

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

Steven L. Zimmers and Daniel W. Davis	)	
	)	Case No. 1:08CV342
Plaintiffs,	)	
	)	
v.	)	Judge Michael R. Barrett
	)	
National Notification Network, L.L.C.,	)	
3N Global, Inc., and	)	
3N Global, Inc. d/b/a 3n (National	)	
Notification Network)	)	JURY TRIAL DEMANDED
	)	
Defendants.	)	

**AMENDED COMPLAINT**

Plaintiffs Steven L. Zimmers and Daniel W. Davis (hereinafter collectively “Plaintiffs”), by their attorneys and for their Complaint against National Notification Network, L.L.C., 3N Global, Inc., and 3N Global, Inc. d/b/a 3n (National Notification Network) (hereinafter collectively “Defendants”), alleges as follows:

**THE PARTIES**

1. Plaintiff Steven L. Zimmers is an individual residing at 710 Clinton Springs Avenue, Cincinnati, Ohio 45229.
2. Plaintiff Daniel W. Davis is an individual residing at 6201 Stafford Road, Plant City, Florida 33565.
3. Upon information and belief, defendant National Notification Network, L.L.C. (hereinafter “3n”) was, at the initiation of this action, a limited liability corporation existing under the laws of California with its principal place of business at 505 North Brand Boulevard,

Suite 700, Glendale, California 91203. On information and belief, 3n did and/or does substantial, continuous and systematic business in the State of Ohio, including in the Southern District of Ohio and within the jurisdiction of the Western Division of the United States District Court for the Southern District of Ohio. Additionally, on information and belief, 3n had and/or has one or more promoters, distributors, sales agents, authorized resellers, dealers, and/or warranty centers within the judicial district.

4. Upon information and belief, defendant 3N Global, Inc. (hereinafter “3N”) was, at the initiation of this action, and is, a corporation existing under the laws of Delaware with its principal place of business at 505 North Brand Boulevard #700, Glendale, California 91203. On information and belief, to the extent 3n is now a merged-out entity, 3N is the successor in interest to 3n. On information and belief, 3N does substantial, continuous and systematic business in the State of Ohio, including in the Southern District of Ohio and within the jurisdiction of the Western Division of the United States District Court for the Southern District of Ohio. Additionally, on information and belief, 3N has one or more promoters, distributors, sales agents, authorized resellers, dealers, and/or warranty centers within the judicial district.

5. Additionally and/or alternatively, upon information and belief, defendant 3N Global, Inc. d/b/a 3n (National Notification Network) (hereinafter “3N d/b/a 3n”) was, at the initiation of this action, and is, a corporation existing under the laws of Delaware currently doing business as “3n (National Notification Network)” and has its principal place of business at 505 North Brand Boulevard, Suite 700, Glendale, California 91203. On information and belief, to the extent 3n is now a merged-out entity, 3N d/b/a 3n is the doing business as successor in interest to 3n. On information and belief, 3N d/b/a 3n did and/or does substantial, continuous

and systematic business in the State of Ohio, including in the Southern District of Ohio and within the jurisdiction of the Western Division of the United States District Court for the Southern District of Ohio. Additionally, on information and belief, 3N d/b/a 3n had and/or has one or more promoters, distributors, sales agents, authorized resellers, dealers, and/or warranty centers within the judicial district.

### **JURISDICTION OF VENUE**

6. This is an action for patent infringement and arises under the patent laws of the United States, Title 35, United States Code. Federal question jurisdiction is conferred pursuant to 28 U.S.C. §§1331 & 1338(a).

7. On information and belief, based upon the substantial, continuous and systematic business activities of 3n in the State of Ohio, including the Southern District of Ohio and within the jurisdiction of the Western Division of the United States District Court for the Southern District of Ohio, and Defendants' purposefully directed activities to residents of the State of Ohio, this Court has personal jurisdiction over Defendants. Moreover, Defendants have committed acts of infringement within this district.

