

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

SPRINT COMMUNICATIONS COMPANY L.P.,)	
)	
Plaintiff,)	
)	
v.)	08-CV-2044 JWL/GLR
)	JURY TRIAL DEMANDED
PAETEC HOLDING CORP.,)	
PAETEC CORP., and)	
PAETEC COMMUNICATIONS, INC.,)	
)	
Defendants.)	

COMPLAINT

Plaintiff Sprint Communications Company L.P. complains as follows against Defendants Paetec Holding Corp., Paetec Corp., and Paetec Communications, Inc.

PARTIES

1. Plaintiff Sprint Communications Company L.P. (“Sprint”) is a Limited Partnership organized and existing under the laws of the State of Delaware, with its principal place of business at 6500 Sprint Parkway, Overland Park, Kansas 66251.

2. On information and belief, defendant Paetec Holding Corp. (“Paetec Holding”) is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at One Paetec Plaza, 600 Willowbrook Office Park, Fairport, New York 14450.

3. On information and belief, defendant Paetec Corp. (“Paetec”) is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at One Paetec Plaza, 600 Willowbrook Office Park, Fairport, New York 14450.

4. On information and belief, defendant Paetec Communications, Inc. (“Paetec Communications”) is a corporation registered to do business in the State of Kansas and

organized and existing under the laws of the State of Delaware, with its principal place of business at One Paetec Plaza, 600 Willowbrook Office Park, Fairport, New York 14450.

JURISDICTION

5. This is an action for patent infringement under the United States Patent Laws, 35 U.S.C. § 271, *et. seq.* This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338.

6. Defendants Paetec Holding and Paetec conduct business in this Judicial District and have committed acts of patent infringement in this Judicial District including, *inter alia*, importing, making, using, offering for sale, and/or selling infringing products and/or services in this Judicial District.

7. Defendant Paetec Communications is registered to do business in this Judicial District, conducts business in this Judicial District, and, on information and belief, has committed acts of patent infringement in this Judicial District including, *inter alia*, importing, making, using, offering for sale, and/or selling infringing products and/or services in this Judicial District.

8. On information and belief, Defendants Paetec Holding, Paetec, and Paetec Communications have knowingly and actively contributed to infringement and/or have induced others to commit such acts of infringement in this Judicial District.

VENUE

9. Venue is proper in this Court pursuant to 28 U.S.C. § 1391.

FACTUAL BACKGROUND

10. Plaintiff Sprint is the owner by assignment of all right, title, and interest in and to United States Patent No. 6,343,084 (“the ‘084 patent”) entitled “Broadband Telecommunications

System,” which duly and legally issued in the name of Joseph Michael Christie on January 29, 2002. A copy of the ‘084 patent is attached to the Complaint as Exhibit A.

11. Plaintiff Sprint is the owner by assignment of all right, title, and interest in and to United States Patent No. 6,633,561 (“the ‘561 patent”) entitled “Method, System and Apparatus for Telecommunications Control,” which duly and legally issued in the name of Joseph Michael Christie on October 14, 2003. A copy of the ‘561 patent is attached to the Complaint as Exhibit B.

12. Plaintiff Sprint is the owner by assignment of all right, title, and interest in and to United States Patent No. 6,463,052 (“the ‘052 patent”) entitled “Method, System and Apparatus for Telecommunications Control,” which duly and legally issued in the name of Joseph Michael Christie on October 8, 2002. A copy of the ‘052 patent is attached to the Complaint as Exhibit C.

13. Plaintiff Sprint is the owner by assignment of all right, title, and interest in and to United States Patent No. 6,452,932 (“the ‘932 patent”) entitled “Method, System and Apparatus for Telecommunications Control,” which duly and legally issued in the name of Joseph Michael Christie on September 17, 2002. A copy of the ‘932 patent is attached to the Complaint as Exhibit D.

14. Plaintiff Sprint is the owner by assignment of all right, title, and interest in and to United States Patent No. 6,473,429 (“the ‘429 patent”) entitled “Broadband Telecommunications System,” which duly and legally issued in the name of Joseph Michael Christie on October 29, 2002. A copy of the ‘429 patent is attached to the Complaint as Exhibit E.

