IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

FLYPSI, INC. (D/B/A FLYP),	
Plaintiff,	**Civil Action No. 6:21-cv-642-ADA**
vs.	
DIALPAD, INC.,	**JURY TRIAL DEMANDED**
Defendant.	

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Flypsi, Inc. files this First Amended Complaint for Patent Infringement against Dialpad, Inc. and alleges as follows:

THE PARTIES

1. Plaintiff Flypsi, Inc. ("Flyp") is a Delaware corporation with its principal place of business at 2040 Bedford Road, Suite 100, Bedford, Texas 76021.

2. Defendant Dialpad, Inc. ("Dialpad") is a Delaware corporation that maintains an established place of business at 101 West 6th Street, Austin, Texas 78701. Upon information and belief, Dialpad may be served with process through its agent Incorporating Services, Ltd., 3500 South Dupont Highway, Dover, Delaware 19901.

JURISDICTION AND VENUE

3. This is an action arising under the patent laws of the United States, 35 U.S.C. § 271. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

4. Venue is proper in this judicial district under 28 U.S.C. § 1400(b) because Defendant has committed acts of infringement and has a regular and established place of business in this district. Dialpad maintains an office in Austin, Texas, to "house some of [Dialpad's] most critical business functions due to its central location," including "the center of [Dialpad's] Sales and Support organizations" and Dialpad's "operations hub." (*Dialpad Establishes New Hub in Austin, TX*, Dialpad, *available at* https://www.dialpad.com/press/dialpad-establishes-hub-austin-texas/.) Dialpad has engaged in acts of infringement in this district, on information and belief, at least by using, selling, and/or offering for sale Dialpad's app-based telephone feature known as Dialpad Talk. (*See id.* (describing the Austin, Texas office as "the center of [Dialpad's] Sales and Support organizations").)

5. This Court has personal jurisdiction over Dialpad. Dialpad has continuous and systematic business contacts with the State of Texas. Dialpad maintains an office in Austin, Texas, to "house some of [Dialpad's] most critical business functions due to its central location," including "the center of [Dialpad's] Sales and Support organizations" and Dialpad's "operations hub." (*Id.*) In addition, Dialpad conducts its business extensively throughout Texas and derives substantial revenue in Texas, by shipping, distributing, offering for sale, selling, and advertising (including the provision of an interactive webpage) its products and/or services in the State of Texas and the Western District of Texas. Dialpad has purposefully and voluntarily placed in the stream of commerce one or more products and/or services that practice the Asserted Patents (as set forth in ¶¶ 11-15 below) with the intention and expectation that they will be purchased and used by consumers in the Western District of Texas.

BACKGROUND AND OVERVIEW OF INVENTION

6. Long before the COVID-19 pandemic, the explosion of Internet-connected mobile devices changed the way many, even most, in the United States communicate with their family, their friends, and their work colleagues. Throughout the 2010s and continuing into the 2020s, personal and professional communications coalesced around the smartphone. While some chose to segregate their personal and professional communications with multiple devices, that solution was both financially and physically cumbersome. Rather, a technological need arose to segregate such communications within a single device and to manage multiple numbers in a clean, centralized environment. And within this field, there was a particular need for a device that would maintain caller identification ("caller ID") and properly identify a call as originating from the secondary phone number of the caller with multiple numbers, rather than a conference-line number or a randomly generated number.

7. Flyp invented a technological solution that fulfills this technological need in a particular, inventive way. Flyp owns a patent portfolio directed to innovations that claims a particular way of setting up and connecting telephone calls, and delivering information related to such telephone calls using an Internet Protocol (IP) or other data channel, while delivering the voice portion of the call in accordance with telecom voice channel delivery standards. As opposed to the standard mobile phone that is connected to a single phone number, Flyp's patented systems and methods enable a particular way for mobile-phone users to create and own multiple phone numbers on a single mobile device while maintaining the integrity of caller-identification functions. Thus, from a single mobile phone utilizing Flyp's app (and patented methods), users can add new phone numbers and control various streams of outbound and inbound calls to those

numbers. Users can select the area code of their choice for local calling in the United States and create alternative and dedicated numbers for business, social activities, shopping, dating, and any other aspect of life.

8. This invention is unlike, and constituted a technological advance over, other methods for using alternative phone numbers. Many of those methods utilized call-forwarding or call-conferencing solutions—rather than connecting the call at the switch. In these solutions, caller ID was not maintained, and the recipient caller ID would appear to the one receiving the call as a conference-line number or randomly generated number—rather than properly identifying the call as originating from the secondary phone number of the caller with multiple numbers. The need for alternative numbers that identified calls as originating from the secondary phone number was a long-felt need and unique technological problem that the invention provides a particular way of solving, thereby improving the functionality of the phones beyond the mere advantages of implementing phone technology using computers. This is also a feature that cannot be implemented manually.

9. This need to segregate communications within a single device and to manage multiple numbers in a centralized environment was reinforced during the sudden and rapid shift to a "work from anywhere" ethos brought on by the COVID-19 pandemic. The pandemic reinforced the essential role that the Internet and our Internet-connected mobile devices occupy in day-to-day work and life. That is particularly true regarding cloud-based telephone service. Indeed, amid the COVID-19 crisis, the global market for cloud telephony service, estimated at $13.5 billion in the year 2020, is projected to reach a revised size of $40 billion by 2027, growing at a compound annual growth rate of 16.8% over the period 2020–2027. (*See $13.5 Billion Worldwide Cloud*

Telephony Service Industry to 2027 - Impact of COVID-19 on the Market, Research & Markets, *available at* https://www.globenewswire.com/en/news-release/2020/10/14/2108292/28124/en/13-5-Billion-Worldwide-Cloud-Telephony-Service-Industry-to-2027-Impact-of-COVID-19-on-the-Market.html.)

10. But for rampant infringement of its patented technology, Flyp would be well positioned to play a role in this growing market. Simply put, Flyp has developed a unique and inventive technology that enables a particular way for users to gain access to an additional, alternative phone number on their mobile devices—as opposed to the single carrier-assigned number on a mobile device. Second numbers, or even third, fourth, or fifth numbers, allow users to manage different work streams on a single device in a manner that was not well understood, conventional, or routine within the prior art, as evidenced by the limited number of references cited during examination of the Asserted Patents by the United States Patent and Trademark Office.

THE ASSERTED PATENTS

11. U.S. Patent No. 9,667,770, entitled "Telephone Network System and Method," was duly and legally issued to inventors Ivan Zhidov, Peter Rinfret, and Sunir Kochhar on May 30, 2017. Flyp owns by assignment the entire right, title, and interest in the '770 Patent and is entitled to sue for past and future infringement.

12. U.S. Patent No. 10,051,105, entitled "Telephone Network System and Method," was duly and legally issued to inventors Ivan Zhidov, Peter Rinfret, and Sunir Kochhar on August 14, 2018. Flyp owns by assignment the entire right, title, and interest in the '105 Patent and is entitled to sue for past and future infringement.

13. U.S. Patent No. 10,334,094, entitled "Telephone Network System and Method," was duly and legally issued to inventors Ivan Zhidov, Peter Rinfret, and Sunir Kochhar on June 25, 2019. Flyp owns by assignment the entire right, title, and interest in the '094 Patent and is entitled to sue for past and future infringement.

14. U.S. Patent No. 11,012,554, entitled "Telephone Network System and Metho[d]," was duly and legally issued to inventors Ivan Zhidov, Peter Rinfret, and Sunir Kochhar on May 18, 2021. Flyp owns by assignment the entire right, title, and interest in the '554 Patent and is entitled to sue for past and future infringement.

15. U.S. Patent No. 11,218,585, entitled "Telephone Network System and Method," was duly and legally issued to inventors Ivan Zhidov, Peter Rinfret, and Sunir Kochhar on January 4, 2022. Flyp owns by assignment the entire right, title, and interest in the '585 Patent and is entitled to sue for past and future infringement.

Count I: Claim for Patent Infringement of the '770 Patent

16. Flyp repeats and realleges the allegations in paragraphs 1-15 as if fully set forth herein.

17. Dialpad has infringed, contributed to the infringement of, and/or induced infringement of the '770 Patent by making, using, selling, offering for sale, or importing into the United States, or by intending that others make, use, import into, offer for sale, or sell in the United States, products and/or methods covered by one or more claims of the '770 Patent, including, but not limited to, Dialpad's app-based telephone feature known as Dialpad Talk.

18. Dialpad Talk infringes at least claims 1-6 of the '770 Patent. Dialpad makes, uses, sells, offers for sale, imports, exports, supplies, or distributes within the United States Dialpad Talk and thus directly infringes the '770 Patent.

19. Upon information and belief, Dialpad indirectly infringes the '770 Patent by (1) inducing infringement by others, such as resellers, partners, and end-user customers in this district and throughout the United States, with knowledge or willful blindness that the induced acts would constitute infringement and (2) contributing to infringement by others, such as resellers, partners, and end-user customers. Upon information and belief, direct infringement is (1) the result of activities performed by resellers, partners, and end-user customers of Dialpad Talk, who perform each step of the claimed invention as directed by Dialpad, or (2) the result of activities performed by resellers, partners, and end-user customers of Dialpad Talk in a normal and customary way that infringes the '770 Patent, that has no substantial non-infringing uses, and that is known by Dialpad.