8. On information and belief, venue is proper in this judicial district under 28 U.S.C. §§1391(b)-(c) & 1400(b).

### **BACKGROUND FACTS**

9. On November 9, 2004, the United States Patent and Trademark Office issued United States Letters Patent No. 6,816,878, entitled "Alert Notification System" (hereinafter "the '878 patent"). A true and correct copy of the '878 patent is attached hereto as Exhibit 1.

10. Plaintiffs holds all right, title and interest in and to the '878 patent with full rights to pursue recovery of royalties or damages for infringement of the '878 patent, including full rights to recover past and future damages.

**Count I – Infringement of U.S. Letters Patent No. 6,816,878 By 3n**

11. The allegations of paragraphs 1-10 are incorporated herein by reference as though fully set forth herein.

12. On information and belief, 3n has made, used, offered for sale or sold 3n Instacom, 3n InstaCom Enterprise, 3n InstaCom Campus Alert, 3n InstaCom Citizen Alert, 3n InstaCom Hospitals, 3n InstaCom GIS Incident Manager and Pandemic Solution which infringe at least one claim of the '878 patent. On information and belief, this 3n Instacom, 3n InstaCom Enterprise, 3n InstaCom Campus Alert, 3n InstaCom Citizen Alert, 3n InstaCom Hospitals, 3n InstaCom GIS Incident Manager and Pandemic Solution have been and/or are being offered for sale and/or sold by 3n, its distributor(s), dealer(s), and/or its sales agent(s) within the geographic boundary of the Western Division of the United States District Court of the Southern District of Ohio.

13. 3n has infringed, contributed to the infringement and/or induced others to infringe the '878 patent and, unless enjoined, will continue to do so by making, using, selling, or offering for sale products that are claimed by the '878 patent and contributing to or inducing others to make, use, sell or offer for sale products claimed by the '878 patent without license or permission from Plaintiffs.

14. On information and belief, the acts of infringement complained of herein are being carried out willfully and with full knowledge by 3n of the '878 patent.

15. As a result of 3n's actions, Plaintiffs have suffered and continue to suffer substantial injury, including irreparable injury, which will result in damages to Plaintiffs, including loss of sale and profits, which Plaintiffs would have made but for the acts of infringement by 3n, unless 3n is preliminarily and permanently enjoined from infringing the '878 patent.

**Count I – Infringement of U.S. Letters Patent No. 6,816,878 By 3N**

16. The allegations of paragraphs 1-15 are incorporated herein by reference as though fully set forth herein.

17. On information and belief, 3N has made, used, offered for sale or sold 3n Instacom, 3n InstaCom Enterprise, 3n InstaCom Campus Alert, 3n InstaCom Citizen Alert, 3n InstaCom Hospitals, 3n InstaCom GIS Incident Manager and Pandemic Solution which infringe at least one claim of the '878 patent. On information and belief, this 3n Instacom, 3n InstaCom Enterprise, 3n InstaCom Campus Alert, 3n InstaCom Citizen Alert, 3n InstaCom Hospitals, 3n InstaCom GIS Incident Manager and Pandemic Solution have been and/or are being offered for sale and/or sold by 3N, its distributor(s), dealer(s), and/or its sales agent(s) within the geographic boundary of the Western Division of the United States District Court of the Southern District of Ohio.

18. 3N has infringed, contributed to the infringement and/or induced others to infringe the '878 patent and, unless enjoined, will continue to do so by making, using, selling, or offering for sale products that are claimed by the '878 patent and contributing to or inducing others to make, use, sell or offer for sale products claimed by the '878 patent without license or permission from Plaintiffs.

19. On information and belief, the acts of infringement complained of herein are being carried out willfully and with full knowledge by 3N of the '878 patent.

20. As a result of 3N's actions, Plaintiffs have suffered and continue to suffer substantial injury, including irreparable injury, which will result in damages to Plaintiffs, including loss of sale and profits, which Plaintiffs would have made but for the acts of infringement by 3N, unless 3N is preliminarily and permanently enjoined from infringing the '878 patent.

