

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

RICPI COMMUNICATIONS LLC

Plaintiff,

vs.

SIMOCO EMEA LTD

Defendant

CIVIL ACTION NO.

JURY TRIAL DEMANDED

COMPLAINT FOR INFRINGEMENT OF PATENT

TO THE HONORABLE COURT:

COMES NOW Plaintiff RICPI Communications LLC (“RICPI” or Plaintiff), through the undersigned attorneys, and respectfully alleges, states, and prays as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement under the Patent Laws of the United States, Title 35 United States Code (“U.S.C.”) to prevent and enjoin defendant Simoco EMEA Ltd. (hereinafter “Defendant”) from infringing and profiting, in an illegal and unauthorized manner and without authorization and/or of the consent from RICPI, from U.S. Patent No. 7,333,806 (the “‘806 patent”, attached hereto as Exhibit “A”) (the “Patent-in-Suit”) pursuant to 35 U.S.C. § 271, and to recover damages, attorney’s fees, and costs.

THE PARTIES

2. Plaintiff RICPI is a Texas entity with its principal place of business at 15922 Eldorado Pkwy., Suite 500-1528, Frisco, TX 75035.

3. Upon information and belief, Defendant is a United Kingdom company with a principal place of business at Field House Uttoxeter Old Road, Derby England DE1 1NH. Alo

upon information and belief, Defendant may be served with process through its agent, GKL Corporate/Search, Inc., care of Kevin Lutz, at One Capitol Mall, Ste 660, Sacramento, California 95814.

JURISDICTION AND VENUE

4. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because the action arises under the Patent Laws of the United States, 35 U.S.C. §§ 1 *et seq.*

5. This Court has personal jurisdiction over Defendant by virtue of its systematic and continuous contacts with this jurisdiction, including residing in the Commonwealth of Massachusetts, as well as because of the injury to RICPI, and the cause of action RICPI has risen, as alleged herein.

6. Defendant is subject to this Court's personal jurisdiction pursuant to due process and/or the Massachusetts Long-Arm Statute, *M.G.L. c. 223A, §3*, due at least to its substantial business and purposeful availment of this forum, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in the Commonwealth of Massachusetts and in this judicial district.

7. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1400(b) because Defendant is a foreign defendant.

FACTUAL ALLEGATIONS

8. On February 19, 2008, the United States Patent and Trademark Office ("USPTO") duly and legally issued the '806 patent, entitled "System and Method for Enabling

Two-Way Radio Communications over a Computer Network” after a full and fair examination. (Exhibit A).

9. RICPI is presently the owner of the patent, having received all right, title and interest in and to the ‘806 patent from the previous assignee of record. RICPI possesses all rights of recovery under the ‘806 patent, including the exclusive right to recover for past infringement.

10. The ‘806 patent contains three (3) independent claims and six-teen (16) dependent claims.

11. The ‘806 patent claims, *inter alia*, a system for two-way radio communication.

12. Defendant commercializes, *inter alia*, two-way radio communication systems that include each and every element of at least one claim of the ‘806 patent.

DEFENDANT’S PRODUCTS

13. The accused products include, but are not limited to, the “Simoco Xd solutions” (the “Accused Product”). For example, publicly available information describing the Accused Product shows that the Accused Product comprises a system for two-way radio communication.¹

14. The Accused Product comprises a first two-way radio comprising: (i) a means (e.g., a key pad, channel selector device, or software-based key of a portable two-way radio) for selecting and transmitting a signal code (e.g., selecting a channel code pertaining to a target base station/repeater associated with another two-way radio, or the two-way radio itself) to a shared, public base/repeater station (e.g., a repeater which the two-way radios are associated with in a repeater transmission scheme); (ii) a means (e.g., a transmitter working at various UHF bands) for sending two-way radio communication signals to said shared, public base/repeater station;

¹ https://www.simocowirelessolutions.com/wp-content/resources/brochures/dmr/emea/Simoco-Wireless-Solutions_Xd-Range.pdf, last visited November 21, 2018.

(iii) a means (e.g., a receiver working at various UHF bands) for receiving two-way radio communication signals from said shared, public base/repeater station.

15. The Accused Product comprises (b) said shared, public base/repeater station comprising: (i) a base/repeater station decoder (e.g. in case of a repeater, decoder is part of receiver which performs the decoding function) at said shared, public base/repeater station for decoding the signal code from said first two-way radio into a signal that is recognized by a base/repeater station controller (e.g., repeater controller which is an inherent component of repeater which deals with identification of stations) located at said shared, public base/repeater station and transferring said signal to said base/repeater station controller via a dedicated connection.

16. The Accused Product comprises (ii) wherein said base/repeater station controller comprises a means for receiving said decoded signal from said base/repeater station decoder and correlating said decoded signal to one or more internet addresses associated with at least one target base station by which there is established a bi-directional computer network link (e.g., an IP network link) with said at least one target base station using said internet address (e.g., IP address) for the exchange of two-way radio communication signals; and (iii) wherein said shared, public base/repeater station further comprises a means (e.g. a transmitter and receiver respectively) for sending and receiving two-way radio communications signals to and from said first two-way radio.

