

4. Venue in this court is proper pursuant to 28 U.S.C. §1400(b) in that this is a civil action for patent infringement and Defendant (i) resides in this judicial district, (ii) committed acts of infringement in this judicial district, and (iii) has a regular and established place of business in this judicial district.

BACKGROUND FACTS AND INVENTION

5. Plaintiff has filed an action against the Defendant in the United States District Court for the Eastern District of Pennsylvania (the "Pennsylvania case") which complaint against the defendant was dismissed for lack of personal jurisdiction. This complaint is a continuation of the Pennsylvania case.

6. In this country, there had been a major problem of people making fraudulent international telephone calls on payphones and other devices. That fraud led to losses of billions of dollars to telecommunications companies.

7. The international pay phone fraud escalated in the early 1990s after the FCC, pursuant to new federal law, prohibited the blocking of access codes that permit the consumer to reach the operator service provider of the consumer's choice. Once the access codes were unblocked in payphones and at certain other locations, the fraudulent use of payphones for international calls skyrocketed. At certain payphone sites, losses due to international calls were reaching an average of \$1,500 a month per phone. Fortunately, Mr. Gammino invented a solution that prevents that fraud.

8. In 1991, the Port Authority of New York and New Jersey (the "Port Authority") had massive fraud problems with international calls on payphones, particularly at the Port Authority Bus Terminal in New York City. The Port

Authority brought in major phone companies to solve the problem. Those companies, including AT&T and New York Telephone (a predecessor to Defendant), could not solve the Port Authority's fraud problem and reported to the Port Authority that a solution to the problem was "not technically possible."

9. In 1991, John Gammino was hired by the Port Authority to try and do what no one else could do – stop the fraud.

10. Mr. Gammino virtually eliminated international payphone fraud at the Bus Terminal. The solution invented by Mr. Gammino comprises an algorithm that can distinguish international calls from other types of calls and can selectively prevent international calls (the "Solution").

11. The Port Authority recognized Mr. Gammino's Solution when it said that the pay phone fraud problem was virtually eliminated at the Bus Terminal due to the technological changes that Mr. Gammino implemented.

PATENTS

12. Mr. Gammino filed for patent protection for the Solution, which ultimately resulted in U.S. Patent No. 5,809,125 ("the '125 Patent") being duly and legally issued to Mr. Gammino on September 15, 1998, and U.S. Patent No. 5,812,650 ("the '650 Patent") being duly and legally issued to Mr. Gammino on September 22, 1998 (collectively, the "Gammino Patents"). Copies of the Gammino Patents are attached hereto, made a part hereof, and marked as Exhibits "A" and "B", respectively. Hereinafter, for the time period after September 15, 1998, the Solution may be referred to as the "Patented Solution."

13. The '125 Patent and '650 Patent relate to methods and apparatus for preventing potentially fraudulent international telephone calls.

14. A telephone call is initiated by dialing a sequence of signals. Each dialing sequence is made up of a "plurality" of dialing signals. A plurality is a set of two or more signals. For example, dialing "101-0288-011-41-21-619-0670" would be an attempt to make an international call and as an example, the call could be analyzed for the purposes of the Patents as follows: the first plurality (or set) is 101, the second plurality is 0288, and the third plurality is 011. The first plurality is a code that provides access to carriers, the second plurality identifies the specific carrier selected and the third plurality indicates that the call is a direct dialed international call.

As an example, at least one of the claims of the '125 or '650 Patent covers the prevention of the establishment of a telephone call if (1) the third plurality of dialing signals are determined to be (a) in a location in the dialing sequence to accomplish international dialing and (b) be predetermined signals used for international dialing and (2) the first plurality of dialing signals are determined to be predetermined signals.

COUNT I

PATENT INFRINGEMENT OF UNITED STATES **PATENT NO. 5,809,125**

15. The averments in paragraphs 1 through 14 above are incorporated herein by reference.

16. Defendant has used and continues to use Mr. Gammino's Patented Solution in order to prevent fraudulent international telephone calls, resulting in millions of dollars in savings.

17. Defendant offers the Patented Solution for a profit and collects revenues from others in connection with the deployment of the Patented Solution in pay phones and other devices.

18. Defendant is using the methods in the claims of '125 Patent and '650 Patent in its payphones, network switches, PBX lines, Centrex lines, Business Exchange lines and other lines.

19. Defendant has infringed and continues to infringe the '125 Patent and '650 Patent with its international blocking service.

20. As a result of the foregoing conduct, Defendant infringes one or more of the claims of the '125 Patent under 35 U.S.C. §271(a) and has caused Mr. Gammino damages as a direct and proximate result thereby. Defendant is liable to Mr. Gammino for all damages suffered by Mr. Gammino as a result of the infringement of the '125 Patent including lost income, profits, and/or royalties, the elimination and/or reduction of business opportunities, market erosion, and other damages.

