

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

MOTOROLA, INC.,	§	
	§	
Plaintiff,	§	
	§	No. 5:07-cv-00171-DF-CMC
v.	§	Jury
	§	
VTECH COMMUNICATIONS, INC., VTECH TELECOMMUNICATIONS LTD.	§	
	§	
Defendants.	§	
	§	

SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Motorola, Inc., (“Plaintiff”) for its complaint against defendants VTech Communications, Inc., and VTech Telecommunications Ltd. (collectively “Defendants”), avers as follows:

JURISDICTION AND VENUE

1. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 101 *et seq.* This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a). Venue is proper in this Judicial District under 28 U.S.C. §§ 1391(b), (c), (d), and 1400(b). Upon information and belief, this Court has personal jurisdiction over Defendants because Defendants regularly conduct business in this district and have committed acts of patent infringement in this district.

THE PARTIES

2. Plaintiff Motorola, Inc., is a corporation organized and existing under the laws of the State of Delaware and having a principal place of business at 1303 East Algonquin Road, Schaumburg, Illinois 60196.

3. Upon information and belief, Defendant VTech Communications, Inc., is a corporation organized and existing under the laws of the State of Oregon and having a principal place of business at 9590 SW Gemini Drive, Suite 120, Beaverton, OR 97008. Upon information and belief, Defendant VTech Communications, Inc., directly or indirectly through its subsidiaries and affiliated companies, distributes, markets, sells and/or offers to sell throughout the United States (including in this Judicial District), and/or imports into the United States consumer products, including cordless telephones and associated equipment bearing the VTech or AT&T brand name.

4. Upon information and belief, Defendant VTech Telecommunications Ltd. is a foreign corporation organized and existing under the laws of Hong Kong and having a principle place of business at 23/F, Tai Ping Industrial Centre, Block 1, 57 Ting Kok Road, Tai Po, N.T., Hong Kong. Upon information and belief, Defendant VTech Telecommunications Ltd., directly or indirectly through its subsidiaries and affiliated companies, distributes, markets, sells and/or offers to sell throughout the United States (including in this Judicial District), and/or imports into the United States consumer products, including cordless telephones and associated equipment bearing the VTech or AT&T brand name.

BACKGROUND

Asserted Patents

5. United States Patent No. 4,866,766, titled "TELEPHONE DEVICE HAVING CUSTOMIZED RING CAPABILITY" ("the '766 patent"), was duly and legally issued on September 12, 1989, to Inventor James E. Mitzlaff. Plaintiff is the owner by assignment of all right, title and interest in and to the '766 patent, including the right to sue and recover for past infringement thereof. A true and correct copy of the '766 patent is attached hereto as Exhibit A.

6. United States Patent No. 5,157,391, titled “APPARATUS AND METHOD FOR DISPLAYING A PLURALITY OF FUNCTION INDICATORS IN A SELECTIVE CALL RECEIVER” (“the ’391 patent”), was duly and legally issued on October 20, 1992, to Inventor Randi F. Weitzen. Plaintiff is the owner by assignment of all right, title and interest in and to the ’391 patent, including the right to sue and recover for past infringement thereof. A true and correct copy of the ’391 patent is attached hereto as Exhibit B.

7. United States Patent No. 5,394,140, titled “METHOD AND APPARATUS FOR PRE-PROGRAMMED CALL-BACK-NUMBER-DETERMINED ALERT” (the ’140 patent”), was duly and legally issued on February 28, 1995, to Inventors Poh-T’in Wong, Allen J. Weidler and William J. Burke. Plaintiff is the owner by assignment of all right, title and interest in and to the ’140 patent, including the right to sue and recover for past infringement thereof. A true and correct copy of the ’140 patent is attached hereto as Exhibit C.

8. United States Patent No. 5,848,356, titled “METHOD FOR IMPLEMENTING ICONS IN A RADIO COMMUNICATION DEVICE” (“the ’356 patent”), was duly and legally issued on December 8, 1998, to Inventors Shrirang N. Jambhekar, Gregor E. Bleimann and Num Pisutha-Arnond. Plaintiff is the owner by assignment of all right, title and interest in and to the ’356 patent, including the right to sue and recover for past infringement thereof. A true and correct copy of the ’356 patent is attached hereto as Exhibit D.

