IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

VALYRIAN IP LLC,	)	
	)	
Plaintiff,	)	
	)	C.A. No. _____
v.	)	
	)	
AVAYA INC.,	)	DEMAND FOR JURY TRIAL
	)	
Defendant.	)	
	)	
	)	

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

1.   Valyrian IP LLC ("Valyrian IP" or "Plaintiff"), by and through its counsel, hereby brings this action for patent infringement against Avaya Inc., ("Avaya" or "Defendant") alleging infringement of the following validly issued patent (the "Patent-in-Suit"): U.S. Patent No. 6,970,706, titled "Hierarchical Call Control with Selective Broadcast Audio Messaging System" (the '706 Patent), attached hereto as Exhibit A.

NATURE OF THE ACTION

2.   This is an action for patent infringement arising under the United States Patent Act 35 U.S.C. §§ 1 et seq., including 35 U.S.C. § 271.

PARTIES

3.   Plaintiff Valyrian IP LLC is a company established in Texas with its principal place of business at 6205 Coit Rd., Suite 300-1025, Plano, TX 75024.

4.   On information and belief, Defendant Avaya Inc. is a company incorporated in Delaware and may be served by its registered agent The Corporation Trust Company at

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Corporation Trust Center, 1209 Orange St., Wilmington, DE 19801.

JURISDICTION AND VENUE

5.   This lawsuit is a civil action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 101 et seq. The Court has subject-matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1332, 1338(a), and 1367.

6.   The Court has personal jurisdiction over Defendant for the following reasons: (1) Defendant is present within or has minimum contacts within the State of Delaware and the district of Delaware; (2) Defendant has purposefully availed itself of the privileges of conducting business in the State of Delaware and in this district; (3) Defendant has sought protection and benefit from the laws of the State of Delaware; (4) Defendant regularly conducts business within the State of Delaware and within this district, and Plaintiff's cause of action arises directly from Defendant's business contacts and other activities in the State of Delaware and in this district; and (5) Defendant is incorporated in Delaware and has purposely availed itself of the privileges and benefits of the laws of the State of Delaware.

7.   Defendant, directly and/or through intermediaries, ships, distributes, uses, offers for sale, sells, and/or advertises products and services in the United States, the State of Delaware, and the District of Delaware including but not limited to the products which contain the infringing '706 Patent systems and methods as detailed below. Upon information and belief, Defendant has committed patent infringement in the State of Delaware and in this district; Defendant solicits and has solicited customers in the State of Delaware and in this district; and Defendant has paying customers who are residents of the State of Delaware and this district and who each use and have used the Defendant's products and services in the State of Delaware and in this district.

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8.   Venue is proper in the District of Delaware pursuant to 28 U.S.C. §§ 1400(b). Defendant is incorporated in this district, has transacted business in this district, and has directly and/or indirectly committed acts of patent infringement in this district.

<u>PATENT-IN-SUIT</u>

9.   The Patent-in-Suit teaches systems and methods for a cordless digital telephone system which allows hierarchical call control in a cordless phone system.

10.   The invention disclosed in the Patent-in-Suit discloses inventive concepts that represent significant improvements in the art and are not mere routine or conventional uses of computer components. For instance, at the time of filing there existed a lack of capability to simultaneously send a voice message to all mobile units associated with a base unit. *See* '706 Patent 1:39-42. One significant result of this limitation was that prior to the Patent-in-Suit it was impossible for a base station to send a call from an unidentified caller to only a specific mobile unit. *See* '706 Patent, 1:49-53. Additionally, conventional cordless systems were also incapable of broadcasting a message deemed important for a specific group of mobile units. *See* '706 Patent, 1:53-56. The Patent-in-Suit overcame these limitations.

<u>ACCUSED PRODUCTS</u>

11.   Defendant makes, uses, offers for sale and sells in the U.S. products, systems, and/or services that infringe the Patent-in-Suit, including, but not limited to its Avaya IP Office and AURA systems (collectively, the "Accused Products" or "Accused Instrumentality").

