

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

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TLI COMMUNICATIONS LLC,	:	
	:	C.A. No. _____
Plaintiff,	:	
	:	
v.	:	
	:	
	:	JURY TRIAL DEMANDED
TWITTER, INC.,	:	
	:	
and	:	
	:	
VINE LABS, INC.	:	
	:	
Defendants.	:	
	:	
-----X	:	

Complaint for Patent Infringement

Plaintiff TLI Communications LLC (“TLI”) files this Complaint for Patent Infringement (“Complaint”) against Twitter, Inc. (“Twitter”) and Vine Labs, Inc. (“Vine”), wherein, pursuant to 35 U.S.C. §§ 271 and 281, Plaintiff seeks a judgment of infringement by Defendants of U.S. Patent No. 6,038,295 (the “295 Patent”) and damages resulting therefrom pursuant to 35 U.S.C. § 284, as well as preliminary and permanent injunction of the infringing activity pursuant to 35 U.S.C. § 283, and such other relief as the Court deems just and proper, and in support thereof alleges as follows:

The Parties

1. Plaintiff TLI is a Delaware limited liability company with its principal place of business at 3422 Old Capitol Trail, Suite 72, Wilmington, Delaware 19808.
2. On information and belief, Defendant Twitter is a Delaware corporation with its principal place of business at 1355 Market Street, Suite 900, San Francisco, California 94103.

Twitter has appointed Incorporating Services, Ltd., 3500 S. DuPont Highway, Dover, Delaware 19901, as its agent for service of process.

3. On information and belief, Defendant Vine is a corporation organized under the laws of the State of Delaware, with its principle place of business at 51 E. 12th Street, New York, New York 10003. Vine has appointed Incorporation Services, Ltd., 3500 South Dupont Highway, Dover, Delaware 19901, as its agent for service of process.

4. On information and belief, in October 2012, Twitter acquired Vine and now owns Vine.

Jurisdiction and Venue

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

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

7. Upon information and belief, Twitter conducts substantial business in Delaware, 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 Twitter because it is incorporated in Delaware and has purposely availed itself of the privileges and benefits of the laws of the State of Delaware.

8. Upon information and belief, Vine 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 Vine because it is incorporated in Delaware and has purposely availed itself of the privileges and benefits of the laws of the State of Delaware.

9. Venue is proper under 28 U.S.C. §§ 1391 and 1400.

Joinder

10. Defendant Twitter owns defendant Vine.

11. The defendants are in the business of providing, among other things, Internet related services via websites including www.twitter.com and www.vine.co. Defendants collectively offer customers the ability to upload images to Defendants' web servers. As explained in more detail below, Defendants collectively operate their web servers in a manner that infringes the '295 Patent, by archiving and storing digital images received from cellular telephones.

12. The defendants are properly joined under 35 U.S.C. §299(a)(1) because a right to relief is asserted against the parties jointly, severally, and in the alternative with respect to the same transactions, occurrences, or series of transactions or occurrences relating to the making, using, importing into the United States, offering for sale, and/or selling the same accused products, namely the operation of Defendants' web servers.

13. The defendants are properly joined under 35 U.S.C. §299(a)(2). Questions of fact will arise that are common to all defendants, including for example, whether Defendants' products have features that meet the features of one or more claims of the '295 Patent, the operation and maintenance of Defendants' servers, attributed revenues, advertising revenues, and what reasonable royalty will be adequate to compensate TLI for Defendants' infringement of the '295 Patent.

14. At least one right to relief is asserted against Defendants jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences related to the making, using, importing into the United States, offering for sale, or selling of the same accused product and/or process.

The Patent-in-Suit

15. TLI is the owner of the '295 Patent entitled "Apparatus and Method for Recording, Communicating and Administering Digital Images," which the United States Patent & Trademark Office lawfully and duly issued on March 14, 2000. A true and correct copy of the '295 Patent is attached hereto as Exhibit A.

