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14 *Attorneys for Plaintiff Blue Sky Networks, LLC*

15 **UNITED STATES DISTRICT COURT**

16 **NORTHERN DISTRICT OF CALIFORNIA**

17 BLUE SKY NETWORKS, LLC,

18 Plaintiff,

19 vs.

20 VERIFONE SYSTEMS, INC.,

21 Defendant.

CASE NO. 4:17-cv-06567-YGR

**FIRST AMENDED COMPLAINT FOR
PATENT INFRINGEMENT**

DEMAND FOR JURY TRIAL

22
23 Plaintiff Blue Sky Networks, LLC (“Blue Sky”) files this First Amended Complaint against
24 VeriFone Systems, Inc. (“VeriFone”) for infringement of U.S. Patent Nos. 6,865,372.

25 **PARTIES**

26 1. Blue Sky Networks, LLC is a limited liability company organized under the laws of
27 the State of Texas with its headquarters and principal place of business at 1400 Preston Road, Suite
28 475, Plano, Texas 75093.

1 each respective application meeting all requirements for patentability.

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

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

13 16. In operation, devices and objects described in the Asserted Patent scan for, find,
14 register, and communicate with available devices and may present to a user a list from which the user
15 may select devices to pair with a device to enable two-way communication via the short-range
16 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**

23 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
25 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.

28 20. The '372 Patent is valid and enforceable.

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 exemplary 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/](http://global-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
22 delivers fast, wireless payment convenience, fewer dropped transactions and flexible point-of-sale
23 options." *See* [http://global-
24 old.verifone.com/products/hardware/portables/vx-690/](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:
27
28

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.

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5 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.

7 38. VeriFone is on notice of the infringing products, features, and how end users of the
8 Accused Devices operate them to perform the claimed methods and use the claimed apparatuses.
9

10 39. In an Accused Device that operates using Bluetooth BR/EDR, the Accused Device
11 enters the page sub-state to determine whether available devices are within range, and the Accused
12 Device may transmit a train of page messages until a response is received from a potential target
13 device.

14 40. An Accused Device in turn detects any response messages from available Bluetooth
15 devices (e.g., a terminal). The Accused Device collects and stores information received within the
16 inquiry response messages and uses that information to compile a list of discovered or available
17 Bluetooth devices.

18 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
21 Device is paired with a connectable device, higher level initialization procedures are invoked to
22 update a stored list of paired devices.

23 **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 44. VeriFone infringes at least claims 1, 2, 5, 6, 7, 10, 11, 12, 15, 16, 17, and 20 of the
27 '372 Patent.

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

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

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

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

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

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

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

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

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

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

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

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

28 56. Through online technical support and publication of instructional information,

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.
- 27
28

DEMAND FOR JURY TRIAL

1
2 Blue Sky Networks demands trial by jury for all issues so triable pursuant to Fed.
3 R. Civ. P. 38(b) and Civil L.R. 3-6(a).

4 Dated: March 2, 2018

Respectfully Submitted,

5 By /s/ Marc Belloli

6 Marc Belloli

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