<u>COUNT I</u>
(Infringement of U.S. Patent No. 6,970,706)

12.   Plaintiff incorporates by reference the allegations of paragraphs 1-11, the same as if set forth herein.

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13.   The '706 Patent is valid, enforceable, and was duly and legally issued by the United States Patent and Trademark Office ("USPTO") on November 29, 2005. The '706 Patent is presumed valid and enforceable. *See* 35 U.S.C. § 282.

14.   Plaintiff is the owner by assignment of the '706 patent and possesses all rights of recovery under the '706 patent, including the exclusive right enforce the '706 patent and pursue lawsuits against infringers.

15.   Without a license or permission from Plaintiff, Defendant has infringed and continues to infringe on one or more claims of the '706 Patent—directly, contributorily, and/or by inducement—by importing, making, using, offering for sale, or selling products and devices that embody the patented invention, including, without limitation, one or more of the patented '706 systems and methods, in violation of 35 U.S.C. § 271.

Direct Infringement

16.   Defendant has been and now is directly infringing by, among other things, practicing all of the steps of the '706 Patent, for example, through internal testing, quality assurance, research and development, and troubleshooting. *See Joy Techs., Inc. v. Flakt, Inc.*, 6 F.3d 770, 775 (Fed. Cir. 1993); *see also* 35 U.S.C. § 271 (2006). For instance, Defendant has directly infringed the Patent-in-Suit by testing, configuring, and troubleshooting the functionality of its location technology.

17.   By way of example, Defendant has infringed and continues to infringe on at least one or more claims, including at least Claim 1 of the '706 Patent which teaches:

> A system for providing a hierarchical call control
> paradigm in a cordless phone system, comprising:
>   a base station operable in a broadcast mode and a
>   standard mode;
>   a plurality of mobile units communicatively coupled

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> to the base station;
> a directory server coupled to the base station;
> a phone number database included in or coupled to the
> directory server arranged to store any number of
> phone numbers,
> a caller identification database coupled to the phone
> number database arranged to store a caller identifier
> uniquely associated with a phone number
> corresponding to a received phone call; and
> a priority level data base coupled to the caller
> identification data base arranged to provide a
> priority level for the caller identifier, wherein when
> the phone call is received, the directory server
> identifies a phone number of the received call,
> identifies a caller based upon a retrieved caller
> identifier associated with the identified phone
> number, retrieves a priority level for the identified
> caller, and forwards the call to a specific mobile unit
> based upon the priority level.

18.   On information and belief, the accused instrumentality is a system for providing a

hierarchical call control paradigm (e.g., message priority and call priority systems) in a cordless

phone system (e.g., cordless handset). *See* Ex. 1 at 18, Figure 1, available at

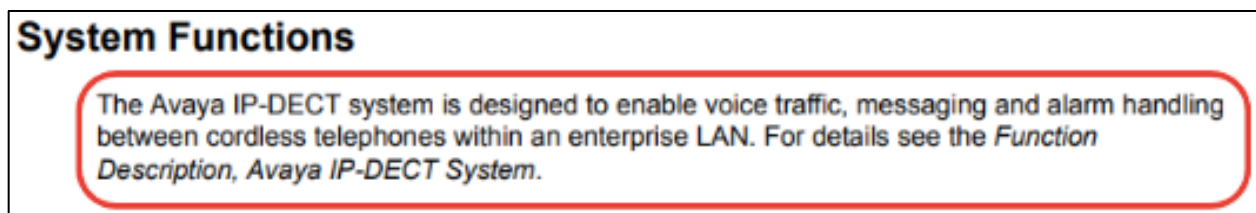https://downloads.avaya.com/css/P8/documents/100051175 (last visited July 15, 2019).

Figure 1

19.   On information and belief, the accused instrumentality comprises a base station

(e.g., IPBS base station) operable in a broadcast mode (e.g., data networks and/or Internet

access) and a standard mode (e.g., voice networks and/or traditional telephone communications).

