

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

PACKET TREAD LLC,

Plaintiff,

v.

CORTELCO INC.,

Defendant.

No. 5:16-cv-89-JRG-CMC

JURY TRIAL DEMANDED

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Packet Tread LLC, by and through its undersigned counsel, files its First Amended Complaint for Patent Infringement and alleges based on knowledge as to itself and information and belief as to the Defendant as follows.

THE PARTIES

1. Plaintiff Packet Tread LLC is a Texas limited liability company with a principal place of business at 1400 Preston Rd, Suite 485, Plano, Texas 75093.

2. Defendant Cortelco Inc. is a Delaware corporation with a principal place of business at 1703 Sawyer Road, Corinth, Mississippi 38834. Defendant's registered agent for service of process is The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

JURISDICTION AND VENUE

3. This action arises under the Patent Act, 35 U.S.C. § 1 *et seq.*

4. Subject matter jurisdiction is proper in this Court under 28 U.S.C. §§ 1331 and 1338.

5. Upon information and belief, this Court has personal jurisdiction over Defendant because (i) Defendant conducts business in this Judicial District, directly or through intermediaries; (ii) at least a portion of the alleged infringements occurred in this Judicial

District; and (iii) Defendant regularly solicits business, engages in other persistent courses of conduct, or derives revenue from goods and services provided to individuals in this Judicial District.

6. Venue is proper in this Judicial District under 28 U.S.C. §§ 1391(b), (c), and 1400(b).

THE PATENT-IN-SUIT

7. On October 30, 2001, the U.S. Patent and Trademark Office issued U.S. Patent No. 6,310,864 (“the 864 patent”), entitled “Voice Echo Cancellation for SVD Modems.”

8. The 864 patent is presumed valid under 35 U.S.C. § 282.

9. A true and accurate copy of the 864 patent is attached at Exhibit A.

10. Plaintiff is the owner and assignee of all substantial rights, title, and interest in and to the 864 patent, including the right to assert all causes of action arising under the patent and the right to sue for any and all past and future remedies for infringement of the patent.

THE ACCUSED PRODUCT(S)

11. Defendant makes, uses, sells, offers for sale, or imports one or more products that infringe one or more claims of the 864 patent.

12. Defendant’s Accused Product(s) is at least its Cortelco VP-530 Yealink IP Video and 2757 VoIP Telephones with Integrated Audio, Video, and Applications.

13. Defendant provides instructions with its Accused Product(s) that enable its customers to infringe directly one or more claims of the 864 patent.

COUNT I

DIRECT AND INDUCED INFRINGEMENT OF U.S. PATENT NO. 6,310,864

14. Plaintiff incorporates by reference each of its foregoing allegations.

15. Without license or authorization and in violation of 35 U.S.C. §§ 271(a) and (b), (i) Defendant directly infringes one or more claims of the 864 patent in this District and throughout the United States, literally or under the doctrine of equivalents, and additionally, or in

the alternative, (ii) Defendant actively induces the direct infringement of one or more claims of the 864 patent in this District and throughout the United States.

16. Defendant directly infringes at least claim 7 of the 864 patent in violation of 35 U.S.C. § 271(a) by, among other things, making, using, offering for sale, selling, or importing within this District and the United States its Accused Products, which under claim 7 of the 864 patent provide a method of electrical communication via a first simultaneous voice and data modem (*i.e., a first of the Accused Products provides a method of electrical communication having a first simultaneous voice and data modem*) associated with a switching hub of a communications network (*i.e., the Accused Products communicate with each other and other communication devices through a switching hub of a communications network*), comprising the steps of:

transmitting and receiving a modulated simultaneous voice and data signal using the first simultaneous voice and data modem (*i.e., the Accused Products transmit and receive modulated simultaneous voice and data signals using simultaneous voice and data modems*) to and from a second simultaneous voice and data modem (*i.e., a second of the Accused Products has a second simultaneous voice and data modem*) located at an endpoint of the communications network (*i.e., the second Accused Product is located at an endpoint of the communications network when the Accused Products communicate with each other*);

