IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

NO... ... ... CT OF TEXAS

OCT 23 2001

CLERK, U.S. DISTRICT COURT

By _____
Deputy
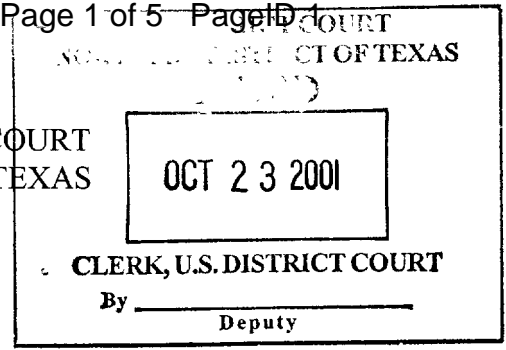
MESSAGEPHONE, INC.,	§	
	§	
Plaintiff,	§	**3-01CV2130-H**
	§	
v.	§	CIVIL ACTION NO._____
	§	
SVI SYSTEMS, INC.,	§	**JURY TRIAL DEMANDED**
an Illinois corporation	§	
	§	
Defendant.	§	

COMPLAINT FOR PATENT INFRINGEMENT

MessagePhone, Inc. ("MPI"), Plaintiff, complains of SVI Systems, Inc. ("SVI"), and for

cause of action would show as follows:

I.

NATURE OF THE ACTION

1.   MPI brings this action because SVI Systems, Inc. has exploited one of MPI's valuable

patents. The patent relates to a system for accessing and paying for movies using a telephone, such

as by a guest in a hotel room. In a related case, MPI has previously filed suit against SVI and another

party currently pending in this district and division under cause no. 3-97CV-1813-H, which involves

the same patent, but a separate damages period. Damages sought by MPI in this case are limited to

infringing activities that occurred prior to November 7, 1996.

II.

PARTIES

2.   MPI, a Texas corporation, maintains its principal place of business in Dallas, Texas.

MPI holds all right title and interest in the patent at issue in this case.

3.   SVI Systems, Inc., an Illinois corporation, has its principal place of business at 1520 West Altorfer Drive, Peoria, Illinois 61615. SVI conducts business in the State of Texas and may receive service of process through its agent it has registered for that purpose, Corporation Service Co., 800 Brazos St, Suite 750, Austin TX 78701-2554.

III.

JURISDICTION AND VENUE

4.   This case arises under the patent laws of the United States, including 35 U.S.C. § 281. The Court has jurisdiction over the subject matter pursuant to 28 U.S.C. §§ 1331 and 1338.

5.   The continuous and systematic contacts of SVI with Texas confer general personal jurisdiction over it in this Court. Specific personal jurisdiction likewise arises because SVI offers the systems and services that MPI alleges infringe its patent rights within this State.

6.   Venue properly lies in this district pursuant to 28 U.S.C. § 1400(b) and 28 U.S.C. § 1391(b) because SVI resides in this district and because a substantial part of the events giving rise to MPI's claims arose in this district.

IV.

BACKGROUND FACTS

7.   On December 12, 1995, the United States Patent Office duly and legally issued to Spectradyne, Inc. United States Letters Patent No. 5,475,740 (the "'740 Patent") for the invention of a system for accessing and paying for amenities using a telephone. MPI attaches a true and correct copy of the '740 Patent as Exhibit A to this Complaint.

8.   MPI acquired by assignment from Spectradyne, Inc. all right, title and interest in the '740 Patent. The named inventors, Lawrence R. Biggs and Harry S. Budow, assigned all

COMPLAINT FOR PATENT INFRINGEMENT

rights in the '740 Patent to Spectradyne, Inc. on or before the issuance of the '740 Patent. On

November 7, 1996, Spectradyne, Inc. executed a Patent Assignment regarding the '740 Patent.

In response to claims by MPI in the related lawsuit that this assignment did not include the right

to sue for past damages, on February 8, 1999, Dennis Faulkner, Plan Administrator for

Reorganized SPI Newco, Inc., a Delaware corporation and successor-in-interest to certain rights

and claims of Spectradyne, Inc., executed an Acknowledgement of Assignment in favor of MPI

which states in part, "in the event that the Assignment is not clear or was ineffective to grant MPI

the right to pursue the Pre-Assignment Infringement Claims, effective as of the execution date of

the Assignment, Reorganized SPI does hereby sell, assign and transfer unto MPI...its entire right,

title and interest in and to Patents [including the '740 Patent]...including but not limited to the

right to sue for past infringement of the Patents and to receive damages for such infringement

from the date of issuance of each of the Patents."

     9.   On information and belief, SVI has infringed MPI's '740 Patent prior to

November 7, 1996 by displaying, advertising, selling, and using systems for accessing and paying

for amenities using a telephone exactly like those specified in MPI's patent.

     10.   On information and belief SVI operates a place of business wherein SVI has

infringed MPI's '740 Patent prior to November 7, 1996 by making, using and selling systems for

accessing amenities using a telephone exactly like those described in Plaintiff's patent. Such

infringement has been deliberate, willful, intentional and with full knowledge of the existence

and validity of Plaintiff's patent.

V.

COUNT I - PATENT INFRINGEMENT ('740 Patent)

     11.   MPI realleges each of the preceding allegations.

12.   Defendant SVI has infringed the '740 Patent by making, using or selling in the United States devices and methods that embody the patented invention of the '740 Patent.

13.   MPI has given notice to defendant SVI of its infringement.

14.   Because SVI has acted with actual notice of the '740 Patent, its infringement is willful and deliberate.

15.   Defendant SVI has profited from their use and sale of the infringing devices and services for the period prior to November 7, 1996.

16.   The infringement by SVI has damaged MPI.

17.   The willfulness and deliberateness of SVI's action entitle MPI to enhanced damages.

VI.

JURY DEMAND

18.   MPI demands a trial by jury on all issues to the extent permitted by the Federal Rules of Civil Procedure and the United States Constitution.

PRAYER

MessagePhone, Inc. respectfully requests that the Court grant the following relief:

a.   an accounting as well as an award of actual damages from SVI sufficient to compensate MPI for its patent infringements in an amount no less than a reasonable royalty for infringing activities prior to November 7, 1996;

b.   increased damages up to three times MPI's actual damages for willful and deliberate patent infringement;

c.   an award of attorneys' fees, costs, and prejudgment interest at the highest lawful rate; and

d.   all other relief that law or equity justly entities MPI to receive.

Respectfully submitted,

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**ATTORNEYS FOR PLAINTIFF
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