See Ex. 1 at 27, Figure 2.

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Communication Manager

The Communication Manager (Avaya Communication Manager) is a private branch exchange that switches calls between VoIP users on local lines while allowing all users to share a certain number of external phone lines. The Communication Manager can also switch calls between a VoIP user and a traditional telephone user.

Figure 2

20. On information and belief, the accused instrumentality comprises a plurality of mobile units (e.g. 2000 cordless telephones) communicatively coupled to the base station (e.g. IPBS). *See* Ex. 1 at 28, Figure 3.

Max No. of Devices in an Avaya IP-DECT System	
Cordless telephones:	2000
IP-DECT Base Stations (IPBSs):	1000

Figure 3

21. The accused instrumentality comprises a directory server (e.g., communication manager) coupled to the base station (e.g., IPBS Master (database replicator) and/or Radio IPBS). *See* Ex. 1 at 86, Figure 4.

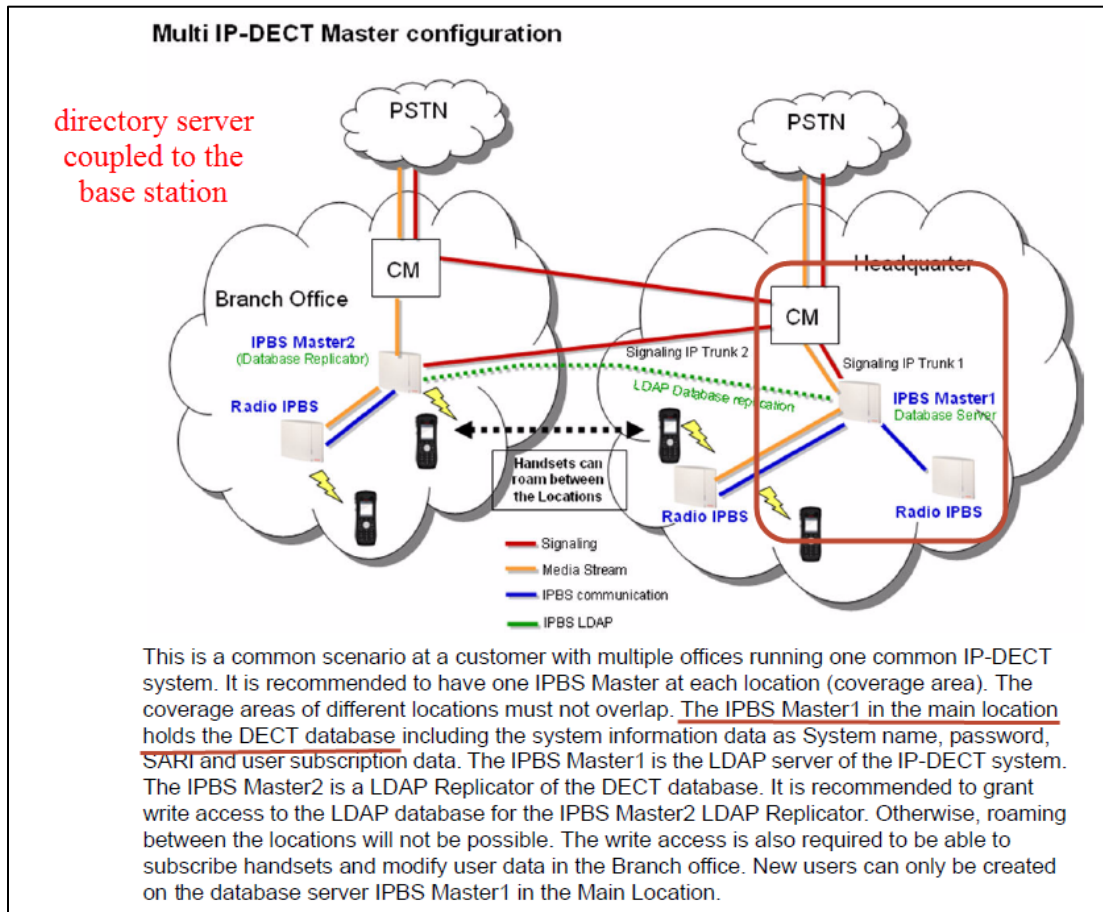COMPLAINT FOR PATENT INFRINGEMENT AND DEMAND FOR JURY TRIAL

Figure 4

22.   The accused instrumentality comprises a phone number database included in or coupled to the directory server (e.g the AIWS system coupled with the CM and IPBS systems) arranged to store any number of phone numbers (e.g. database entries). *See* Ex. 1 at 358-59, Figure 5.

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Central Phonebook Configuration

This chapter describes the configuration of the AIWS Central Phonebook.

The AIWS Central Phonebook gives the possibility to search for phone numbers in a local database or in an LDAP server.

If the search is to be forwarded to an LDAP server, the LDAP parameters need to be configured as described in LDAP Parameter Setup on page 361.

For information on phonebook administration, see Phonebook Administration on page 316.

Note:
If an LDAP connection to a central phonebook is used, all settings needed is done in the setup wizard.

Figure 5

23.   The accused instrumentality comprises a caller identification database coupled to the phone number database arranged to store a caller identifier uniquely associated with a phone number corresponding to a received phone call (as shown in Figure 6). *See* Ex. 1, Figure 6.

Select Phonebook Database for Central Phonebook

Select which database to use for phone numbers; **Local - 500 Editable**, **Local - 2000 View only**, **TFTP** or **LDAP**.

