

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

INTERNET ACCESS SOLUTIONS LLC,

Plaintiff,

v.

AOL INC.,

Defendant.

Case No. 14-748-RGA

PATENT CASE

JURY TRIAL DEMANDED

SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Pursuant to the Parties' agreement, Plaintiff Internet Access Solutions LLC ("IAS") files this First Amended Complaint against AOL Inc. ("AOL" or "Defendant") for infringement of U.S. Patent No. 6,072,825 ("the '825 patent") and U.S. Patent No. 6,212,374 ("the '374 patent") (collectively "the patents-in-suit" or "asserted patents").

THE PARTIES

1. IAS is a Delaware limited liability company with its principal place of business located at 604 East 4th Street, Suite 201, Fort Worth, Texas 76102.

2. AOL Inc. is a Delaware corporation with its principal place of business at 770 Broadway, New York, New York 10003.

3. Defendant maintains a registered agent for service of process in Delaware at Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808.

JURISDICTION AND VENUE

4. IAS brings this action for patent infringement under the patent laws of the United States, namely 35 U.S.C. §§ 271, 281, and 284-285, among others. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1338(a), and 1367.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(c) and 1400(b). On information and belief, Defendant is deemed to reside in this judicial district, has committed acts of infringement in this judicial district, has purposely transacted business involving the accused products in this judicial district, and/or has regular and established places of business in this district.

6. Defendant is subject to this Court's specific and general personal jurisdiction pursuant to due process, due at least to its substantial business in this State and judicial district, including: (A) committing acts of infringement in this judicial district as described herein; (B) having a corporate headquarters in this judicial district; and (C) regularly conducting or soliciting business, engaging in other persistent conduct, and/or deriving substantial revenue from goods and products sold and services provided to Delaware residents.

COUNT I

(INFRINGEMENT OF U.S. PATENT NO. 6,072,825)

7. IAS incorporates paragraph 1 through 6 herein by reference.

8. This cause of action arises under the patent laws of the United States, and in particular, 35 U.S.C. §§ 271, *et seq.*

9. IAS is the exclusive licensee of the '825 patent, entitled "Noncooperative Feedback System and Method for a Compensation System Associated with Transmitter or Codec," with all substantial rights to the '825 patent, including the exclusive right to enforce, sue, and recover damages for past and future infringement. A copy of the '825 patent is attached as Exhibit 1.

10. The '825 patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

(Direct Infringement)

11. Defendant has, and continues to, directly infringe one or more claims of the '825 patent in this judicial district and elsewhere in the United States.

12. In particular, Defendant has, and continues to, infringe at least claims 22 and 31 of the '825 patent by, among other things practicing infringing methods including, but not limited to, Defendant's practices in conjunction with the offering of dial-up internet service that utilize the V.90 and/or V.92 standards.

13. For example, Defendant's practice of offering dial-up internet service that utilizes the V.90 and/or V.92 standards constitutes an offer to sell and/or sale of the practice of the methods claimed in at least claims 22 and 31 of the '825 patent. As a result, Defendant has and continues to directly infringe at least claims 22 and 31 of the '825 patent.

14. In the alternative, to the extent Defendant does not personally perform the methods claimed in at least claims 22 and 31 of the '825 patent, Defendant is still liable for direct infringement of at least these claims because it directs and/or controls the practice of these claimed methods by third-party internet providers. On information and belief, Defendant is vicariously liable for the infringing actions of such third-party internet providers. As a result, Defendant has and continues to directly infringe at least claims 22 and 31 of the '825 patent.

(Indirect Infringement)

15. Based on the information presently available to IAS, absent discovery, in the alternative to its direct infringement claims against Defendant, IAS contends that Defendant has and continues to indirectly infringe the '825 patent by inducing third-party internet providers to practice the claimed methods in the '825 patent including, but not limited to, those claimed in claims 22 and 31 of the '825 patent.