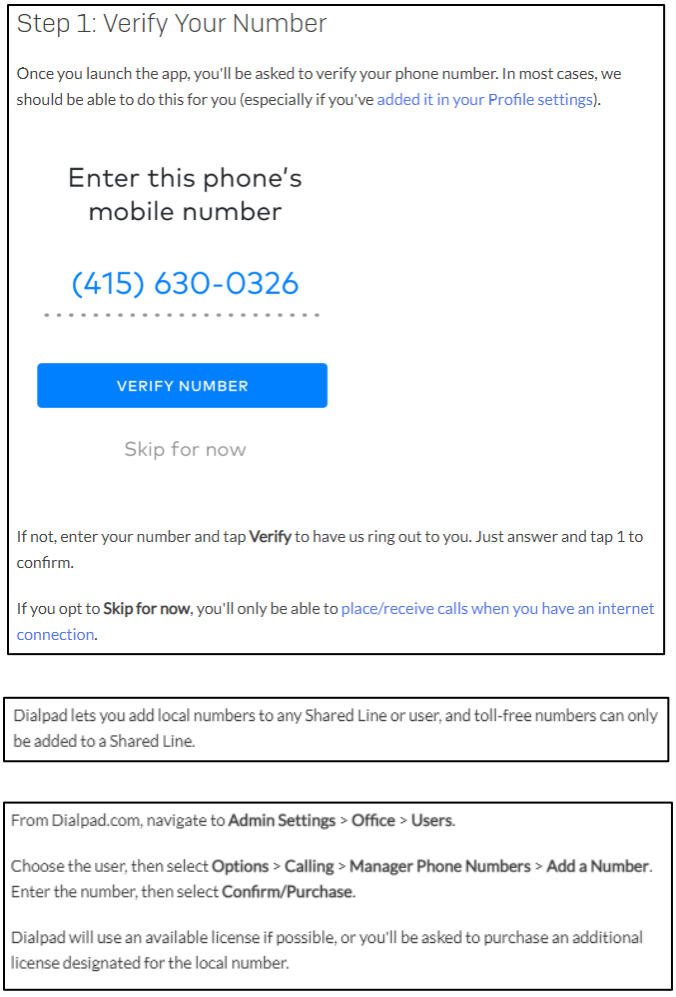
20. On information and belief, Dialpad had knowledge of Flyp, its patent applications, and/or its issued patents at least as early as March 7, 2016. On that date, Rich Miner, general partner at GV (formerly Google Ventures) and cofounder of Android, joined Dialpad's board of directors. (*See Rich Miner, Co-Founder of Android and GV General Partner, Joins Dialpad Board of Directors*, Dialpad, *available at* https://www.dialpad.com/press/rich-miner-joins-dialpad-board/.) Prior to joining Dialpad's board of directors, Mr. Miner met with Flyp (at Mr. Miner's request) to discuss Flyp's technology and patent filings on November 12, 2015. In addition, Dialpad received actual notice of the '770 Patent at least as early as the filing of the Original Complaint.

21. By engaging in the conduct described herein, Dialpad has injured Flyp and is thus liable for infringement of the '770 Patent, pursuant to 35 U.S.C. § 271. Dialpad has committed these acts of infringement without license or authorization.

22. As a result of Dialpad's infringement of the '770 Patent, Flyp has suffered monetary damages and is entitled to a monetary judgment in an amount adequate to compensate for Dialpad's past infringement, together with interests and costs. In addition, Dialpad's infringement is causing irreparable harm and monetary damage to Flyp and will continue to do so unless and until Dialpad is enjoined by the Court.

23. Dialpad's infringement of the '770 Patent has been and continues to be deliberate and willful, and, therefore, this is an exceptional case warranting an award of enhanced damages for up to three times the actual damages awarded and attorney's fees to Flyp pursuant to 35 U.S.C. §§ 284-285.

24. Dialpad Talk provides a method of providing telephone service comprising: associating a secondary telephone number with a primary telephone number in at least one computer memory device, the primary telephone number being assigned to a handset, including as demonstrated in the exemplary text below:



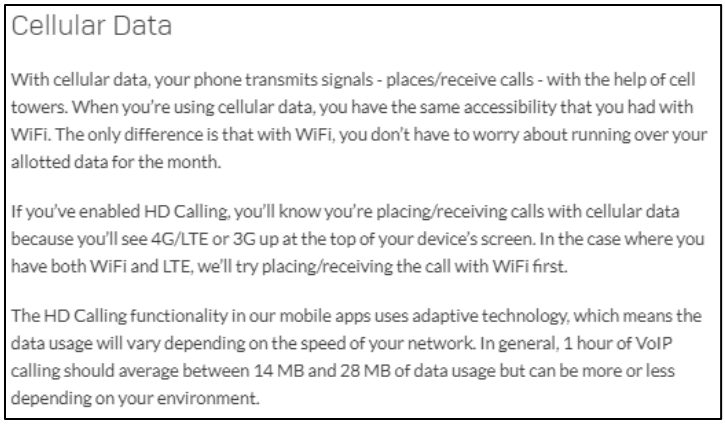
25. Dialpad Talk provides a method of providing telephone service comprising: acquiring first digital information from the handset over at least one data channel, the first digital information indicating primary call processing rules for handling calls directed to the primary telephone number, and storing the primary call processing rules in the at least one computer memory device, and acquiring second digital information from the handset over the at least one data channel, the second digital information indicating secondary call processing rules for handling calls directed to the secondary telephone number, and storing the secondary call processing rules

in the at least one computer memory device, including as demonstrated in the exemplary text below:

> Select **Add New** > **Add a Forwarding Number** at the bottom of the list.
>
> Enter the forwarding number, then select **Verify**. You don't need to have the mobile app installed; instead, Dialpad will call the submitted number and you must press '1' to verify that it's a working number in order to successfully add the forwarding number.
>
> You're allowed to have up to 5 forwarding numbers added to your account. Dialpad also allows you to have more than 5 devices as long as they don't have a number tied to them.

> From Dialpad.com, navigate to **Your Settings** > **Your Devices**.
>
> Select **Advanced Settings** at the bottom of the list. You'll see these options:
>
> - **Incoming Caller ID:** To help distinguish personal calls from Dialpad calls, choose the caller ID you want to see when receiving an inbound call to a forwarding number, e.g. Dialpad calls forwarded to your mobile phone
> - **Answer Forwarded Calls:** Include a verification prompt to press '1' for forwarded calls; this ensures that calls end up in Dialpad and not in your mobile phone's voicemail service
> - **SMS Forwarding:** Add a forwarding number to enable SMS forwarding to your mobile numbers whenever you receive messages in Dialpad
>
> Inbound caller ID settings only apply if you're using your carrier to receive inbound calls.

26. Dialpad Talk provides a method of providing telephone service comprising: receiving an incoming call over at least one voice channel at a switch, the switch being associated with a bridge telephone number such that calls directed to the bridge telephone number are automatically routed to the switch, the incoming call being directed to a handset associated telephone number, the handset-associated telephone number being the primary telephone number or the secondary telephone number, including as demonstrated in the exemplary text above and below:

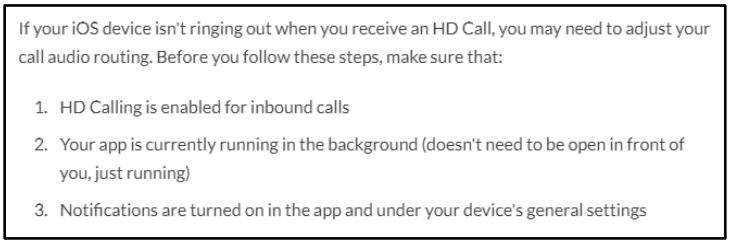


Cellular Data

With cellular data, your phone transmits signals - places/receive calls - with the help of cell towers. When you're using cellular data, you have the same accessibility that you had with WiFi. The only difference is that with WiFi, you don't have to worry about running over your allotted data for the month.

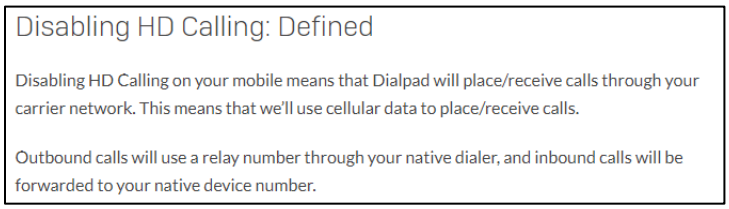
If you've enabled HD Calling, you'll know you're placing/receiving calls with cellular data because you'll see 4G/LTE or 3G up at the top of your device's screen. In the case where you have both WiFi and LTE, we'll try placing/receiving the call with WiFi first.

The HD Calling functionality in our mobile apps uses adaptive technology, which means the data usage will vary depending on the speed of your network. In general, 1 hour of VoIP calling should average between 14 MB and 28 MB of data usage but can be more or less depending on your environment.



If your iOS device isn't ringing out when you receive an HD Call, you may need to adjust your call audio routing. Before you follow these steps, make sure that:

1. HD Calling is enabled for inbound calls
2. Your app is currently running in the background (doesn't need to be open in front of you, just running)
3. Notifications are turned on in the app and under your device's general settings

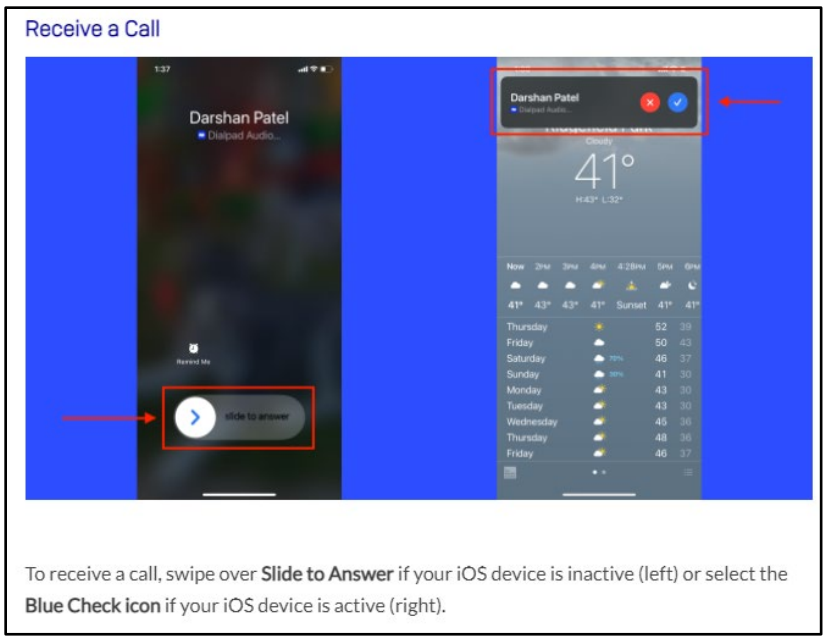


Disabling HD Calling: Defined

Disabling HD Calling on your mobile means that Dialpad will place/receive calls through your carrier network. This means that we'll use cellular data to place/receive calls.

