

**ALVERSON, TAYLOR, MORTENSEN & SANDERS**  
LAWYERS  
7401 WEST CHARLESTON BOULEVARD  
LAS VEGAS, NEVADA 89117-1401  
(702) 384-7000

1 **ALVERSON, TAYLOR,**  
2 **MORTENSEN & SANDERS**  
3 KURT R. BONDS, ESQ.  
4 Nevada Bar No. 6228  
5 ADAM R. KNECHT, ESQ.  
6 Nevada Bar No. 13166  
7 7401 W. Charleston Boulevard  
8 Las Vegas, NV 89117  
9 (702) 384-7000  
10 [efile@alversontaylor.com](mailto:efile@alversontaylor.com)  
11 *Attorneys for Plaintiff*

12 UNITED STATES DISTRICT COURT

13 DISTRICT OF NEVADA

14 \* \* \*

15 VOIP-PAL.COM, INC., a Nevada corporation,  
16  
17 Plaintiff,  
18  
19 v.  
20  
21 TWITTER, INC., a California corporation,  
22  
23 Defendant.

CASE NO.: 2:16-cv-2338

**COMPLAINT FOR PATENT  
INFRINGEMENT**

**[JURY DEMAND]**

24 Plaintiff, Voip-Pal.com, Inc.’s (“VPLM”) Complaint against Defendant Twitter, Inc.,  
25 (“Twitter”), alleges infringement of U.S. Patent No. 8,542,815 (the “815 patent”), and its  
26 continuation patent, U.S. Patent No. 9,179,005 (the “005 patent”). VPLM further complains and  
27 alleges as follows:

**THE NATURE OF THE ACTION**

- 28
1. VPLM is a leader in Voice-over-Internet Protocol (“VoIP”) technology and owns a portfolio of VoIP-related patents and patent applications.
  2. On September 24, 2013, the ‘815 patent entitled “Producing Routing Messages for Voice Over IP Communications” was duly and legally issued with Clay Perreault, Steve Nicholson, Rod Thomson, Johan Emil Viktor Bjorsell, and Faud Arafa as the named inventors after full and fair

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1 examination. VPLM is the owner of all rights, title, and interest in and to the ‘815 patent and  
2 possesses all rights of recovery under the ‘815 patent. A copy of the ‘815 patent is attached as

3 **Exhibit A.**

4 3. On November 3, 2015, the ‘005 patent entitled “Producing Routing Messages for  
5 Voice Over IP Communications” was duly and legally issued with Clay Perreault, Steve Nicholson,  
6 Rod Thomson, Johan Emil Viktor Bjorsell, and Faud Arafa as the named inventors after full and fair  
7 examination. VPLM is the owner of all rights, title, and interest in and to the ‘005 patent and  
8 possesses all rights of recovery under the ‘005 patent. A copy of the ‘005 patent is attached as

9 **Exhibit B.**

10 4. VPLM’s patents represent fundamental advancements to Internet Protocol (“IP”)  
11 based communication, including improved functioning, call classification, call routing and reliability  
12 for VoIP, messaging, and IP-based transmission of video, photographs and mixed media  
13 communications.

14 5. Twitter employs VPLM’s innovative technology and products, features, and designs,  
15 and has widely distributed infringing products and/or services that have undermined VPLM’s  
16 marketing and monetization efforts. Instead of incorporating non-infringing technology into its  
17 products and services, Twitter has employed and has incorporated VPLM’s patented communication  
18 classification and routing technology, in violation of VPLM’s valuable intellectual property rights.

19 **PARTIES**

20 6. Plaintiff, VoIP-Pal.com, Inc. (“VPLM”) is a Nevada corporation with its principal  
21 place of business located at 10900 NE 4th Street, Suite 2300, Bellevue, Washington 98004.

22 7. Defendant, Twitter Inc. (“Twitter”) is a California corporation with its principal place  
23 of business at 1355 Market Street, Suite 900, San Francisco, California 94103. On information and  
24 belief, Twitter regularly conducts and transacts business in the District of Nevada and throughout the  
25 United States, and, as set forth below, has committed and continues to commit, tortious acts of patent  
26 infringement within the District of Nevada.

27 8. As a result of Twitter’s infringement as alleged herein, on December 18, 2015, VPLM  
28 provided notice to Twitter that it may be in violation of VPLM’s patent rights, including VPLM’s

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rights under the ‘815 patent and the ‘005 patent. *See Exhibit C*, Correspondence to Twitter. Despite the notice, Twitter has infringed and continues to infringe VPLM’s patents.

**JURISDICTION AND VENUE**

9. This action arises under the patent laws of the United States, i.e., 35 U.S.C. § 1 *et seq.* This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338.

10. This Court has personal jurisdiction over Twitter because it has committed and continues to commit acts of infringement in violation of 35 U.S.C. § 271 by placing infringing services into the stream of commerce, either directly or through subsidiaries and/or intermediaries, with the knowledge or understanding that such products are used and/or sold in the District of Nevada. The acts by Twitter cause injury to VPLM within this District. Upon information and belief, Plaintiff alleges that Twitter derives substantial revenue from the sale of infringing services within this District, has expanded its market share through its use of infringing services within this District, has engaged in this infringement with the expectation that its actions will have consequences within this District, and derives substantial revenue from interstate and international commerce through its infringing actions.