15. Plaintiff Sprint is the owner by assignment of all right, title, and interest in and to United States Patent No. 6,298,064 (“the ‘064 patent”) entitled “Broadband Telecommunications

System,” which duly and legally issued in the name of Joseph Michael Christie on October 2, 2001. A copy of the ‘064 patent is attached to the Complaint as Exhibit F. The patents identified in paragraphs 10-15 and attached at Exhibits A-F are herein collectively referred to as “Sprint’s Patents.”

16. Upon information and belief, defendants Paetec Holding, Paetec, and Paetec Communications manufacture, use, offer for sale, and/or sell broadband and/or packet-based telephony products and/or services.

17. Upon information and belief, defendants Paetec Holding, Paetec, and Paetec Communications have made, used, offered to sell, and/or sold, and continue to make, use, offer to sell, and/or sell products and/or services within this Judicial District, including, without limitation, broadband and/or packet-based telephony products and/or services, that infringe Sprint’s Patents.

COUNT 1: PATENT INFRINGEMENT

Infringement of the ‘084 Patent

18. Sprint realleges and incorporates by reference the allegations set forth in paragraphs 1-17 above.

19. Upon information and belief, defendants Paetec Holding, Paetec, and Paetec Communications have been, and currently are, directly and indirectly infringing the ‘084 patent by making, using, selling, offering for sale, contributing to the use of by others, and/or inducing others to use products and services that infringe Sprint’s Patents.

20. Upon information and belief, defendants Paetec Holding, Paetec, and Paetec Communications’ infringement of the ‘084 patent will continue unless enjoined by this Court.

21. As a direct and proximate consequence of defendants Paetec Holding, Paetec, and Paetec Communications’ infringement of the ‘084 patent, Sprint has suffered and will continue

to suffer irreparable injury and damages in an amount not yet determined for which Sprint is entitled to relief.

COUNT 2: PATENT INFRINGEMENT

Infringement of the '561 Patent

22. Sprint realleges and incorporates by reference the allegations set forth in paragraphs 1-21 above.

23. Upon information and belief, defendants Paetec Holding, Paetec, and Paetec Communications have been, and currently are, directly and indirectly infringing the '561 patent by making, using, selling, offering for sale, contributing to the use of by others, and/or inducing others to use products and services that infringe Sprint's Patents.

24. Upon information and belief, defendants Paetec Holding, Paetec, and Paetec Communications' infringement of the '561 patent will continue unless enjoined by this Court.

25. As a direct and proximate consequence of defendants Paetec Holding, Paetec, and Paetec Communications' infringement of the '561 patent, Sprint has suffered and will continue to suffer irreparable injury and damages in an amount not yet determined for which Sprint is entitled to relief.

COUNT 3: PATENT INFRINGEMENT

Infringement of the '052 Patent

26. Sprint realleges and incorporates by reference the allegations set forth in paragraphs 1-25 above.

27. Upon information and belief, defendants Paetec Holding, Paetec, and Paetec Communications have been, and currently are, directly and indirectly infringing the '052 patent by making, using, selling, offering for sale, contributing to the use of by others, and/or inducing others to use products and services that infringe Sprint's Patents.

28. Upon information and belief, defendants Paetec Holding, Paetec, and Paetec Communications' infringement of the '052 patent will continue unless enjoined by this Court.

29. As a direct and proximate consequence of defendants Paetec Holding, Paetec, and Paetec Communications' infringement of the '052 patent, Sprint has suffered and will continue to suffer irreparable injury and damages in an amount not yet determined for which Sprint is entitled to relief.

COUNT 4: PATENT INFRINGEMENT

Infringement of the '932 Patent

30. Sprint realleges and incorporates by reference the allegations set forth in paragraphs 1-29 above.

31. Upon information and belief, defendants Paetec Holding, Paetec, and Paetec Communications have been, and currently are, directly and indirectly infringing the '932 patent by making, using, selling, offering for sale, contributing to the use of by others, and/or inducing others to use products and services that infringe Sprint's Patents.

