

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

AIP ACQUISITION LLC,	-----X	
	:	
Plaintiff,	:	C.A. No. 14-002-GMS
	:	
v.	:	JURY TRIAL DEMANDED
	:	
VONAGE HOLDINGS CORP., VONAGE AMERICA INC., and VONAGE MARKETING LLC,	:	
	:	
Defendants.	:	
	-----X	

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff AIP Acquisition LLC (“AIP”) by way of this Amended Complaint against Vonage Holdings Corp (“Vonage Holdings”), Vonage America Inc. (“Vonage America”), and Vonage Marketing LLC (“Vonage Marketing”) (collectively, “Vonage” or “Defendants”), hereby alleges with knowledge with respect to its own acts and upon information and belief with respect to all others:

PARTIES

1. AIP is a limited liability company organized and existing under the laws of the State of Delaware, with its principal place of business at 2200 Fletcher Avenue, 5th Floor, Fort Lee, New Jersey 07024.

2. Defendant Vonage Holdings is a Delaware corporation with a principal place of business at 23 Main Street, Holmdel, New Jersey 07733.

3. Defendant Vonage America is a Delaware corporation with a principal place of business at 23 Main Street, Holmdel, New Jersey 07733.

4. Defendant Vonage Marketing is a Delaware limited liability company with a principal place of business at 23 Main Street, Holmdel, New Jersey 07733.

5. Vonage may be served via their registered agent, The Corporation Trust Company, 1209 North Orange Street, Wilmington, Delaware 19801.

JURISDICTION AND VENUE

6. This is a civil action for patent infringement arising under 35 U.S.C. §§ 100, *et seq.*, and in particular § 271.

7. This Court has exclusive subject matter jurisdiction over this action under 28 U.S.C. § 1338(a).

8. This Court has personal jurisdiction over Defendants because they are incorporated under the laws of the State of Delaware.

9. Venue is proper under 28 U.S.C. §§ 1391(b) and 1400(b) because Defendants reside in this judicial district.

FACTUAL BACKGROUND

AIP and the Patents

10. The members of AIP are former shareholders of Arbinet Corporation (“Arbinet”). Arbinet, a public company, was founded in 1996 by Alex Mashinsky, an entrepreneur and named inventor on over fifty patent applications. Since then, Mr. Mashinsky has launched several other successful telecommunications and transportation companies, including Transit Wireless, the exclusive provider of certain wireless services to commuters in the New York City subway system.

11. Arbinet is a leading wholesale international voice and data communications service provider, operating an electronic market for cost-effective and efficient trading, routing

and settling of communications capacity. Arbinet owned a significant telecommunications patent portfolio, including a number of Mr. Mashinsky's patents.

12. In late 2010, Arbinet was acquired by another entity. Subsequently, a majority of Arbinet shareholders organized AIP, and acquired Arbinet's portfolio of patents and patent applications. The patent in suit is part of this portfolio.

13. On September 11, 2007, the United States Patent and Trademark Office issued United States Patent No. 7,269,247 (the "'247 Patent") on the communication between two telecommunication nodes involving a transmission that includes, *e.g.*, a call setup request or signaling messages in a telecommunication protocol over a telephone network; converting the transmission to an internet protocol; transmitting the transmission over the Internet; converting the transmission to a telecommunication protocol; and transmitting the transmission to a second telecommunication node. The '247 Patent is entitled EFFICIENT COMMUNICATION THROUGH NETWORKS. A copy of the '247 Patent is attached as Exhibit A.

14. AIP is the assignee of the '247 Patent (the "Patent").

The Vonage Infringing Systems and Services

15. Defendants individually, or with others, make, use, offer for sale, and/or sell within the United States at least the following infringing communication systems and services: "Vonage World," "Vonage World Plus," "Vonage World Mexico Sin Limites," "U.S. & Canada Unlimited," "U.S. & Canada 800," "U.S. & Canada 400," "Metered Extensions," "Unlimited Extensions," "Virtual Extensions," VoIP Phone Adapter, VoIP Media Gateway, and Regional Data Connection Points (collectively, the "Identified Systems and Services").

16. The Identified Systems and Services enable communication between two telecommunication devices where the transmission from the first device, which includes, *e.g.*, a call setup request or signaling messages in one telecommunication network protocol, is

converted to an internet protocol, transmitted over the Internet, and converted to the same or another telecommunication network protocol suitable for the second device.

17. According to Vonage, the “system uses our customer’s existing high-speed broadband Internet service to connect a Vonage-enabled device to our call processing complex over the Internet.” (2/26/10 Vonage 10-K excerpt, Exhibit B, at 5.)

18. Vonage advertises that its services, including at least certain of the Identified Systems and Services, “will work” with high-speed internet service providers, including Adelphia, Comcast, Optimum Online, Verizon and TimeWarner. (Exhibit C.)