Outbound calls will use a relay number through your native dialer, and inbound calls will be forwarded to your native device number.

27. Dialpad Talk provides a method of providing telephone service comprising: based on the primary call processing rules or the secondary call processing rules provides transmitting pre-call information to the handset over the at least one data channel the pre-call information including the bridge telephone number and the handset associated telephone number, such that the handset is capable of displaying the handset-associated telephone number to a user and, based on user input, accepting the incoming call by connecting with the switch over the at least one voice channel using the bridge telephone number, including as demonstrated in the exemplary text below:



Count II: Claim for Patent Infringement of the '105 Patent

28. Flyp repeats and realleges the allegations in paragraphs 1-27 as if fully set forth herein.

29. Dialpad has infringed, contributed to the infringement of, and/or induced infringement of the '105 Patent by making, using, selling, offering for sale, or importing into the United States, or by intending that others make, use, import into, offer for sale, or sell in the United States, products and/or methods covered by one or more claims of the '105 Patent, including, but not limited to, Dialpad's app-based telephone feature known as Dialpad Talk.

30. Dialpad Talk infringes at least claims 1-11 of the '105 Patent. Dialpad makes, uses, sells, offers for sale, imports, exports, supplies, or distributes within the United States Dialpad Talk and thus directly infringes the '105 Patent.

31. Upon information and belief, Dialpad indirectly infringes the '105 Patent by (1) inducing infringement by others, such as resellers, partners, and end-user customers in this

district and throughout the United States, with knowledge or willful blindness that the induced acts would constitute infringement and (2) contributing to infringement by others, such as resellers, partners, and end-user customers. Upon information and belief, direct infringement is (1) the result of activities performed by resellers, partners, and end-user customers of Dialpad Talk, who perform each step of the claimed invention as directed by Dialpad, or (2) the result of activities performed by resellers, partners, and end-user customers of Dialpad Talk in a normal and customary way that infringes the '105 Patent, that has no substantial non-infringing uses, and that is known by Dialpad.

32. On information and belief, Dialpad had knowledge of Flyp, its patent applications, and/or its issued patents at least as early as March 7, 2016. On that date, Rich Miner, general partner at GV (formerly Google Ventures) and cofounder of Android, joined Dialpad's board of directors. (*See Rich Miner, Co-Founder of Android and GV General Partner, Joins Dialpad Board of Directors*, Dialpad, *available at* https://www.dialpad.com/press/rich-miner-joins-dialpad-board/.) Prior to joining Dialpad's board of directors Mr. Miner met with Flyp (at Mr. Miner's request) to discuss Flyp's technology and patent filings on November 12, 2015. In addition, Dialpad received actual notice of the '105 Patent at least as early as the filing of the Original Complaint.

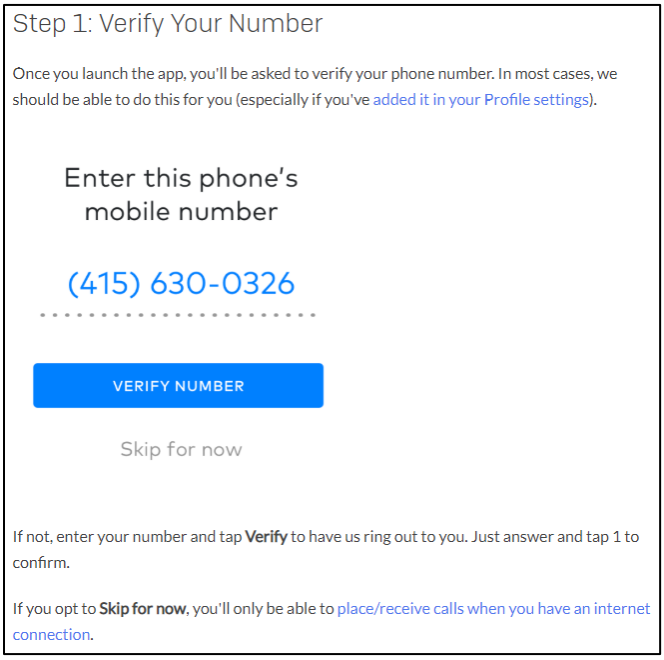
33. By engaging in the conduct described herein, Dialpad has injured Flyp and is thus liable for infringement of the '105 Patent, pursuant to 35 U.S.C. § 271. Dialpad has committed these acts of infringement without license or authorization.

34. As a result of Dialpad's infringement of the '105 Patent, Flyp has suffered monetary damages and is entitled to a monetary judgment in an amount adequate to compensate for Dialpad's past infringement, together with interests and costs. In addition, Dialpad's infringement is causing

irreparable harm and monetary damage to Flyp and will continue to do so unless and until Dialpad is enjoined by the Court.

35. Dialpad's infringement of the '105 Patent has been and continues to be deliberate and willful, and, therefore, this is an exceptional case warranting an award of enhanced damages for up to three times the actual damages awarded and attorney's fees to Flyp pursuant to 35 U.S.C. §§ 284-285.

36. Dialpad Talk provides a method of providing telephone service comprising: automatically storing electronic information that indicates an association of a secondary telephone number and a primary telephone number with a telephone handset in a computer memory associated with a server, including as demonstrated in the exemplary text below:



Dialpad lets you add local numbers to any Shared Line or user, and toll-free numbers can only be added to a Shared Line.

From Dialpad.com, navigate to **Admin Settings** > **Office** > **Users**.

Choose the user, then select **Options** > **Calling** > **Manager Phone Numbers** > **Add a Number**. Enter the number, then select **Confirm/Purchase**.

Dialpad will use an available license if possible, or you'll be asked to purchase an additional license designated for the local number.

37. Dialpad Talk provides a method of providing telephone service comprising: automatically storing electronic information that indicates a selection of call processing rules for the primary telephone number in the computer memory and automatically storing electronic information that indicates a selection of call processing rules for the secondary telephone number in the computer memory, including as demonstrated in the exemplary text below:

Select **Add New** > **Add a Forwarding Number** at the bottom of the list.

Enter the forwarding number, then select **Verify**. You don't need to have the mobile app installed; instead, Dialpad will call the submitted number and you must press '1' to verify that it's a working number in order to successfully add the forwarding number.

You're allowed to have up to 5 forwarding numbers added to your account. Dialpad also allows you to have more than 5 devices as long as they don't have a number tied to them.

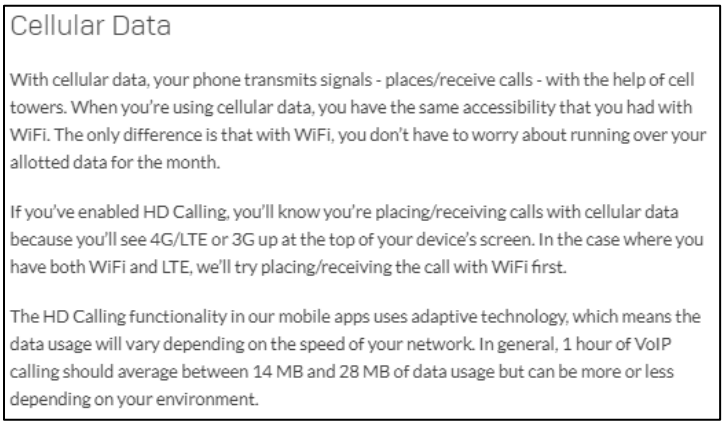
From Dialpad.com, navigate to **Your Settings** > **Your Devices**.

Select **Advanced Settings** at the bottom of the list. You'll see these options:

- **Incoming Caller ID:** To help distinguish personal calls from Dialpad calls, choose the caller ID you want to see when receiving an inbound call to a forwarding number, e.g. Dialpad calls forwarded to your mobile phone
- **Answer Forwarded Calls:** Include a verification prompt to press '1' for forwarded calls; this ensures that calls end up in Dialpad and not in your mobile phone's voicemail service
- **SMS Forwarding:** Add a forwarding number to enable SMS forwarding to your mobile numbers whenever you receive messages in Dialpad

Inbound caller ID settings only apply if you're using your carrier to receive inbound calls.

