

**Fill in this information to identify the case:**

Debtor Cytera Communications, LLC

United States Bankruptcy Court for the: \_\_\_\_\_ District of New Jersey  
(State)

Case number 23-14852

Official Form 410  
**Proof of Claim**

04/22

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

**Part 1: Identify the Claim**

1. Who is the current creditor?	<u>4650 Santa Clara Technology Partners LLC</u> Name of the current creditor (the person or entity to be paid for this claim)	
	Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent?  Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	<b>Where should notices to the creditor be sent?</b>	<b>Where should payments to the creditor be sent? (if different)</b>
	<u>4650 Santa Clara Technology Partners LLC</u> <u>Mintz Levin, Attn: Abigail V. OBrient</u> <u>2049 Century Park East, Suite 300</u> <u>Los Angeles, CA 90067</u>	<u>4650 Santa Clara Technology Partners LLC</u> <u>C. Michael Johnston</u> <u>2765 Sand Hill Road, Suite 200</u> <u>Menlo Park, CA 94025, United States</u>
	Contact phone <u>310.226.7886</u>	Contact phone <u>650.326.9300</u>
	Contact email <u>AVObrient@mintz.com</u>	Contact email <u>johnston@menloequities.com</u>
	Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____	
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ <div style="text-align: right;">MM / DD / YYYY</div>	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	



**Part 2: Give Information About the Claim as of the Date the Case Was Filed**

6. Do you have any number you use to identify the debtor?  No  
 Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: 4079 \_\_\_\_

7. How much is the claim? \$ See attached Addendum. Does this amount include interest or other charges?  
 No  
 Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.  
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).  
Limit disclosing information that is entitled to privacy, such as health care information.  
  
See attached Addendum

9. Is all or part of the claim secured?  No  
 Yes. The claim is secured by a lien on property.  
**Nature or property:**  
 Real estate: If the claim is secured by the debtor's principle residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.  
 Motor vehicle  
 Other. Describe: \_\_\_\_\_  
**Basis for perfection:** \_\_\_\_\_  
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)  
**Value of property:** \$ \_\_\_\_\_  
**Amount of the claim that is secured:** \$ \_\_\_\_\_  
**Amount of the claim that is unsecured:** \$ \_\_\_\_\_ (The sum of the secured and unsecured amount should match the amount in line 7.)  
**Amount necessary to cure any default as of the date of the petition:** \$ \_\_\_\_\_  
**Annual Interest Rate** (when case was filed) \_\_\_\_\_ %  
 Fixed  
 Variable

10. Is this claim based on a lease?  No  
 Yes. Amount necessary to cure any default as of the date of the petition. \$ See summary page

11. Is this claim subject to a right of setoff?  No  
 Yes. Identify the property: See attached Addendum



12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

<input type="checkbox"/> No		
<input checked="" type="checkbox"/> Yes. Check all that apply:		<b>Amount entitled to priority</b>
<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).		\$ _____
<input type="checkbox"/> Up to \$3,350* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).		\$ _____
<input type="checkbox"/> Wages, salaries, or commissions (up to \$15,150*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).		\$ _____
<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).		\$ _____
<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).		\$ _____
<input checked="" type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)( <u>2</u> ) that applies.		\$ <u>404,025.96</u>

\* Amounts are subject to adjustment on 4/01/25 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim pursuant to 11 U.S.C. § 503(b)(9)?

No

Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ \_\_\_\_\_

**Part 3: Sign Below**

**The person completing this proof of claim must sign and date it. FRBP 9011(b).**

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

**A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.**

Check the appropriate box:

I am the creditor.

I am the creditor's attorney or authorized agent.

I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

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

Executed on date 08/15/2023  
MM / DD / YYYY

/s/ C. Michael Johnston  
Signature

**Print the name of the person who is completing and signing this claim:**

Name C. Michael Johnston  
First name Middle name Last name

Title Authorized Signatory

Company 4650 Santa Clara Technology Partners LLC  
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 2765 Sand Hill Road, Suite 200, Menlo Park, CA, 94025, United States