17. The Accused Product comprises (c) wherein said at least one said target base station comprises: (i) a target station controller located at said target base station comprising a means for establishing a bi-directional computer network link with said shared, public base/repeater station for two-way radio communication signals (e.g., internet connection)

between a shared, public base/repeater station and a target base/repeater station; and (ii) wherein said at least one target base station further comprises a means for sending and receiving (e.g., e.g., a transmitter and receiver respectively) two-way radio communication signals to and from a second two-way radio.

18. The Accused Product comprises at least one second two-way radio (e.g., the second terminal to which first radio is in communication with) comprising: (i) a means (e.g., a receiver working at various UHF bands) for receiving two-way radio communication signals from said at least one target base station; and (ii) a means (e.g., a transmitter working at various UHF bands) for sending two-way radio communication signals to said at least one target base station.

19. The Accused Product comprises (e) whereby two-way radio communication signals are bi-directionally exchanged directly between said first two-way radio and said second two-way radio via said bi-directional computer network link directly between said shared, public base/repeater station controller and said target station controller (e.g., between first base/repeater station and target station since controller is a part of repeater itself).

20. The elements described in paragraphs 13-19 are covered by at least claim 1 of the '806 patent. Thus, Defendants' use of the Accused Instrumentality is enabled by the invention described in the '806 patent.

21. By using the Accused Product, as recited in claim 11 of the '806 patent, Defendant performs a method for exchanging two-way radio communication signals between two-way radios via a bi-directional computer network link directly between a shared, public base/repeater station and at least one target base station.

22. As recited in claim 11 of the '806 patent, Defendant practices transmitting a signal code (e.g., selecting a channel code pertaining to a target base station to which another two-way radio is associated with which first two-way radio desires to connect to) and two-way radio communication signals from a two-way radio (e.g., by means of UHF band transmitter) to said shared, public base/repeater station having a controller located at said shared, public base/repeater station (e.g. a first two-way radio will send communication signals to a shared public base/repeater when communicating with another two-way radio in a repeater transmission scheme).

23. As recited in claim 11 of the '806 patent, Defendant practices decoding (e.g., decoding is performed by the receiver component of the repeater) said signal code and correlating said decoded signal code at said shared, public base/repeater station location to one or more internet addresses (e.g., IP addresses) and establishing a bi-directional computer network link (e.g., an IP link in IP network using IP site connect) with said at least one target base station using said internet address to exchange two-way radio communication signals.

24. As recited in claim 11 of the '806 patent, Defendant practices establishing a bi-directional computer network link directly between said shared, public base/repeater station and said at least one target base station having a controller at said at least one target base station through said internet address. Since the accused system uses an IP link to interconnect repeaters it must use an IP address of the target base station to connect thereto.

25. As recited in claim 11 of the '806 patent, Defendant practices transmitting two-way radio communication signals over said computer network link directly to said at least one target base station.

26. As recited in claim 11 of the '806 patent, Defendant practices transmitting (e.g., by means of a UHF band transmitter) said two-way radio communication signals from said at least one target base station to a second two-way radio.

27. As recited in claim 11 of the '806 patent, Defendant practices transmitting (e.g., by means of a UHF band transmitter) two-way radio communication signals from said second two-way radio to said at least one target base station.

28. As recited in claim 11 of the '806 patent, Defendant practices transmitting two-way radio communication signals from said at least one target base station over said computer network link directly to said shared, public base/repeater station.

29. As recited in claim 11 of the '806 patent, Defendant practices transmitting two-way radio communication signals from said shared, public base/repeater station to said first two-way radio.

30. The elements described in paragraphs 21-29 are covered by at least claim 11 of the '806 patent. Thus, Defendants' use of the Accused Instrumentality is enabled by the invention described in the '806 patent.

COUNT I
(DIRECT INFRINGEMENT OF THE '806 PATENT)

31. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 1 to 30.

32. In violation of 35 U.S.C. § 271, Defendant is now, and has been directly infringing the '806 patent.

33. Defendant has had knowledge of infringement of the '806 patent at least as of the service of the present complaint.

34. Defendant has directly infringed and continues to directly infringe at least claim 1 of the '806 patent by using, selling and/or offering to sell the Accused Product without authority in the United States, and will continue to do so unless enjoined by this Court. For example, Defendant sells, offers to sell and advertises the Accused Product in this District. As a direct and proximate result of Defendant's direct infringement of the '806 patent, Plaintiff has been and continues to be damaged.

35. Defendant has directly infringed and continues to directly infringe at least claim 11 of the '806 patent by using the Accused Product without authority in the United States, and will continue to do so unless enjoined by this Court. For example, Defendant sells, offers to sell and advertises the Accused Product in this District. As a direct and proximate result of Defendant's direct infringement of the '806 patent, Plaintiff has been and continues to be damaged.

