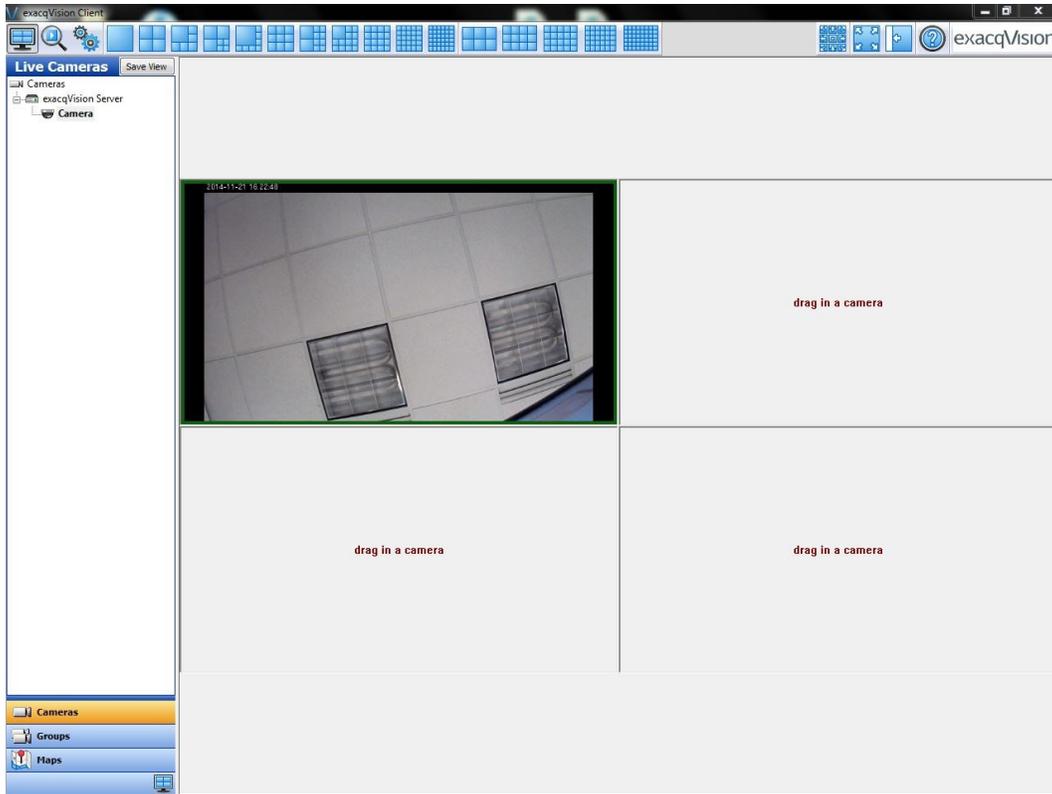
(exacqVision ELP-Series Data Sheet, p. 1)

120. Exacq offers distinct license types that may be associated with each server in a video management system operating its exacqVision software. The different license types of the exacqVision software currently offered by Exacq—Start, Professional, and Enterprise—are set forth in the exacqVision Product Brochure, as illustrated below.

exacqVision		VMS Software Solutions Overview (effective October 2014)		
Software specifications are subject to change without notice.		Start	Professional	Enterprise
Max Cameras Per Server		16 Analog / 16 IP	64 Analog / 128 IP	64 Analog / 128 IP
Max Server Connections Per Client		1	512 (client) / 16 (web browser client)	512 (client) / 16 (web browser client)
Windows & Linux Server Compatibility		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Free Windows, Linux & Mac Clients		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Browser-Based Viewing of Live/Stored Events		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Compatible with Free Exacq Mobile App		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
EasyConnect Auto-Detect/Connect to Compatible IP Cameras		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

(exacqVision Product Brochure, p. 3)

121. Exacq's exacqVision VMS software, for example, exacqVision Professional, which resides on Exacq's server(s) and can be installed on a user's computer, is made up of a number of components. Such components include, among others, the "exacqVision Client," the "exacqVision Server," and the "exacqVision Web Service." These components cooperate to implement features of the exacqVision Professional software. The user interface associated with exacqVision Professional is shown below.



*User Interface – exacqVision Client*

122. During operation, the exacqVision Client accesses, over a network, data uniquely identifying servers on which the exacqVision Server software resides. This is shown on page 11 of the User Guide of the exacqVision Professional software (hereinafter “exacqVision User Guide”), which is reproduced below.

### 3 exacqVision Software Overview

#### Client/Server Architecture

exacqVision software is based on a client/server architecture in which every computer is a client, server, or client/server combination. These configurations are defined as follows:

- A client computer provides access to a remote service on another computer over a TCP/IP network. The exacqVision Client software is a thick client, and the web browser is a thin client.
- A server computer provides services to client computers over the TCP/IP network. An exacqVision server receives and stores video from cameras; provides audio, video, and data as requested by thick clients; and hosts a web server (if enabled) for thin clients. The exacqVision Server software does not have a graphical user interface; only the client software allows interaction. A server can serve multiple simultaneous client connections, within hardware limitations.
- A client/server combination simultaneously operates client and server software. A loopback TCP/IP address of "localhost" (127.0.0.1) allows the client software to communicate with the server software on the same computer. exacqVision servers are configured at the factory as a client/server combination to provide a convenient initial configuration experience.