38. Dialpad Talk provides a method of providing telephone service comprising: receiving an electronic indication of an incoming call to the secondary telephone number at the server, said electronic indication of an incoming call being received from a switch associated with the server, automatically accessing the call processing rules for the secondary telephone number under the control of the server responsive to the receipt of the electronic indication of the incoming call to the secondary telephone number, and automatically handing the incoming call in accordance with the accessed call processing rules for the secondary telephone number, including as demonstrated in the exemplary text below:



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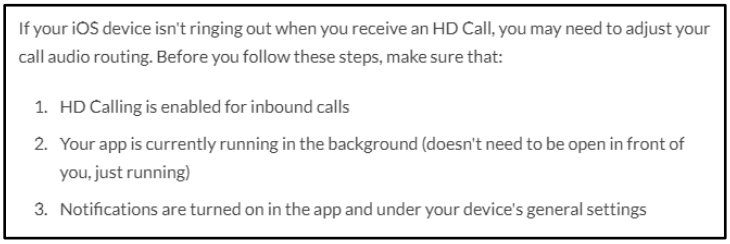

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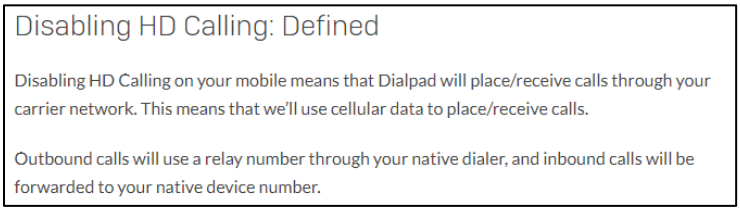
3. Notifications are turned on in the app and under your device's general settings



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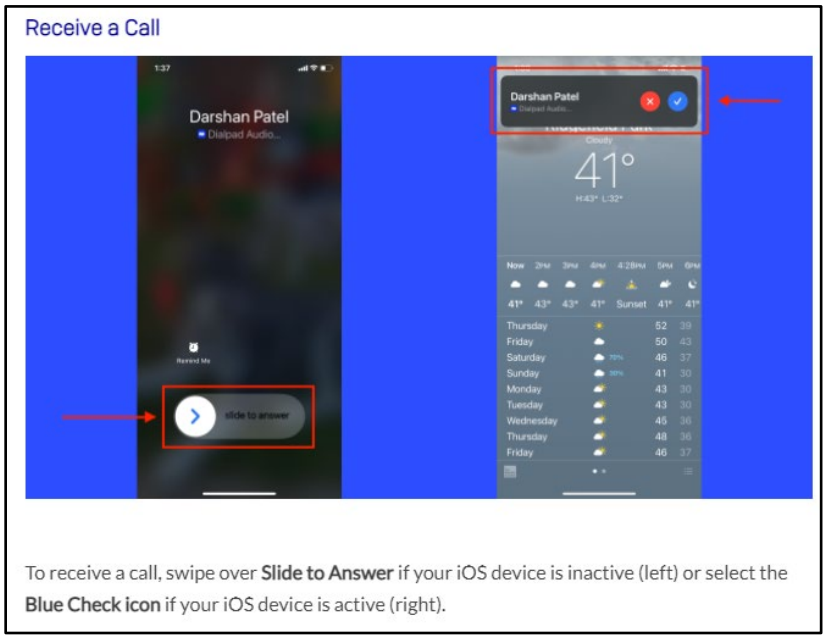
Disabling HD Calling on your mobile means that Dialpad will place/receive calls through your carrier network. This means that we'll use cellular data to place/receive calls.

Outbound calls will use a relay number through your native dialer, and inbound calls will be forwarded to your native device number.

39. Dialpad Talk provides a method of providing telephone service comprising: transmitting pre-call information via a data channel to the handset under the control of the server, said pre-call information including a bridge telephone number for connecting the handset to the incoming call at the switch, receiving, at the server via the data channel, an electronic indication of a selection of a call processing rule for handling the incoming call to the secondary telephone number, or establishing a voice channel connection between the handset and the switch as a result of the handset calling the switch using the bridge telephone number, including as demonstrated in the exemplary text below:



Count III: Claim for Patent Infringement of the '094 Patent

40. Flyp repeats and realleges the allegations in paragraphs 1-39 as if fully set forth herein.

41. Dialpad has infringed, contributed to the infringement of, and/or induced infringement of the '094 Patent by making, using, selling, offering for sale, or importing into the

United States, or by intending that others make, use, import into, offer for sale, or sell in the United States, products and/or methods covered by one or more claims of the ’094 Patent, including, but not limited to, Dialpad’s app-based telephone feature known as Dialpad Talk.

42. Dialpad Talk infringes at least claims 1-4 of the ’094 Patent. Dialpad makes, uses, sells, offers for sale, imports, exports, supplies, or distributes within the United States Dialpad Talk and thus directly infringes the ’094 Patent.

43. Upon information and belief, Dialpad indirectly infringes the ’094 Patent by (1) inducing infringement by others, such as resellers, partners, and end-user customers in this district and throughout the United States, with knowledge or willful blindness that the induced acts would constitute infringement and (2) contributing to infringement by others, such as resellers, partners, and end-user customers. Upon information and belief, direct infringement is (1) the result of activities performed by resellers, partners, and end-user customers of Dialpad Talk, who perform each step of the claimed invention as directed by Dialpad, or (2) the result of activities performed by resellers, partners, and end-user customers of Dialpad Talk in a normal and customary way that infringes the ’094 Patent, that has no substantial non-infringing uses, and that is known by Dialpad.

44. On information and belief, Dialpad had knowledge of Flyp, its patent applications, and/or its issued patents at least as early as March 7, 2016. On that date, Rich Miner, general partner at GV (formerly Google Ventures) and cofounder of Android, joined Dialpad’s board of directors. (*See Rich Miner, Co-Founder of Android and GV General Partner, Joins Dialpad Board of Directors*, Dialpad, *available at* https://www.dialpad.com/press/rich-miner-joins-dialpad-board/.) Prior to joining Dialpad’s board of directors, Mr. Miner met with Flyp (at Mr. Miner’s request) to discuss Flyp’s technology and patent filings on November 12, 2015. In addition,

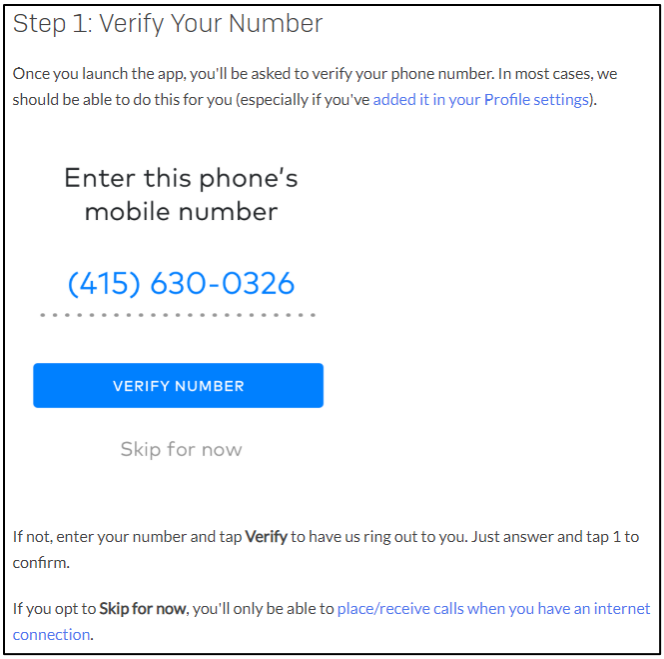
Dialpad received actual notice of the ’094 Patent at least as early as the filing of the Original Complaint.

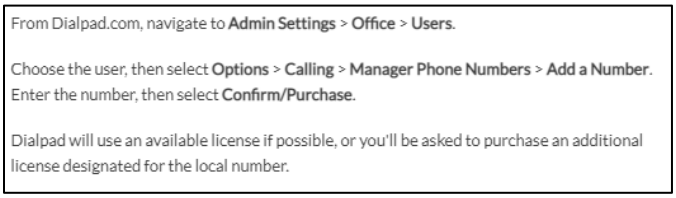
45. By engaging in the conduct described herein, Dialpad has injured Flyp and is thus liable for infringement of the ’094 Patent, pursuant to 35 U.S.C. § 271. Dialpad has committed these acts of infringement without license or authorization.

46. As a result of Dialpad’s infringement of the ‘094 Patent, Flyp has suffered monetary damages and is entitled to a monetary judgment in an amount adequate to compensate for Dialpad’s past infringement, together with interests and costs. In addition, Dialpad’s infringement is causing irreparable harm and monetary damage to Flyp and will continue to do so unless and until Dialpad is enjoined by the Court.

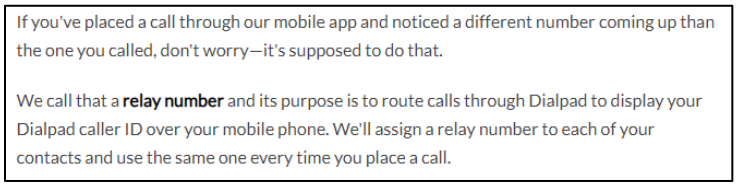
47. Dialpad’s infringement of the ’094 Patent has been and continues to be deliberate and willful, and, therefore, this is an exceptional case warranting an award of enhanced damages for up to three times the actual damages awarded and attorney’s fees to Flyp pursuant to 35 U.S.C. §§ 284-285.

48. Dialpad Talk provides a method of providing telephone service comprising: automatically storing electronic information that indicates an association of a secondary telephone number and a primary telephone number with a telephone handset in a computer memory associated with a server, including as demonstrated in the exemplary text below:





49. Dialpad Talk provides a method of providing telephone service comprising: automatically associating a bridge or access telephone number with each of a plurality of contact telephone numbers in the computer memory, including as demonstrated in the exemplary text below:



50. Dialpad Talk provides a method of providing telephone service comprising: automatically transmitting information that indicates the association of the bridge or access telephone number with each of a plurality of contact telephone numbers to the handset via a data channel, including as demonstrated in the exemplary text below:

If you've placed a call through our mobile app and noticed a different number coming up than the one you called, don't worry—it's supposed to do that.

