

BIGBAND NETWORKS, INC.,)	
)	
Plaintiff,)	C.A. No. 07-351 (JJF)
)	
v.)	
)	
IMAGINE COMMUNICATIONS, INC.,)	DEMAND FOR JURY TRIAL
)	
Defendant.)	

Plaintiff BigBand Networks, Inc. (“BigBand Networks”) alleges for its First Amended Complaint against Imagine Communications, Inc. (“Imagine Communications”) as follows:

1. BigBand Networks is a Delaware corporation having its principal corporate offices at 475 Broadway Street, Redwood City, California.
2. Imagine Communications is a Delaware corporation having its principal place of business in Cardiff-by-the-Sea, California.

3. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.* This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a). This Court has personal jurisdiction because Imagine Communications is a Delaware corporation. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) and (c), and 1400(b).

4. BigBand Networks owns all rights, title, and interest in U.S. Patent Nos. 6,937,619 entitled “Method and System for Comparison-Based Prioritized Bit Rate Conversion” (the “619 patent”); 6,999,477 entitled “Method and System for Providing Multiple Services to

End-Users” (the “’477 patent”); 7,058,087 entitled “Method and System for Prioritized Bit Rate Conversion” (the “’087 patent”); and 7,395,321 entitled “Method and System for Prioritized Bit Rate Conversion” (the “’321 patent”). Copies of these patents are attached hereto as Exhibits 1, 2, 3, and 4.

THE INFRINGEMENT

5. Imagine Communications has directly and indirectly infringed (including contributory and inducement of infringement) the claims of the ’619, ’477, ’087, and ’321 patents by making, using, selling, offering to sell, and/or instructing users how to use Imagine Communications’ products, including without limitation the ICE Broadcast System product, the ICE SDV Solution products and the VBR/StatMux products. Imagine Communications continues to directly and indirectly infringe (including contributory and inducement of infringement) the ’619, ’477, ’087, and ’321 patents.

6. Imagine Communications’ infringement of the ’619, ’477, ’087, and ’321 patents has been willful and deliberate.

7. BigBand Networks has been damaged by Imagine Communications’ infringing activities and will be irreparably injured by its continued infringement unless Imagine Communications is enjoined by this Court.

RELIEF REQUESTED

WHEREFORE, BigBand Networks requests entry of a judgment against Imagine Communications granting relief as follows:

A. Finding that Imagine Communications has infringed the ’619, ’477, ’087, and ’321 patents;

B. Preliminarily and permanently enjoining Imagine Communications, its officers, directors, agents, employees, attorneys, parents, subsidiaries, and all others acting by or through Imagine Communications, controlled by Imagine Communications, or acting in concert or participating with Imagine Communications, from further infringing the ’619, ’477, ’087, and ’321;

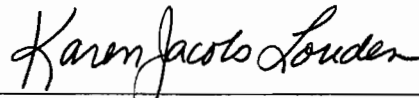
C. Awarding BigBand Networks damages adequate to compensate for Imagine Communications' infringement of the '619, '477, '087, and '321 patents, including pre-judgment and post-judgment interest;

D. Trebling those damages as a result of Imagine Communications' willful infringement;

E. Finding the case "exceptional" under 35 U.S.C. § 285, and awarding BigBand Networks its attorneys' fees, costs and expenses incurred in bringing and prosecuting this action; and

F. Granting BigBand Networks such further and additional relief as the Court deems just and proper.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP



Jack B. Blumenfeld (I.D. #1014)
Karen Jacobs Loudon (I.D. #2881)
1201 North Market Street
Wilmington, DE 19899-1347
(302) 658-9200
jblumenfeld@mnat.com
klouden@mnat.com

Attorneys for Plaintiff BigBand Networks, Inc

OF COUNSEL:

Peter P. Chen
Latham & Watkins LLP
140 Scott Drive
Menlo Park, CA 94025
(650) 328-4600

James L. Day
Latham & Watkins LLP
505 Montgomery Street, Suite 2000
San Francisco, CA 94111
(415) 391-0600

Dated: May 4, 2009
2873048