

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

ROTHSCHILD PATENT IMAGING LLC,	§	
	§	
Plaintiff,	§	Case No:
	§	
vs.	§	PATENT CASE
	§	
RAKUTEN USA, INC.	§	
	§	
Defendant.	§	
	§	

**COMPLAINT**

Plaintiff Rothschild Patent Imaging LLC (“Plaintiff” or “RPI”) files this original Complaint against Rakuten USA, Inc. (“Defendant”) for infringement of United States Patent No. 8,437,797 (“the ‘797 Patent”).

**PARTIES AND JURISDICTION**

1. This is an action for patent infringement under Title 35 of the United States Code. Plaintiff is seeking injunctive relief as well as damages.
2. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents) because this is a civil action for patent infringement arising under the United States patent statutes.
3. Plaintiff is a Texas limited liability company having an office with an address at 1400 Preston Rd., Suite 400, Plano, TX 75093.
4. On information and belief, Defendant is a Delaware corporation, with its principal place of business at 800 Concar Drive, San Mateo, California 94402.
5. On information and belief, this Court has personal jurisdiction over Defendant because Defendant has committed, and continues to commit, acts of infringement in this

District, has conducted business in this District, and/or has engaged in continuous and systematic activities in this District.

6. On information and belief, Defendant's instrumentalities that are alleged herein to infringe were and continue to be used, imported, offered for sale, and/or sold in this District.

**VENUE**

7. Venue is proper in this District pursuant to 28 U.S.C. § 1400(b) because Defendant is deemed to reside in this District and is a Delaware corporation.

**COUNT I**  
**(INFRINGEMENT OF UNITED STATES PATENT NO 8,437,797)**

8. Plaintiff incorporates paragraphs 1-7 herein by reference.

9. This cause of action arises under the patent laws of the United States and, in particular, under 35 U.S.C. §§ 271, et seq.

10. Plaintiff is the owner by assignment of the '797 Patent with sole rights to enforce the '797 Patent and sue infringers.

11. A copy of the '797 Patent, titled "Wireless Image Distribution System and Method," is attached hereto as Exhibit A.

12. The '797 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.


13. Upon information and belief, Defendant has infringed and continues to infringe one or more claims (at least by having its employees, or someone under Defendant's control, test the accused product), including at least Claim 16 of the '797 Patent by making, using, importing, selling, and/or offering an application usable with a smartphone covered by at least Claim 16 of the '797 Patent.

14. On information and belief, Defendant sells, offers to sell, and/or uses apps that

provide image capturing and transfer capabilities, including, without limitation, the Viber Messenger App, and any similar devices and apps (“Product”), which infringe at least Claim 16 of the ‘797 Patent.

15. Regarding Claim 16, the Product uses a method performed by an image-capturing mobile device (e.g., a smartphone with camera functionalities and the Viber Messenger App installed).

16. The Product receives a plurality of photographic images (e.g., the Viber Messenger App can access photos captured and stored on the smartphone and allows a user to send them to friends). Certain limitations of the foregoing element are illustrated in the screenshots below and/or in screen shots provided in connection with other allegations herein.



# Viber Messenger

Top Developer

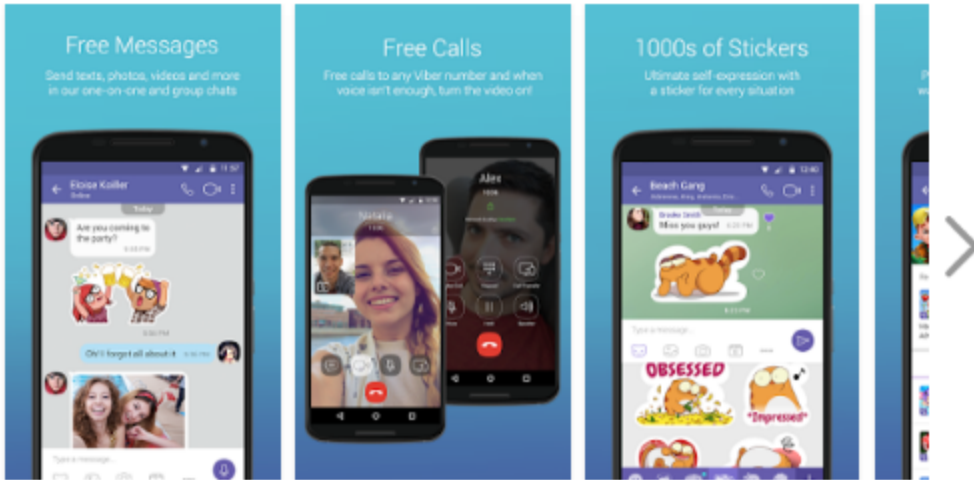
Viber Media S.à r.l. Communication ★★★★★ 10,116,861

3+

Contains ads · Offers in-app purchases

This app is compatible with your device.