We call that a **relay number** and its purpose is to route calls through Dialpad to display your Dialpad caller ID over your mobile phone. We'll assign a relay number to each of your contacts and use the same one every time you place a call.

Here are just a few benefits to using relay numbers:

1. Calls made from your forwarding device use your Dialpad caller ID rather than your device's personal number.
2. Even when you don't have data coverage, your calls will display your Dialpad number.
3. For international calls, because the relay number is an in-country number you'll only be charged a domestic call by your mobile carrier while the international leg of the call will be charged by Dialpad at our low rates.

Dialpad Tip:

You'll only see relay numbers if you've opted to use your carrier to place outbound Dialpad calls.

Cellular Data

With cellular data, your phone transmits signals - places/receive calls - with the help of cell towers. When you're using cellular data, you have the same accessibility that you had with WiFi. The only difference is that with WiFi, you don't have to worry about running over your allotted data for the month.

If you've enabled HD Calling, you'll know you're placing/receiving calls with cellular data because you'll see 4G/LTE or 3G up at the top of your device's screen. In the case where you have both WiFi and LTE, we'll try placing/receiving the call with WiFi first.

The HD Calling functionality in our mobile apps uses adaptive technology, which means the data usage will vary depending on the speed of your network. In general, 1 hour of VoIP calling should average between 14 MB and 28 MB of data usage but can be more or less depending on your environment.

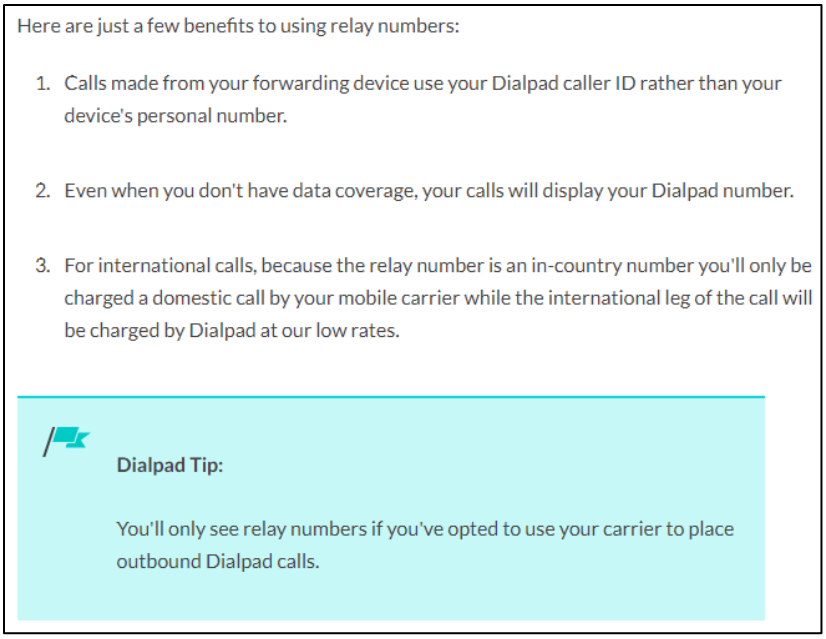
51. Dialpad Talk provides a method of providing telephone service comprising: automatically associating each primary telephone number and bridge or access telephone number pairing with a corresponding secondary telephone number and contact telephone number pairing in the computer memory, including as demonstrated in the exemplary text below:

> If you've placed a call through our mobile app and noticed a different number coming up than the one you called, don't worry—it's supposed to do that.
>
> We call that a **relay number** and its purpose is to route calls through Dialpad to display your Dialpad caller ID over your mobile phone. We'll assign a relay number to each of your contacts and use the same one every time you place a call.

> Disabling HD Calling: Defined
>
> Disabling HD Calling on your mobile means that Dialpad will place/receive calls through your carrier network. This means that we'll use cellular data to place/receive calls.
>
> Outbound calls will use a relay number through your native dialer, and inbound calls will be forwarded to your native device number.

52. Dialpad Talk provides a method of providing telephone service comprising: receiving, at a switch associated with the server, an outgoing call from the handset to the bridge or access telephone number via a second channel, including as demonstrated in the exemplary text below:

> If you've placed a call through our mobile app and noticed a different number coming up than the one you called, don't worry—it's supposed to do that.
>
> We call that a **relay number** and its purpose is to route calls through Dialpad to display your Dialpad caller ID over your mobile phone. We'll assign a relay number to each of your contacts and use the same one every time you place a call.



53. Dialpad Talk provides a method of providing telephone service comprising: receiving, at the server, information from the switch indicating the outgoing call is being made to the bridge or access telephone number from the primary telephone number, including as demonstrated in the exemplary text above.

54. Dialpad Talk provides a method of providing telephone service comprising: receiving, at the switch, information from the server directing the switch to: (a) connect the outgoing call to a contact telephone number associated with the primary telephone number and bridge or access telephone number pairing, and (b) identify a telephone number from which the outgoing call is being made as the secondary telephone number, including as demonstrated in the exemplary text above and below:

Decide whether your personal, carrier-issued number or your Dialpad number is displayed when placing calls through your Android device's Phone app (native dialer). By default, we'll use your personal, carrier-issued number.

To change this, navigate to **Settings** > **Outbound Caller ID** > **Calls from the Android Dialer** and select the number that caller ID will display:

- **Use Dialpad caller ID:** Select this for caller ID to display your Dialpad number; a record of calls completed through this method will appear in Dialpad
- **Use mobile number:** Select this for caller ID to display your personal, carrier-issued number; a record of calls completed through this method will appear in your Android device's call log, not Dialpad
- **Ask before each call:** Upon dialing a number, you'll get to choose between your Dialpad number or your personal, carrier-issued number

To adjust your caller ID for individual calls, select one of these options as shown above:

- Long-press the **Phone icon** while in a conversation thread and choose an available caller ID
- Navigate to **Settings** > **Outbound Caller ID** and choose an available caller ID
- Navigate to the **Keypad tab** and select **Call As** to choose an available caller ID

To adjust your caller ID for all calls, you'll need to navigate to your global caller ID settings from the web portal.

Count IV: Claim for Patent Infringement of the '554 Patent

55. Flyp repeats and realleges the allegations in paragraphs 1-54 as if fully set forth herein.

56. Dialpad has infringed, contributed to the infringement of, and/or induced infringement of the '554 Patent by making, using, selling, offering for sale, or importing into the United States, or by intending that others make, use, import into, offer for sale, or sell in the United States, products and/or methods covered by one or more claims of the '554 Patent, including, but not limited to, Dialpad's app-based telephone feature known as Dialpad Talk.

57. Dialpad Talk infringes at least claims 1-4 of the '554 Patent. Dialpad makes, uses, sells, offers for sale, imports, exports, supplies, or distributes within the United States Dialpad Talk and thus directly infringes the '554 Patent.

58. Upon information and belief, Dialpad indirectly infringes the '554 Patent by (1) inducing infringement by others, such as resellers, partners, and end-user customers in this district and throughout the United States, with knowledge or willful blindness that the induced acts would constitute infringement and (2) contributing to infringement by others, such as resellers, partners, and end-user customers. Upon information and belief, direct infringement is (1) the result of activities performed by resellers, partners, and end-user customers of Dialpad Talk, who perform each step of the claimed invention as directed by Dialpad, or (2) the result of activities performed by resellers, partners, and end-user customers of Dialpad Talk in a normal and customary way that infringes the '554 Patent, that has no substantial non-infringing uses, and that is known by Dialpad.

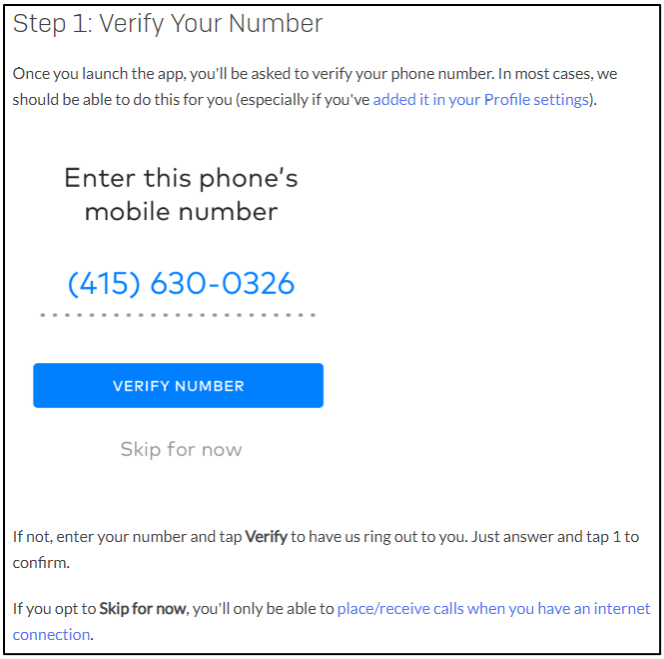
59. On information and belief, Dialpad had knowledge of Flyp, its patent applications, and/or its issued patents at least as early as March 7, 2016. On that date, Rich Miner, general partner at GV (formerly Google Ventures) and cofounder of Android, joined Dialpad's board of directors. (*See Rich Miner, Co-Founder of Android and GV General Partner, Joins Dialpad Board of Directors*, Dialpad, *available at* https://www.dialpad.com/press/rich-miner-joins-dialpad-board/.) Prior to joining Dialpad's board of directors, Mr. Miner met with Flyp (at Mr. Miner's request) to discuss Flyp's technology and patent filings on November 12, 2015. In addition, Dialpad received actual notice of the '554 Patent at least as early as the filing of the Original Complaint.