(exacqVision User Guide, p. 11)

123. The exacqVision VMS software identifies each exacqVision server to which one or more cameras and/or camera servers may be connected. The exacqVision VMS software displays a "License Key" and a "MAC Address" associated with, and received from, each of a number of connected servers. This is illustrated on page 18 of the exacqVision User Guide, which is reproduced below.

1. The MAC Address of the system's primary network adaptor is used to generate a license key. To obtain a license key online, provide the system MAC address to your dealer. Unlicensed exacqVision servers can connect to only one IP device at a time.

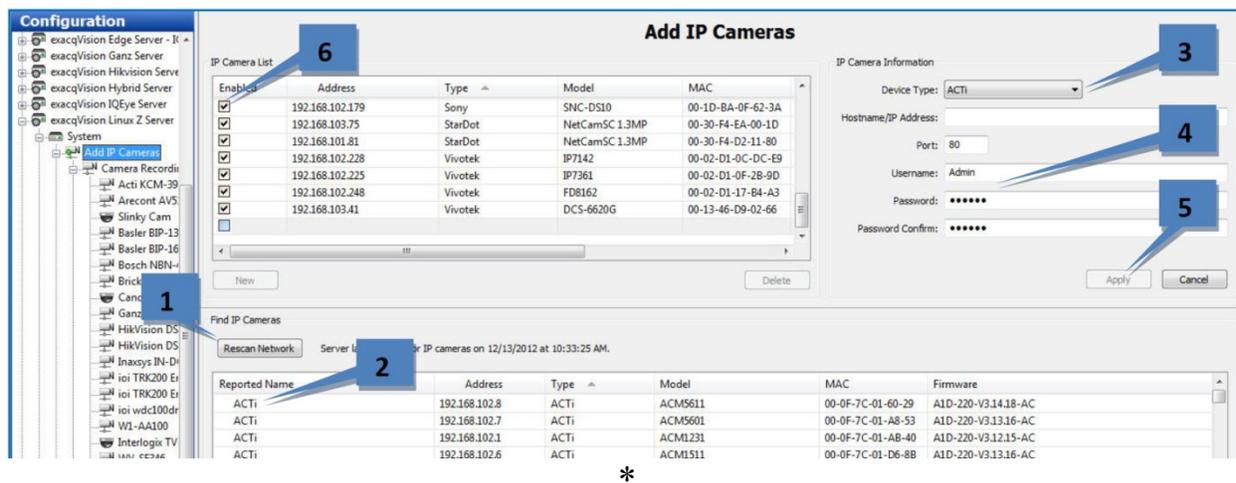
2. After the dealer obtains a license key from Exacq, enter the key in this box.

(exacqVision User Guide, p. 18)

124. As noted above, Exacq generates a License Key based on the particular MAC address of the hardware on which exacqVision software will be installed. Also further explained in the exacqVision User Guide, “**MAC addressing requirements**... exacqVision software is licensed based on MAC addressing. Servers with teamed NICs or other arrangements that obscure the MAC require an additional USB-based NIC to provide a licensing MAC.” exacqVision User Guide, p. 9.

125. The exacqVision User Guide further describes how each server license may include a certain limited number of cameras that can be enabled under

each license associated with a particular server. The exacqVision User Guide excerpt shown below depicts an “Add IP Cameras” interface indicating that the number of enabled cameras is “subject to licensing limits,” in accordance with the particular server license.



6. To enable a camera, select its checkbox in the IP Camera List. The number of cameras you can enable is subject to licensing limits.

(exacqVision User Guide, p. 23)

126. The exacqVision software’s “System” interface page also summarizes the number of cameras that are licensed to a particular exacqVision server. By way of example, the exacqVision User Guide excerpt reproduced below illustrates a scenario where 32 cameras are available to be enabled in connection with a particular License Key. Once a License Key for a particular exacqVision server is obtained from Exacq, the user is instructed to enter the License Key into the exacqVision VMS software. As illustrated below, the number of cameras enabled and authorized to be enabled is updated within the exacqVision Client interface.