transmitting and receiving a voice signal using the first simultaneous voice and data modem to and from a communications device (*i.e., the first Accused Product transmits and receives a voice signal using the first simultaneous voice and data modem to and from a communications device, e.g., the second Accused Product or another communications device*) via a switching network (*i.e., the Accused Products use a switching network for communications with each other and other communications devices*);

transmitting and receiving a data signal using the first simultaneous voice and data modem (*i.e., the first Accused Product transmits and receives a data signal using the first simultaneous voice and data modem*); and

canceling a voice echo originating in the switching network using an echo canceler associated with the first simultaneous voice and data modem (*i.e., the first Accused Product (and all Accused Products) cancels a voice echo originating in the switching network using an echo canceler associated with the first simultaneous voice and data modem*), the voice echo experiencing a delay resulting from the modulation and demodulation of the simultaneous voice and data signal in the first simultaneous voice and data modem (*i.e., the voice echo in the Accused Products experiences a delay resulting from the modulation and demodulation of the simultaneous voice and data signal in the first simultaneous voice and data modem*).

17. Claim 7 is understandable to a person of ordinary skill in the art who has the requisite education, training, and experience with the technology at issue in this case.

18. A person of ordinary skill in the art understands Plaintiff's theory of how Defendant's Accused Products infringe claim 7 upon a plain reading of this Complaint, the 864 patent, and claim 7.

19. Plaintiff reserves the right to modify its infringement theory as discovery progresses in this case, and it shall not be estopped for claim construction purposes by its preliminary infringement analysis as provided in this Complaint. Plaintiff's preliminary infringement analysis is not representative of its final claim construction positions.

20. Additionally, or in the alternative, Defendant is actively inducing the direct infringement of at least claim 7 of the 864 patent in violation of 35 U.S.C. § 271(b) by, among other things, knowingly and intentionally encouraging, aiding, and abetting direct infringement by providing instructions with its Accused Products that inform its customers how to use its Accused Products in violation of at least claim 7, as provided above, with the specific intent that its customers directly infringe at least claim 7 based on its knowledge of providing its

instructions with its Accused Products and that its customers are directly infringing at least claim 7 by following its instructions.

21. Since at least the date that Defendant was served with a copy of this First Amended Complaint, Defendant has known that its Accused Products directly infringe one or more claims of the 864 patent and that its instructions that it provides with its Accused Products inform its customers how to infringe directly at least claim 7 of the 864 patent.

PRAYER FOR RELIEF

Plaintiff requests the following relief:

- A. Judgment that Defendant has infringed the 864 patent under 35 U.S.C. §§ 271(a) and (b);
- B. An accounting of all infringing acts including, but not limited to, those acts not presented at trial.
- C. An award of damages under 35 U.S.C. § 284 adequate to compensate Plaintiff for Defendant's past and future infringement, including any infringement from the date of filing of this Complaint through the date of judgment, together with interest and costs;
- D. Judgment that this case is exceptional under 35 U.S.C. § 285 and an award of Plaintiff's reasonable attorneys' fees and costs; and
- E. Such further relief at law or in equity that this Court deems just and proper.

JURY TRIAL DEMAND

Plaintiff demands a trial by jury on all claims and issues so triable.

Dated: October 21, 2016

Respectfully submitted,



Peter J. Corcoran, III
Texas State Bar No. 24080038
CORCORAN IP LAW, PLLC
2019 Richmond Road, Suite 380
Texarkana, Texas 75503
Tel: (903) 701-2481
Fax: (844) 362-3291
Email: peter@corcoranip.com

Counsel for Plaintiff
Packet Tread LLC

CERTIFICATE OF SERVICE

The undersigned certifies that all counsel of record whom have consented to electronic service were served with a copy of this document under this Court's CM/ECF system and local rules on October 21, 2016.

A handwritten signature in blue ink, appearing to read "P. Corcoran, III", is positioned above a horizontal line.

Peter J. Corcoran, III