9. United States Patent No. 7,070,349 B2, titled “THIN KEYBOARD AND COMPONENTS FOR ELECTRONICS DEVICES AND METHODS” (“the ’349 patent”), was duly and legally issued on July 4, 2006, to Inventors Richard J. Dombrowski, Ryszard J. Gordecki, Daniel P. Rodgers, Patrick J. Cauwels, and Steve C. Emmert. Plaintiff is the owner by assignment of all right, title and interest in and to the ’349 patent, including the right to sue and

recover for past infringement thereof. A true and correct copy of the '349 patent is attached hereto as Exhibit E.

10. United States Patent No. Des. 559,842 S, titled "KEYPAD" ("the '842 patent"), was duly and legally issued on January 15, 2008, to Inventors Richard J. Dombrowski, Christopher Arnholt, Steve C. Emmert, and Floris H. Keizer. Plaintiff is the owner by assignment of all right, title and interest in and to the '842 patent, including the right to sue and recover for past infringement thereof. A true and correct copy of the '842 patent is attached hereto as Exhibit F.

11. Upon information and belief, Defendants have had knowledge of the '766 patent, the '391 patent, the '140 patent, and the '356 patent since at least August 27, 2003. Upon information and belief, Defendants have had knowledge of the '349 patent since at least a meeting that took place during the January 2007 Consumer Electronics Show, on or about January 9, 2007, in Las Vegas, Nevada.

COUNT ONE
(Infringement of U.S. Patent No. 4,866,766)

12. Upon information and belief, Defendants have been and still are infringing, contributorily infringing or inducing infringement of at least claim 1 of the '766 patent, in this district and elsewhere, by their activities, including making, using, offering to sell, importing, or selling certain cordless telephones and related equipment, including at least the VTech gz2434 model telephone.

13. Defendants' infringement of the '766 patent constitutes willful infringement, entitling Plaintiff to damages and treble damages pursuant to 35 U.S.C. § 284. Plaintiff provided Defendants with notice of their infringement of the '766 patent in an August 27, 2003 letter.

COUNT TWO
(Infringement of U.S. Patent No. 5,157,391)

14. Upon information and belief, Defendants have been and still are infringing, contributorily infringing or inducing infringement of at least claims 1 and 5 of the '391 patent, in this district and elsewhere, by their activities, including making, using, offering to sell, importing, or selling certain cordless telephones and related equipment, including at least the VTech vt2431, VTech vt5831, VTech i5871, VTech USB7100, VTech IS6110, AT&T HS8270 and/or AT&T EP5632 model telephones.

15. Defendants' infringing activities have caused and will continue to cause Plaintiff irreparable harm for which it has no adequate remedy at law, unless such infringing activities are enjoined by this Court pursuant to 35 U.S.C. § 283.

16. Defendants' infringement of the '391 patent constitutes willful infringement, entitling Plaintiff to damages and treble damages pursuant to 35 U.S.C. § 284. Plaintiff provided Defendants with notice of their infringement of the '391 patent in an August 27, 2003 letter.

COUNT THREE
(Infringement of U.S. Patent No. 5,394,140)

17. Upon information and belief, Defendants have been and still are infringing, contributorily infringing, or inducing infringement of at least claims 1 and 15 of the '140 patent, in this district and elsewhere, by their activities, including making, using, offering to sell, importing, or selling certain cordless telephones and associated equipment, including at least the VTech gz2434, VTech t2426, VTech i5871 and/or AT&T 5830 model telephones.

18. Defendants' infringing activities have caused and will continue to cause Plaintiff irreparable harm for which it has no adequate remedy at law, unless such infringing activities are enjoined by this Court pursuant to 35 U.S.C. § 283.

19. Defendants' infringement of the '140 patent constitutes willful infringement, entitling Plaintiff to damages and treble damages pursuant to 35 U.S.C. § 284. Plaintiff provided Defendants with notice of their infringement of the '140 patent in an August 27, 2003 letter.