60. By engaging in the conduct described herein, Dialpad has injured Flyp and is thus liable for infringement of the '554 Patent, pursuant to 35 U.S.C. § 271. Dialpad has committed these acts of infringement without license or authorization.

61. As a result of Dialpad's infringement of the '554 Patent, Flyp has suffered monetary damages and is entitled to a monetary judgment in an amount adequate to compensate for Dialpad's past infringement, together with interests and costs. In addition, Dialpad's infringement is causing irreparable harm and monetary damage to Flyp and will continue to do so unless and until Dialpad is enjoined by the Court.

62. Dialpad's infringement of the '554 Patent has been and continues to be deliberate and willful, and therefore, this is an exceptional case warranting an award of enhanced damages for up to three times the actual damages awarded and attorney's fees to Flyp pursuant to 35 U.S.C. §§ 284-285.

63. Dialpad Talk provides a method of providing telephone service comprising: automatically storing electronic information that indicates an association of a secondary telephone number and a primary telephone number with a mobile device in a computer memory associated with a server, including as demonstrated in the exemplary text below:



Dialpad lets you add local numbers to any Shared Line or user, and toll-free numbers can only be added to a Shared Line.

From Dialpad.com, navigate to **Admin Settings** > **Office** > **Users**.

Choose the user, then select **Options** > **Calling** > **Manager Phone Numbers** > **Add a Number**. Enter the number, then select **Confirm/Purchase**.

Dialpad will use an available license if possible, or you'll be asked to purchase an additional license designated for the local number.

64. Dialpad Talk provides a method of providing telephone service comprising: automatically transmitting information that indicates an access telephone number to the mobile device via a data channel, including as demonstrated in the exemplary text below:

If you've placed a call through our mobile app and noticed a different number coming up than the one you called, don't worry—it's supposed to do that.

We call that a **relay number** and its purpose is to route calls through Dialpad to display your Dialpad caller ID over your mobile phone. We'll assign a relay number to each of your contacts and use the same one every time you place a call.

Here are just a few benefits to using relay numbers:

1. Calls made from your forwarding device use your Dialpad caller ID rather than your device's personal number.

2. Even when you don't have data coverage, your calls will display your Dialpad number.

3. For international calls, because the relay number is an in-country number you'll only be charged a domestic call by your mobile carrier while the international leg of the call will be charged by Dialpad at our low rates.

Dialpad Tip:

You'll only see relay numbers if you've opted to use your carrier to place outbound Dialpad calls.

Cellular Data

With cellular data, your phone transmits signals - places/receive calls - with the help of cell towers. When you're using cellular data, you have the same accessibility that you had with WiFi. The only difference is that with WiFi, you don't have to worry about running over your allotted data for the month.

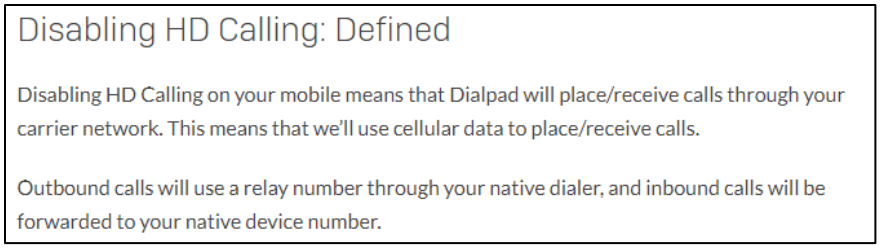
If you've enabled HD Calling, you'll know you're placing/receiving calls with cellular data because you'll see 4G/LTE or 3G up at the top of your device's screen. In the case where you have both WiFi and LTE, we'll try placing/receiving the call with WiFi first.

The HD Calling functionality in our mobile apps uses adaptive technology, which means the data usage will vary depending on the speed of your network. In general, 1 hour of VoIP calling should average between 14 MB and 28 MB of data usage but can be more or less depending on your environment.

65. Dialpad Talk provides a method of providing telephone service comprising: automatically associating the telephone access number with a switch associated with the server, including as demonstrated in the exemplary text below:

If you've placed a call through our mobile app and noticed a different number coming up than the one you called, don't worry—it's supposed to do that.

We call that a **relay number** and its purpose is to route calls through Dialpad to display your Dialpad caller ID over your mobile phone. We'll assign a relay number to each of your contacts and use the same one every time you place a call.

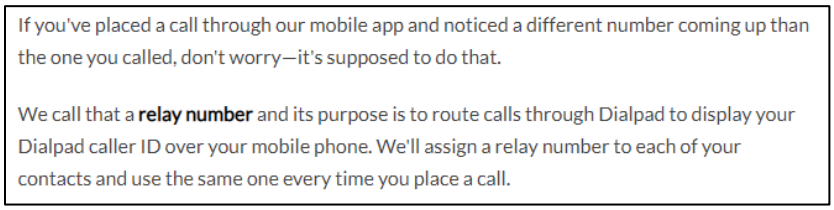


Disabling HD Calling: Defined

Disabling HD Calling on your mobile means that Dialpad will place/receive calls through your carrier network. This means that we'll use cellular data to place/receive calls.

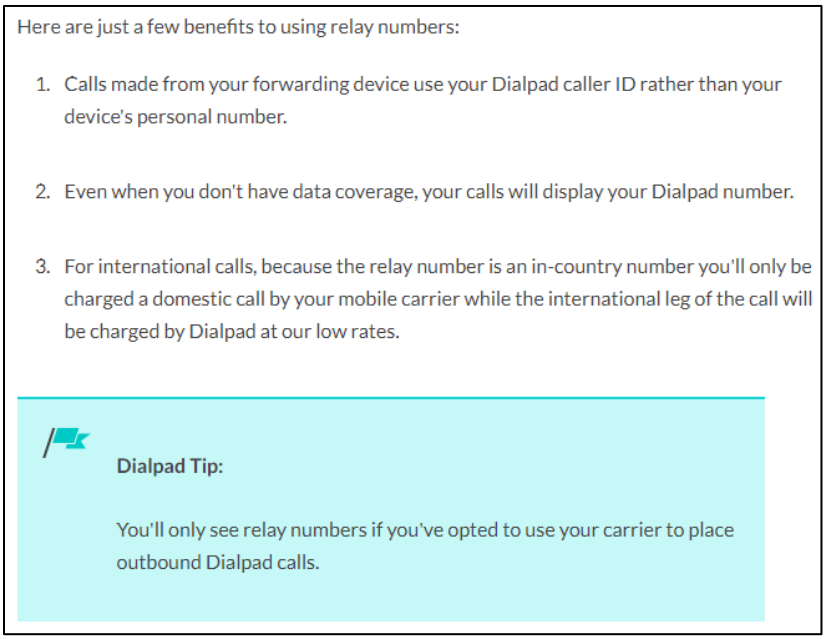
Outbound calls will use a relay number through your native dialer, and inbound calls will be forwarded to your native device number.

66. Dialpad Talk provides a method of providing telephone service comprising: receiving, at the switch associated with the server, an outgoing call from the mobile device to the access telephone number via a second channel, including as demonstrated in the exemplary text below:



If you've placed a call through our mobile app and noticed a different number coming up than the one you called, don't worry—it's supposed to do that.

We call that a **relay number** and its purpose is to route calls through Dialpad to display your Dialpad caller ID over your mobile phone. We'll assign a relay number to each of your contacts and use the same one every time you place a call.



Here are just a few benefits to using relay numbers:

1. Calls made from your forwarding device use your Dialpad caller ID rather than your device's personal number.
2. Even when you don't have data coverage, your calls will display your Dialpad number.
3. For international calls, because the relay number is an in-country number you'll only be charged a domestic call by your mobile carrier while the international leg of the call will be charged by Dialpad at our low rates.

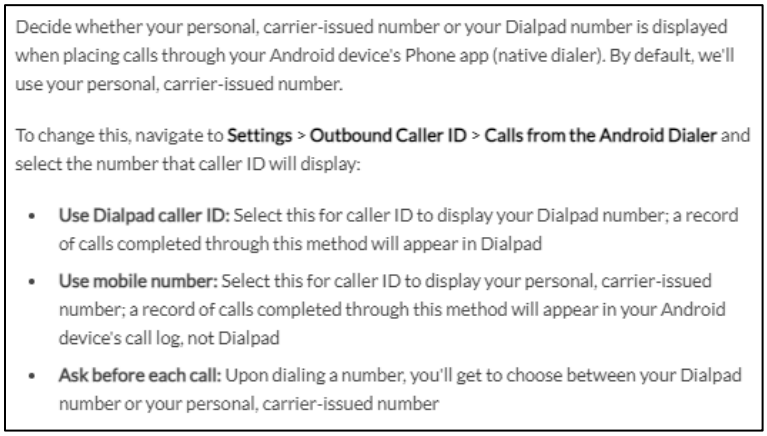
Dialpad Tip:

You'll only see relay numbers if you've opted to use your carrier to place outbound Dialpad calls.

67. Dialpad Talk provides a method of providing telephone service comprising: receiving, at the server, information from the switch indicating the outgoing call is being made to

the access telephone number from the primary telephone number, including as demonstrated in the exemplary text above.