21. Mr. Gammino's damages resulting from Defendant's infringement of both the '125 Patent and '650 Patent include, but are not limited to, the loss of greater than \$ 8.46 million in royalty fees resulting from Defendant's use of the Patented Solution in public lines ("Public Line Use Damages"). Mr. Gammino's damages further include the loss of millions of dollars in royalty fees resulting

from Defendant's use of the Patented Solution in some portions of its business lines and consumer lines, including, but not limited to, network switches, PBX lines, Centrex lines and Business Exchange Lines.

COUNT II

PATENT INFRINGEMENT OF UNITED STATES PATENT NO. 5,812,650

22. The averments in paragraphs 1 through and including 21 above are incorporated herein by reference.

23. The actions of Defendant as set forth above constitute infringements of one or more of the claims of the '650 Patent under 35 U.S.C. §271(a) and have caused Mr. Gammino damages as a direct and proximate result thereby. Defendant is liable to Mr. Gammino for all damages suffered by Mr. Gammino as a result of the infringement of the '650 Patent including lost income, profits, and/or royalties, the elimination and/or reduction of business opportunities, market erosion, \$ 8.46 million in the Public Line Use Damages, and loss in all of millions of dollars in royalty fees resulting from Defendants use of the Patented Solution in some portions of its business lines and consumer lines, including, but not limited to, in network switches, PBX lines, Centrex lines and Business Exchange lines.

COUNT III

INDUCEMENT TO INFRINGE OF UNITED STATES PATENT NO. 5,809,125

24. The averments set forth in paragraphs 1 through 23 above are incorporated herein by reference.

25. The actions of Defendant as set forth above constitute an active inducement to infringe the '125 Patent under 35 U.S.C. §271(b) and have caused Mr. Gammino damages as a direct and proximate result thereby. Defendant is liable to Mr. Gammino for all damages suffered by Mr. Gammino as a result of the infringement of the '125 Patent including those damages set forth above, lost income, profits, and/or royalties, the elimination and/or reduction of business opportunities, market erosion, the Public Line Use Damages, and other damages.

COUNT IV

INDUCEMENT TO INFRINGE OF UNITED STATES PATENT NO. 5,812,650

26. The averments set forth in paragraphs 1 through 25 above are incorporated herein by reference.

27. The actions of Defendant as set forth above constitute an active inducement to infringe the '650 Patent under 35 U.S.C. §271(b) and have caused Mr. Gammino damages as a direct result and proximate result thereby. Defendant is liable to Mr. Gammino for all damages suffered by Mr. Gammino as a result of the infringement of the '650 Patent including those damages set forth above, lost income, profits, and/or royalties, the elimination and/or reduction of business opportunities, market erosion, the Public Line Use Damages, and other damages.

WHEREFORE, Plaintiff John R. Gammino prays:

(a) that Defendant be adjudged to have infringed United States Letters Patent No. 5,809,125;

(b) that Defendant be adjudged to have infringed United States Letters Patent No. 5,812,650;

(c) that Defendant, its respective officers, agents, servants, employees and attorneys, and those persons in active concert or participation with them who receive actual notice of an injunctive order regarding the '125 Patent, be preliminarily and permanently enjoined from infringing United States Letters Patent No. 5,809,125;

(d) that Defendant, its respective officers, agents, servants, employees and attorneys, and those persons in active concert or participation with them who receive actual notice of an injunction order regarding the '650 Patent, be preliminarily and permanently enjoined from infringing United States Letters Patent No. 5,812,650;

(e) that Defendant account for damages to John R. Gammino for its infringement of United States Letters Patent No. 5,809,125 and that a judgment be entered in favor of John R. Gammino and against Defendant in an amount in excess of \$8.46 million;

(f) that Defendant account for damages to John R. Gammino for its infringement of United States Letters Patent No. 5,812,650 and that a judgment be entered in favor of John R. Gammino and against Defendant in an amount in excess of \$8.46 million;

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(g) that the damages in this judgment be trebled in accordance with 35 U.S.C. §284 for the willful and deliberate infringement of United States Letters Patent No. 5,809,125;

(h) that the damages in this judgment be trebled in accordance with 35 U.S.C. §284 for the willful and deliberate infringement of United States Letters Patent No. 5,812,650;

(i) that John R. Gammino be awarded punitive and exemplary damages against Defendant;

(j) that an assessment be awarded to plaintiff of interest on the damages so computed;

(k) that the Court declare this case exceptional and award John R. Gammino his reasonable attorney fees and costs pursuant to 35 U.S.C. §285; and

(l) that John R. Gammino receive such other and further relief as this Honorable Court shall deem just and proper.

JURY TRIAL DEMANDED

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