- If the default local database is selected, continue below in chapter Import Entries to the Phonebook from a CSV File on page 319, Export the Phonebook to a CSV File on page 320 and Add Entries to the Phonebook on page 316.
- If LDAP server is selected, continue in chapter LDAP Parameter Setup on page 361.
- If TFTP is selected, continue in chapter 10.1.8 TFTP Parameter Setup on page 84.

Select database to use for the Central Phonebook.

1. On the AIWS start page, click **Configuration**. The **AIWS Configuration** window opens.
2. In the left pane, click **Other settings > Advanced Configuration**. The **AIWS Advanced Configuration** page opens.
3. In the left pane, click **Phonebook**. In the **Database for lookups** field, choose between **Local - 500 Editable**, **Local - 2000 View only**, **LDAP** and **TFTP**.

If **Local - 2000 View only** is chosen, the **Add** and **Delete all** buttons are not visible in the Edit Phonebook pages.

Figure 6

24.   The accused instrumentality comprises a priority level data base coupled to the caller identification data base arranged to provide a priority level for the caller identifier (e.g some numbers can be configured as do not disturb exceptions), wherein when the phone call is received, the directory server identifies a phone number of the received call, identifies a caller

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based upon a retrieved caller identifier associated with the identified phone number, retrieves a

priority level for the identified caller, and forwards the call to a specific mobile unit based upon

the priority level (e.g. those numbers are able to call you and transfer calls to you while you have

the do not disturb switched on.). *See* Ex. 2 at 112-113, Figure 7, (available at

https://downloads.avaya.com/css/P8/documents/101039418) (last visited July 15, 2019).

Figure 7

Induced Infringement

25.   Defendant has been and now is indirectly infringing by way of inducing

infringement by others and/or contributing to the infringement by others of the '706 Patent in the

State of Delaware, in this judicial District, and elsewhere in the United States, by, among other

things, making, using, offering for sale, and/or selling, without license or authority, products

incorporating the accused technology. End users include, for example, Defendant's customers,

third parties interacting with the accused technology, and other third-parties.

