

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

TELINIT TECHNOLOGIES, LLC

Plaintiff,

v.

TOKTUMI, INC. d/b/a LINE2

Defendant.

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CIVIL ACTION NO. 2:14-cv-373

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

COMES NOW, Plaintiff Telinit Technologies, LLC (“Telinit”), through the undersigned attorneys, and respectfully alleges, states, and prays as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement under the Patent Laws of the United States, Title 35 United States Code (“U.S.C.”) to prevent and enjoin defendant Toktumi, Inc. d/b/a Line2 (hereinafter “Defendant”) from infringing and profiting, in an illegal and unauthorized manner and without authorization and/or of the consent from Telinit, from U.S. Patent No. 6,192,123 (the “123 patent”, attached hereto as Exhibit “A”) pursuant to 35 U.S.C. §271, and to recover damages, attorneys fees, and costs.

THE PARTIES

2. Plaintiff Telinit is a Texas corporation with its principal place of business at 214 W. Fannin Street, Suite 16, Marshall, Texas 75670.

3. Defendant is a corporation organized under the laws of the state of Delaware with its principal place of business at 230 California Street, Suite 500, San Francisco, California 94111.

4. Defendant is in the business of manufacturing, distributing and/or selling network-based telephony initiation systems and/or services throughout the United States, including within this judicial jurisdiction

JURISDICTION AND VENUE

5. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§1331 and 1338(a) because the action arises under the Patent Laws of the United States, 35 U.S.C. §§ 1 *et seq.*

6. This Court has personal jurisdiction over Defendant by virtue of its systematic and continuous contacts with this jurisdiction, as alleged herein, as well as because of the injury to Telinit, and the cause of action Telinit has risen, as alleged herein.

7. Defendant is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to its substantial business in this forum, 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 Texas and in this judicial district.

8. Defendant has conducted and does conduct business within the state of Texas, including the geographic region within the Eastern District of Texas, directly or through intermediaries, resellers or agents, or offers for sale, sells, advertises (including through the use of interactive web pages with promotional material) products or services, or uses or induces others to use services or products in Texas, including this judicial district, that infringe the '123 patent.

9. Specifically, Defendant solicits business from and markets its services to

consumers within Texas by offering to set telephony communication connections for said Texas consumers enabling them to communicate with other parties using said connection.

10. In addition to Defendant's continuously and systematically conducting business in Texas, the causes of action against Defendant are connected (but not limited) to Defendant's purposeful acts committed in the state of Texas, including the geographic region within the Eastern District of Texas, including Defendant's making, using, offering for sale, or selling network-based products and services for initiating telephony communications systems which include features that fall within the scope of at least one claim of the '123 patent.

11. Venue lies in this judicial district pursuant to 28 U.S.C. §§1391 and 1400(b).

FACTUAL ALLEGATIONS

12. On February 20, 2001, the United States Patent and Trademark Office ("USPTO") duly and legally issued the '123 patent, entitled "Method and apparatus for initiating telephone calls using a data network" after a full and fair examination. (Exhibit A). Telinit is presently the owner of the patent, having received all right, title and interest in and to the '123 patent from the previous assignee of record. Telinit possesses all rights of recovery under the '123 patent, including the exclusive right to recover for past infringement.

13. The '123 patent contains two independent claims and six dependent claims. Defendant uses methods that perform one or more steps of the claims, and also makes, uses, sells and/or offers to sell products that encompass one or more of the claims.

14. The invention claimed in the '123 patent includes a system and process for initiating a telephone call using a data network request, that request signaling a switch, and that switch triggering a means of monitoring and providing status updates to a user of the telephone system.

15. The above described network-based method and process of connecting and monitoring communication by telephony is often accomplished when a user of a computer encounters a web-based interface with a button that it can push in order to be connected with another person, such as another user of the service or a contact stored in a compatible computer application. Meanwhile, the status of their call is monitored for such things as quality and connectivity.

DEFENDANT'S PRODUCTS

16. Defendant offers voice over internet protocol (VoIP) products and solutions for businesses. Defendant's system (the "Accused System") includes features that: allow a user to receive a network request to initiate telephone calls on a voice network; identify a stored telephone number corresponding to the request; signal a switch to make a call on the voice network to a mobile device identified by the stored or called telephone number; monitor the status of the call (e.g., time of call or duration of call); and provide a user with an indication of a change in the status of the call. Thus, Defendant's customers' and end-users' use of the Accused System is facilitated by the system described in the '123 Patent.