Factual Background

16. Dr. Heinz Mattes is the named inventor of the '295 patent.

17. The '295 patent claims priority to an application filed on June 17, 1996. The '295 patent was originally assigned to Siemens Aktiengesellschaft of Munich, Germany. TLI is the current owner of the '295 patent via assignment.

18. In the mid 1990's, Dr. Mattes, while working as a scientist for Siemens, recognized that mobile telephony and digital photography, each then in their infancy, would likely become more and more popular. Dr. Mattes recognized that mobile telephones could be integrated with digital cameras, resulting in a proliferation of the quantity of digital images that could and would be taken.

19. Dr. Mattes invented a revolutionary way of communicating and recording such digital images, which allowed numerous images to be simply and quickly recorded, tracked, accessed and transmitted.

20. In 1996, Dr. Mattes' invention was among the winners of a Siemens idea competition, leading to Siemens initiating a project to develop a cellular telephone with an integrated camera.

21. The '295's patented inventions are applicable to the uploading and organization of digital images from a telephone. Over the past few years, smart cellular telephones that incorporate sophisticated digital cameras have exploded in popularity, as has social media. Today, hundreds of millions of digital images are uploaded onto computer servers and social media websites every day, including via www.twitter.com and www.vine.co. Twitter's and Vine's products use the '295's patented technology, without license or authority, to classify those images so that they can be easily uploaded, stored, organized, retrieved and shared.

Twitter's Infringing Products

22. Twitter provides web based products and services. Twitter's revenues are attributed to, among other things, display advertising and fee-based services.

23. Twitter recently offered downloadable applications, especially designed for iPhone and Android mobile telephones, and other mobile telephone platforms, which allow telephone users to easily characterize and upload digital images to Twitter and/or Vine servers.

24. So that these digital images could be uploaded, stored and organized, Twitter had to develop products and processes that, on information and belief, employ TLI's patented technology. The infringing products include, but are not limited to, the products and processes that Twitter uses to upload, store and organize the digital images it receives from mobile telephones ("Twitter Infringing Products"). Discovery is expected to uncover the full extent of Twitter's unlawful use of TLI's patented technology beyond these accused Infringing Products already identified through public information.

Vine's Infringing Products

25. Vine provides web based products and services.

26. Vine recently offered downloadable applications, especially designed for iPhone and Android mobile telephones, and other mobile telephone platforms, which allow telephone users to easily characterize and upload digital images to Vine and/or Twitter servers.

27. So that these digital images could be uploaded, stored and organized, Vine had to develop products and processes that, on information and belief, employ TLI's patented technology. The infringing products include, but are not limited to, the products and processes that Vine uses to upload, store and organize the digital images it receives from mobile telephones ("Vine Infringing Products"). Discovery is expected to uncover the full extent of Vine's unlawful use of TLI's patented technology beyond these accused Infringing Products already identified through public information.

CLAIM FOR RELIEF (Infringement of the '295 Patent)

28. TLI incorporates by reference paragraphs 1 through 27 of the Complaint as if set forth here in full.

29. Upon information and belief, Twitter has been and is currently directly infringing one or more claims of the '295 Patent by making, using, offering to sell, and/or selling within the United States, and/or importing into the United States, without authority, the Twitter Infringing Products. For example, and without limitation, Twitter has directly infringed and continues to directly infringe the '295 Patent in this judicial district and elsewhere in the United States. Twitter's infringement includes, without limitation, (i) making and using the apparatus of claim 1 and claims dependent thereon, and (ii) practicing the method of claim 17 and claims dependent thereon.

30. Specifically, Twitter's direct infringement includes, without limitation (i) its uploading of digital images from mobile telephones onto Twitter servers (or onto servers operated on or for Twitter's behalf ("Twitter servers")), including but not limited to digital images Twitter receives from mobile telephone users employing the Twitter application and/or the Vine application (ii) its testing of its Twitter products by uploading images with mobile telephones onto Twitter servers within the United States, and (iii) its maintaining Twitter servers that categorize and store images that were uploaded via mobile telephones. Twitter also directs and/or controls its employees, executives, agents, customers and agents to use the Twitter Infringing Products to upload images from mobile telephones onto Twitter servers within the United States. Twitter also directly infringes one or more claims of the '295 Patent by providing downloadable applications to mobile telephone users and thus putting the Infringing Products into use.

