

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

PPC BROADBAND, INC., d/b/a PPC,

Plaintiff,

-vs-

**TIMES FIBER COMMUNICATIONS,
INC.,**

Defendant.

Civil Action No. 5:13-CV-0460 (TJM/ATB)

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff PPC Broadband, Inc., d/b/a PPC (“PPC”), by its attorneys, Hiscock & Barclay, LLP, as and for its Complaint against the defendant, Times Fiber Communications, Inc. (“Times Fiber”), alleges as follows:

Nature of Action

1. This action, brought under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*, seeks relief arising out of Times Fiber’s infringement of U.S. Patent Nos. 8,337,229 (the “’229 Patent”), 8,192,237 (the “’237 Patent”), 8,313,353 (the “’353 Patent”), and 8,323,060 (the “’060 Patent”) (collectively, the “Patents-in-Suit”), of which PPC is the owner by assignment. True and correct copies of the ’229, ’237, ’353, and ’060 Patents are attached hereto as Exhibits A, B, C, and D, respectively.

Parties

2. PPC is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 6176 East Molloy Road, East Syracuse, New York.

3. Upon information and belief, Times Fiber is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 358 Hall Avenue, Wallingford, Connecticut.

Jurisdiction and Venue

4. This Court has subject matter jurisdiction over the asserted claims pursuant to 28 U.S.C. §§ 1331 and 1338, and 35 U.S.C. § 281.

5. Upon information and belief, this Court has personal jurisdiction over Times Fiber, which regularly engages in extensive business transactions and solicitations in the State of New York and within this District, has contracted to supply goods and services within this District, and/or has committed acts of patent infringement in this District by making, selling and/or offering to sell, directly and/or through its agents or distributors, products that infringe one or more of the claims of one or more of PPC's patents.

6. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and/or 1400, because, upon information and belief, a substantial part of the events or omissions giving rise to the claims occurred in this District.

Factual Allegations

The Industry

7. PPC is a worldwide leader in the design and manufacture of coaxial cable connectors for the cable and telecommunication industries.

8. PPC invests a substantial amount of capital in product development and improvement to maintain its position as a leading producer of innovative cable connector products.

9. Coaxial cable connectors are used to link coaxial cable between various electronic devices, including televisions, set top boxes, and broadband modems.

10. PPC's cable connectors are used indoors and outdoors to connect cables from external sources (*e.g.*, a utility pole) to end-user electronic devices.

11. Due to the high cost of labor associated with installing and maintaining cable connections, manufacturers of coaxial cable connectors attempt to design connectors that allow installers to create a long-term, reliable connection as quickly and easily as possible.

The '229 Patent

12. On January 28, 2011, PPC (f/k/a John Mezzalingua Associates, Inc.) filed a patent application on the invention of Noah Montena, U.S. Patent Application Serial No. 13/016,114 (the "'114 Application"), entitled "Connector Having a Nut-Body Continuity Element and Method of Use Thereof".

13. On December 25, 2012, the '114 Application resulted in the issuance of the '229 Patent. The '229 Patent was assigned to PPC. PPC is the sole owner of, and has the sole right to sue upon, the '229 Patent.

14. PPC has not licensed Times Fiber to practice the '229 Patent and Times Fiber has no right or authority to license others to practice the '229 Patent.

15. PPC has complied with 35 U.S.C. § 287 with respect to the '229 Patent.

16. Times Fiber has actual notice of its infringement of the '229 Patent at least as a result of the commencement of this action.

The '237 Patent

17. On February 23, 2011, PPC filed a patent application on the invention of Eric Purdy, Noah Montena, and Jeremy Amidon, U.S. Patent Application Serial No. 13/033,127 (the "'127 Application"), entitled "Coaxial Cable Connector Having Electrical Continuity Member".

18. On June 5, 2012, the '127 Application resulted in the issuance of the '237 Patent. The '237 Patent was assigned to PPC. PPC is the sole owner of, and has the sole right to sue upon, the '237 Patent.

19. PPC has not licensed Times Fiber to practice the '237 Patent and Times Fiber has no right or authority to license others to practice the '237 Patent.

20. PPC has complied with 35 U.S.C. § 287 with respect to the '237 Patent.

21. Times Fiber has actual notice of its infringement of the '237 Patent at least as a result of the commencement of this action.

The '353 Patent

22. On April 30, 2012, PPC filed a patent application on the invention of Eric Purdy, Noah Montena, and Jeremy Amidon, U.S. Patent Application Serial No. App No. 13/459,711 (the "'711 Application"), entitled "Coaxial Cable Connector Having Electrical Continuity Member".

23. On November 20, 2012, the '711 Application resulted in the issuance of the '353 Patent. The '353 Patent was assigned to PPC. PPC is the sole owner of, and has the sole right to sue upon, '353 Patent.

24. PPC has not licensed Times Fiber to practice the '353 Patent and Times Fiber has no right or authority to license others to practice the '353 Patent.

25. PPC has complied with 35 U.S.C. § 287 with respect to the '353 Patent.

26. Times Fiber has actual notice of its infringement of the '353 Patent at least as a result of the commencement of this action.

