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14	Attorneys for Plaintiff Blue Sky Networks, LLC	
15	UNITED STATES	DISTRICT COURT
16	NORTHERN DISTRI	ICT OF CALIFORNIA
17	BLUE SKY NETWORKS, LLC,	
18	Plaintiff,	CASE NO. 4:17-cv-06567-YGR
19	vs.	FIRST AMENDED COMPLAINT FOR
20	VERIFONE SYSTEMS, INC.,	PATENT INFRINGEMENT
21	Defendant.	DEMAND FOR JURY TRIAL
22 23	Plaintiff Blue Sky Networks, LLC ("Blue	Sky'') files this First Amended Complaint against
23	VeriFone Systems, Inc. ("VeriFone") for infringe	
25		RTIES
26		ited liability company organized under the laws of
27		cipal place of business at 1400 Preston Road, Suite
28	475, Plano, Texas 75093.	/
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1	2. Defendant VeriFone is a Delaware corporation with a principal place of business at
2	88 West Plumeria Drive San Jose, CA 95134.
3	3. VeriFone is registered to do business in California, has been served, and has appeared.
4	JURISDICTION AND VENUE
5	4. Blue Sky brings this action for patent infringement under the patent laws of the
6	United States, namely 35 U.S.C. §§ 271, 281, and 284-285, among others. This Court has
7	subject-matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).
8	5. VeriFone is subject to personal jurisdiction of this Court based upon its regularly
9	conducted business in California and in this judicial district.
10	6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1400(b).
11	VeriFone headquarters and principal executive offices are located in this judicial district, and
12	VeriFone conducts business and has committed acts of infringement in this judicial district.
13	INTRADISTRICT ASSIGNMENT
14	7. Pursuant to Local Rule 3-2(c), this case is subject to district-wide assignment because
15	it is an Intellectual Property Action.
16	THE BLUE SKY PATENTS-IN-SUIT
17	8. Blue Sky is the owner by assignment of all right, title, and interest in and to United
18	States Patent No. 6,865,372 (the "'372 Patent" or "Asserted Patent") infringed by VeriFone. A true
19	and correct copy of the '372 Patent is attached as Exhibit A.
20	9. Blue Sky possesses all rights of recovery under the Asserted Patent.
21	10. Dan Mauney, Marc Sullivan, Charles Green, and Steve Harbin invented the claimed
22	subject matter of the'372 Patent while working for SBC Technology Resources, Inc. in Austin, Texas.
23	11. SBC Technology Resources, later renamed SBC Laboratories in 2003, was the
24	research and development arm of SBC Communications Inc., which acquired AT&T in 2005.
25	12. The '372 Patent, titled "Enhanced Wireless Handset, Including Direct Handset-to-
26	Handset Communication Mode," was duly and legally issued by the United States Patent and
27	Trademark Office after a full and complete examination.
28	13. The Patent Examiner found the allowed claims to recite patentable subject matter and

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each respective application meeting all requirements for patentability.

14. The Asserted Patent is directed to wireless mobile devices such as handsets, peripherals, and computing devices that operate via wireless short-range direct communication with other wireless devices. Such devices may also be enabled for simultaneous operation on a wireless network (e.g., a cellular, PCS, or WiFi network) and wireless short-range direct communication with other wireless devices. Wireless devices within the scope of the claims include paging devices, handsets, peripherals, computing devices, and other objects enabled for direct handset-to-handset, handset-to-base station, or handset-to-peripheral communication.

15. To facilitate set-up, the Asserted Patent describes find features (e.g., that assist a device operator in determining what objects, including other wireless devices and users, are located within the wireless network's operating range), memory for maintaining a list of available devices for communicating via the short-range wireless network, and short-range messaging.

16. In operation, devices and objects described in the Asserted Patent scan for, find, register, and communicate with available devices and may present to a user a list from which the user may select devices to pair with a device to enable two-way communication via the short-range wireless network independent of a cellular or other wireless network.

17 17. The Asserted Patent further describes how embodying devices and systems including,
18 for example, wireless smartphones, cordless phone base station, point-of-sale terminal, tablets,
19 computers, and other communication devices may simultaneously communicate on short range
20 wireless network(s) and a wide-area wireless network such as cellular or PCS systems, WiFi, or a
21 satellite radio network.

22

## United States Patent No. 6,865,372

18. The United States Patent and Trademark Office issued the '372 Patent on March 8,
24 2005, after a complete examination and upon finding the claimed subject matter novel and the
application meeting all requirements for patentability.