31. Upon information and belief, upon knowledge of the '295 Patent (at least since the filing date of this Complaint), Twitter is contributing to the infringement of the '295 Patent by, among other things, knowingly and with intent, actively encouraging its customers, suppliers, agents and affiliates to make, use, sell and/or offer for sale the Twitter Infringing Products in a manner that constitutes infringement of one or more claims of the '295 Patent. There are no substantial uses of the Infringing Products that do not infringe one or more claims of the '295 Patent. Twitter mobile telephone applications that Twitter provides to its customers, for example, have no substantial non-infringing use.

32. Upon information and belief, upon knowledge of the '295 Patent (at least since the filing date of this Complaint), Twitter is inducing infringement of the '295 Patent by, among other things, knowingly and with intent, actively encouraging its customers, suppliers, agents and

affiliates to make, use, sell and/or offer for sale Twitter Infringing Products in a manner that constitutes infringement of one or more claims of the '295 Patent.

33. To the extent that Twitter's customers can be considered to put the Infringing Products into use, then Twitter would also be inducing infringement of the '295 Patent by, among other things, knowingly and with intent (at least since the filing date of this Complaint), actively encouraging its customers to make and use Twitter's products in a manner that constitutes infringement of one or more claims of the '295 Patent.

34. As a result of Twitter's unlawful infringement of the '295 Patent, TLI has suffered and will continue to suffer damage. TLI is entitled to recover from Twitter the damages adequate to compensate for such infringement, which have yet to be determined.

35. Any further manufacturing, sales, offers for sale, uses, or importation by Twitter of the Infringing Products will demonstrate a deliberate and conscious decision to infringe the '295 Patent or, at the very least, a reckless disregard of TLI's patent rights. If Twitter continues to manufacture, use, offer to sell, sell, and/or import the Infringing Products following its notice of the '295 Patent claims, Twitter's infringement will be willful and TLI will be entitled to treble damages and attorneys' fees and costs incurred in this action, along with prejudgment interest under 35 U.S.C. §§ 284, 285.

36. Twitter will continue to infringe the '295 Patent unless and until it is enjoined by this Court.

37. Twitter's acts of infringement have caused and will continue to cause irreparable harm to TLI unless and until Twitter is enjoined by this Court.

38. Upon information and belief, Vine has been and is currently directly infringing one or more claims of the '295 Patent by making, using, offering to sell, and/or selling within the

United States, and/or importing into the United States, without authority, the Vine Infringing Products. For example, and without limitation, Vine has directly infringed and continues to directly infringe the '295 Patent in this judicial district and elsewhere in the United States. Vine's infringement includes, without limitation, (i) making and using the apparatus of claim 1 and claims dependent thereon, and (ii) practicing the method of claim 17 and claims dependent thereon.

39. Specifically, Vine's direct infringement includes, without limitation (i) its uploading of digital images from mobile telephones onto Vine servers (or onto servers operated on or for Vine's behalf ("Vine servers")), (ii) its testing of its Vine products by uploading images with mobile telephones onto Vine servers within the United States, and (iii) its maintaining Vine servers that categorize and store images that were uploaded via mobile telephones. Vine also directs and/or controls its employees, executives, agents, customers and agents to use the Vine Infringing Products to upload images from mobile telephones onto Vine servers within the United States. Vine also directly infringes one or more claims of the '295 Patent by providing downloadable applications to mobile telephone users and thus putting the Infringing Products into use.

