

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

**T-NETIX, INC., AND
EVERCOM SYSTEMS, INC.,**

Plaintiffs,

v.

**GLOBAL TEL*LINK CORPORATION,
INMATE CALLING SOLUTIONS, LLC,
FSH COMMUNICATIONS, LLC, AND
AGM TELECOM CORPORATION,**

Defendants.

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Civil Action No. 2-06cv-426-TJW

Jury Trial Requested

PLAINTIFFS' SECOND AMENDED COMPLAINT

Plaintiffs T-NETIX, INC. and Evercom Systems, Inc. file this Second Amended Complaint against Defendants Global Tel*Link Corporation, Inmate Calling Solutions, LLC, Inc., FSH Communications, LLC and AGM Telecom Corporation for the claims and relief as follows:

**I.
PARTIES**

1. Plaintiff T-NETIX, Inc. ("T-NETIX") is a Delaware corporation with its principal place of business in Dallas, Texas.

2. Plaintiff Evercom Systems, Inc. ("Evercom") is a Delaware corporation with its principal place of business in Dallas, Texas.

3. Defendant Global Tel*Link Corporation ("Global") is a Delaware corporation with its principal place of business in Mobile, Alabama. Global has made an appearance in this case.

4. Defendant Inmate Calling Solutions, LLC (“ICS”), is a California corporation with its principal place of business in San Jose, California. ICS has made an appearance in this case.

5. Defendant FSH Communications, LLC (“FSH”), is a Delaware corporation with its principal place of business in Chicago, Illinois. FSH has made an appearance in this case.

6. Defendant AGM Telecom Corporation (“AGM”), is a New Jersey corporation with its principal place of business in Warren, New Jersey. AGM has made an appearance in this case.

II. JURISDICTION AND VENUE

7. This action arises under the Patent Act of 1952, 35 U.S.C. § 101 *et seq.* This Court has original and exclusive jurisdiction over the subject matter of the Complaint under 28 U.S.C. §§ 1331 and 1338(a).

8. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(c) and 1400(b).

9. Defendants Global, ICS, FSH, LLC, and AGM (collectively “Defendants”) are transacting business and, on information and belief, have committed acts of patent infringement within the State of Texas and this District. Defendants are therefore subject to the personal jurisdiction of this Court and venue is proper in this District.

III. BACKGROUND

10. On June 12, 1990, the U.S. Patent and Trademark Office duly and legally issued United States Patent No. 4,933,966 (the “966 Patent”) also entitled “Method and Apparatus for Performing an Automated Collect Call” to Intellical, Inc., as assignee of the inventors John A. Hird, of Dallas, Texas, Lindsey D. Owen, of Carrollton, Texas, and Michael R. Rice, of

Carrollton, Texas. T-NETIX is the sole owner by assignment of the '966 Patent, a copy of which is attached hereto as **Exhibit "1."**

11. On June 7, 1994, the U.S. Patent and Trademark Office duly and legally issued United States Patent No. 5,319,702 (the "'702 Patent") also entitled "Method and Apparatus for Detecting and Responding to Hook Flash Events Occurring on a Remote Telephone" to Tele-Matic Corporation, as assignee of the inventors Dwight W. Kitchin, of Littleton, Colorado, Terry D. Johnson, of Littleton, Colorado, Alan K. Schott, of Englewood, Colorado, and Scott D. Passe, of Denver, Colorado. T-NETIX is the owner of the '702 Patent, a copy of which is attached hereto as **Exhibit "2."**

12. On May 6, 2003, the U.S. Patent and Trademark Office duly and legally issued United States Patent No. 6,560,323 (the "'323 Patent") also entitled "Computer-Based M&A for Controlling, Monitoring, Recording and Reporting Telephone Access" to T-NETIX, as assignee of the inventor Jay L. Gainsboro, of Framingham, Massachusetts. T-NETIX is the sole owner by assignment of the '323 Patent, a copy of which is attached hereto as **Exhibit "3."**

13. On May 9, 2006, the U.S. Patent and Trademark Office duly and legally issued United States Patent No. 7,042,992 (the "'992 Patent") also entitled "Systems and Methods for Account Establishment and Transaction Management Using Interrupt Messaging" to Evercom, as assignee of the inventors Richard Falcone, of Addison, Texas, Robert Mudd, of Keller, Texas, Timothy J. Murphy, of Spring Valley, Ohio, Jimmie Jones, Jr., of Plano, Texas, Marc Hite, of Plano, Texas, and Luke Keiser, of Selma, Alabama. Evercom is the sole owner by assignment of the '992 Patent, a copy of which is attached hereto as **Exhibit "4."**

14. T-NETIX and Evercom make, use, sell and offer to sell to the telecommunications industry specialized call-processing and billing equipment and services for correctional

institutions, direct local and long-distance call processing for correctional facilities, value-added telecommunications services such as pre-connection restrictions, digital recording, jail and inmate management systems, video booking and other related goods and services.