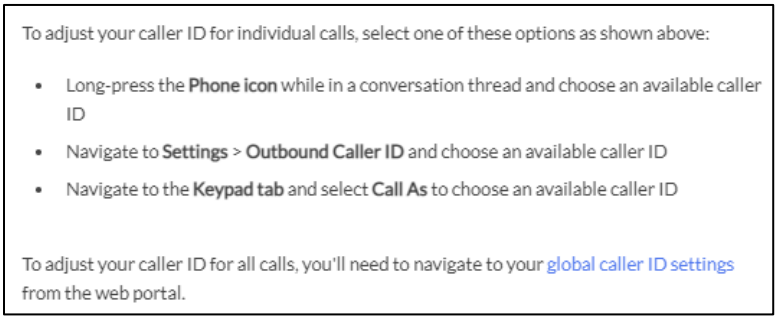
68. Dialpad Talk provides a method of providing telephone service comprising: receiving, at the switch, information from the server directing the switch to (a) connect the outgoing call to a contact telephone number indicated by the mobile device, and (b) identify a telephone number from which the outgoing call is being made as the secondary telephone number, including as demonstrated in the exemplary text below:



Decide whether your personal, carrier-issued number or your Dialpad number is displayed when placing calls through your Android device's Phone app (native dialer). By default, we'll use your personal, carrier-issued number.

To change this, navigate to **Settings** > **Outbound Caller ID** > **Calls from the Android Dialer** and select the number that caller ID will display:

- **Use Dialpad caller ID:** Select this for caller ID to display your Dialpad number; a record of calls completed through this method will appear in Dialpad
- **Use mobile number:** Select this for caller ID to display your personal, carrier-issued number; a record of calls completed through this method will appear in your Android device's call log, not Dialpad
- **Ask before each call:** Upon dialing a number, you'll get to choose between your Dialpad number or your personal, carrier-issued number



To adjust your caller ID for individual calls, select one of these options as shown above:

- Long-press the **Phone icon** while in a conversation thread and choose an available caller ID
- Navigate to **Settings** > **Outbound Caller ID** and choose an available caller ID
- Navigate to the **Keypad tab** and select **Call As** to choose an available caller ID

To adjust your caller ID for all calls, you'll need to navigate to your global caller ID settings from the web portal.

Count V: Claim for Patent Infringement of the '585 Patent

69. Flyp repeats and realleges the allegations in paragraphs 1-68 as if fully set forth herein.

70. Dialpad has infringed, contributed to the infringement of, and/or induced infringement of the '585 Patent by making, using, selling, offering for sale, or importing into the United States, or by intending that others make, use, import into, offer for sale, or sell in the United States, products and/or methods covered by one or more claims of the '585 Patent, including, but not limited to, Dialpad's app-based telephone feature known as Dialpad Talk.

71. Dialpad Talk infringes at least claims 1-4 of the '585 Patent. Dialpad makes, uses, sells, offers for sale, imports, exports, supplies, or distributes within the United States Dialpad Talk and thus directly infringes the '585 Patent.

72. Upon information and belief, Dialpad indirectly infringes the '585 Patent by (1) inducing infringement by others, such as resellers, partners, and end-user customers in this district and throughout the United States, with knowledge or willful blindness that the induced acts would constitute infringement and (2) contributing to infringement by others, such as resellers, partners, and end-user customers. Upon information and belief, direct infringement is (1) the result of activities performed by resellers, partners, and end-user customers of Dialpad Talk, who perform each step of the claimed invention as directed by Dialpad, or (2) the result of activities performed by resellers, partners, and end-user customers of Dialpad Talk in a normal and customary way that infringes the '585 Patent, that has no substantial non-infringing uses, and that is known by Dialpad.

73. On information and belief, Dialpad had knowledge of Flyp, its patent applications, and/or its issued patents at least as early as March 7, 2016. On that date, Rich Miner, general partner at GV (formerly Google Ventures) and cofounder of Android, joined Dialpad's board of directors. (*See Rich Miner, Co-Founder of Android and GV General Partner, Joins Dialpad Board of Directors*, Dialpad, *available at* https://www.dialpad.com/press/rich-miner-joins-dialpad-

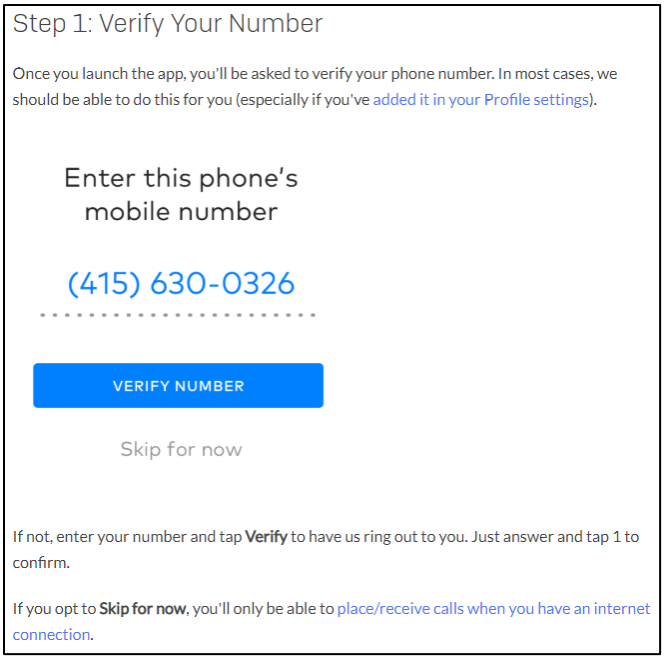
board/.) Prior to joining Dialpad's board of directors, Mr. Miner met with Flyp (at Mr. Miner's request) to discuss Flyp's technology and patent filings on November 12, 2015. In addition, Dialpad received actual notice of the '585 Patent at least as early as the filing of this First Amended Complaint.

74. By engaging in the conduct described herein, Dialpad has injured Flyp and is thus liable for infringement of the '585 Patent, pursuant to 35 U.S.C. § 271. Dialpad has committed these acts of infringement without license or authorization.

75. As a result of Dialpad's infringement of the '585 Patent, Flyp has suffered monetary damages and is entitled to a monetary judgment in an amount adequate to compensate for Dialpad's past infringement, together with interests and costs. In addition, Dialpad's infringement is causing irreparable harm and monetary damage to Flyp and will continue to do so unless and until Dialpad is enjoined by the Court.

76. Dialpad's infringement of the '585 Patent has been and continues to be deliberate and willful, and therefore, this is an exceptional case warranting an award of enhanced damages for up to three times the actual damages awarded and attorney's fees to Flyp pursuant to 35 U.S.C. §§ 284-285.

77. Dialpad Talk provides a method of providing telephone service comprising: automatically storing electronic information that indicates an association of a secondary telephone number and a primary telephone number with a mobile device in a computer memory associated with a server, including as demonstrated in the exemplary text below:



Dialpad lets you add local numbers to any Shared Line or user, and toll-free numbers can only be added to a Shared Line.

From Dialpad.com, navigate to **Admin Settings** > **Office** > **Users**.

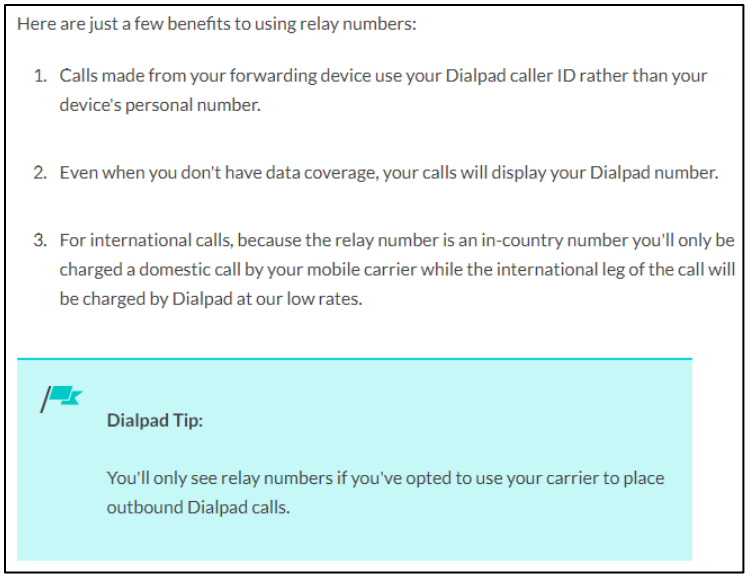
Choose the user, then select **Options** > **Calling** > **Manager Phone Numbers** > **Add a Number**. Enter the number, then select **Confirm/Purchase**.

Dialpad will use an available license if possible, or you'll be asked to purchase an additional license designated for the local number.

78. Dialpad Talk provides a method of providing telephone service comprising: automatically transmitting information that indicates an access telephone number to the mobile device via a data channel, including as demonstrated in the exemplary text below:

If you've placed a call through our mobile app and noticed a different number coming up than the one you called, don't worry—it's supposed to do that.

We call that a **relay number** and its purpose is to route calls through Dialpad to display your Dialpad caller ID over your mobile phone. We'll assign a relay number to each of your contacts and use the same one every time you place a call.

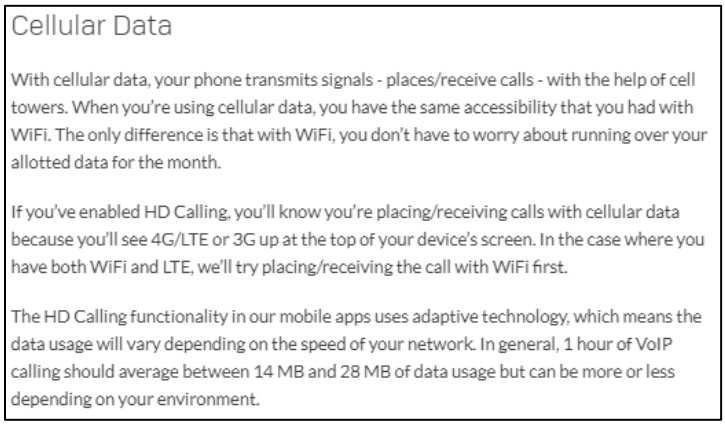


Here are just a few benefits to using relay numbers:

1. Calls made from your forwarding device use your Dialpad caller ID rather than your device's personal number.
2. Even when you don't have data coverage, your calls will display your Dialpad number.
3. For international calls, because the relay number is an in-country number you'll only be charged a domestic call by your mobile carrier while the international leg of the call will be charged by Dialpad at our low rates.