Contact phone 650.326.9300 Email johnston@menloequities.com



# KCC ePOC Electronic Claim Filing Summary

For phone assistance: Domestic (877)-726-6510 | International 001-310-823-9000

<b>Debtor:</b> 23-14852 - Cyxtera Communications, LLC		
<b>District:</b> District of New Jersey, Newark Division		
<b>Creditor:</b> 4650 Santa Clara Technology Partners LLC Mintz Levin, Attn: Abigail V. OBrient 2049 Century Park East, Suite 300  Los Angeles, CA, 90067  <b>Phone:</b> 310.226.7886  <b>Phone 2:</b>  <b>Fax:</b>  <b>Email:</b> AVObrient@mintz.com	<b>Has Supporting Documentation:</b> Yes, supporting documentation successfully uploaded	
	<b>Related Document Statement:</b>	
	<b>Has Related Claim:</b> No	
	<b>Related Claim Filed By:</b>	
<b>Filing Party:</b> Authorized agent		
<b>Disbursement/Notice Parties:</b> 4650 Santa Clara Technology Partners LLC C. Michael Johnston 2765 Sand Hill Road, Suite 200  Menlo Park, CA, 94025 United States <b>Phone:</b> 650.326.9300 <b>Phone 2:</b>  <b>Fax:</b>  <b>E-mail:</b> johnston@menloequities.com <b>DISBURSEMENT ADDRESS</b>		
<b>Other Names Used with Debtor:</b>	<b>Amends Claim:</b> No	
	<b>Acquired Claim:</b> No	
<b>Basis of Claim:</b> See attached Addendum	<b>Last 4 Digits:</b> Yes - 4079	<b>Uniform Claim Identifier:</b>
<b>Total Amount of Claim:</b> See attached Addendum	<b>Includes Interest or Charges:</b> Yes	
<b>Has Priority Claim:</b> Yes	<b>Priority Under:</b> 11 U.S.C. §507(a)(2): 404,025.96	
<b>Has Secured Claim:</b> No	<b>Nature of Secured Amount:</b>	
<b>Amount of 503(b)(9):</b> No	<b>Value of Property:</b>	
<b>Based on Lease:</b> Yes, See attached Addendum	<b>Annual Interest Rate:</b>	
<b>Subject to Right of Setoff:</b> Yes, See attached Addendum	<b>Arrearage Amount:</b>	
	<b>Basis for Perfection:</b>	
	<b>Amount Unsecured:</b>	
<b>Submitted By:</b> C. Michael Johnston on 15-Aug-2023 1:19:05 p.m. Eastern Time  <b>Title:</b> Authorized Signatory  <b>Company:</b> 4650 Santa Clara Technology Partners LLC		

**Optional Signature Address:**

C. Michael Johnston  
4650 Santa Clara Technology Partners LLC  
2765 Sand Hill Road, Suite 200

Menlo Park, CA, 94025  
United States

**Telephone Number:**

650.326.9300

**Email:**

johnston@menloequities.com

In re Cyxtera Communications, LLC  
United States Bankruptcy Court for the District of New Jersey  
Case No. 23-14852

### **ADDENDUM TO PROOF OF CLAIM**

This proof of claim (the “Proof of Claim”) is filed by 4650 Santa Clara Technology Partners LLC (“Claimant”) against the estate of debtor Cyxtera Communications, LLC (“Debtor”) and is for a claim in the total amount of at least **\$475,762.70**, of which at least **\$404,025.96** is entitled to administrative expense priority as unpaid rental obligations that accrued on and after June 4, 2023 (the “Petition Date”), including during the stub period from the Petition Date through June 30, 2023 (the “Claim”).

Reference is made to the *Order (I) Setting Bar Dates for Submitting Proofs of Claim, Including Requests for Payment Under Section 503(b)(9), (II) Establishing an Amended Schedules Bar Date and a Rejection Damages Bar Date, (III) Approving the Form, Manner, and Procedures for Filing Proofs of Claim, (IV) Approving Notice Thereof, and (V) Granting Related Relief* [Docket No. 298] (the “Bar Date Order”) by which the Bankruptcy Court established August 15, 2023 at 4:00 p.m. prevailing Eastern Time to assert any claims against Debtors that arose on or before the Petition Date.

Claimant’s Claim is based on amounts owed by Debtor to Claimant pursuant to that certain Lease, dated as of March 5, 2004, by and between Claimant (as successor-in-interest to Meerkat SC Office LLC), as landlord, and Debtor (as successor-in-interest to Savvis Asset Holdings, Inc., as tenant), as amended by that certain First Amendment to Lease, dated as of December 22, 2006, that certain Second Amendment to Lease, dated as of July 29, 2010, and that certain Third Amendment to Lease, dated as of July 19, 2011 (collectively, the “Lease”), for the premises located at 4650 Old Ironsides Drive, Santa Clara, California. Claimant is informed and believes that Debtor is in possession of all material documents supporting the Claim and, with the consent of Debtor’s counsel pursuant to paragraph 7(f) of the Bar Date Order, supporting documentation is not attached hereto. To the extent that Debtor is not in possession of such documents, such documents will be made available to Debtor upon written request to Claimant’s counsel. A schedule setting forth the calculation of the Claim, including a calculation of the portion of the Claim that Claimant asserts is entitled to administrative expense priority, is attached hereto as **Exhibit A**.