Monitoring

License

AD7088-B4FF65-AD9AE8

MAC Address: 00-22-4D-

Status: Enterprise

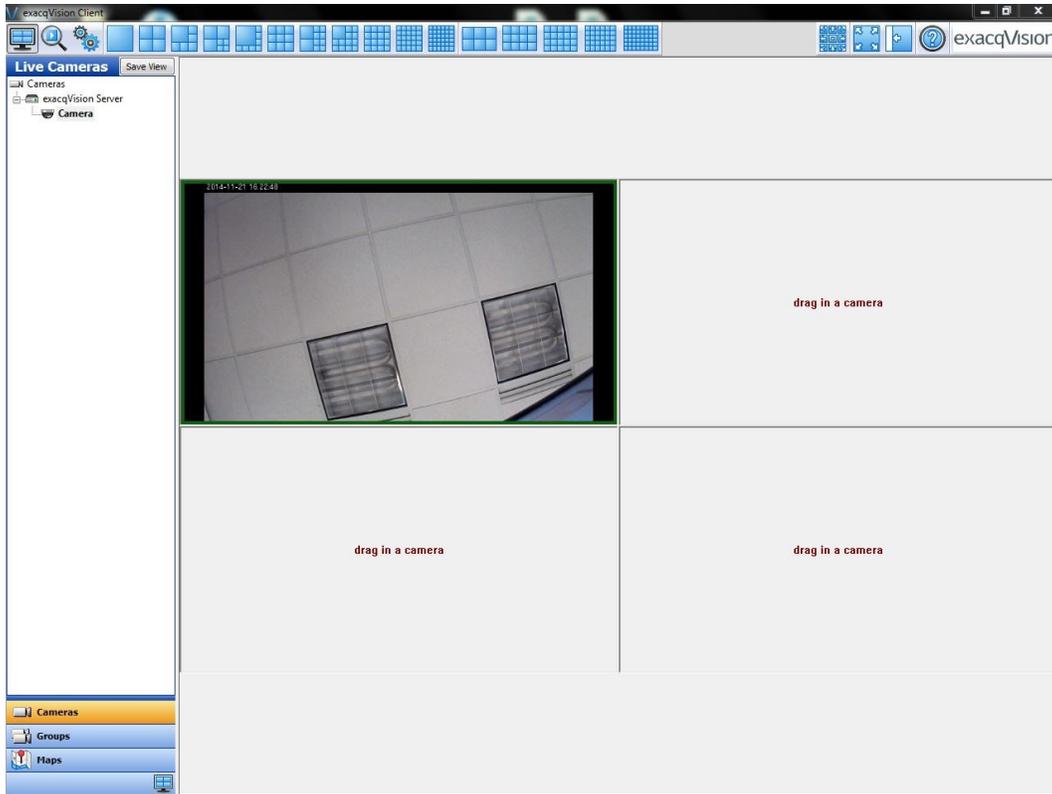
Subscription Expires: Updates through 3/7/2016

Licensed IP Cameras: 32 IP Cameras (19 used)

1. The MAC Address of the system's primary network adaptor is used to generate a license key. To obtain a license key online, provide the system MAC address to your dealer. Unlicensed exacqVision servers can connect to only one IP device at a time.
2. After the dealer obtains a license key from Exacq, enter the key in this box.

(exacqVision User Guide, p. 18)

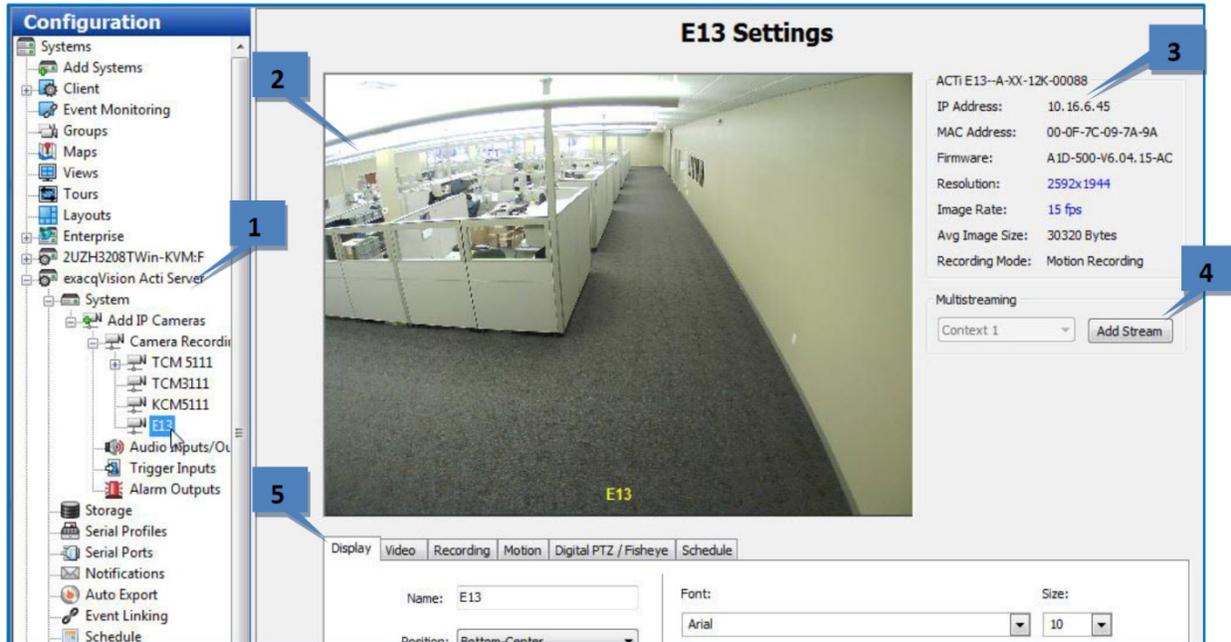
127. Each authorized and enabled camera provides images over a network to the exacqVision server under which it is licensed. In turn, the exacqVision Client software accesses both the licensed exacqVision server and images from enabled cameras. As shown below, the exacqVision VMS software provides a user interface display on a computer that includes a display window for each of the cameras accessed via the servers over the network.



*User Interface – exacqVision Client*

128. Additionally, exacqVision VMS software includes a “Camera Settings” interface that allows users to configure the settings of individual cameras. As shown below, such settings include how images are displayed and recorded.