The '060 Patent

27. On June 14, 2012, PPC filed a patent application on the invention of Eric Purdy, Noah Montena, and Jeremy Amidon, U.S. Patent Application Serial No. 13/523,668 (the "'668 Application"), entitled "Coaxial Cable Connector Having Electrical Continuity Member".

28. On December 4, 2012, the '668 Application resulted in the issuance of the '060 Patent. The '060 Patent was assigned to PPC. PPC is the sole owner of, and has the sole right to sue upon, the '060 Patent.

29. PPC has not licensed Times Fiber to practice the '060 Patent and Times Fiber has no right or authority to license others to practice the '060 Patent.

30. PPC has complied with 35 U.S.C. § 287 with respect to the '060 Patent.

31. Times Fiber has actual notice of its infringement of the '060 Patent at least as a result of the commencement of this action.

Count I ***(Infringement of the '229 Patent)***

32. PPC repeats and reasserts all allegations contained in Paragraphs 1 through 31 above as if they were stated in full herein.

33. Times Fiber has infringed at least one claim of the '229 Patent, within the meaning of 35 U.S.C. § 271, by making, using, selling, offering for sale, and/or importing coaxial cable connectors, including, but not necessarily limited to, Times Fiber's QC II with QuickShield series connectors that bear part numbers such as TFC-QC2TQS-06U-3 and TFC-QC2QS-06U-3.

34. Times Fiber's acts of infringement cause PPC irreparable harm and damages in an amount to be proven at trial, including lost sales, lost profits, lost sales opportunities, and loss of good will.

35. Upon information and belief, Times Fiber's unlawful infringing activity will continue unless and until Times Fiber is enjoined by this Court from further infringement, and such infringement will be willful, deliberate, and intentional.

36. Times Fiber's continuing infringement will cause PPC further irreparable harm and damages, and entitle it to recover, among other things, treble damages, attorney fees, and costs.

Count II
(Infringement of the '237 Patent)

37. PPC repeats and reasserts all allegations contained in Paragraphs 1 through 36 above as if they were stated in full herein.

38. Times Fiber has infringed at least one claim of the '237 Patent, within the meaning of 35 U.S.C. § 271, by making, using, selling, offering for sale, and/or importing coaxial cable connectors, including, but not necessarily limited to, Times Fiber's QC II with QuickShield series connectors that bear part numbers such as TFC-QC2TQS-06U-3 and TFC-QC2QS-06U-3.

39. Times Fiber's acts of infringement cause PPC irreparable harm and damages in an amount to be proven at trial, including lost sales, lost profits, lost sales opportunities, and loss of good will.

40. Upon information and belief, Times Fiber's unlawful infringing activity will continue unless and until Times Fiber is enjoined by this Court from further infringement, and such infringement will be willful, deliberate, and intentional.

41. Times Fiber's continuing infringement will cause PPC further irreparable harm and damages, and entitle it to recover, among other things, treble damages, attorney fees, and costs.

Count III
(Infringement of the '353 Patent)

42. PPC repeats and reasserts all allegations contained in Paragraphs 1 through 41 above as if they were stated in full herein.

43. Times Fiber has infringed at least one claim of the '353 Patent, within the meaning of 35 U.S.C. § 271, by making, using, selling, offering for sale, and/or importing coaxial cable connectors, including, but not necessarily limited to, Times Fiber's QC II with QuickShield series connectors that bear part numbers such as TFC-QC2TQS-06U-3 and TFC-QC2QS-06U-3.

44. Times Fiber's acts of infringement cause PPC irreparable harm and damages in an amount to be proven at trial, including lost sales, lost profits, lost sales opportunities, and loss of good will.

45. Upon information and belief, Times Fiber's unlawful infringing activity will continue unless and until Times Fiber is enjoined by this Court from further infringement, and such infringement will be willful, deliberate, and intentional.

46. Times Fiber's continuing infringement will cause PPC further irreparable harm and damages, and entitle it to recover, among other things, treble damages, attorney fees, and costs.

Count IV
(Infringement of the '060 Patent)

47. PPC repeats and reasserts all allegations contained in Paragraphs 1 through 46 above as if they were stated in full herein.

48. Times Fiber has infringed at least one claim of the '060 Patent, within the meaning of 35 U.S.C. § 271, by making, using, selling, offering for sale, and/or importing coaxial cable connectors, including, but not necessarily limited to, Times Fiber's QC II with QuickShield series connectors that bear part numbers such as TFC-QC2TQS-06U-3 and TFC-QC2QS-06U-3.

49. Times Fiber's acts of infringement cause PPC irreparable harm and damages in an amount to be proven at trial, including lost sales, lost profits, lost sales opportunities, and loss of good will.

50. Upon information and belief, Times Fiber's unlawful infringing activity will continue unless and until Times Fiber is enjoined by this Court from further infringement, and such infringement will be willful, deliberate, and intentional.

51. Times Fiber's continuing infringement will cause PPC further irreparable harm and damages, and entitle it to recover, among other things, treble damages, attorney fees, and costs.

Jury Demand

PPC demands a trial by jury on all issues so triable.

Request For Relief

WHEREFORE, PPC urges the Court to grant the following relief:

- A. Entry of judgment that Times Fiber has infringed the Patents-in-Suit;