Debtor has deducted certain prepetition credits based on CAM reconciliations against postpetition rent due. Claimant disagrees with Debtor’s application of these amounts to postpetition amounts due and reserves all rights to setoff and/or recoupment based on this CAM reconciliation.

Claimant reserves the right to amend and/or supplement this Proof of Claim at any time and in any manner and/or to file additional proofs of claim for any additional claims which may be based on the same or additional documents or grounds of liability, including, but not limited to, the right to amend and/or supplement this Proof of Claim to include (i) adjustments to Additional Rent, as defined in Sections 5(d) and 6(d) of Part II of the Lease, based on reconciliation calculations or otherwise, regardless of whether such Additional Rent accrued before or after the

Petition Date and regardless of whether the amount of any such Additional Rent was calculated before or after the date of filing this Proof of Claim; (ii) any interest, fees, expenses or other charges permitted under the Lease; (iii) any unpaid amounts due under the Lease accruing subsequent to the Petition Date, which amounts Claimant reserves the right to assert are entitled to administrative expense priority; and (iv) any claims for rejection damages in the event the Lease is rejected.

This Proof of Claim is filed under compulsion of the Bar Date Order to protect Claimant from forfeiture of any claim Claimant may have against Debtor's estate. Filing of this Proof of Claim is not (a) a waiver or release of Claimant's rights against any person, entity or property; (b) a waiver or release of Claimant's right to have any and all final orders in any and all core or non-core matters entered only after de novo review by a United States District Court Judge; (c) a consent by Claimant to the jurisdiction of this Court for any purpose other than with respect to this Proof of Claim; (d) a waiver of any right to adjudication and liquidation of the Claim in a venue other than this Court; (e) an election of remedy; (f) a waiver or release of any rights which Claimant may have to a jury trial; (g) a waiver of any right of Claimant to pursue any other party; or (h) a waiver of the right to move to withdraw the reference or seek abstention with respect to the subject matter of this Proof of Claim, any objection thereto, or any other proceedings which may be commenced in this case against or otherwise involving Claimant.

All notices to Claimant should be sent to Claimant's counsel, Abigail V. O'Brient, Mintz, Levin, Cohn, Ferris, Glovsky & Popeo, PC, 2049 Century Park East, Suite 300, Los Angeles, CA 90067. Payments should be sent to the address indicated in Item #3 on the Proof of Claim.

**EXHIBIT A**

**Calculation of Claim<sup>1</sup>**

**Calculation of Total Claim**

<b>Description</b>	<b>Amount</b>
Rent for June 2023	\$ 443,550.57
Additional Rent for June 2023	\$ 4,830.45
Prior Year CAM	\$ 26,660.42
Prior Year CAM Interest	\$ 721.26
<b>Total</b>	<b>\$ 475,762.70</b>

**Calculation of Administrative Claim for June 2023 “Stub” Rent (6/4-6/30)**

<b>Description</b>	<b>Amount</b>	<b>Stub Period</b>	<b>Prorated Rent Due</b>
Rent for June 2023 (prorated for 6/4 - 6/30)	\$ 443,550.57	=27/30 days	\$ 399,195.51
Additional Rent for June 2023 (as of June 30, 2023)	\$ 4,830.45	N/A	\$ 4,830.45
		<b>Total</b>	<b>\$ 404,025.96</b>

**Calculation of Prepetition Claim**

<b>Description</b>	<b>Amount</b>
Total Claim	\$ 475,762.70
(Total Administrative Claim for June 2023 “Stub” Rent)	\$ (404,025.96)
<b>Total</b>	<b>\$ 71,736.74</b>

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<sup>1</sup> Among other provisions entitling Claimant to all remedies available at law or in equity upon the occurrence of an Event of Default under the Lease, Section 5(c) of Part II of the Lease entitles Claimant to interest on overdue payments at the Lease Default Rate, as such term is defined in the Lease. Interest on Claimant’s Claim will accrue at the Lease Default Rate from June 10, 2023 until the date of payment of the Claim, at the rate of at least \$161.01 per day. In addition, Section 44(f) of Part II of the Lease provides: “In the event of any suit, action, or other proceeding at law or in equity, by either party hereto against the other, by reason of any matter arising out of this Lease, the prevailing party shall recover, not only its legal costs, but also reasonable attorneys’ fees (to be fixed by the Court) for the maintenance or defense of said suit, action or other proceeding, as the case may be.” Claimant’s Claim includes all attorneys’ fees incurred by Claimant in connection with the Lease, this Claim, and the Debtor’s bankruptcy case to the extent permitted by the Lease and applicable law. Claimant reserves all rights to amend this Claim to include the amount of such attorneys’ fees.