## Camera Settings



(exacqVision User Guide, p. 26)

129. The exacqVision VMS software also allows multiple exacqVision servers to be administered from a single exacqVision Client. Each exacqVision server may include any number of enabled cameras, limited by its corresponding license. As illustrated below, the exacqVision Client’s “Systems” interface page arranges the multiple servers based on licensing information that is associated with each server’s MAC address.

## Systems

The screenshot shows a web-based interface titled "Systems" with a search bar and a table of system information. The table has columns for System Name, Serial Number, Connection Status, License, MAC Address, Subscription, and Version. A red box highlights the License and MAC Address columns for rows 3 through 13. Below the table are buttons for "Import Licenses", "Export Licenses", "Connect All", "Disconnect All", "Product Registration", and a checkbox for "Send usage statistics".

	System Name	Serial Number	Connection Status	License	MAC Address	Subscription	Version
1	Enterprise - Case Managemen		Not connected.				
2	ev Legacy Server 3		Not connected.				
3	exacqVision Acti Server	38-60-77-9C-31-56	Connected.	Enterprise	00-1C-C0-41-C2-DD	updates through 2020-11-28	6.2.0.61821
4	exacqVision American Dynamic	70-54-D2-AB-08-5F	Connected.	Enterprise	70-54-D2-AB-08-5F	updates through 2016-12-04	6.2.0.61821
5	exacqVision Arecont Server	70-54-D2-AB-08-87	Connected.	Enterprise	70-54-D2-AB-08-87	updates through 2016-06-03	6.2.0.61821
6	exacqVision Axis Server	evAxisDemo	Connected.	Enterprise	00-1E-67-34-0E-65	updates through 2015-07-19	6.2.0.61821
7	exacqVision Bosch Server	EVA1.0ServerOVA	Connected.	Enterprise	00-50-56-A7-16-41	updates through 2015-11-17	6.2.0.61821
8	exacqVision Edge Server - Axi	00-40-8C-CE-50-32	Connected.	Enterprise	00-40-8C-CE-50-32	updates through 2015-03-03	6.2.0.61821
9	exacqVision Edge Server - Axi	00-40-8C-CE-4D-95	Login failed - invalid usernam				
10	exacqVision Ganz Server	EVA1.0ServerOVA	Connected.	Enterprise	00-50-56-A7-16-40	updates through 2015-11-17	6.2.0.61821
11	exacqVision Hikvision Server	EVA1.0ServerOVA	Connected.	Enterprise	00-50-56-A7-1D-6A	updates through 2015-10-23	6.2.0.61821
12	exacqVision Hybrid Server	ER0123456789	Connected.	Enterprise	00-30-48-B3-34-2A	updates through 2019-06-13	6.2.0.61821
13	exacqVision IQEye Server	00-19-D1-05-04-AD	Connected.	Enterprise	70-54-D2-AB-08-5A	updates through 2016-06-03	6.2.0.61821

(exacqVision User Guide, p. 73)

130. Exacq’s exacqVision User Guide contains a section titled “Installing exacqVision Software on Third-Party Clients and Servers,” which provides users and/or customers instructions regarding software installation. The section states that “exacqVision software is licensed based on MAC addressing.” exacqVision User Guide, p. 9.

131. In view of the facts alleged above in Paragraphs 116-130, a video management system based on Exacq’s exacqVision software cannot function for its intended purpose without practicing the claims of the ’964 Patent. It is thus a reasonable inference that the exacqVision VMS software is useless without infringing the ’964 Patent. Plaintiff asserts that this reasonable inference is true.

132. As illustrated below, in its exacqVision User Guide, Exacq instructs users to install both the exacqVision Server software and the exacqVision Client software on a computer.

<p><b>Server Software Installation</b></p> <ol style="list-style-type: none"> <li>1. For Windows servers, download the latest server and web services software installation from <a href="http://downloads.exacq.com/reseller/exacqVision.exe">http://downloads.exacq.com/reseller/exacqVision.exe</a></li> <li>2. For Linux servers, download the latest server and web services software installation from <a href="http://downloads.exacq.com/reseller/Ubuntu/Dapper/exacqVisionServer.deb">http://downloads.exacq.com/reseller/Ubuntu/Dapper/exacqVisionServer.deb</a>.</li> <li>3. Using an administrator account, run the executable to start the installation wizard.</li> <li>4. Configure the IP address, username, and password on all cameras by following the manufacturer's instructions or the <i>exacqVision IP Camera Quickstart Guide</i> found at <a href="https://www.exacq.com/downloads/ev-ip-quickstart-0311.pdf">https://www.exacq.com/downloads/ev-ip-quickstart-0311.pdf</a>.</li> <li>5. Test connectivity to each camera with the ping command.</li> </ol> <p><b>Client Software Installation</b></p> <ol style="list-style-type: none"> <li>1. Download the latest client software from <a href="https://downloads.exacq.com/downloads/exacqVisionClient.exe">https://downloads.exacq.com/downloads/exacqVisionClient.exe</a>.</li> <li>2. Using an administrator account, run the executable to start the installation wizard.</li> <li>3. Confirm connectivity with the server using the ping command and server IP address. If the client PC cannot communicate with the server, contact the network administrator.</li> <li>4. Start the exacqVision Client software and enter the configuration page.</li> <li>5. In the site tree, select Add Systems.</li> <li>6. Click New and enter the username admin, password admin256, and IP address (static) or hostname (fixed) that was configured in previous steps. Click Apply. If the new server appears in the system list table with a status of Connected, the initial server configuration is complete. If the server does NOT connect, but server connectivity was confirmed in previous steps, ensure that the PC anti-virus software is not blocking communications with the server IP addresses and ports.</li> <li>7. Proceed to Chapter 4 to start exacqVision server configuration.</li> </ol>
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(exacqVision User Guide, p. 10)