COUNT FOUR
(Infringement of U.S. Patent No. 5,848,356)

20. Upon information and belief, Defendants have been and still are infringing, contributorily infringing, or inducing infringement of at least claim 1 of the '356 patent, in this district and elsewhere, by their activities, including making, using, offering to sell, importing, or selling certain cordless telephones and associated equipment, including at least the VTech i5801 and/or VTech gz2434 model telephones.

21. Defendants' infringing activities have caused and will continue to cause Plaintiff irreparable harm for which it has no adequate remedy at law, unless such infringing activities are enjoined by this Court pursuant to 35 U.S.C. § 283.

22. Defendants' infringement of the '356 patent constitutes willful infringement, entitling Plaintiff to damages and treble damages pursuant to 35 U.S.C. § 284. Plaintiff provided Defendants with notice of their infringement of the '356 patent in a January 7, 2004 meeting.

COUNT FIVE
(Infringement of U.S. Patent No. 7,070,349 B2)

23. Upon information and belief, Defendants have been and still are infringing, contributorily infringing, or inducing infringement of at least claim 6 of the '349 patent, in this district and elsewhere, by their activities, including making, using, offering to sell, importing, or selling certain cordless telephones and associated equipment, including at least the VTech 6042 model telephone.

24. Defendants' infringing activities have caused and will continue to cause Plaintiff irreparable harm for which they have no adequate remedy at law, unless such infringing activities are enjoined by this Court pursuant to 35 U.S.C. § 283.

25. Upon information and belief, Defendants' infringement of the '349 patent constitutes willful infringement, entitling Plaintiff to damages and treble damages pursuant to 35 U.S.C. § 284. Plaintiff provided Defendants with notice of their infringement of the '349 patent at least as early as November 13, 2007, by filing the Complaint for Patent Infringement in this case.

COUNT SIX
(Infringement of U.S. Patent No. Des. 559,842 S)

26. Upon information and belief, Defendants have been and still are infringing, contributorily infringing, or inducing infringement of the claim of the '842 patent, in this district and elsewhere, by their activities, including making, using, offering to sell, importing, or selling certain cordless telephones and associated equipment, including at least the VTech 6042 and/or VTech LS6117 model telephones.

27. Defendants' infringing activities have caused and will continue to cause Plaintiff irreparable harm for which they have no adequate remedy at law, unless such infringing activities are enjoined by this Court pursuant to 35 U.S.C. § 283.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that the Court enter a judgment:

a. Adjudging that Defendants have infringed at least the asserted claims of the '766 patent, the '391 patent, the '140 patent, the '356 patent, the '349 patent, and the '842 patent;

b. Permanently enjoining Defendants and its directors, officers, employees, attorneys, agents, and all persons in active concert or participation with any of the foregoing

from further acts of infringement, contributory infringement or inducement of infringement of the asserted patents unless and until licensed under the asserted patents by Plaintiff;

c. Awarding to Plaintiff damages sufficient to compensate Plaintiff for the infringement by Defendants, together with both pre-judgment and post-judgment interest;

d. Trebling the damages awarded for infringement counts one through five as provided by 35 U.S.C. § 284;

e. Finding this action constitutes an exceptional case under 35 U.S.C. § 285;

f. Awarding to Plaintiff its costs and attorney fees; and

g. Awarding to Plaintiff such other and further relief as this Court deems proper and just.

Respectfully submitted,

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Dated: March 6, 2009

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38(b), Fed. R. Civ. P., and the Seventh Amendment to the Constitution of the United States, Plaintiff demands a trial by jury of all claims and all issues triable as of right by jury in this action.

Respectfully submitted,

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Dated: March 6, 2009

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was filed electronically in compliance with Local Rule CV-5(a). Therefore, this document was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A). Pursuant to Rule 5(d), Fed. R. Civ. P., and Local Rule CV-5(e), all other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of this document via email, facsimile and/or U. S. First Class Mail.

DATED: March 6, 2009.

/s/ *Damon Young*
Damon Young