**Count III – Infringement of U.S. Letters Patent No. 6,816,878 By 3N d/b/a 3n**

21. The allegations of paragraphs 1-20 are incorporated herein by reference as though fully set forth herein.

22. On information and belief, 3N d/b/a 3n has made, used, offered for sale or sold 3n Instacom, 3n InstaCom Enterprise, 3n InstaCom Campus Alert, 3n InstaCom Citizen Alert, 3n InstaCom Hospitals, 3n InstaCom GIS Incident Manager and Pandemic Solution which infringe at least one claim of the '878 patent. On information and belief, this 3n Instacom, 3n InstaCom Enterprise, 3n InstaCom Campus Alert, 3n InstaCom Citizen Alert, 3n InstaCom Hospitals, 3n InstaCom GIS Incident Manager and Pandemic Solution have been and/or are being offered for sale and/or sold by 3n, its distributor(s), dealer(s), and/or its sales agent(s) within the geographic boundary of the Western Division of the United States District Court of the Southern District of Ohio.

23. 3N d/b/a 3n has infringed, contributed to the infringement and/or induced others to infringe the '878 patent and, unless enjoined, will continue to do so by making, using, selling, or offering for sale products that are claimed by the '878 patent and contributing to or inducing

others to make, use, sell or offer for sale products claimed by the '878 patent without license or permission from Plaintiffs.

24. On information and belief, the acts of infringement complained of herein are being carried out willfully and with full knowledge by 3N d/b/a 3n of the '878 patent.

25. As a result of 3N d/b/a 3n's actions, Plaintiffs have suffered and continue to suffer substantial injury, including irreparable injury, which will result in damages to Plaintiffs, including loss of sale and profits, which Plaintiffs would have made but for the acts of infringement by 3N d/b/a 3n, unless 3N d/b/a 3n is preliminarily and permanently enjoined from infringing the '878 patent.

WHEREFORE, Plaintiffs pray for relief against 3n, 3N, and 3N d/b/a 3n as follows:

A. That a judgment be entered that 3n, 3N, and 3N d/b/a 3n have infringed United States Letters Patent No. 6,816,878;

B. That 3n, 3N, and 3N d/b/a 3n, and their agents, sales representatives, servants and employees, associates, attorneys, parents, successors and assigns, and any and all persons or entities acting at, through, under or in active concert or participation with it, be enjoined and restrained preliminarily and permanently from infringing United States Letters Patent No. 6,816,878;

C. That a judgment be entered that 3n, 3N, and 3N d/b/a 3n be required to pay over to Plaintiffs all damages sustained by Plaintiffs due to such acts of infringement and that such damages be trebled pursuant to 35 U.S.C. § 284 for the willful acts of infringement complaint of herein;

D. That this case be adjudged and decreed exceptional under 35 U.S.C. § 285 entitling Plaintiffs to an award of their reasonable attorney fees and that such reasonable attorney fees be awarded;

E. That Plaintiffs be awarded its costs and prejudgment interest on all damages;

F. That 3n, 3N, and 3N d/b/a 3n be required to file with the Court within 30 days after entry of the final judgment of this case a written statement under oath setting forth in detail the manner in which 3n, 3N, and 3N d/b/a 3n have complied with the judgment; and

G. That Plaintiffs be awarded such other and further relief as the Court deems just and proper.

#### **JURY DEMAND**

Plaintiffs hereby demand and request trial by jury of all issues raised that are triable by jury.

Respectively submitted,

Dated: June 24, 2008

/s/ John Paul Davis

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Attorneys for Plaintiffs,

Steven L. Zimmers and Daniel W. Davis



**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the forgoing was sent to the following counsel via

U.S. First Class Mail this 24th day of June, 2008:

Juanita R. Brooks, Esq.  
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By: /s/ John Paul Davis  
John Paul Davis