

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

URGENSYNC, LLC,

Plaintiff,

v.

BIRCH COMMUNICATIONS, INC.,

Defendant.

**JURY TRIAL DEMANDED**

**COMPLAINT FOR PATENT INFRINGEMENT**

This is an action for patent infringement in which UrgenSync, LLC (“UrgenSync” or “Plaintiff”) makes the following allegations against Birch Communications, Inc. (“Birch” or “Defendant”).

**NATURE OF THE ACTION**

1. This is a patent infringement action to stop Defendant’s infringement of United States Patent No. 8,295,802 (the “802 Patent”) (“the Patent-in-Suit”).

**PARTIES**

2. Plaintiff, UrgenSync, is a Texas limited liability company with its principal place of business at 211 East Tyler St., Suite 600-A, Longview, TX 75601.

3. On information and belief, Birch is a Georgia company with a principal place of business at 3060 Peachtree Road NW, Suite 1065, Atlanta, GA 30305. On information and belief, Birch may be served with process through its registered agent, Corporation Service Company, 40 Technology Pkwy. S., Peachtree Corners, GA 30092.

## **JURISDICTION AND VENUE**

4. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

5. The Court has personal jurisdiction over Defendant, including because Defendant has minimum contacts within the State of Texas; Defendant has purposely availed itself of the privileges of conducting business in the State of Texas; Defendant regularly conducts business within the State of Texas; and UrgenSync's cause of action arises directly from Defendant's business contacts and other activities in the State of Texas. Further, Defendant has an interactive website that is accessible from the State of Texas and the Eastern District of Texas.

6. On information and belief, within the State of Texas and the Eastern District of Texas, Defendant has made and/or used the patented invention in compliance with the FCC regulations that govern emergency call services over VoIP systems as identified below. In addition, on information and belief, Defendant has derived substantial revenues from its infringing activities within the State of Texas and the Eastern District of Texas.

7. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b). On information and belief, Defendant has transacted business in this district, and has committed acts of patent infringement in this district.

## **COUNT I INFRINGEMENT OF U.S. PATENT NO. 8,295,802**

8. Plaintiff is the owner by assignment of the '802 Patent entitled "Communication Control Device and Communication Control Method for an Emergency Call Over the Internet" including all rights to recover for past and future acts of infringement. The '802 Patent was issued on October 23, 2012. A true and correct copy of the '802 Patent is attached as Exhibit A.

9. On information and belief, Defendant has been and now is directly infringing the '802 Patent in this judicial district and elsewhere in the United States. Infringement by Defendant includes, without limitation, making and/or using communication control apparatuses for emergency calls placed using VoIP services such as those described at the website [www.birch.com/products/birchvoice](http://www.birch.com/products/birchvoice) and associated sites ("Accused Systems"), infringing at least claim 1 of the '802 Patent. Defendant is thus liable for infringement of the '802 Patent under 35 U.S.C. § 271.

10. Each of Defendant's aforesaid activities has been without authority and/or license from UrgenSync.

11. UrgenSync is entitled to recover from Defendant the damages sustained by UrgenSync as a result of Defendant's wrongful acts in an amount subject to proof at trial, 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.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests that this Court enter a judgment:

1. In favor of Plaintiff that Defendant has infringed the '802 Patent;
2. Requiring Defendant to pay Plaintiff its damages, costs, expenses, and prejudgment and post-judgment interest for Defendant's infringement of the '802 Patent as provided under 35 U.S.C. § 284; and
3. Granting Plaintiff any and all other relief to which Plaintiff may show itself to be entitled.

**DEMAND FOR JURY TRIAL**

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

Dated: April 15, 2015

Respectfully submitted,

*/s/ Todd Y. Brandt*

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