INFRINGEMENT OF THE '123 PATENT

17. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 1 to 16.

18. In violation of 35 U.S.C. § 271, Defendant is now, and has been directly and indirectly infringing the '123 Patent.

19. Defendant has had knowledge of infringement of the '123 Patent at least as of the service of the present complaint.

20. Defendant has directly infringed and continues to directly infringe one or more claims of the '123 Patent by making, using, importing, offering for sale, and/or selling the Accused System without authority in the United States, and will continue to do so unless enjoined by this Court. As a direct and proximate result of Defendant's direct infringement of the '123 Patent, Plaintiff has been and continues to be damaged.

21. Defendant has indirectly infringed and continues to indirectly infringe one or more claims of the '123 Patent by actively inducing their respective customers, users, and/or licensees to directly infringe by using, selling, offering to sell and/or importing the Accused System. Defendant engaged or will have engaged in such inducement having knowledge of the '123 Patent. Furthermore, Defendant knew or should have known that its action would induce direct infringement by others and intended that its actions would induce direct infringement by others. For example, Defendant sells, offers for sale and advertises the Accused System in Texas specifically intending that its customers buy and use said products. Furthermore, Defendant's customers' use of the Accused System is facilitated by the use of the system described in the '123 Patent. As a direct and proximate result of Defendant's indirect infringement by inducement of the '123 Patent, Plaintiff has been and continues to be damaged.

22. Defendant has contributorily infringed and continues to contributorily infringe the '123 Patent by selling and/or offering to sell the Accused System, whose infringing features are not a staple article of commerce and when used by a third-party, such as a customer, can only be used in a way that infringes the '123 Patent. Defendant has done this with knowledge of the '123 Patent and knowledge that the Accused System constitutes a material part of the invention claimed in the '123 Patent. Defendant engaged or will have engaged in such contributory infringement having knowledge of the '123 Patent. As a direct and proximate result of

Defendant's contributory infringement of the '123 Patent, Plaintiff has been and continues to be damaged.

23. By engaging in the conduct described herein, Defendant has injured Telinit and is thus liable for infringement of the '123 Patent, pursuant to 35 U.S.C. § 271.

24. Defendant has committed these acts of infringement without license or authorization.

25. As a result of Defendant's infringement of the '123 patent, Telinit has suffered monetary damages and is entitled to a monetary judgment in an amount adequate to compensate for Defendant's past infringement, together with interests and costs.

26. Telinit will continue to suffer damages in the future unless Defendant's infringing activities are enjoined by this Court. As such, Telinit is entitled to compensation for any continuing and/or future infringement up until the date that Defendant is finally and permanently enjoined from further infringement.

DEMAND FOR JURY TRIAL

27. Telinit demands a trial by jury of any and all causes of action.

PRAYER FOR RELIEF

WHEREFORE, Telinit prays for the following relief:

1. That Defendant be adjudged to have infringed the '123 patent, directly and/or indirectly, by way of inducement and/or contributory infringement, literally and/or under the doctrine of equivalents;

2. That Defendant, its officers, directors, agents, servants, employees, attorneys, affiliates, divisions, branches, parents, and those persons in active concert or participation with

any of them, be permanently restrained and enjoined from directly and/or indirectly infringing the '123 patent;

3. An award of damages pursuant to 35 U.S.C. §284 sufficient to compensate Telinit for the Defendant's past infringement and any continuing or future infringement up until the date that Defendant is finally and permanently enjoined from further infringement, including compensatory damages;

4. An assessment of pre-judgment and post-judgment interest and costs against Defendant, together with an award of such interest and costs, in accordance with 35 U.S.C. §284;

5. That Defendant be directed to pay enhanced damages, including Telinit's attorneys' fees incurred in connection with this lawsuit pursuant to 35 U.S.C. §285; and

6. That Telinit have such other and further relief as this Court may deem just and proper.

Dated: April 16, 2014

Respectfully Submitted,

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