

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION**

TechRadium, Inc.	§	
<i>Plaintiff</i>	§	Civil Action No. 3:13-cv-78
	§	Judge Gregg Costa
v.	§	
FirstCall Network, Inc.	§	Jury Trial Demanded
<i>Defendant</i>	§	

**TECHRADIUM'S FIRST AMENDED
COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff TechRadium, Inc. brings this complaint for patent infringement against FirstCall Network, Inc. and alleges as follows:

Parties

1. Plaintiff TechRadium, Inc. is a Texas Corporation with its principal place of business in Sugar Land, Texas.
2. Defendant FirstCall Network, Inc. is a Louisiana corporation with its principal place of business in Baton Rouge, Louisiana. Defendant has waived service and has filed its Answer.

Jurisdiction And Venue

3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §1331 and §1338(a), because Plaintiff's claims arise under federal laws relating to patents and unfair competition.
4. This Court has personal jurisdiction over the Defendant because Defendant has transacted business in this judicial district and has committed acts of patent infringement in this judicial district.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391(b), §1391(c) and §1400(b) because Defendant is subject to personal jurisdiction in this judicial district, it regularly conducts business in the State of Texas and in this judicial district, and has committed acts of infringement in this judicial district. Specifically, on information and belief, Defendant is under current contract with the City of Friendswood Texas to provide the services complained of herein, which specifically states that “Venue for any disputes [between Defendant and the City of Friendswood Texas] shall lie in Galveston County, Texas.”

Facts

6. TechRadium develops, sells, and services mass notification systems that allow an administrator to originate a single message that will be delivered simultaneously via multiple communication protocols to at least one user on the network. This technology is patented by the Plaintiff, TechRadium, and marketed under the trade name “IRIS”™ (Immediate Response Information System). Among other things, the patented IRIS™ technology eliminated the need for an administrator to send multiple identical messages, and allowed group members to select their grouping information.

7. Using prior technology to send a single message through multiple communication gateways would require the administrator to send the message multiple times—once through each communication gateway using the appropriate protocol. For instance, if one group member chose to be notified via text message, and another chose to be notified via e-mail, then at least two separate messages would have to be originated by the administrator. Additionally, this prior technology did not allow a group member to select their grouping information.

8. TechRadium’s patented IRIS™ product includes an administrator interface through which a message is originated. This interface can include a converter for translating the

message into the language selected by the group member and a converter for translating text into voice for voice messages. It also has a database for storing the contact device information of the group member, priority for each selected device, and language preference. The database allows for the grouping of certain members (e.g., high school teachers in a school district) and provides a mechanism for user selected grouping information. This technology also has the capability to receive response data from the user contact device. The administrator initiates the distribution of the message using the member grouping information, and the message is then transferred through at least two industry standard protocols simultaneously to the at least one user contact device.

9. TechRadium is the owner of United States Patent No. 7,773,729, issued on August 10, 2010 ('729 Patent). The IRIS™ system marketed by TechRadium incorporates claims included in this patent. A copy of this patent is attached as Exhibit A.

10. TechRadium is the owner of all right, title, and interest in and to the '729 Patent by assignment, with full and exclusive right to bring suit to enforce the "729 Patent, including the right to recover for past infringement.

11. On information and belief, Defendant makes, uses and sells, or attempts to make, use or sell, or otherwise provides throughout the United States and within the geographical area covered by this judicial district products and services which utilize the systems and methods described by claims in the '729 Patent.

Claim For Infringement Of The '729 Patent

12. Plaintiff realleges and incorporates by reference the allegations of the foregoing paragraphs as if fully set forth herein.

13. The '729 Patent describes technology for a digital notification system that utilizes an administrator interface to transmit a message from an administrator to a user contact device.

A copy of the '729 Patent is attached hereto as Exhibit A.

14. The '729, Patent is valid and enforceable.

15. Defendant has and continues to infringe, contributorily infringe or actively induces the infringement of the '729 Patent by using, selling and offering for use or sale products and services within the United States and within this judicial district which incorporate TechRadium's patented technology. Defendant is offering for sale or use, or selling or using these products without license or authority from TechRadium. The claims of the patent are either literally infringed or infringed under the doctrine of equivalents. These actions by Defendant are in violation of 35 U.S.C. §271.

16. Upon information and belief, Plaintiff alleges that the acts of infringement by Defendant is willful, making this an exceptional case under 35 U.S.C. §285.

17. Upon information and belief, Plaintiff further alleges that the actions of Defendant have resulted in substantial lost profits to Plaintiff to the extent that this technology was licensable by Plaintiff, and substantial unjust profits and enrichment to Defendant, all in amounts yet to be determined. Plaintiff at all times has been and is now willing to grant licenses to qualified parties, including Defendant, for the use of its patented technology, at a reasonable royalty rate. Defendant's acts of infringement have caused irreparable harm to Plaintiff and will continue to do so unless enjoined by the Court.

Damages

18. As a result of Defendant's acts of infringement, Plaintiff has suffered actual and consequential damages; however, Plaintiff does not yet know the full extent of such infringement

and such extent cannot be ascertained except through discovery and special accounting. To the fullest extent permitted by law, Plaintiff seeks recovery of damages for lost profits, reasonable royalties, unjust enrichment, and benefits received by Defendant as a result of using the misappropriated technology. Plaintiff seeks any other damages to which it may be entitled in law or in equity.

19. Plaintiff's injury was caused by Defendant's gross negligence or malice. Defendant's acts of infringement were committed intentionally, knowingly, and with callous disregard of Plaintiff's legitimate rights. Plaintiff is therefore entitled to and now seeks to recover treble damages in an amount not less than the maximum amount permitted by applicable law and by 35 U.S.C. §284.

Attorney's Fees

20. Plaintiff is entitled to recover reasonable and necessary attorney's fees under applicable law.

Conditions Precedent

21. All conditions precedent to Plaintiff's right to recover as requested herein have occurred or been satisfied.

Jury Demand

22. Plaintiff demands a trial by jury pursuant to Fed.R.Civ.P. 38.

Prayer

WHEREFORE, PREMISES CONSIDERED, Plaintiff asks that Defendant be cited to appear and answer and, on final trial, that Plaintiff have judgment against Defendant for the following:

- a. Actual economic damages;

- b. Treble damages as allowed by law;
- c. Permanent injunction;
- d. Attorney fees;
- e. Pre-judgment and post-judgment interest as allowed by law;
- f. Costs of suit; and
- g. All other relief in law or in equity to which Plaintiff may show itself justly entitled.

Respectfully submitted,

/s/ Louis A. Vetrano, Jr.

Louis A. Vetrano, Jr.

Attorney In Charge

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Certificate of Service

I hereby certify that on June 26, 2013 a true and correct copy of this document was filed via the Court's ECF system pursuant to LR5.1. The notice of electronic filing generated by the ECF system constitutes service of the document on counsel who are registered users of the system, which, to my knowledge, includes all counsel of record for this case. Any other counsel of record will be served pursuant to FRCP 5(b) on this same date.

/s/ Louis A. Vetrano, Jr.

Louis A. Vetrano, Jr.