16. Defendant has been on notice of the '825 patent since at least service of the original complaint in this matter.

17. Since Defendant was on notice of the '825 patent, Defendant knowingly induced infringement of the '825 patent, including at least claims 22 and 31 of the '825 patent, and possessed specific intent to encourage others' infringement.

18. Since Defendant was on notice of the '825 patent, Defendant knew or should have known that its actions alleged herein would induce actual infringement of the '825 patent, including at least claims 22 and 31 of the '825 patent.

19. Defendant has not produced or relied on an opinion of counsel related to the '825 patent. In accordance with Fed. R. Civ. P. 11(b)(3), IAS will likely have additional evidentiary support after a reasonable opportunity for discovery on this issue.

20. IAS has been damages as a result of Defendant's infringing conduct described in this Count. Defendant is, thus, liable to IAS in an amount that adequately compensates IAS for Defendant's infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

COUNT II

(INFRINGEMENT OF U.S. PATENT NO. 6,212,374)

21. IAS incorporates paragraph 1 through 20 herein by reference.

22. This cause of action arises under the patent laws of the United States, and in particular, 35 U.S.C. §§ 271, *et seq.*

23. IAS is the exclusive licensee of the '374 patent, entitled "Disabling of Echo Cancelers After Call Startup," with all substantial rights to the '374 patent, including the

exclusive right to enforce, sue, and recover damages for past and future infringement. A copy of the '374 patent is attached as Exhibit 2.

24. The '374 patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

(Indirect Infringement)

25. Based on the information presently available to IAS, absent discovery, IAS contends that Defendant has and continues to indirectly infringe the '374 patent by inducing third-party internet providers to, among other things, use devices service infringe one or more claims of the '374 patent including, but not limited to, claim 10 by using devices that implement the V.92, G.165 and/or G.168 standards in connection with offering dial-up internet service infringe one or more claims of the '374 patent including, but not limited to, claim 10

26. Defendant has been on notice of the '374 patent since at least service of the original complaint in this matter.

27. Since Defendant was on notice of the '374 patent, Defendant knowingly induced infringement of the '374 patent, including at least claim 10 of the '374 patent, and possessed specific intent to encourage others' infringement.

28. Since Defendant was on notice of the '374 patent, Defendant knew or should have known that its actions alleged herein would induce actual infringement of the '374 patent, including at least claim 10 of the '374 patent.

29. Defendant has not produced or relied on an opinion of counsel related to the '374 patent. In accordance with Fed. R. Civ. P. 11(b)(3), IAS will likely have additional evidentiary support after a reasonable opportunity for discovery on this issue.

30. IAS has been damages as a result of Defendant's infringing conduct described in this Court. Defendant is, thus, liable to IAS in an amount that adequately compensates IAS for Defendant's infringements of the '347 patent from the date on which this complaint is filed, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

JURY DEMAND

IAS requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

Plaintiff asks that the Court find in its favor and against Defendant and that the Court grant Plaintiff the following relief:

- a. Judgment that one or more claims of the '825 patent and/or the '374 patent have been infringed, either literally and/or under the doctrine of equivalents by Defendant;
- b. Judgment that Defendant account for and pay to Plaintiff all damages and costs incurred by Plaintiff and sought herein because of Defendant's infringing activities and other conduct complained of herein;
- c. Judgment that Defendant account for and pay to Plaintiff a reasonable, ongoing, post judgment royalty because of Defendant's infringing activities and other conduct complained of herein;
- d. That Plaintiff be granted pre-judgment and post judgment interest on the damages caused by Defendant's infringing activities and other conduct complained of herein;
- e. Find this case exceptional under the provisions of 35 U.S.C. § 285 and award enhanced damages; and
- f. That Plaintiff be granted such other and further relief as the Court may deem just and proper under the circumstances.

DATED: October 7, 2014

INTERNET ACCESS SOLUTIONS LLC

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