Dialpad Tip:

You'll only see relay numbers if you've opted to use your carrier to place outbound Dialpad calls.



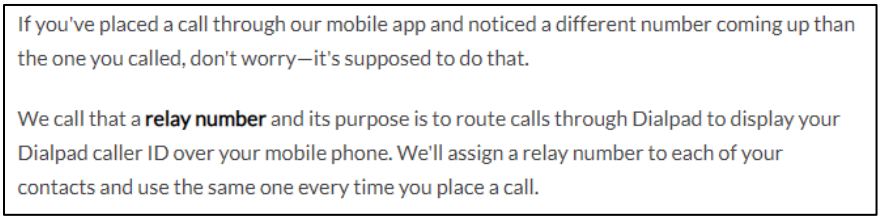
Cellular Data

With cellular data, your phone transmits signals - places/receive calls - with the help of cell towers. When you're using cellular data, you have the same accessibility that you had with WiFi. The only difference is that with WiFi, you don't have to worry about running over your allotted data for the month.

If you've enabled HD Calling, you'll know you're placing/receiving calls with cellular data because you'll see 4G/LTE or 3G up at the top of your device's screen. In the case where you have both WiFi and LTE, we'll try placing/receiving the call with WiFi first.

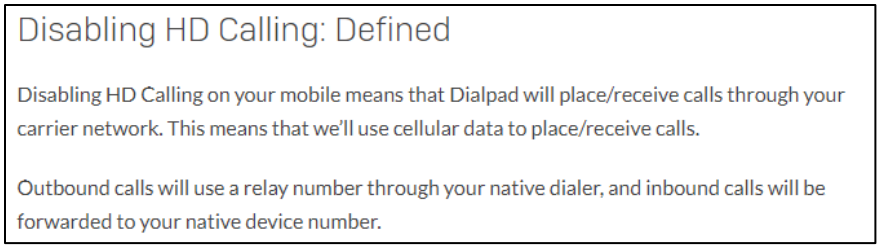
The HD Calling functionality in our mobile apps uses adaptive technology, which means the data usage will vary depending on the speed of your network. In general, 1 hour of VoIP calling should average between 14 MB and 28 MB of data usage but can be more or less depending on your environment.

79. Dialpad Talk provides a method of providing telephone service comprising: automatically associating a primary telephone number and access telephone number pairing with a corresponding secondary telephone number and contact telephone number pairing in the computer memory, including as demonstrated in the exemplary text below:



If you've placed a call through our mobile app and noticed a different number coming up than the one you called, don't worry—it's supposed to do that.

We call that a **relay number** and its purpose is to route calls through Dialpad to display your Dialpad caller ID over your mobile phone. We'll assign a relay number to each of your contacts and use the same one every time you place a call.

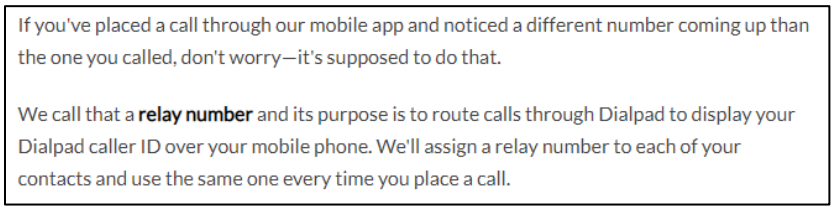


Disabling HD Calling: Defined

Disabling HD Calling on your mobile means that Dialpad will place/receive calls through your carrier network. This means that we'll use cellular data to place/receive calls.

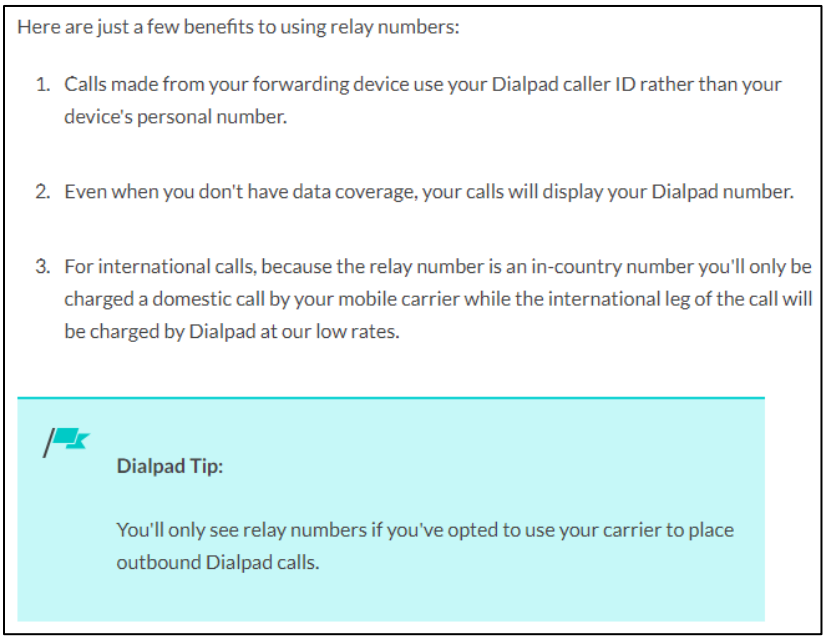
Outbound calls will use a relay number through your native dialer, and inbound calls will be forwarded to your native device number.

80. Dialpad Talk provides a method of providing telephone service comprising: receiving, at the switch associated with the server, an outgoing call from the mobile device to the access telephone number via a second channel, including as demonstrated in the exemplary text below:



If you've placed a call through our mobile app and noticed a different number coming up than the one you called, don't worry—it's supposed to do that.

We call that a **relay number** and its purpose is to route calls through Dialpad to display your Dialpad caller ID over your mobile phone. We'll assign a relay number to each of your contacts and use the same one every time you place a call.



Here are just a few benefits to using relay numbers:

1. Calls made from your forwarding device use your Dialpad caller ID rather than your device's personal number.
2. Even when you don't have data coverage, your calls will display your Dialpad number.
3. For international calls, because the relay number is an in-country number you'll only be charged a domestic call by your mobile carrier while the international leg of the call will be charged by Dialpad at our low rates.

Dialpad Tip:

You'll only see relay numbers if you've opted to use your carrier to place outbound Dialpad calls.

81. Dialpad Talk provides a method of providing telephone service comprising: receiving, at the server, information from the switch indicating the outgoing call is being made to

the access telephone number from the primary telephone number, including as demonstrated in the exemplary text above.

82. Dialpad Talk provides a method of providing telephone service comprising: receiving, at the switch, information from the server directing the switch to (a) connect the outgoing call to the contact telephone number of the secondary telephone number and contact telephone number pairing, and (b) identify a telephone number from which the outgoing call is being made as the secondary telephone number, including as demonstrated in the exemplary text below:

Decide whether your personal, carrier-issued number or your Dialpad number is displayed when placing calls through your Android device's Phone app (native dialer). By default, we'll use your personal, carrier-issued number.

To change this, navigate to **Settings** > **Outbound Caller ID** > **Calls from the Android Dialer** and select the number that caller ID will display:

- **Use Dialpad caller ID:** Select this for caller ID to display your Dialpad number; a record of calls completed through this method will appear in Dialpad
- **Use mobile number:** Select this for caller ID to display your personal, carrier-issued number; a record of calls completed through this method will appear in your Android device's call log, not Dialpad
- **Ask before each call:** Upon dialing a number, you'll get to choose between your Dialpad number or your personal, carrier-issued number

To adjust your caller ID for individual calls, select one of these options as shown above:

- Long-press the **Phone icon** while in a conversation thread and choose an available caller ID
- Navigate to **Settings** > **Outbound Caller ID** and choose an available caller ID
- Navigate to the **Keypad tab** and select **Call As** to choose an available caller ID

To adjust your caller ID for all calls, you'll need to navigate to your global caller ID settings from the web portal.

DEMAND FOR JURY TRIAL

83. Flyp hereby demands a trial by jury on all claims so triable.

PRAYER FOR RELIEF

WHEREFORE, Flyp respectfully requests that this Court enter judgment in its favor and grant the following relief:

A. Adjudge that Dialpad infringes the Asserted Patents;

B. Adjudge that Dialpad's infringement of the Asserted Patents was willful, and that Dialpad's continued infringement of the Asserted Patents is willful;

C. Award Flyp damages in an amount adequate to compensate Flyp for Dialpad's infringement of the Asserted Patents, but in no event less than a reasonable royalty under 35 U.S.C. § 284;

D. Award enhanced damages pursuant to 35 U.S.C. § 284;

E. Award Flyp pre-judgment and post-judgment interest to the full extent allowed under the law, as well as its costs;

F. Enter an order finding that this is an exceptional case and awarding Flyp its reasonable attorneys' fees pursuant to 35 U.S.C. § 285;

G. Enter a permanent injunction against all Dialpad products found to infringe the Asserted Patents;

H. Award, in lieu of an injunction, a compulsory forward royalty;

I. Order an accounting of damages; and

J. Award such other relief as the Court may deem appropriate and just under the circumstances.

DATED: January 4, 2022

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was filed electronically in compliance with Local Rule CV-5. Therefore, this document was served on all counsel who are deemed to have consented to electronic service. Administrative Policies and Procedures for Electronic Filing in Civil and Criminal Cases, Western District of Texas, Section 14.

/s/ *Michael A. Bittner*
Michael A. Bittner