11. Venue is proper within this District under 28 U.S.C. § 1391(b), (c), and § 1400(b) because Twitter regularly transacts business within this District and offers services for sale in this District that infringe VPLM’s patents. Furthermore, venue is proper in that Twitter has and continues to infringe VPLM’s patents causing harm to VPLM in Nevada. Also, VPLM is incorporated in Nevada.

**FACTUAL ALLEGATIONS**

**A. Twitter’s Infringement of VPLM’S Patents**

12. VPLM has protected its innovative designs and technologies through a broad range of intellectual property rights. Among the patents that VPLM has been awarded are the ‘815 patent and ‘005 patent to which VPLM owns all rights, title, and interest.

13. As detailed in the attached **Exhibit D** (Asserted Claims and Infringement Contentions Concerning the ‘815 Patent and the ‘005 Patent), VPLM is informed and believes, and on that basis alleges that Twitter offers messaging that may include “Direct Messages,” “Reply Tweets,”

1 “Mentions” and “Re-Tweets” that utilize caller/initiator and callee/recipient call classification criteria  
2 that is used on a collection of servers and gateways and/or through software or firmware applications  
3 that run on computing devices such as smartphones, tablet computers, desktop computers and  
4 portable computers. Twitter practices directly and indirectly certain claims of the ‘815 and the’005  
5 Patents by utilizing a caller dialing profile comprising a plurality of calling attributes to establish  
6 private network classification criteria and public network classification criteria for routing  
7 communications such as calls/messages between a caller/initiator and a callee/recipient.

8 14. VPLM is informed and believes, and on that basis alleges that Twitter engages in the  
9 following specific infringing practices:

10 **B. Asserted Claim No. 1 regarding Twitter’s System (the ‘815 patent)**

11 15. Twitter practices directly and indirectly certain claims of the ‘815 patent, as  
12 illustrated in **Chart 1 of Exhibit D**, by utilizing a caller dialing profile comprising a plurality of  
13 calling attributes to establish network classification criteria for routing messages between callers and  
14 callees, including operations that occur on its equipment, servers and/or gateways, and/or the  
15 equipment, servers and/or gateways of subsidiaries and/or intermediaries. Twitter communications  
16 between a caller and a callee include “Direct Messages” (in which one or more Twitter users are  
17 identified as the recipient(s) of the message), and “Mentions” (in which one or more Twitter users is  
18 identified by username in a message, which could be a “Re-Tweet” or a “Reply Tweet,” for  
19 example). Calling attributes includes information associated with the caller, such as settings stored  
20 on a mobile device and information stored on Twitter equipment (e.g., the list of users that are  
21 currently following the caller, the list of users that are blocked by the caller, and the security and  
22 privacy settings for the caller including whether tweets are public or protected). Network  
23 classification criteria affect how messages are delivered to recipients, which can be over the public  
24 SMS network and over a private network to a Twitter application running on a computing device  
25 such as a smartphone.

26 **C. Asserted Claim No. 2 regarding Twitter’s System (the ‘005 patent)**

27 16. Twitter practices directly and indirectly certain claims of the ‘005 patent, as  
28 illustrated in **Chart 2 of Exhibit D**, by utilizing a caller dialing profile (or first participant profile)

1 comprising a plurality of calling attributes (or first participant attributes) to establish network  
2 classification criteria for routing messages between callers (or first participants) and callees (or  
3 second participants), including operations that occur on its equipment, servers and/or gateways,  
4 and/or the equipment, servers and/or gateways of subsidiaries and/or intermediaries. Twitter  
5 communications between a caller (or first participant) and a callee (or second participant) include  
6 “Direct Messages” (in which one or more Twitter users are identified as the recipient(s) of the  
7 message), and “Mentions” (in which one or more Twitter users is identified by username in a  
8 message, which could be a “Re-Tweet” or a “Reply Tweet,” for example). Calling attributes (or first  
9 participant attributes) includes information associated with the caller (or first participant), such as  
10 settings stored on a mobile device and information stored on Twitter equipment (e.g., the list of users  
11 that are currently following the caller, the list of users that are blocked by the caller, and the security  
12 and privacy settings for the caller including whether tweets are public or protected). Network  
13 classification criteria affect how messages are delivered to recipients, which can be over the public  
14 SMS network and over a private network to a Twitter application running on a computing device  
15 such as a smartphone.

16 17. The Twitter Messaging System allows devices to initiate a communication between a  
17 caller, or a first participant, and a callee, or a second participant, which may be an Twitter subscriber  
18 or a non-subscriber. A profile that includes attributes is used as part of the process that classifies a  
19 communication that directly and/or indirectly practices certain claims of the ‘005 patent.