15. Defendants make, use, sell, or offer to sell specialized call-processing and billing equipment and services for correctional institutions in competition with T-NETIX and Evercom. Defendants have knowingly and willfully infringed and are presently infringing the '966,'323 and '992 patents (collectively the "Patents") by making, using, selling, or offering to sell within the United States, or actively inducing others to make, use, sell, or offer to sell within the United States, goods and services that practice the Patents.

Count One – Infringement of '966 Patent

16. T-NETIX and Evercom re-allege and incorporate by reference paragraphs 1-15 above.

17. Defendants have infringed and continue to directly and indirectly infringe one or more claims of the '966 Patent by among other things, manufacturing, using, selling, or offering to sell goods and service that practice the '966 patent in violation of 35 U.S.C. § 271.

Count Two – Infringement of '323 Patent

18. T-NETIX and Evercom re-allege and incorporate by reference paragraphs 1-17 above.

19. Defendants have infringed and continue to directly and indirectly infringe one or more claims of the '323 Patent by, among other things, manufacturing, using, selling, or offering to sell goods and service that practice the '323 patent in violation of 35 U.S.C. § 271.

Count Three – Infringement of '992 Patent

20. T-NETIX and Evercom re-allege and incorporate by reference paragraphs 1-19 above.

21. Defendants FSH, Global and ICS have infringed and continue to directly and indirectly infringe one or more claims of the '992 Patent by, among other things, manufacturing, using, selling, or offering to sell goods and service that practice the '992 patent in violation of 35 U.S.C. § 271.

Count Four – Infringement of the '702 Patent

22. T-NETIX and Evercom re-allege and incorporate by reference paragraphs 1-21 above.

23. Defendant ICS has infringed and continues to directly and indirectly infringe one or more claims of the '702 Patent by, among other things, manufacturing, using, selling, or offering to sell goods and service that practice the '702 patent in violation of 35 U.S.C. § 271.

**IV.
REMEDIES**

24. T-NETIX and Evercom have been damaged in an amount not yet determined and will continue to be damaged as a result of Defendants' infringing activities unless such activities are enjoined by this Court. Pursuant to 35 U.S.C. § 284, T-NETIX and Evercom are entitled to damages adequate to compensate for the infringement, including, *inter alia*, lost profits and/or a reasonable royalty.

25. Defendants' infringement of the patents is willful. T-NETIX and Evercom have given Defendants actual notice of its rights in the Patents by written notice, by filing suit or otherwise or, in the alternative, have given constructive notice pursuant to 35 U.S.C. § 287(a).

26. T-NETIX and Evercom will be irreparably harmed if Defendants' patent infringement continues. T-NETIX and Evercom therefore request a permanent injunction prohibiting Defendants, their directors, officers, employees, agents, parents, subsidiaries, affiliates, and anyone else in active concert or participation with them from infringement, inducement to infringe, or contributory infringement of the Patents, including the manufacture, sale, offer for sale, distribution, or promotion of products and/or services falling within the scope of the Patents.

V.
COSTS INTEREST AND ATTORNEYS' FEES

27. T-NETIX and Evercom request the Court award them all attorneys' fees and costs incurred in this litigation and pre and post-judgment interest pursuant to 35 U.S.C. §§ 284 and 285.

VI.
JURY DEMAND

28. T-NETIX and Evercom request a jury trial of all issues in this action so triable.

VII.
PRAYER

WHEREFORE, Plaintiffs T-NETIX and Evercom respectfully request that the Court enter a judgment against Defendants as follows:

1. that Defendant Global has infringed, directly and/or indirectly, the '966, '323 and/or '992 Patents;
2. permanent injunction restraining Defendant Global and their directors, officers, employees, agents, parents, subsidiaries, affiliates, and all persons in active concert or participation with them from infringement, inducement to infringe, or contributory infringement of the '966, '323 and/or '992 Patents, including the manufacture, sale, offer for sale, distribution, or promotion of products and/or services falling within the scope of the '966, '323 and/or '992 Patents, pursuant to 35 U.S.C. § 283;

