

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CALLWAVE COMMUNICATIONS, LLC.,)	
)	
)	CIVIL ACTION NO.:
)	1:12-cv-01704-RGA
)	
Plaintiff,)	FIRST AMENDED COMPLAINT
)	FOR PATENT INFRINGEMENT
)	
v.)	
)	
VERIZON COMMUNICATIONS INC., CELLCO PARTNERSHIP, D.B.A. VERIZON WIRELESS, AND GOOGLE INC.,)	JURY TRIAL DEMANDED
)	
)	
Defendants.)	

STATEMENT OF JURISDICTION

1. This Court has subject matter jurisdiction over this case under 28 USC §§ 1331, 1338(a).

NATURE OF THE ACTION

2. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 271, *et seq.*, to obtain damages resulting from Defendants' unauthorized manufacture, use, sale, and/or offer to sell in the United States of products, methods, processes, services and/or systems that infringe one or more claims of United States Patent Nos. 6,771,970; 7,907,933; 7,636,428; 7,882,188; and 8,064,588 (collectively the "Asserted Patents") (attached as Exhibits A-E, respectively).

3. This action for patent infringement involves Defendants' manufacture, use, sale, and/or offer for sale, in the United States of infringing products, methods, processes, services and systems that are primarily used or primarily adapted for use in consumer telephony services, including but not limited to the Google Play Store, Google's Voice, Verizon Family Locator, and Verizon FiOS Digital Voice (collectively, "Accused Products"). On information and belief, Verizon induces its vendors, including at least Google, to infringe the Asserted Patents.

THE PARTIES

4. Plaintiff CallWave Communications LLC ("CallWave") is a Delaware limited liability corporation with its principal place of business in Newton, Massachusetts.

5. Plaintiff CallWave is the assignee or exclusive licensee of all substantial rights, title and interest in and to the Asserted Patents.

6. Defendant Google Inc. ("Google") is a Delaware corporation headquartered at 1600 Amphitheatre Parkway, Mountain View, CA 94043.

7. Google is in the business of providing Internet search and communication functionalities including, but not limited to, email services, location-based advertising, telephony services, mapping and navigation services, and mobile app and content distribution.

8. Defendant Verizon Communications Inc. is a Delaware corporation headquartered at 140 West Street, New York, New York.

9. Defendant Cellco Partnership d.b.a. Verizon Wireless is a Delaware partnership headquartered at 180 Washington Valley Road, Badminster, New Jersey. Collectively, Defendants Verizon Communications Inc., and Cellco Partnership will be referred to as "Verizon."

10. Verizon is in the business of providing communication functionalities including, but not limited to, mobile telephony services, location tracking, map and contenting and navigation services, Voice-Over-Internet Protocol (“VOIP”) services, and mobile app and content distribution.

11. Plaintiff has been and will continue to be harmed by Defendants’ infringement of the Asserted Patents. Moreover, Defendants’ unauthorized and infringing uses of Plaintiff’s patented systems and methods have threatened the value of this intellectual property because Defendants’ conduct results in Plaintiff’s loss of its lawful patent rights to exclude others from making, using, selling, offering to sell and/or importing the patented inventions.

12. Defendants’ disregard for Plaintiff’s property rights threatens Plaintiff’s relationships with potential licensees of Plaintiff’s patents, including the Asserted Patents. The Defendants will derive a competitive advantage over any of Plaintiff’s future licensees from infringing Plaintiff’s patented technology.

JURISDICTION AND VENUE

13. This Court has jurisdiction over the subject matter of this patent infringement action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

14. Defendants are subject to personal jurisdiction in the State of Delaware because they are incorporated in Delaware and, on information and belief, regularly transact business in this judicial district by, among other things, offering their products and services to customers, business affiliates and partners located in this judicial district. In addition, on information and belief, the Defendants have committed acts of direct infringement of one or more of the claims of the Asserted Patents in this judicial district.

15. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b) because the Defendants are subject to personal jurisdiction in this district, and have committed acts of infringement in this district.

THE PATENTS-IN-SUIT

16. United States Patent No. 6,771,970 is entitled “Location Determination System” and relates to, *inter alia*, systems and methods for locating mobile devices.

17. United States Patent No. 7,907,933 is entitled “Call Routing Apparatus” and relates to, *inter alia*, systems and methods of processing a payment over a network.

18. United States Patent No. 7,636,428 is entitled “Systems and Methods for Call Screening” and relates to, *inter alia*, systems and methods of allowing a user to screen a call.

