

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

MORRIS REESE

*Plaintiff,*

VS.

AASTRA TELECOM U.S., INC.,  
CIDCO COMMUNICATIONS  
CORPORATION, CORTELCO, INC,  
COBY ELECTRONICS CORPORATION,  
FANSTEL CORPORATION, MATSUSHITA  
ELECTRIC CORPORATION OF AMERICA,  
VTECH COMMUNICATION, INC,  
RADIOSHACK CORPORATION, and  
ATLINKS USA, INC.

*Defendants.*

Case No. 2:03CV267  
(JURY) (WARD)

## JURY TRIAL DEMANDED

## FOURTH AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Morris Reese (“Reese”) brings this action against defendants Aastra Telecom U.S., Inc. (“Aastra”), CIDCO Communications Corporation (“CIDCO”), Cortelco, Inc. (“Cortelco”), Coby Electronics Corporation (“Coby”), Fanstel Corporation (“Fanstel”), Matsushita Electric Corporation of America (“Matsushita”), VTech Communication, Inc. (“VTech”), Radioshack Corporation (“Radioshack”), and ATLINKS USA, Inc. (“Atlinks”) and alleges:

## THE PARTIES

1. Reese is an individual residing in Thousand Oaks, California.
2. Aastra is a corporation organized and existing under the laws of Delaware, has designated its registered office for purposes of service of process as The Corporation, 1160 Rte

22 E, Bridgewater, New Jersey 08807, and is doing business in this judicial district and elsewhere in the United States. Aastra's counsel, George C. Beck, Foley & Lardner LLP, 3000 K Street, N.W., Suite 500, Washington D.C. 20007-1543, has agreed to accept service of process on behalf of Aastra.

3. CIDCO is a corporation organized and existing under the laws of Delaware, has designated its registered office for purposes of service of process as Tom Beck, 105 Cochrane Cir., Morgan Hill, California 95037, and is doing business in this judicial district and elsewhere in the United States.

4. Cortelco is a corporation organized and existing under the laws of Delaware, has designated its registered office for purposes of service of process as C T Corporation System, 645 Lakeland East Dr., Suite 101, Flowood, Mississippi 39232, and is doing business in this judicial district and elsewhere in the United States.

5. Coby is a corporation organized and existing under the laws of New York, has designated its registered office for purposes of service of process as Toan Ton, 2117 Pasa Real Ave., South Gate, California, 90280 and is doing business in this judicial district and elsewhere in the United States.

6. Fanstel is a corporation organized and existing under the laws of Arizona, has designated its registered office for purposes of service of process as J. Gregory Lake, 101 N. 1<sup>st</sup> Ave., Suite 2000, Phoenix, Arizona 85003, and is doing business in this judicial district and elsewhere in the United States.

7. Matsushita is a corporation organized and existing under the laws of Delaware, has designated its registered office for purposes of service of process as C T Corporation System,

350 N. St. Paul Street, Dallas, Texas 75201, and is doing business in this judicial district and elsewhere in the United States.

**8.** VTech is a corporation organized and existing under the laws of Oregon, has designated its registered office for purposes of service of process as Corporation Service Company, 285 Liberty St. NE, Salem, Oregon 97301, and is doing business in this judicial district and elsewhere in the United States.

**9.** Radioshack is a corporation organized and existing under the laws of Delaware, has designated its registered office for purposes of service of process as Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company, 701 Brazos Street, Suite 1050, Austin, Texas 78701, and is doing business in this judicial district and elsewhere in the United States.

**10.** Atlinks is a corporation organized and existing under the laws of Delaware, has designated its registered office for purposes of service of process as CT Corporation System, 350 N. St. Paul St., Dallas, Texas 75201, and is doing business in this judicial district and elsewhere in the United States.

#### **JURISDICTION AND VENUE**

**11.** This is an action for patent infringement arising under the provisions of the Patent Laws of the United States of America, Title 35, United States Code.

**12.** Subject-matter jurisdiction over the Plaintiff's claim is conferred upon this Court by 28 U.S.C. §§ 1331 and 1338(a).

**13.** Upon information and belief, Aastra provides telephone equipment to many telephone companies, including GTE, SBC/Southwestern Bell, Verizon and Sprint. Upon

information and belief, Aastra also provides telephone equipment to ALLTEL Communications Products. Upon information and belief, Aastra products are supplied through major retailers such as Target, Wal-Mart, Sam's Clubs, Circuit City and RadioShack. Aastra has committed acts of infringement in this District.

**14.** Upon information and belief, each Defendant provides telephone equipment to many telephone companies in Texas, provides telephone equipment that is supplied through major retailers such as Office Depot, Lowes, Target, Wal-Mart, Sam's Clubs, Circuit City and/or RadioShack, and/or has sold telephone equipment in Texas. Each Defendant has committed acts of infringement in this District.

**15.** Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

#### **PATENT INFRINGEMENT**

**16.** On July 30, 2002, U.S. Patent No. 6,427,009 ("the '009 patent"), entitled "Enhanced Apparatus for Use With Caller ID System," a copy of which is attached hereto as Exhibit A, was duly and legally issued to the inventor, Reese. Reese owns all rights and interest in the '009 patent.

**17.** Upon information and belief, each Defendant has in the past and continues to infringe, contribute to infringement, and/or induce infringement of the '009 patent by making, using, selling and/or offering to sell, in this judicial district and elsewhere in the United States, Call Waiting Caller ID products covered by independent claim 20 of the '009 patent and/or that practice the methods covered by independent claims 13 and/or 14 and one or more of the dependent claims 15-19 of the '009 patent.