26 19. The '372 Patent issued from a division of application No. 09/094,600 from which the
 27 '027 Patent issued.

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20. The '372 Patent is valid and enforceable.

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1	21. A copy of the '372 Patent is attached at Exhibit A.
2	22. As the owner of the Asserted Patent, Blue Sky Networks, LLC, holds all substantial
3	rights in and under the '372 Patent including the right to grant sublicenses, exclude others, and to
4	enforce, sue, and recover damages for past and future infringement.
5	VERIFONE
6	23. VeriFone designs, develops, manufactures, markets, and supplies a broad range of
7	point of sale payment systems and services that enable electronic payments between consumers,
8	merchants, and financial institutions.
9	24. VeriFone makes, uses, sells, offers for sale, distributes, imports, licenses, and/or
10	supports the Bluetooth-enabled VX-690 wireless point-of-sale terminal base station (shown below).
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22	25. VeriFone describes itself as "a leading global provider of technology that enables
23	electronic payment transactions and value-added services at the point of sale." See
24	http://ir.verifone.com/.
25	26. Accused Devices include the VX-690 Base Station and any unlicensed Verifone
26	handsets, point-of-sale terminals, base stations, communication hubs, and Bluetooth-enabled
27	payment system devices that operate as described herein. The VX-690 Base Statement
28	communicates with Verifone POS terminals via Bluetooth short-range wireless communication.
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1	27. VeriFone has enabled Accused Devices with different versions of the Bluetooth
2	wireless technology standard. Verifone describes the VX-690 as operating using Bluetooth 4.0.
3	28. In an examplary infringing use, a VeriFone VX-690 Base Station establishes a
4	Bluetooth connection with up to seven VeriFone-branded, Bluetooth-enabled terminal. In operation,
5	the base station performs a paging, response, and pairing procedure that satisfies each and every
6	element or step of the '372 Patent asserted claims.
7	29. The Base Station is an electronic device employing short-range Bluetooth wireless
8	communication functionality to connect and communication with available objects within range.
9	30. In normal operation, the Base Station transmits a paging message and receives a page
10	response message including information about available objects within range.
11	31. The Base Station generates a list of available devices that are detected to be within
12	range.
13	32. Once the Accused Device connects to an object, the devices are "paired."
14	33. VeriFone instructs end users to use the devices' Bluetooth capabilities to infringe the
15	asserted claims.
16	34. VeriFone touts the benefits of Bluetooth capable terminals: "The dynamic
17	combination of high-speed 3G radio with powerful Wi-Fi and Bluetooth capabilities allows
18	merchants to accept payments securely, extending their point of sale opportunities." See http://global-
19	old.verifone.com/products/hardware/portables/vx-690/.
20	35. VeriFone further instructs its customers and potential customers regarding benefits of
21	Bluetooth, for example: "The dynamic combination of Bluetooth chip, Wi-Fi and powerful 3G radio
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23	delivers fast, wireless payment convenience, fewer dropped transactions and flexible point-of-sale
24	options." See http://global-old.verifone.com/products/hardware/portables/vx-690/.
25	36. VeriFone provides instructions to end users, for example as reproduced below in
26	VeriFone's installation guide for the VX690:
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VX 690 uses the Bluetooth base station. Up to seven devices can be registered with the same communications device, but only one transaction may be undertaken at a time. Do not pair more than three terminals with the base station. When more than three terminals are required, additional base stations must be suitably positioned on site to obtain maximum radio coverage.

- 37. VeriFone encourages, aids, and directs end users of the Accused Devices to use and 6 operate them, consistent with VeriFone's instructions, to perform the asserted method claims.
  - 38. VeriFone is on notice of the infringing products, features, and how end users of the Accused Devices operate them to perform the claimed methods and use the claimed apparatuses.
- 39. In an Accused Device that operates using Bluetooth BR/EDR, the Accused Device 10 enters the page sub-state to determine whether available devices are within range, and the Accused 11 12 Device may transmit a train of page messages until a response is received from a potential target 13 device.
- 40. An Accused Device in turn detects any response messages from available Bluetooth 14 devices (e.g., a terminal). The Accused Device collects and stores information received within the 15 16 inquiry response messages and uses that information to compile a list of discovered or available 17 Bluetooth devices.
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41 When a connectable device receives a page request on its page scan channel from a 19 Base Station, it enters into a sequence of exchanges in a master response routine.