19. United States Patent No. 7,822,188 is entitled “Methods and Apparatus for Providing Expanded Telecommunications Service” and relates to, *inter alia*, methods of placing calls from a call processing system in response to a request.

20. United States Patent No. 8,064,588 is entitled “Systems and Method for Call Screening” and relates to, *inter alia*, systems and methods for allowing a user to screen a call.

EXEMPLARY ACCUSED PRODUCTS

21. Verizon’s Family Locator service allows users to track the location of their family members. The service allows a user to track the location of mobile phones and displays the location of the phones on a map.

22. Verizon FiOS Digital Voice is a VOIP telephony product that supports call forwarding and call screening.

23. Verizon Hosted IP Centrex is a VOIP product that support call forwarding and call screening.

24. The Google Play Store is a mobile application and content marketplace. It allows for purchases made on the store to be billed directly to the purchaser's phone bill on the Verizon network.

25. Google Voice is a comprehensive phone service product provided by Google. Among the features offered by Google Voice is the ability to screen calls by seeing the phone number of the caller, and listening to part of a message left by a caller, and then determining whether to pick up the call.

INFRINGEMENT OF UNITED STATES PATENT NO. 6,771,970

26. Paragraphs 1 through 25 are incorporated by reference as if fully restated herein.

27. Plaintiff CallWave is the exclusive licensee of all substantial rights and interest in and to the 6,771,970 Patent.

28. Verizon makes, uses, sells, offers to sell, practices, and/or provides Verizon's Family Locator in the United States.

29. Verizon's Family Locator infringes one or more of the claims of the 6,771,970 Patent. Verizon's use, practice, and/or provision of Family Locator infringes one or more claims of the 6,771,970 Patent.

30. Verizon has infringed one or more of the claims of the 6,771,970 Patent through the aforesaid acts, and will continue to do so unless enjoined by this Court.

31. On December 29, 2012, CallWave provided, and on information and belief, Verizon received a letter ("the Verizon Letter") that attached a copy of the original

Complaint (D.I. 1), providing notice of Verizon's infringement of the 6,771,970, and 7,907,933 Patents.

32. On information and belief, Verizon has been willfully infringing the 6,771,970 Patent since at least December 29, 2012, and Verizon continues to willfully infringe.

33. Plaintiff is entitled to recover damages adequate to compensate for the infringement.

INFRINGEMENT OF UNITED STATES PATENT NO. 7,907,933

34. Paragraphs 1 through 33 are incorporated by reference as if fully restated herein.

35. Plaintiff CallWave is the assignee and lawful owner of all right, title and interest in and to the 7,907,933 Patent.

36. Defendants make, use, sell, offer to sell, practice, and/or provide products, services, methods or processes that include the direct carrier billing functionality of the Google Play Store, in the United States.

37. Verizon's use, practice, and/or provision of direct carrier billing for the Google Play Store on its mobile network infringes one or more of the claims of the 7,907,933 Patent.

38. Google's use, practice, and/or provision of the Google Play Store on Verizon's mobile network infringes one or more of the claims of the 7,907,933 Patent.

39. The Defendants have infringed one or more of the claims of the 7,907,933 Patent through the aforesaid acts, and will continue to do so unless enjoined by this Court.

40. On information and belief, Verizon has been willfully infringing the 7,907,933 Patent since at least December 29, 2012, and Verizon continues to willfully infringe.

41. On December 30, 2012, CallWave provided, and on information and belief, Google received a letter (“the Google Letter”) that attached a copy of the original Complaint (D.I. 1), providing notice of Google’s infringement of the 7,907,933 Patent.

42. On information and belief, Google has been willfully infringing the 7,907,933 Patent since at least December 30, 2012, and Google continues to infringe.

43. The Verizon Letter informed Verizon that it may be inducing Verizon’s vendors to infringe the 7,907,933 Patent. On information and belief, Google is at least one of Verizon’s vendors for direct carrier billing on the Google Play Store, and Verizon has a commercial relationship with Google to provide direct carrier billing on the Google Play Store to Verizon for use on the Verizon network.

44. On information and belief, at least as early as December 29, 2012, Verizon knew that its vendors, including at least Google, directly infringed the methods claimed in the 7,907,933 Patent, and, on information and belief, Verizon intended, and caused or encouraged its vendors, including at least Google, to directly infringe the 7,907,933 Patent.