133. In its exacqVision User Guide, Exacq also instructs users—as part of a “System Installation Checklist”—to “See the IP Camera Quick Start Guide for information on configuring the camera IP addresses, usernames, and passwords. This document can be found at <http://www.exacq.com/support/specsheets.html>.”

exacqVision User Guide, p. 9.

	<p><b>Configure IP Cameras</b></p> <p><input type="checkbox"/> See the IP Camera Quick Start Guide for information on configuring the camera IP addresses, usernames, and passwords. This document can be found at <a href="http://www.exacq.com/support/specsheets.html">http://www.exacq.com/support/specsheets.html</a>.</p>
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	<b>Add IP Cameras</b> <input type="checkbox"/> Add IP cameras to the exacqVision servers.
	<b>Camera Recording (IP cameras)</b> <input type="checkbox"/> Set resolutions <sup>1</sup> . <input type="checkbox"/> Set frame rate <sup>1</sup> .
	<b>Camera Recording (analog cameras)</b> <input type="checkbox"/> Set resolutions <sup>1</sup> . <input type="checkbox"/> Set frame rates <sup>1</sup> . <input type="checkbox"/> Disable cameras that are not connected.

(exacqVision User Guide, p. 6)

134. As shown on page 6 of the exacqVision User Guide, during installation of Exacq’s software, users are both directed and required to “add IP cameras to the exacqVision servers.” Indeed, claim 1 of the ’964 Patent is practiced in this set up procedure mandated and required by Exacq.

135. Exacq’s website also states that it provides “Technical Support” for its partners and end users. Exacq further provides various training courses, videos, and certifications related to its video management software.

136. On Exacq’s website—and also in many informational documents and instructional materials it makes available through its website—Exacq illustrates how its software must be installed on a computer and connected to cameras to provide its intended function as video management software.

137. In the “Knowledge Base” portion of its website, Exacq provides responses to several frequently asked questions. One such question is “**How is exacqVision NVR software licensed?**” The provided response states, “The exacqVision NVR software licenses a specific number of cameras to a key based

upon the server NIC's MAC address." *See*

[https://exacq.com/kb/#loadAnswer~478d1508-29ba-c777-1219-](https://exacq.com/kb/#loadAnswer~478d1508-29ba-c777-1219-4bc3755facf0~df800adf-789d-08a2-203a-4bd1f6931baf)

[4bc3755facf0~df800adf-789d-08a2-203a-4bd1f6931baf](https://exacq.com/kb/#loadAnswer~478d1508-29ba-c777-1219-4bc3755facf0~df800adf-789d-08a2-203a-4bd1f6931baf).

138. In the "Knowledge Base" portion of its website, another frequently asked question inquires "**How do I apply a license to an exacqVision server?**"

In response, Exacq provides a step-by-step explanation of how users obtain a unique license key specific to a particular video server. Notably, the *.key* file includes a "filename identical to the MAC address of the system." *See*

[https://exacq.com/kb/#loadAnswer~62da871d-3c79-8664-db36-](https://exacq.com/kb/#loadAnswer~62da871d-3c79-8664-db36-4d515f2d3d87~df800adf-789d-08a2-203a-4bd1f6931baf)

[4d515f2d3d87~df800adf-789d-08a2-203a-4bd1f6931baf](https://exacq.com/kb/#loadAnswer~62da871d-3c79-8664-db36-4d515f2d3d87~df800adf-789d-08a2-203a-4bd1f6931baf).

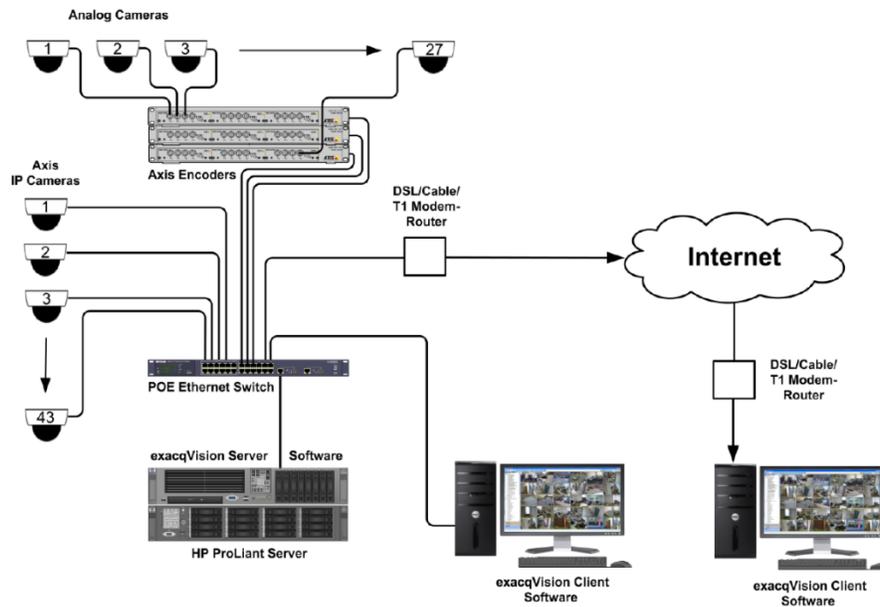
139. On its website, Exacq also presents numerous "Case Studies" describing various implementations of its VMS products. *See*