40. Upon information and belief, upon knowledge of the '295 Patent (at least since the filing date of this Complaint), Vine is contributing to the infringement of the '295 Patent by, among other things, knowingly and with intent, actively encouraging its customers, suppliers, agents and affiliates to make, use, sell and/or offer for sale the Vine Infringing Products in a manner that constitutes infringement of one or more claims of the '295 Patent. There are no substantial uses of the Infringing Products that do not infringe one or more claims of the '295

Patent. Vine mobile telephone applications that Vine provides to its customers, for example, have no substantial non-infringing use.

41. Upon information and belief, upon knowledge of the '295 Patent (at least since the filing date of this Complaint), Vine is inducing infringement of the '295 Patent by, among other things, knowingly and with intent, actively encouraging its customers, suppliers, agents and affiliates to make, use, sell and/or offer for sale Vine Infringing Products in a manner that constitutes infringement of one or more claims of the '295 Patent.

42. To the extent that Vine's customers can be considered to put the Infringing Products into use, then Vine would also be inducing infringement of the '295 Patent by, among other things, knowingly and with intent (at least since the filing date of this Complaint), actively encouraging its customers to make and use Vine's products in a manner that constitutes infringement of one or more claims of the '295 Patent.

43. As a result of Vine's unlawful infringement of the '295 Patent, TLI has suffered and will continue to suffer damage. TLI is entitled to recover from Vine the damages adequate to compensate for such infringement, which have yet to be determined.

44. Any further manufacturing, sales, offers for sale, uses, or importation by Vine of the Infringing Products will demonstrate a deliberate and conscious decision to infringe the '295 Patent or, at the very least, a reckless disregard of TLI's patent rights. If Vine continues to manufacture, use, offer to sell, sell, and/or import the Infringing Products following its notice of the '295 Patent claims, Vine's infringement will be willful and TLI will be entitled to treble damages and attorneys' fees and costs incurred in this action, along with prejudgment interest under 35 U.S.C. §§ 284, 285.

45. Vine will continue to infringe the '295 Patent unless and until it is enjoined by this Court.

46. Vine's acts of infringement have caused and will continue to cause irreparable harm to TLI unless and until Twitter is enjoined by this Court.

PRAYER FOR RELIEF

WHEREFORE, TLI prays for a Judgment in favor of TLI and against Defendants as follows:

- A. That Twitter has directly infringed the '295 Patent;
- B. That Twitter has indirectly infringed the '295 Patent;
- C. That this case is "exceptional" within the meaning of 35 U.S.C. § 285 against Twitter;
- D. An order preliminarily and permanently enjoining Twitter and its affiliates, subsidiaries, officers, directors, employees, agents, representatives, licensees, successors, assigns, and all those acting for them and on their behalf, or acting in concert with them directly or indirectly, from further acts of infringement of the '295 Patent;
- E. A full accounting for and an award of damages to TLI for Twitter's infringement of the '295 Patent; including enhanced damages pursuant to 35 U.S.C. § 284, together with pre- and post-judgment interest;
- F. That Vine has directly infringed the '295 Patent;
- G. That Vine has indirectly infringed the '295 Patent;
- H. That this case is "exceptional" within the meaning of 35 U.S.C. § 285 against Vine;
- I. An order preliminarily and permanently enjoining Vine and its affiliates, subsidiaries, officers, directors, employees, agents, representatives, licensees, successors,

assigns, and all those acting for them and on their behalf, or acting in concert with them directly or indirectly, from further acts of infringement of the '295 Patent;

J. A full accounting for and an award of damages to TLI for Vine's infringement of the '295 Patent; including enhanced damages pursuant to 35 U.S.C. § 284, together with pre- and post-judgment interest;

K. An award of TLI's reasonable attorneys' fees, expenses, and costs; and

L. A grant of such other and further equitable or legal relief as this Court deems proper.

DEMAND FOR JURY TRIAL

TLI hereby demands trial by jury on all issues so triable.

Dated: November 18, 2013

Respectfully submitted,

FARNAN LLP

/s/ Brian E. Farnan

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