Add to Wishlist Install



**Free Messages**  
Send texts, photos, videos and more in our one-on-one and group chats

**Free Calls**  
Free calls to any Viber number and when voice isn't enough, turn the video on!

**1000s of Stickers**  
Ultimate self-expression with a sticker for every situation

<https://play.google.com/store/apps/details?id=com.viber.voip&hl=en>

## How do I send photos and videos from my Android device?

1. Open a **message**
2. Select the **+** icon to the left of the **Compose** field
3. Choose either **Take Photo**, **Take Video**, or open the **Gallery** to upload media from your device

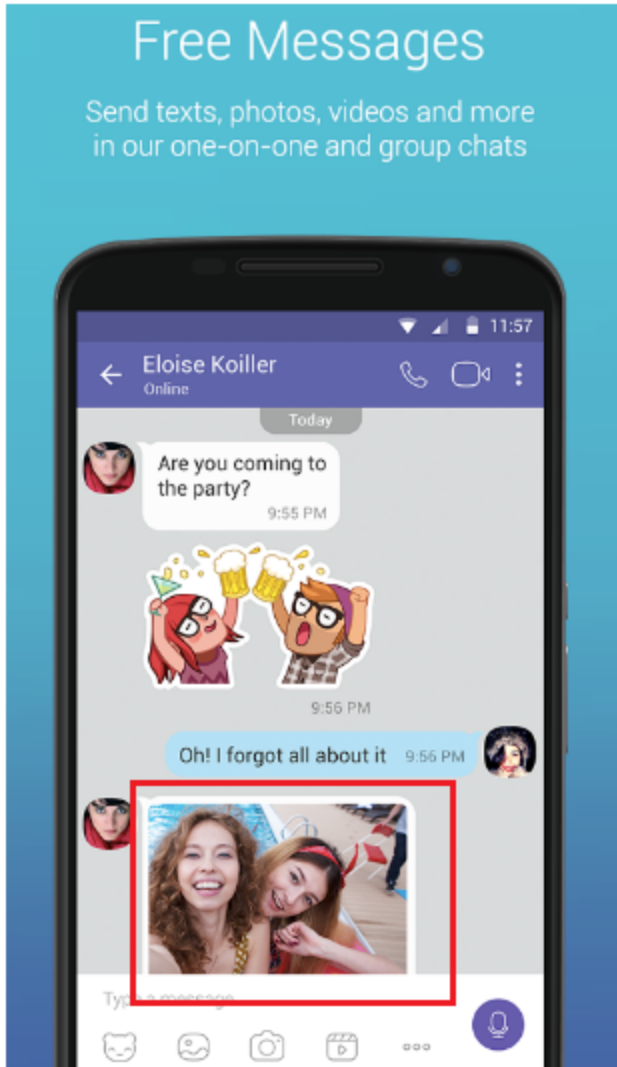
### Some more information about your options:

- **Take Photo** – This option will enable your device’s camera and allow you to take a photo. You will then have the option to **Save** or **Discard** the image. Choosing **Save** will prepare the image in a text box and allow you to describe the image. Choosing **Discard** will delete the photo.
- **Take Video** – This option will enable Viber’s video recorder and allow you to take a video. Take a video up to 3 minutes long, add a description, save the video to your gallery, and send it on to your friends! Learn more here.
- **Gallery** – This option will access your device’s photo gallery and allow you to choose photo(s) or a video to send. *You may only send 1 video at a time and you cannot send photos and videos at the same time.* To send **more than one** photo:

1. Select the photos you would like to send (maximum: 10) - You can now send photos from more than one gallery!
2. After you have selected the photos click **done**. On the next screen you can swipe the screen left to browse the photos you have chosen and add a description to each (optional).
3. Once you have done browsing and adding optional descriptions click the **send** button.

<https://support.viber.com/customer/portal/articles/1341049-how-do-i-send-photos-and-videos-from-my-android-device->

17. The Product allows a user to filter a plurality of images using a transfer criteria (e.g., a user selects the images they wish to share or send from among all of the pictures stored on the smartphone; the transfer criterion is a user’s selection of images). Certain aspects of this element are illustrated in the screen shot below, and/or the screen shots provided in connection with other elements discussed herein.



<https://play.google.com/store/apps/details?id=com.viber.voip&hl=en>

18. The Viber Messenger App transmits, via a wireless transmitter (e.g. a Wi-Fi or cellular data module located on a smartphone), the filtered plurality of photographic images (e.g., the pictures a user has selected to share or send) to a second image capturing device (e.g. another smartphone utilizing the Viber Messenger App). Certain aspects of this element are illustrated in the screen shots provided in connection with other elements discussed herein.

19. When using the Viber Messenger App to share photos to a group, the image capturing device and the second mobile device are disposed in a selectively paired relationship

with one another based upon an affinity group associated with the second mobile device (e.g., the users of both devices have the Viber Messenger App installed on their respective devices and may send images to each other as well as other users with the app).

20. Defendant's actions complained of herein will continue unless Defendant is enjoined by this court.

21. Defendant's actions complained of herein are causing irreparable harm and monetary damage to Plaintiff and will continue to do so unless and until Defendant is enjoined and restrained by this Court.

22. Plaintiff is in compliance with 35 U.S.C. § 287.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff asks the Court to:

(a) Enter judgment for Plaintiff on this Complaint on all causes of action asserted herein;

(b) Enter an Order Enjoining Defendant, its agents, officers, servants, employees, attorneys, and all persons in active concert or participation with Defendant who receive notice of the order from further infringement of United States Patent No. 8,437,797, and 8,204,437 (or, in the alternative, awarding Plaintiff a running royalty from the time of judgment going forward);

(c) Award Plaintiff damages resulting from Defendant's infringement in accordance with 35 U.S.C. § 284;

(d) Award Plaintiff pre-judgment and post-judgment interest and costs; and

(e) Award Plaintiff such further relief to which the Court finds Plaintiff entitled under law or equity.

Dated: August 2, 2018

Respectfully submitted,

*/s/ Stamatios Stamoulis*

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**ATTORNEYS FOR PLAINTIFF**