

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

C-SAM, INC.,

Plaintiff,

v.

VIVOTECH, INC.,

Defendant.

Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff C-SAM, Inc. (“C-SAM”), by and through its undersigned counsel, for its Complaint against Defendant ViVOtech, Inc. (“ViVOtech”), alleges as follows:

THE PARTIES

1. C-SAM is an Illinois corporation having a principal place of business at One Tower Lane, Suite 1825, Oakbrook Terrace, IL 60181.
2. C-SAM is the pioneering developer and provider of secure mobile transaction technology. Among other things, C-SAM’s technology enables smartphone users to conduct secure near-field-communication transactions related to payments, rewards, coupons, tickets, transit, and other services.
3. ViVOtech is a Delaware corporation having a principal place of business at 451 El Camino Real, 2nd Floor, Santa Clara, CA 95050.

4. ViVOtech is a retailer of contactless and near-field-communication payment software, over the air card provisioning, promotion, and transaction management infrastructure software, near-field-communication smart posters, and contactless readers and writers, among other items.

JURISDICTION AND VENUE

5. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 100 *et seq.*

6. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. Venue is proper in this District under 28 U.S.C. §§ 1391, 1400.

INFRINGEMENT OF U.S. PATENT NO. 5,884,271

8. The allegations of paragraphs 1 through 7 above are restated and re-alleged as though fully set forth herein.

9. C-SAM owns United States Patent No. 5,884,271, titled “Device, System and Methods of Conducting Paperless Transactions” (“the ‘271 patent”), which issued on March 16, 1999, and thus has the right to sue for infringement of the ‘271 Patent. A copy of the ‘271 Patent is attached to this Complaint as Exhibit A.

10. On information and belief, ViVOtech has infringed, and continues to infringe, literally or under the doctrine of equivalents, the ‘271 patent at least by making, using, importing, offering to sell, and/or selling software and/or components, including but not limited to

ViVOtech's ViVOnfc and/or ViVOapps offerings, as well as by actively inducing others to use said software and/or components in a manner that infringes the '271 patent and contributing to the infringement of the '271 patent by supplying said software and/or components to others.

11. On information and belief, ViVOtech has been aware of C-SAM's patent portfolio, including the '271 patent, at least as early as when patents in that portfolio were first cited during the prosecution of various patent applications before the U.S. Patent & Trademark Office that identified ViVOtech as the assignee of record.

12. On information and belief, at all relevant times, ViVOtech had actual or constructive notice and knowledge that its conduct infringed the claims of the '271 patent, but ViVOtech nevertheless continued its willful infringing conduct.

13. The filing of this complaint also constitutes notice to ViVOtech of the '271 patent under 35 U.S.C. § 287 and otherwise.

14. ViVOtech's infringement of the '271 patent has caused and continues to cause C-SAM to suffer substantial money damages.

15. ViVOtech's infringement of the '271 patent has caused and continues to cause C-SAM to suffer irreparable harm for which there is no adequate remedy at law.

INFRINGEMENT OF U.S. PATENT NO. 7,308,426

16. The allegations of paragraphs 1 through 7 above are restated and re-alleged as though fully set forth herein.

17. C-SAM owns United States Patent No. 7,308,426, titled "System and Methods for Servicing Electronic Transactions" ("the '426 patent"), which issued on December 11, 2007, and thus has the right to sue for infringement of the '426 Patent. A copy of the '426 Patent is attached to this Complaint as Exhibit B.

18. On information and belief, ViVOtech has infringed, and continues to infringe, literally or under the doctrine of equivalents, the '426 patent at least by making, using, importing, offering to sell, and/or selling software and/or components, including but not limited to ViVOtech's ViVOnfc and/or ViVOapps offerings, as well as by actively inducing others to use said software and/or components in a manner that infringes the '426 patent and contributing to the infringement of the '426 patent by supplying said software and/or components to others.

19. On information and belief, ViVOtech has been aware of C-SAM's patent portfolio, including the '426 patent, at least as early as when patents in that portfolio were first cited during the prosecution of various patent applications before the U.S. Patent & Trademark Office that identified ViVOtech as the assignee of record.

20. On information and belief, at all relevant times, ViVOtech had actual or constructive notice and knowledge that its conduct infringed the claims of the '426 patent, but ViVOtech nevertheless continued its willful infringing conduct.

21. The filing of this complaint also constitutes notice to ViVOtech of the '426 patent under 35 U.S.C. § 287 and otherwise.

22. ViVOtech's infringement of the '426 patent has caused and continues to cause C-SAM to suffer substantial money damages.

23. ViVOtech's infringement of the '426 patent has caused and continues to cause C-SAM to suffer irreparable harm for which there is no adequate remedy at law.

RELIEF REQUESTED

For the above reasons, C-SAM respectfully requests that this Court:

- A. Enter judgment that ViVOtech has directly and indirectly infringed the '271 and '426 patents;
- B. Enter a preliminary and permanent injunction enjoining ViVOtech and its affiliates, subsidiaries, officers, directors, employees, agents, representatives, licensees, successors, assigns, and all those acting for it or on its behalf, or acting in concert or privity with it, from committing further direct infringement of the '271 and '426 patents, or contributing to or inducing the infringement of the '271 and '426 patents patents by others;
- C. Award C-SAM compensatory damages under 35 U.S.C. § 284;
- D. Award C-SAM treble damages for ViVOtech's willful infringement;
- E. Award C-SAM its costs, pre-judgment interest and post-judgment interest;
- F. Award C-SAM its reasonable attorney fees under 35 U.S.C. § 285;
- G. Award C-SAM such other relief as the Court deems to be just and warranted.

JURY DEMAND

C-SAM hereby demands a trial by jury of all issues so triable.

Dated: September 29, 2011

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