<https://www.exacq.com/markets/all/>. As expected, these studies illustrate that

Exacq's software is to be installed on a computer and connected to cameras at each customer location. As an example, Exacq states that Detroit Country Day School (located in Beverly Hills, Michigan) uses exacqVision video management system software. *See*

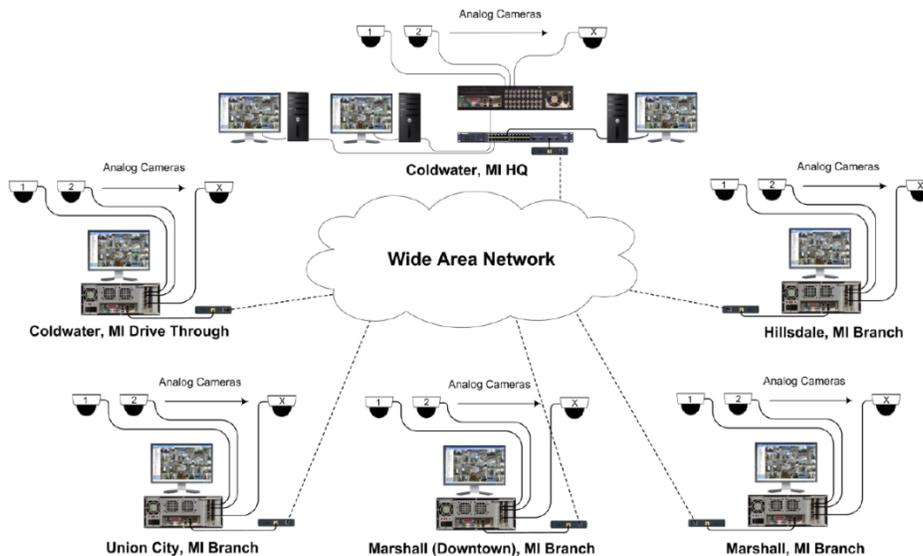
[https://d17z1y1zntmbht.cloudfront.net/auto/casestudy/pdf/5532e91b-65b2-be94-](https://d17z1y1zntmbht.cloudfront.net/auto/casestudy/pdf/5532e91b-65b2-be94-49f9-637c67b8e939.pdf?rand=0.035439656360659044)

[49f9-637c67b8e939.pdf?rand=0.035439656360659044](https://d17z1y1zntmbht.cloudfront.net/auto/casestudy/pdf/5532e91b-65b2-be94-49f9-637c67b8e939.pdf?rand=0.035439656360659044). In the same "Case Study," Exacq provides a system diagram exemplifying the installation.

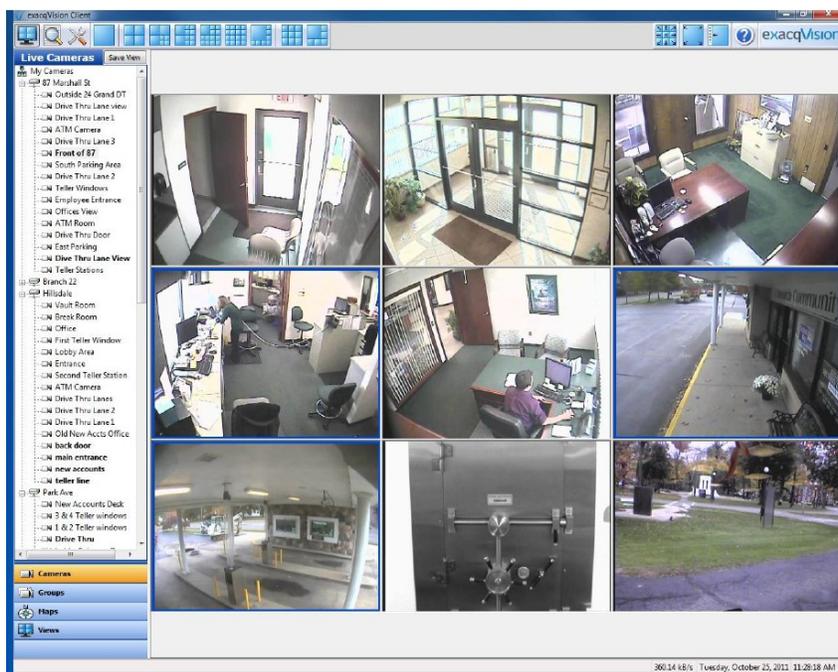


(Exacq Detroit Country Day School Case Study, p. 2)

140. Another of Exacq’s advertised “Case Studies” shows that customer Monarch Community Bank (located in Coldwater, Michigan) deploys 6 video servers, 90 cameras, and client PC’s in across several branches. *See* [https://d17z1y1zntmbht.cloudfront.net/auto/case\\_study/pdf/7472b2d1-3c10-8cf4-0114-fa0d1da135f4.pdf?rand=0.7250131361826806](https://d17z1y1zntmbht.cloudfront.net/auto/case_study/pdf/7472b2d1-3c10-8cf4-0114-fa0d1da135f4.pdf?rand=0.7250131361826806). As shown below, the case study includes a similar system diagram of the installation.