36. By engaging in the conduct described herein, Defendant has injured RICPI and is thus liable for infringement of the '806 patent, pursuant to 35 U.S.C. § 271.

37. Defendant has committed these acts of infringement without license or authorization.

38. As a result of Defendant's infringement of the '806 patent, RICPI has suffered monetary damages and is entitled to a monetary judgment in an amount adequate to compensate for Defendant's past infringement, together with interests and costs.

39. RICPI will continue to suffer damages in the future unless Defendant's infringing activities are enjoined by this Court. As such, RICPI is entitled to compensation for any continuing and/or future infringement up until the date that Defendant is finally and permanently enjoined from further infringement.

COUNT II
(INDIRECT INFRINGEMENT OF THE '806 PATENT)

40. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 1 to 38.

41. In violation of 35 U.S.C. § 271, Defendant is now, and has been indirectly infringing the '806 patent.

42. Defendant has had knowledge of infringement of the '806 patent at least as of the service of the present complaint.

43. Defendant has indirectly infringed and continues to indirectly infringe at least claim 1 of the '806 patent by actively inducing its respective customers, users, and/or licensees to directly infringe by using the Accused product. Defendant engaged or will have engaged in such inducement having knowledge of the '806 patent. Furthermore, Defendant knew or should have known that its action would induce direct infringement by others and intended that its actions would induce direct infringement by others. For example, Defendant sells, offers to sell and advertises the Accused Product through websites or digital distribution platforms that are available in the Commonwealth of Massachusetts, specifically intending that its customers use it.² Furthermore, Defendant's customers' use of the Accused Product is facilitated by the invention described in the '806 patent. As a direct and proximate result of Defendant's indirect infringement by inducement of the '806 patent, Plaintiff has been and continues to be damaged.

44. Defendant has indirectly infringed and continues to indirectly infringe at least claim 11 of the '806 patent by actively inducing its respective customers, users, and/or licensees to directly infringe by using the Accused product. Defendant engaged or will have engaged in such inducement having knowledge of the '806 patent. Furthermore, Defendant knew or should

² https://www.simocowirelessolutions.com/wp-content/resources/brochures/dmr/emea/Simoco-Wireless-Solutions_Xd-Range.pdf, last visited November 21, 2018.

have known that its action would induce direct infringement by others and intended that its actions would induce direct infringement by others. For example, Defendant sells, offers to sell and advertises the Accused Product through websites or digital distribution platforms that are available in the Commonwealth of Massachusetts, specifically intending that its customers use it.³ Furthermore, Defendant's customers' use of the Accused Product is facilitated by the invention described in the '806 patent. As a direct and proximate result of Defendant's indirect infringement by inducement of the '806 patent, Plaintiff has been and continues to be damaged.

45. By engaging in the conduct described herein, Defendant has injured RICPI and is thus liable for infringement of the '806 patent, pursuant to 35 U.S.C. § 271.

46. Defendant has committed these acts of infringement without license or authorization.

47. As a result of Defendant's infringement of the '806 patent, RICPI has suffered monetary damages and is entitled to a monetary judgment in an amount adequate to compensate for Defendant's past infringement, together with interests and costs. RICPI will continue to suffer damages in the future unless Defendant's infringing activities are enjoined by this Court. As such, RICPI is entitled to compensation for any continuing and/or future infringement up until the date that Defendant is finally and permanently enjoined from further infringement

DEMAND FOR JURY TRIAL

48. RICPI demands a trial by jury of any and all causes of action.

PRAYER FOR RELIEF

WHEREFORE, RICPI prays for the following relief:

³ https://www.simocowirelessolutions.com/wp-content/resources/brochures/dmr/emea/Simoco-Wireless-Solutions_Xd-Range.pdf, last visited November 21, 2018.

1. That Defendant be adjudged to have infringed the Patent-in-Suit directly, literally and/or under the doctrine of equivalents;
2. That Defendant, its officers, directors, agents, servants, employees, attorneys, affiliates, divisions, branches, parents, and those persons in active concert or participation with any of them, be permanently restrained and enjoined from directly infringing the Patent-in-Suit;
3. An award of damages pursuant to 35 U.S.C. §284 sufficient to compensate RICPI for the Defendant's past infringement and any continuing or future infringement up until the date that Defendant is finally and permanently enjoined from further infringement, including compensatory damages;
4. An assessment of pre-judgment and post-judgment interest and costs against Defendant, together with an award of such interest and costs, in accordance with 35 U.S.C. §284;
5. That Defendant be directed to pay enhanced damages, including Balor's attorneys' fees incurred in connection with this lawsuit pursuant to 35 U.S.C. §285; and
6. That RICPI have such other and further relief as this Court may deem just and proper.

Dated: November 30, 2018

Respectfully Submitted,

By: /s/ Gustavo A. Chico-Barris

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