

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

TELECOMM INNOVATIONS, LLC,

*Plaintiff*

v.

EQUINOX PAYMENTS, LLC,

*Defendant*

Civil Action No. \_\_\_\_\_

JURY TRIAL DEMANDED

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Telecomm Innovations, LLC (“Telecomm” or “Plaintiff”), for its Complaint against Defendant Equinox Payments, LLC (“Equinox” or “Defendant”), alleges the following:

**NATURE OF THE ACTION**

1. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*

**THE PARTIES**

2. Plaintiff Telecomm is a limited liability company organized under the laws of the State of Delaware with a place of business at 1209 Orange Street, Wilmington, Delaware, 19801.

3. Upon information and belief, Equinox Payments, LLC is a corporation organized and existing under the laws of the State of Delaware, with its principal executive offices at 8901 East Raintree Drive, Suite 400, Scottsdale, Arizona 85260. Upon information and belief, Equinox sells and offers to sell products and services throughout the United States, including in this judicial district and introduces products and services that perform infringing processes into the stream of commerce knowing that they would be sold in this judicial district and elsewhere in the United States.

## **JURISDICTION AND VENUE**

4. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code.

5. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

6. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(c) and 1400(b).

7. Upon information and belief, Defendant conducts substantial business in this forum, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in Delaware. Further, this Court has personal jurisdiction over Defendant because it is incorporated in Delaware and has purposely availed itself of the privileges and benefits of the laws of the State of Delaware.

### **COUNT I – INFRINGEMENT OF U.S. PATENT NO. 5,396,519**

8. The allegations set forth in the foregoing paragraphs 1 through 7 are incorporated into this First Claim for Relief.

9. On March 7, 1995, U.S. Patent No. 5,396,519 Patent (“the ’519 Patent”), entitled “Method and Apparatus for Adaptively Providing Precoding and Preemphasis Conditioning to Signal Data for Transfer over a Communication Channel,” was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the ’519 Patent is attached as Exhibit A.

10. Telecomm is the assignee and owner of the right, title and interest in and to the ’519 Patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

11. Upon information and belief, Defendant has and continues to directly infringe one or more claims of the '519 Patent by using, and/or providing and causing to be used products that incorporate dial up modems or functionalities that perform the signal conditioning method claimed in the '519 Patent, including, without limitation, point of sale devices such as T4220, T4210, T4205, T4230, M4230, M4240, and others (the "'519 Accused Instrumentalities").

12. Defendant was made aware of the '519 Patent and their infringement thereof at least as early as its receipt of correspondence from Telecomm providing notice of the '519 Patent and Defendant's infringement thereof sent to Defendant on November 29, 2012. This letter was sent certified mail with return receipt requested. Telecomm has since received the return receipt for Defendant indicating that Defendant has notice of the '519 Patent and its infringement.

13. Upon information and belief, since at least the time it received notice, Defendant has induced and continues to induce others to infringe at least one claim of the '519 Patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including but not limited to, Defendant's partners and customers, whose use of the '519 Accused Instrumentalities constitutes direct infringement of at least one claim of the '519 Patent.

14. In particular, Defendant's actions that aid and abet others such as their partners and customers to infringe include advertising and distributing the '519 Accused Instrumentalities and providing instruction materials, training, and services regarding the '519 Accused Instrumentalities. On information and belief, Defendant has engaged in such actions with the specific intent to cause infringement or with willful blindness to the resulting infringement because Defendant has had actual knowledge of the '519 Patent and that its acts were inducing

their customers to infringe the '519 Patent since at least the date Defendant received notice that such activities infringed the '519 Patent.

15. Despite Telecomm's notice regarding the '519 Patent, Defendant has continued to infringe the '519 Patent. On information and belief, Defendant's infringement has been and continues to be willful.

16. Telecomm has been harmed by Defendant's infringing activities.

### **JURY DEMAND**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Telecomm demands a trial by jury on all issues triable as such.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Telecomm demands judgment for itself and against Defendant as follows:

- A. An adjudication that Defendant has infringed the '519 Patent;
- B. An award of damages to be paid by Defendant adequate to compensate Telecomm for their past infringement of the '519 Patent, and any continuing or future infringement through the date such judgment is entered, including interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;
- C. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of Plaintiff's reasonable attorneys' fees; and
- D. An award to Telecomm of such further relief at law or in equity as the Court deems just and proper.

Dated: July 19, 2013

STAMOULIS & WEINBLATT LLC

*/s/ Richard C. Weinblatt*

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