(Exacq Monarch Community Bank Case Study, p. 2)



(Exacq Monarch Community Bank Case Study, p. 3)

141. Exacq's exacqVision Video Management Software has no substantial non-infringing uses other than use with a computer and connected to cameras. Indeed, software has no use if not installed on a computer. And video management software has no use without being connected to a source of video, *i.e.*, a camera.

In order to use Exacq's exacqVision software to provide any intended use, the claims of the '964 Patent are practiced.

142. The reasonable inference drawn from the facts set forth above in Paragraphs 116-141 is that Exacq's exacqVision software is a material part of the method claimed in the '964 Patent and that it is not a staple item of commerce. Exacq's exacqVision software has no use without infringing the '964 Patent. Plaintiff asserts that this reasonable inference is true.

143. Another reasonable inference from the facts set forth above is that Exacq knowingly and actively induced—and continues to induce—its customers to install its exacqVision Software on a computer with connected servers and cameras. Exacq knowingly and actively requires its customers to infringe the '964 Patent. Plaintiff asserts that this reasonable inference is true.

144. Exacq's customers directly infringe the '964 Patent by their use of Exacq exacqVision software on a computer connected to cameras. As stated above, upon information and belief, Detroit Country Day and Monarch Community Bank are among such customers. Exacq lists on its website hundreds of other customers of its VMS software in addition to those covered in its detailed "Case Studies." For example, Exacq identifies the following customers as having exacqVision software installed on a computer and connected to cameras: the University of Michigan, Temple University Health System, Frito Lay, Coca-Cola,

Crate & Barrel, City of Palm Beach Florida, North Carolina Department of Corrections, MGM Grand Casino Las Vegas, and many others. *See* <https://www.exacq.com/customers/customers.html>.

145. Claim 1 of the '964 Patent recites the following: “A method of controlling access by a computer to a video server, comprising the steps of: sending a request from the computer to a video server over a network; receiving at the computer from the video server a unique identifier stored in and identifying the video server, wherein the unique identifier is received by the computer over the network; determining that access to the video server is authorized by comparing the unique identifier received by the computer to one or more authorized unique identifiers; and in response to the determination, obtaining at the computer one or more images from the video server for displaying.”

146. Prior to any use of Exacq’s software, it must be installed on a computer as described above.

147. Prior to any use of Exacq’s exacqVision software for its intended function, the user is instructed to “add IP cameras to the exacqVision servers” as part of the “System Installation Checklist,” as described above.

148. Prior to any use of Exacq’s exacqVision software for its intended function, the software ensures that one or more video servers are made accessible

over a network. A unique identifier associated with the video server is accessible by Exacq's software.

149. Prior to any use of Exacq's exacqVision software for its intended function, the user is instructed to add hardware devices that are connected to the computer via a network and are thus accessible to the software. Each camera or server includes a unique number stored in memory that Exacq's exacqVision software obtains prior to any use of the system to display images from the cameras, as illustrated and described in in the "Config (Setup) Page Overview" section of Exacq's User Manual.

150. As shown below, Exacq uses the MAC address of the video server to generate a "License Key"—which is obtained from Exacq through a dealer—to allow the software to be operable for its intended purpose.

**System**

System Identification

System Name: ev Legacy Server 2

Apply Cancel

Settings

Import Export

License

AD7088-B4FF65-AD9AE8

MAC Address: 00-22-4D- Copy

Status: Enterprise

Subscription Expires: Updates through 3/7/2016

Licensed IP Cameras: 32 IP Cameras (19 used)

Import Export Apply Cancel

International Character Support

Enable

System Information

Serial Number	00-22-4D-52-49-76
Model Number	Software
Motherboard	Intel Corporation DQ675W
BIOS	Intel Corp. SWQ6710H.86A.0053.2011.0615.1535 (06/15/2011)
Processor	Intel(R) Core(TM) i3-2100 CPU @ 3.10GHz
Total Memory	4 GB
Operating System	Ubuntu 10.04.4 LTS
Service running since	12/4/2013 4:20:43 PM

- The MAC Address of the system's primary network adaptor is used to generate a license key. To obtain a license key online, provide the system MAC address to your dealer. Unlicensed exacqVision servers can connect to only one IP device at a time.
- After the dealer obtains a license key from Exacq, enter the key in this box.

(exacqVision User Guide, p. 18)

151. The exacqVision software uses the unique identifier associated with a particular server to determine whether to enable or disable the display of images from one or more connected cameras. As set forth above, a server's MAC address is obtained and displayed by the software.

152. Each authorized and enabled camera provides images over a network to the exacqVision server under which it is licensed. In turn, the exacqVision Client software accesses both the licensed exacqVision server and images from enabled cameras. As shown below, the exacqVision VMS software provides a

user interface display for displaying images from each of the cameras accessed via the servers over the network.