3. an award of damages against Defendant Global sufficient to compensate T-NETIX for the infringement of the '966 and/or '323 Patents, in an amount not less than T-NETIX's lost profits and/or a reasonable royalty and interest and costs, pursuant to 35 U.S.C. § 284;
4. an award of damages against Defendant Global sufficient to compensate Evercom for the infringement of the '992 Patent, in an amount not less than Evercom's lost profits and/or a reasonable royalty and interest and costs, pursuant to 35 U.S.C. § 284;
5. an award of treble damages, pursuant to 35 U.S.C. § 284, to the extent that Global's acts of infringement of the Patents are determined to be willful;
6. an award of prejudgment interest, pursuant to 35 U.S.C. § 284, from the date of each act of infringement of the Patents by Global to the day a damages judgment is entered, and a further award of post-judgment interest, pursuant to 28 U.S.C. § 1961, continuing until such judgment is paid;
7. an award of reasonable attorneys' fees against Global, pursuant to 35 U.S.C. § 285, based on Defendant's infringement of the Patents;
8. that Defendant ICS has infringed, directly and/or indirectly, the '966, '323, '702 and/or '992 Patents;
9. a permanent injunction restraining Defendant ICS and their directors, officers, employees, agents, parents, subsidiaries, affiliates, and all persons in active concert or participation with them from infringement, inducement to infringe, or contributory infringement of the '966, '323, '702 and/or '992 Patents, including the manufacture, sale, offer for sale, distribution, or promotion of products and/or services falling within the scope of the '966, '323, '702 and/or '992 Patents, pursuant to 35 U.S.C. § 283;
10. an award of damages against Defendant ICS sufficient to compensate T-NETIX for the infringement of the '966, '702 and/or '323 Patents, in an amount not less than T-NETIX's lost profits and/or a reasonable royalty and interest and costs, pursuant to 35 U.S.C. § 284;
11. an award of damages against Defendant ICS sufficient to compensate Evercom for the infringement of the '992 Patent, in an amount not less than Evercom's lost profits and/or a reasonable royalty and interest and costs, pursuant to 35 U.S.C. § 284;
12. an award of treble damages, pursuant to 35 U.S.C. § 284, to the extent that ICS' acts of infringement of the Patents are determined to be willful;

13. an award of prejudgment interest, pursuant to 35 U.S.C. § 284, from the date of each act of infringement of the Patents by ICS to the day a damages judgment is entered, and a further award of post-judgment interest, pursuant to 28 U.S.C. § 1961, continuing until such judgment is paid;
14. an award of reasonable attorneys' fees against ICS, pursuant to 35 U.S.C. § 285, based on Defendants' infringement of the Patents;
15. that Defendant FSH has infringed, directly and/or indirectly, the '966, '323 and/or '992 Patents;
16. a permanent injunction restraining Defendant FSH and their directors, officers, employees, agents, parents, subsidiaries, affiliates, and all persons in active concert or participation with them from infringement, inducement to infringe, or contributory infringement of the '966, '323 and/or '992 Patents, including the manufacture, sale, offer for sale, distribution, or promotion of products and/or services falling within the scope of the '966, '323 and/or '992 Patents, pursuant to 35 U.S.C. § 283;
17. an award of damages against Defendant FSH sufficient to compensate T-NETIX for the infringement of the '966 and/or '323 Patents, in an amount not less than T-NETIX's lost profits and/or a reasonable royalty and interest and costs, pursuant to 35 U.S.C. § 284;
18. an award of damages against Defendant FSH sufficient to compensate Evercom for the infringement of the '992 Patent, in an amount not less than Evercom's lost profits and/or a reasonable royalty and interest and costs, pursuant to 35 U.S.C. § 284;
19. an award of treble damages, pursuant to 35 U.S.C. § 284, to the extent that FSH's acts of infringement of the Patents are determined to be willful;
20. an award of prejudgment interest, pursuant to 35 U.S.C. § 284, from the date of each act of infringement of the Patents by FSH to the day a damages judgment is entered, and a further award of post-judgment interest, pursuant to 28 U.S.C. § 1961, continuing until such judgment is paid;
21. an award of reasonable attorneys' fees against FSH, pursuant to 35 U.S.C. § 285, based on Defendants' infringement of the Patents;
22. that Defendant AGM has infringed, directly and/or indirectly, the '966 and '323 Patents;

23. a permanent injunction restraining Defendant and their directors, officers, employees, agents, parents, subsidiaries, affiliates, and all persons in active concert or participation with them from infringement, inducement to infringe, or contributory infringement of the '966, and/or '323 Patents, including the manufacture, sale, offer for sale, distribution, or promotion of products and/or services falling within the scope of the '966, and/or '323 Patents, pursuant to 35 U.S.C. § 283;
24. an award of damages against Defendant AGM sufficient to compensate T-NETIX for the infringement of the '966 and/or '323 Patents, in an amount not less than T-NETIX's lost profits and/or a reasonable royalty and interest and costs, pursuant to 35 U.S.C. § 284;
25. an award of treble damages, pursuant to 35 U.S.C. § 284, to the extent that AGM's acts of infringement of the '966 and/or '323 Patents are determined to be willful;
26. an award of prejudgment interest, pursuant to 35 U.S.C. § 284, from the date of each act of infringement of the '966 and/or '323 Patents by AGM to the day a damages judgment is entered, and a further award of post-judgment interest, pursuant to 28 U.S.C. § 1961, continuing until such judgment is paid;
27. an award of reasonable attorneys' fees against AGM, pursuant to 35 U.S.C. § 285, based on Defendants' infringement of the '966 and/or '323 Patents;
28. such other and further relief to which T-NETIX and Evercom may be entitled.

Respectfully submitted.

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CERTIFICATE OF SERVICE

This is to certify that on this 26th day of June, 2007 notification of filing of the document has been forwarded to all counsel of record via the Court's ECF system:

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