32. Upon information and belief, defendants Paetec Holding, Paetec, and Paetec Communications' infringement of the '932 patent will continue unless enjoined by this Court.

33. As a direct and proximate consequence of defendants Paetec Holding, Paetec, and Paetec Communications' infringement of the '932 patent, Sprint has suffered and will continue to suffer irreparable injury and damages in an amount not yet determined for which Sprint is entitled to relief.

COUNT 5: PATENT INFRINGEMENT

Infringement of the '429 Patent

34. Sprint realleges and incorporates by reference the allegations set forth in paragraphs 1-33 above.

35. Upon information and belief, defendants Paetec Holding, Paetec, and Paetec Communications have been, and currently are, directly and indirectly infringing the '429 patent by making, using, selling, offering for sale, contributing to the use of by others, and/or inducing others to use products and services that infringe Sprint's Patents.

36. Upon information and belief, defendants Paetec Holding, Paetec, and Paetec Communications' infringement of the '429 patent will continue unless enjoined by this Court.

37. As a direct and proximate consequence of defendants Paetec Holding, Paetec, and Paetec Communications' infringement of the '429 patent, Sprint has suffered and will continue to suffer irreparable injury and damages in an amount not yet determined for which Sprint is entitled to relief.

COUNT 6: PATENT INFRINGEMENT

Infringement of the '064 Patent

38. Sprint realleges and incorporates by reference the allegations set forth in paragraphs 1-37 above.

39. Upon information and belief, defendants Paetec Holding, Paetec, and Paetec Communications have been, and currently are, directly and indirectly infringing the '064 patent by making, using, selling, offering for sale, contributing to the use of by others, and/or inducing others to use products and services that infringe Sprint's Patents.

40. Upon information and belief, defendants Paetec Holding, Paetec, and Paetec Communications' infringement of the '064 patent will continue unless enjoined by this Court.

41. As a direct and proximate consequence of defendants Paetec Holding, Paetec, and Paetec Communications' infringement of the '064 patent, Sprint has suffered and will continue to suffer irreparable injury and damages in an amount not yet determined for which Sprint is entitled to relief.

PRAYER FOR RELIEF

Wherefore, Sprint requests entry of judgment in its favor and against defendants Paetec Holding, Paetec, and Paetec Communications as follows:

A. Enter judgment that defendants Paetec Holding, Paetec, and Paetec Communications have infringed Sprint's Patents;

B. Enter judgment that defendants Paetec Holding, Paetec, and Paetec Communications have induced infringement of Sprint's Patents;

C. Enter judgment that defendants Paetec Holding, Paetec, and Paetec Communications have contributed to infringement of Sprint's Patents;

D. Enter a permanent injunction restraining and enjoining defendants Paetec Holding, Paetec, and Paetec Communications and their respective officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise, from any further sales or use of their infringing products and/or services and any other infringement of Sprint's Patents, whether direct or indirect;

E. For damages to compensate Sprint for defendants Paetec Holding, Paetec, and Paetec Communications' infringement of Sprint's Patents pursuant to 35 U.S.C. § 284;

F. For enhanced damages, pursuant to 35 U.S.C. § 284;

G. For an award of pre-judgment and post-judgment interest and costs to Sprint in accordance with 35 U.S.C. § 284;

H. For an award of Sprint's reasonable attorneys' fees pursuant to 35 U.S.C. § 285;

and

I. Grant to Sprint such other and further relief as the Court may deem just, proper, and equitable under the circumstances.

DEMAND FOR JURY TRIAL

Sprint respectfully demands a trial by jury on all claims and issues so triable.

DESIGNATION OF PLACE OF TRIAL

Sprint hereby designates Kansas City, Kansas as place of trial pursuant to Local Rule 40.2.

Respectfully Submitted,

Dated: January 24, 2008

SHOOK, HARDY & BACON L.L.P.

/s/ B. Trent Webb

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