26.   Defendant took active steps to induce infringement, such as advertising an

infringing use, which supports a finding of an intention. *See Metro-Goldwyn-Mayer Studios Inc.

v. Grokster, Ltd.*, 545 U.S. 913, 932 (2005) ("[I]t may be presumed from distribution of an article

in commerce that the distributor intended the article to be used to infringe another's patent, and

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so may justly be held liable for that infringement"). For example, Defendant encourages visitors to its website to infringe, inviting them to "[u]se the right technology to give employees a voice," invites them to "Get in Touch," and provides information as to how a user can "Plan Your Upgrade Strategy for Immediate and Long-term Playback." *See* Ex. 3 (available at https://www.avaya.com/en/products/unified-communications/voip/) (last visited July 15, 2019).

27.   The allegations herein support a finding that Defendant induced infringement of the '706 Patent. *See Power Integrations v. Fairchild Semiconductor*, 843 F.3d 1315, 1335 (Fed. Cir. 2016) ("[W]e have affirmed induced infringement verdicts based on circumstantial evidence of inducement [e.g., advertisements, user manuals] directed to a class of direct infringers [e.g., customers, end users] without requiring hard proof that any individual third-party direct infringer was actually persuaded to infringe by that material.").

Contributory Infringement

28.   On information and belief, Defendant contributorily infringes on Plaintiff's '706 Patent. Defendant knew or should have known, at the very least as a result of its freedom to operate analyses and the filing of this complaint, that third parties, such as its customers, would infringe the '706 Patent.

29.   On information and belief, Defendant's implementation of the accused functionality has no substantial non-infringing uses. *See, e.g., Lucent Techs., Inc. v. Gateway, Inc.*, 580 F.3d 1301, 1321 (Fed. Cir. 2009) (holding that the "substantial non-infringing use" element of a contributory infringement claim applies to an infringing feature or component, and that an "infringing feature" of a product does not escape liability simply because the product as a whole has other non-infringing uses).

Willful Infringement

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30.   On information and belief, the infringement of the '706 Patent by Defendant has been and continues to be willful. Defendant has had actual knowledge of Plaintiff's rights in the '706 Patent and details of Defendant's infringement based on at least the filing and service of this complaint. Additionally, Defendant had knowledge of the '706 Patent and its infringement in the course of Defendant's due diligence and freedom to operate analyses.

Plaintiff Suffered Damages

31.   Defendant's acts of infringement of the '706 Patent have caused damage to Plaintiff, and Plaintiff is entitled to recover from Defendant the damages sustained as a result of Defendant's wrongful acts in an amount subject to proof at trial pursuant to 35 U.S.C. § 271. Defendant's infringement of Plaintiff's exclusive rights under the '706 Patent will continue to damage Plaintiff causing it irreparable harm for which there is no adequate remedy at law, warranting an injunction from the Court.

REQUEST FOR RELIEF

32.   Plaintiff incorporates each of the allegations in the paragraphs above and respectfully asks the Court to:

(a)   enter a judgment that Defendant has directly infringed, contributorily infringed, and/or induced infringement of one or more claims of each of the '706 Patent;

(b)   enter a judgment awarding Plaintiff all damages adequate to compensate it for Defendant's infringement of, direct or contributory, or inducement to infringe, the including all pre-judgment and post-judgment interest at the maximum rate permitted by law;

(c)   enter a judgment awarding treble damages pursuant to 35 U.S.C. § 284 for Defendant's willful infringement of the '706 Patent;

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(d)   issue a preliminary injunction and thereafter a permanent injunction enjoining and restraining Defendant, its directors, officers, agents, servants, employees, and those acting in privity or in concert with them, and their subsidiaries, divisions, successors, and assigns, from further acts of infringement, contributory infringement, or inducement of infringement of the '706 Patent;

(e)   enter a judgment requiring Defendant to pay the costs of this action, including all disbursements, and attorneys' fees as provided by 35 U.S.C. § 285, together with prejudgment interest; and

(f)   award Plaintiff all other relief that the Court may deem just and proper.

Dated: July 31, 2019   Respectfully submitted,

                                        /s/Stamatios Stamoulis
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