**18.** Aastra's infringement includes, but is not limited to, the manufacture, use, sale, importation and/or offer for sale of Call Waiting Caller ID telephones and "boxes" such as the Vision 5050 (BE-5050NCW), 50CWR, 50CWL, 50 CWLD, 9417CW, GTE 5050T and Maestro 900 DSS. Aastra is liable for infringement of the '009 patent pursuant to 35 U.S.C. § 271.

**19.** CIDCO's infringement includes, but is not limited to, the manufacture, use, sale, importation and/or offer for sale of Call Waiting Caller ID telephones and "boxes" such as the CW99, DB99, DM80, CT 15, CT 17, CT 2100, CT 250, and CL 906. CIDCO is liable for infringement of the '009 patent pursuant to 35 U.S.C. § 271.

**20.** Cortelco's infringement includes, but is not limited to, the manufacture, use, sale, importation and/or offer for sale of Call Waiting Caller ID "boxes" such as the Caller ID99 (Model ID9921TP2PAK) and the Caller ID97 (Model ID9721TP2PAK). Cortelco is liable for infringement of the '009 patent pursuant to 35 U.S.C. § 271.

**21.** Coby's infringement includes, but is not limited to, the manufacture, use, sale, importation and/or offer for sale of Call Waiting Caller ID "boxes" such as the CT-P30. Coby is liable for infringement of the '009 patent pursuant to 35 U.S.C. § 271.

**22.** Fanstel's infringement includes, but is not limited to, the manufacture, use, sale, importation and/or offer for sale of Call Waiting Caller ID telephones and "boxes" such as the BT112-FA, G99M and B99SCW. Fanstel is liable for infringement of the '009 patent pursuant to 35 U.S.C. § 271.

**23.** Matsushita's infringement includes, but is not limited to, the manufacture, use, sale, importation and/or offer for sale of Call Waiting Caller ID telephones and "boxes" such as the KX-TC1484B and KX-TBC10B. Matsushita is liable for infringement of the '009 patent pursuant to 35 U.S.C. § 271.

**24.** VTech's infringement includes, but is not limited to, the manufacture, use, sale, importation and/or offer for sale of Call Waiting Caller ID telephones such as Models 2426, 2528, 2432, 9123. VTech is liable for infringement of the '009 patent pursuant to 35 U.S.C. § 271.

**25.** Radioshack's infringement includes, but is not limited to, the manufacture, use, sale, importation and/or offer for sale of Call Waiting Caller ID telephones and "boxes" such as the 43-3903, CID-2903, and SP-905. Radioshack is liable for infringement of the '009 patent pursuant to 35 U.S.C. § 271.

**26.** Atlink's infringement includes, but is not limited to, the manufacture, use, sale, importation and/or offer for sale of Call Waiting Caller ID telephones and "boxes" such as the 21006, 21091, 25893, 26930, 26998, 27936 and 29096. Atlinks is liable for infringement of the '009 patent pursuant to 35 U.S.C. § 271.

**27.** Since at least April 14, 2003, the infringement of the '009 patent by Aastra, Cortelco, Fanstel, Matsushita, VTech, Cidco and Atlinks has been with notice and knowledge of the '009 patent and has been willful and deliberate.

**28.** Since at least April 15, 2003, the infringement of the '009 patent by Radioshack has been with notice and knowledge of the '009 patent and has been willful and deliberate.

**29.** Since at least May 14, 2003, the infringement of the '009 patent by Coby has been with notice and knowledge of the '009 patent and has been willful and deliberate.

**30.** Defendants' acts of infringement have caused damage to Reese, and Reese is entitled to recover from the Defendants the damages sustained by Reese as a result of the Defendants' wrongful acts in an amount subject to proof at trial.

**31.** As a consequence of the infringement complained of herein, Reese has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged by such acts in the future unless Defendants are enjoined by this Court from committing further acts of infringement.

**PRAYER FOR RELIEF**

**WHEREFORE**, Reese prays for entry of judgment that:

- A.** Defendants have infringed, contributed to infringement of and/or induced infringement of the '009 patent;
- B.** Defendants' infringement, contributory infringement and/or induced infringement of the '009 patent has been willful and deliberate;
- C.** Defendants account for and pay to Reese all damages caused by Defendants' infringement of the '009 patent, and that the Court increase the amount of damages to three times the amount found or assessed by the Court because of the willful and deliberate nature of the infringement, all in accordance with 35 U.S.C. § 284;
- D.** Reese be granted permanent injunctive relief pursuant to 35 U.S.C. § 283 enjoining Defendants, their officers, agents, servants, employees and those persons in active concert or participation with them from further acts of patent infringement;
- E.** Reese be granted pre-judgment and post-judgment interest on the damages caused to him by reason of Defendants' patent infringement;
- F.** The Court declare this an exceptional case and that Reese be granted his reasonable attorneys' fees in accordance with 35 U.S.C. § 285;
- G.** Costs be awarded to Reese; and,

**H.** Reese be granted such other and further relief as the Court may deem just and proper under the circumstances.

**DEMAND FOR JURY TRIAL**

Reese demands trial by jury on all claims and issues so triable.

Respectfully submitted,

Dated: August 20, 2004

By: /s/ Otis Carroll

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### **CERTIFICATE OF SERVICE**

I hereby certify that on the \_\_ day of August, 2004, a copy of the foregoing was sent electronically in .pdf format and/or by first class mail to the following:

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