20 42. A link key is created and exchanged during the pairing process. Once an Accused Device is paired with a connectable device, higher level initialization procedures are invoked to 21 22 update a stored list of paired devices.

## **COUNT I INFRINGEMENT OF U.S. PATENT NO. 6,865,372**

24 43 Blue Sky incorporates by reference paragraphs 1-45 and re-alleges them as if stated 25 here. 26 VeriFone infringes at least claims 1, 2, 5, 6, 7, 10, 11, 12, 15, 16, 17, and 20 of the 44. 27 '372 Patent.

45. VeriFone makes, uses, sells, offers for sale, and imports Accused Devices that embody

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at least the listed asserted claims of the '372 Patent including representative claim 6.

46. Accused Devices communicate with peripherals using relevant short-range technologies including but not limited to Bluetooth BR/EDR.

47. In accordance with recitations of exemplary claim 6 of the 372 Patent, the VX-690 Base Station and any other Accused Devices are electronic devices intended to and capable of identifying proximally located objects within a proximity wireless coverage area.

48. The VX-690 Base Station includes a short-range wireless transmitter that in normal operation transmits a paging data packet as part of the connection process.

49. In normal operation, during the Bluetooth connection process, the VX-690 repeatedly 9 transmits a paging message over different frequency channels determined by an inquiry hopping 10 sequence.

50. Also during the connection process, after successfully transmitting the paging 12 message, the VX-690 Base Station receives a page response message from a compatible terminal that 13 contains information including the device access code. 14

51. According to Bluetooth protocols, a peripheral's response message may contain 15 information including device address, clock, class of device, and device name for each respective 16 peripheral. 17

52. The VX-690 Base Station receives the page response message and adds the terminal 18 identifier to a dynamically generated list of detected objects within range. 19

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53. The VX-690 Base Station may pair with up to seven terminals.

54. The VX-690 Base Station stores up to seven terminal identifiers corresponding to bonded terminals. Stored terminal identifiers are used for future authentication and pairing. 22

- 55. Terminal identifiers may include names and identifying numerical codes for detected 23 (e.g., available or paired) objects. The list includes the first object identifier and the second object 24 identifier (e.g., two device names) for cases in which inquiry packets are sent over two frequency 25 channels to two separate peripherals, and the two peripherals send response data packets including 26 corresponding object identifiers (e.g., a device name for each peripheral). 27
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56. Through online technical support and publication of instructional information,

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1	VeriFone encourages, aids, and directs end users of the accused VeriFone Bluetooth-enabled devices
2	to use and operate them, consistent with VeriFone's instructions, to perform the asserted method
3	claims.
4	57. VeriFone is on notice of the infringing products, features, and how end users of the
5	accused devices operate them to perform the claimed methods and use the claimed apparatuses.
6	58. VeriFone's infringing conduct has damaged Blue Sky Networks.
7	59. VeriFone is liable to Blue Sky Networks in an amount that adequately compensates it
8	for Defendants' infringement, which, by law, can be no less than a reasonable royalty, together with
9	interest and costs as fixed by this Court under 35 U.S.C. § 284.
10	NOTICE
11	60. Blue Sky has complied with the notice requirement of 35 U.S.C. § 287 and does not
12	currently distribute, sell, offer for sale, or make products embodying the asserted patent.
13	PRAYER FOR RELIEF
14	Blue Sky Networks prays for the following relief:
15	a) A judgment be entered that VeriFone has infringed one or more claims of the Asserted
16	Patent;
17	b) A judgment be entered that the Asserted Patent is valid and enforceable;
18	c) Blue Sky Networks be awarded damages adequate to compensate for VeriFone's
19	infringement up until the date such judgment is entered, including prejudgment and post-
20	judgment interest, costs, and disbursements as justified under 35 U.S.C. § 284 and, if
21	necessary to adequately compensate Blue Sky for VeriFone's infringement, an
22	accounting;
23	d) A judgment that Blue Sky Networks be awarded attorneys' fees, costs, and expenses
24	incurred in prosecuting this action; and
25	e) A judgment that Blue Sky Networks be awarded such further relief at law or in equity
26	as the Court deems just and proper.
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	DEMAND FOR JURY TRIAL	
1	Blue Sky Networks demands trial by jury for all issues so triable pursuant to Fed.	
2	R. Civ. P. 38(b) and Civil L.R. 3-6(a).	
3		
4	Dated: March 2, 2018 Respectfully Submitted,	
5	By <u>/s/ Marc Belloli</u> Marc Belloli	
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