45. On information and belief, Verizon is inducing infringement of the 7,907,933 Patent.

46. Plaintiff is entitled to recover damages adequate to compensate for the infringement.

DIRECT INFRINGEMENT OF UNITED STATES PATENT NO. 7,822,188

47. Paragraphs 1 through 46 are incorporated by reference as if fully restated herein.

48. Plaintiff CallWave is the assignee and lawful owner of all right, title and interest in and to the 7,822,188 Patent.

49. Verizon makes, uses, sells, offers to sell, practices, and/or provides FiOS Digital Voice, and Hosted IP Centrex in the United States.

50. Verizon's use, practice, and/or provision of FiOS Digital Voice, and Hosted IP Centrex infringes one or more of the claims of the 7,822,188 Patent.

51. Verizon has infringed one or more of the claims of the 7,822,188 Patent through the aforesaid acts, and will continue to do so unless enjoined by this Court.

52. Plaintiff is entitled to recover damages adequate to compensate for the infringement.

DIRECT INFRINGEMENT OF UNITED STATES PATENT NO. 7,636,428

53. Paragraphs 1 through 56 are incorporated by reference as if fully restated herein.

54. Plaintiff CallWave is the assignee and lawful owner of all right, title and interest in and to the 7,636,428 Patent.

55. Google makes, uses, sells, offers to sell, practices and/or provides Google Voice in the United States. This product is then used by third parties.

56. Google's use, practice, and/or provision of Google Voice infringes one or more of the claims of the 7,636,428 Patent.

57. Verizon makes, uses, sells, offers to sell, practices, and/or provides Hosted IP Centrex in the United States. This product is then used by third parties.

58. Verizon's use, practice, and/or provision of Hosted IP Centrex infringes one or more of the claims of the 7,636,428 Patent.

59. Google and Verizon have each infringed one or more of the claims of the 7,636,428 Patent through the aforesaid acts, and will continue to do so unless enjoined by this Court.

60. On December 30, 2012, CallWave provided, and on information and belief, Google received the Google Letter that provided notice of Google's infringement of the 7,636,428 Patent.

61. On information and belief, Google has been willfully infringing the 7,636,428 Patent since at least December 30, 2012, and Google continues to infringe.

62. Plaintiff is entitled to recover damages adequate to compensate for the infringement.

DIRECT INFRINGEMENT OF UNITED STATES PATENT NO. 8,064,588

63. Paragraphs 1 through 62 are incorporated by reference as if fully restated herein.

64. Plaintiff CallWave is the assignee and lawful owner of right, title, and interest in and to the 8,064,588 Patent.

65. Verizon makes, uses, sells, offers to sell, practices and/or provides Hosted IP Centrex in the United States.

66. Verizon's Hosted IP Centrex infringes one or more of the claims of the 8,064,588 Patent. Verizon's use, practice, and/or provision of Hosted IP Centrex infringes one or more claims of the 8,064,588 Patent.

67. Verizon has infringed one or more of the claims of the 8,064,588 Patent through the aforesaid acts, and will continue to do so unless enjoined by this Court.

68. Plaintiff is entitled to recover damages adequate to compensate for the infringement.

WHEREFORE, Plaintiff prays for judgment against the Defendants, granting Plaintiff the following relief:

69. That this Court adjudge and decree that Defendants have infringed the Asserted Patents;

70. That this Court order an accounting, including a post-verdict accounting, to determine the damages to be awarded to Plaintiff as a result of the Defendants' infringement;

71. That this Court, pursuant to 35 U.S.C. § 284, enter an award to Plaintiff of such damages as it shall prove at trial against the Defendants that is adequate to compensate Plaintiff for said infringement, said damages to be no less than a reasonable royalty together with interest and costs;

72. That this Court assess pre-judgment and post-judgment interest and costs against the Defendants, together with an award of such interest and costs, in accordance with 35 U.S.C. § 284;

73. Grant to Plaintiff such other, further, and different relief as may be just and proper.

JURY DEMAND

74. Plaintiff demands a trial by jury of all matters to which it is entitled to trial by jury pursuant to FED. R. CIV. P. 38.

Dated: April 18, 2012

/s/ Edmond D. Johnson

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CERTIFICATE OF SERVICE

I hereby certify that on April 18, 2013, a copy of Plaintiff CallWave Communications, Inc.'s First Amended Complaint, was served electronically with the Clerk of the Court using CM/ECF, which will send electronic notification of such filing to the following counsel of record:

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