Live Page is the primary page for viewing live video.

(exacqVision User's Manual, p. 86)

153. Exacq's exacqVision software is a material part of the method claimed in claim 1 of the '964 Patent. Exacq's exacqVision software, like all software, is required to be installed on a computer. Specifically, in order to use Exacq's exacqVision software for the accessing and displaying of camera images (which is the purpose of the software) it must be installed on a computer connected to cameras.

154. As set forth above, Exacq's exacqVision software has no substantial non-infringing use and is not a staple article of commerce. Without infringing, the software is not permitted to access and view images from cameras—its sole use.

155. Based on the facts alleged above, it is a reasonable inference that Exacq knew that its software was especially made or adapted for use to infringe the '964 Patent when it sells its exacqVision software.

156. Plaintiff has suffered damages as a result of the infringing activities of Exacq, and will continue to suffer such damages as long as those infringing activities continue.

157. Exacq had knowledge of the '964 Patent at least as early as the filing of this Complaint.

158. Upon information and belief, Exacq has had knowledge of the '964 Patent for several years. Based on the facts alleged above in Paragraphs 14-18, it is reasonable to infer that Exacq has had knowledge of the '964 Patent since its issuance or since JDS filed suit against Milestone in May of 2012. Alternatively, if Exacq asserts that it had no knowledge of the '964 Patent prior to the filing of this Complaint, Exacq was willfully blind to a competitor's patent rights.

159. After knowledge of the '964 Patent, Exacq continues to infringe the '964 Patent by its sale of exacqVision software. After knowledge of the '964 Patent, Exacq continues to take active steps to market, sell, instruct and support to

customers and potential customers of Exacq's exacqVision software to infringe the '964 Patent. After knowledge of the '964 Patent, Exacq continues to advertise on its website its exacqVision software used specifically in combination with a computer and cameras in practicing the '964 Patent.

160. It is reasonable to infer based on the facts set forth above in Paragraphs 116-159, that Exacq knowingly and affirmatively intends to actively induce and contribute to the infringement of the '964 Patent. Plaintiff asserts that this reasonable inference is true.

161. Exacq has made, used, offered for sale, and sold in the United States, and continues to make, use, offer for sale, and sell in the United States video surveillance software and systems. Exacq's activities contributorily infringe the '964 Patent. These activities include selling the exacqVision software to partners and/or customers. By making, using, offering for sale and selling technology including, but not limited to, its exacqVision software in the United States, Exacq is infringing claims of the '964 Patent under 35 U.S.C. § 271(c).

162. Exacq has made, used, offered for sale, and sold in the United States, and continues to make, use, offer for sale, and sell in the United States video surveillance software and systems. Exacq's activities induce infringement the '964 Patent. These activities include selling the exacqVision software to partners and/or customers, requiring, instructing and supporting their use to infringe the '964

Patent, and designing the software so that the only use of the software is to infringe the '964 Patent. Exacq is infringing claims of the '964 Patent under 35 U.S.C. § 271(b).

163. It is reasonable to infer based on the facts set forth above in Paragraphs 14-18 and 42-60, that Exacq's conduct has been willful, wanton and deliberate. It is also reasonable to infer that Exacq's actions have been objectively reckless based on the facts set forth in Paragraphs 14-18 and 42-60 above. The actions of Exacq with regard to infringement of the '964 Patent are willful such that JDS is entitled to treble damages under 35 U.S.C. § 284.

164. After knowledge of the '964 Patent, Exacq continues to infringe the '964 Patent.

165. Exacq is a substantially larger company than JDS. It would, therefore, be reasonable to infer that Exacq believed that it could infringe the '964 Patent with impunity based on its size advantage over JDS.

166. Plaintiff has suffered damages as a result of the infringing activities of Exacq, and will continue to suffer damages as long as those infringing activities continue.

167. Plaintiff has no adequate remedy at law. Unless enjoined by this Court, Exacq will continue such willful acts of infringement, causing Plaintiff to incur substantial and irreparable damages.

## IX. DEMAND FOR RELIEF

In accordance with the foregoing, Plaintiff respectfully demands that this Court enter judgment:

A. Declaring that Exacq has infringed the claims of the '566 Patent and that such infringement has been and continues to be willful;

B. Declaring that Exacq has infringed the claims of the '964 Patent and that such infringement has been and continues to be willful;

C. Preliminarily and permanently enjoining and restraining Exacq, its officers, directors, employees, agents, servants, successors and assigns, and any and all persons acting in privity or in concert with Exacq, from further infringement of the '566 and '964 Patents;

D. Awarding Plaintiff its damages, together with prejudgment interest and costs, and increasing those damages to three times the amount found or assessed as provided by 35 U.S.C. § 284;

E. Declaring this an exceptional case within the meaning of 35 U.S.C. § 285, and awarding Plaintiff its reasonable attorney's fees and costs and disbursements in this action; and

F. Granting to Plaintiff such other and further relief as this Court deems reasonable.

**X. DEMAND FOR JURY TRIAL**

Plaintiff respectfully demands a trial by jury of any and all issues so triable.

Respectfully submitted,

**BROOKS KUSHMAN P.C.**

Dated: January 28, 2015

By: /s/ Marc Lorelli

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