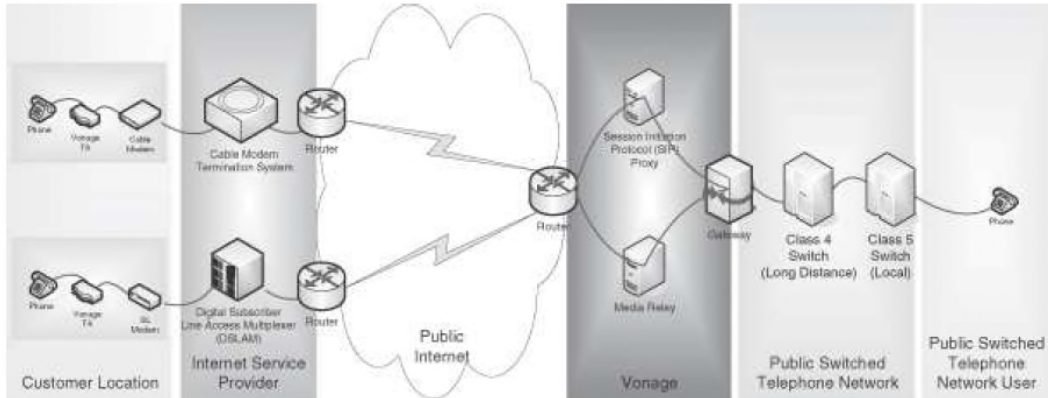
19. At least some of the Identified Systems and Services use a VoIP Phone Adaptor, which according to Vonage, “connects your existing phone line to your high-speed Internet.” (Exhibit D.)

20. The VoIP Phone Adapter is especially made or especially adapted for use with the Identified Systems and Services, and not a staple article or commodity of commerce suitable for another use.

21. At least some VoIP Phone Adaptors are provided by Vonage to its customers of Identified Systems and Services. (Exhibit E.)

22. The VoIP Phone Adapter “converts the traditional analog voice signal from our customer’s telephone into a series of IP packets that are sent over his high-speed broadband connection, across the Internet, to a VoIP media gateway at one of our Regional Data Connection Points, where the packets are converted back into traditional public switched telephone network telephone signals.” (Exhibit B, at 5.)

How Vonage Calls Work



(*Id.*)

23. Vonage’s “interconnections with the public switched telephone network are made pursuant to agreements [it has] with several telecommunications providers.” (2/13/14 Vonage 10-K excerpt, Exhibit F, at 4.)

24. Vonage has entered into at least one agreement for the direct access to numbers. (Exhibit G, at 2.) Specifically, Vonage has “concluded an IP interconnection agreement with Verizon, one of the largest carriers in the nation, which will allow both Verizon and Vonage customers to enjoy the quality of service and cost benefits that come from the IP exchange of traffic.” (*Id.*)

25. Vonage has had knowledge of the ’247 Patent since at least the service of the Complaint for Patent Infringement (D.I. 1), served on January 6, 2014 (D.I. 4-6).

26. Discovery may show that Vonage individually, or with others, makes, uses, offers for sale, and/or sells additional infringing communications systems and services.

CLAIM FOR RELIEF

Infringement of ’247 Patent

27. AIP repeats and re-alleges Paragraphs 1-26 as if fully set forth herein.

28. Vonage, through at least the Identified Systems and Services, has been and still is infringing the '247 Patent under at least 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by making, using, offering to sell, and selling the invention of one or more claims of the '247 Patent, including at least patent Claim 1.

29. As a direct and proximate result of Vonage's acts of infringement, AIP has been, is being, and will be damaged. Consequently, AIP is entitled to compensation for its damages from Vonage under 35 U.S.C. § 284 in an amount that cannot presently be quantified but will be ascertained through discovery or at trial

DEMAND FOR JURY TRIAL

30. AIP requests a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, AIP respectfully asks the Court for the following relief:

- (i) A judgment declaring that Vonage has infringed the '247 Patent as alleged herein;
- (ii) A judgment awarding AIP damages under 35 U.S.C. § 284;
- (iii) A judgment and order granting supplemental damages for any continuing post-verdict infringement up until entry of the final judgment with an accounting as needed;
- (iv) A judgment and order awarding AIP pre-judgment and post-judgment interest on the damages awarded; and
- (v) Such other and further relief as the Court deems just and equitable.

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OF COUNSEL:

COHEN & GRESSER LLP
Karen H. Bromberg
Francisco A. Villegas
Damir Cefo
800 Third Avenue
New York, New York 10022
(212) 957-7600
kbromberg@cohengresser.com
fvillegas@cohengresser.com
dcefo@cohengresser.com

BAYARD, P.A.

/s/ Stephen B. Brauerman
Richard D. Kirk (rk0922)
Stephen B. Brauerman (sb4952)
Vanessa R. Tiradentes (vt5398)
Sara E. Bussiere (sb5725)
222 Delaware Avenue, Suite 900
P.O. Box 25130
Wilmington, DE 19899
(302) 655-5000
rkirk@bayardlaw.com
sbrauerman@bayardlaw.com
vtiradentes@bayardlaw.com
sbussiere@bayardlaw.com

Attorneys for Plaintiff AIP Acquisition LLC