20 18. Twitter’s infringement of the ‘815 patent and the ‘005 patent provides Twitter with  
21 valuable functionality for its products and services at the expense of VPLM’s protected intellectual  
22 property. Rather than utilizing non-infringing technology for call and message classification and  
23 routing of Public to Public communications, Private to Private communications, Public to Private  
24 and Private to Public communications (e.g. messaging and media transfers), Twitter has employed  
25 VPLM’s technology, including its classification and routing systems and methods.

26 19. Twitter continues to choose to infringe VPLM’s patent rights through its caller  
27 attribute based communication classification and routing systems, including at least Twitter’s  
28 Messaging based communication products and services.

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LAWYERS  
7401 WEST CHARLESTON BOULEVARD  
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20. Twitter has not obtained permission or a license from VPLM to use its inventions as identified in the '815 patent and the '005 patent.

21. Furthermore, the '815 patent and '005 patent are only two patents in a suite of ten related patents. *See Exhibit E*, VPLM Active Patents as of January 1, 2016. VPLM preserves the right to request leave to amend this Complaint to add additional allegations of infringement based on additional patents associated with the suite.

**CLAIMS FOR RELIEF**

**First Claim for Relief (Infringement of the '815 and '005 Patents by Twitter)**

22. VPLM incorporates and re-alleges paragraphs 1 through 26 of this Complaint.

23. Twitter has infringed and continues to infringe, directly and indirectly through contributory and/or induced infringement, one or more claims of the '815 patent and the '005 patent by using, selling and/or offering to sell in the United States messaging services using messaging application software and/or equipment, servers and/or gateways that route messages to computing devices such as smartphones, tablet computers and personal computers.

24. Twitter's infringing activities violate 35 U.S.C. § 271.

25. VPLM is informed and believes, and on that basis alleges, that Twitter's infringement of the '815 patent and the '005 patent has been and continues to be intentional, willful, and without regard to VPLM's rights because it had actual knowledge of the '815 patent and the '005 patent through direct and indirect communications with VPLM, and constructive notice due to the patentee's disclosure of IP-based communication methods in predecessors of the '815 patent and the '005 patent, including International PCT Publication No. WO2008/052340 on May 8, 2008, U.S. Patent Publication No. 2010/0150328 on June 17, 2010, and U.S. Patent Publication No. 2013/0329722 on December 12, 2013.

26. VPLM is informed and believes, and on that basis alleges, that Twitter has increased revenues by virtue of its infringement of the '815 patent and the '005 patent. On information and belief, a portion of Twitter's market capitalization are thus attributable to the incremental value of the infringed property. Based upon information and belief, the damages arising from such infringement are alleged to be Two Billion Six Hundred and Ninety-Nine Million Two Hundred and

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1 Fifty-Six Thousand and Four Hundred and Eighteen Dollars (\$2,699,256,418) based upon the  
2 calculations contained in **Exhibit F**, attached hereto.

3 27. VPLM has sustained damages as a direct and proximate result of Twitter's  
4 infringement of the '815 patent and the '005 patent as their continuing infringement unfairly allows  
5 Twitter to dominate the market and harms VPLM's ability to secure licensing revenue for these  
6 patents. Said damages will be proved at trial.

7 28. VPLM will suffer and is suffering irreparable harm from Twitter's continuing  
8 infringement of the '815 patent and the '005 patent.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, VPLM prays for relief, as follows:

- 11 1. A judgment that the '815 patent and the '005 patent are valid and enforceable;
- 12 2. A judgment that Twitter has infringed, contributorily infringed, and/or induced  
13 infringement of one of more claims of the '815 patent and the '005 patent;
- 14 3. An order and judgment permanently enjoining Twitter and its officers, directors,  
15 agents, servants, employees, affiliates, attorneys, and all others acting in privity or in concert with  
16 them, and their parents, subsidiaries, divisions, successors and assigns from further acts of  
17 infringement of the '815 patent and the '005 patent;
- 18 4. A judgment awarding VPLM all damages adequate to compensate for Twitter's  
19 infringement of the '815 patent and the '005 patent, and in no event less than a reasonable royalty for  
20 Twitter's acts of infringement, including all pre-judgment and post-judgment interest at the  
21 maximum rate permitted by law;
- 22 5. A judgment awarding VPLM all damages, including treble damages, based on any  
23 infringement found to be willful, pursuant to 35 U.S.C. § 284, together with prejudgment interest;
- 24 6. Actual damages suffered by VPLM as a result of Twitter's unlawful conduct, in an  
25 amount to be proven at trial, as well as prejudgment interest as authorized by law;
- 26 7. A judgment and an award to VPLM of its costs and reasonable attorneys' fees  
27 incurred in this action as provided by 35 U.S.C. § 285; and
- 28 8. Such other relief as this Court deems just and proper.

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**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, VPLM hereby demands trial by jury on all issues so triable under the Complaint.

DATED this 6th day of October, 2016.

ALVERSON, TAYLOR,  
MORTENSEN & SANDERS

/s/ Kurt R. Bonds  
KURT R. BONDS, ESQ.  
Nevada Bar No. 6228  
ADAM R. KNECHT, ESQ.  
Nevada Bar No. 13166  
7401 W. Charleston Boulevard  
Las Vegas, NV 89117  
*Attorneys for Plaintiff*