

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

EON CORP. IP HOLDINGS, LLC,  Plaintiff,  v.  SENSUS USA, INC, et al Defendants.	§ § § § § § § § § §	Civil Action No. 6:09-cv-116  JURY TRIAL REQUESTED
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**PLAINTIFF EON CORP. IP HOLDINGS, LLC’S SECOND AMENDED COMPLAINT**

Plaintiff EON Corp. IP Holdings, LLC (“EON”) files this Second Amended Complaint for patent infringement against defendants Sensus USA, Inc. (“Sensus”), Bell Industries, Inc. (“Bell Industries”), and Vehicle Manufacturers, Inc. (“Vehicle Manufacturers”) (collectively, the “Defendants”) for infringement of U.S. Patent No. 5,388,101 (the “101 Patent”) and U.S. Patent No. 5,481,546 (the “546 Patent”) (collectively, the “Patents-in-Suit”) pursuant to 35 U.S.C. §271. Copies of the Patents-in-Suit are attached as Exhibits A and B.

**PARTIES**

1. Plaintiff EON Corp. IP Holdings, LLC is a Texas limited liability company with its principal place of business located at 719 W. Front Street, Suite 108, Tyler, Texas 75702.

2. Defendant Sensus is a Delaware corporation with its principal place of business at 8601 Six Forks Road, Suite 300, Raleigh, North Carolina 27615-2965. The causes of action against Sensus in this Complaint arose from or are connected with purposeful acts committed by Sensus in Texas because, within the State of Texas and/or this judicial district, Sensus (a) uses or induces others to use a two-way communication network to provide paging, messaging, and/or

telemetry services and (b) transacts other business in Texas. Sensus has been served with summons and has entered an appearance in this lawsuit.

3. Defendant Bell Industries is a California corporation with its principal place of business at 8888 Keystone Crossing, Suite 1700, Indianapolis, Indiana 46240-7657. The causes of action against Bell Industries in this Complaint arose from or are connected with purposeful acts committed by Bell Industries in Texas because, within the State of Texas and/or this judicial district, Bell Industries (a) uses or induces others to use a two-way communication network to provide paging, messaging, and/or telemetry services and (b) transacts other business in Texas. Bell Industries has been served with summons and has entered an appearance in this lawsuit.

4. Defendant Vehicle Manufacturers is a New York corporation with its principal place of business at 2095 Expressway Drive, Hauppauge, New York, 11788. The causes of action against Vehicle Manufacturers in this Complaint arose from or are connected with purposeful acts committed by Vehicle Manufacturers in Texas because, within the State of Texas and/or this judicial district, Vehicle Manufacturers (a) uses or induces others to use a two-way communication network to provide paging, messaging and/or telemetry services and (b) transacts other business in Texas. Defendant Vehicle Manufacturers has been served with summons and is currently in default and a clerk's entry of default was entered against Vehicle Manufacturers on October 30, 2009.

#### **JURISDICTION AND VENUE**

5. This is an action for patent infringement under the Patent Laws of the United States, 35 U.S.C. §271.

6. This Court has subject-matter jurisdiction pursuant to 28 U.S.C. §§1331 and 1338(a).

7. This Court has personal jurisdiction over Defendants. Defendants have conducted and do conduct business within the State of Texas. Defendants, directly or through intermediaries, offer for sale, sell, and/or advertise (including through the provision of an interactive web page) their services in the State of Texas and/or the Eastern District of Texas. These infringing services have been and continue to be purchased and/or used by consumers in the State of Texas and/or the Eastern District of Texas. Defendants have committed the tort of patent infringement within the State of Texas, and have committed the tort of patent infringement within the Eastern District of Texas.

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

**COUNT 1: PATENT INFRINGEMENT**

9. On February 7, 1995, the United States Patent and Trademark Office (“USPTO”) duly and legally issued the ‘101 Patent entitled “Interactive Nationwide Data Service Communication System for Stationary and Mobile Battery Operated Subscriber Units” after a full and fair examination. EON is the assignee of all rights, title, and interest in and to the ‘101 Patent and possesses all rights of recovery under the ‘101 Patent, including the right to recover damages for past infringement.

10. On January 2, 1996, the USPTO duly and legally issued the ‘546 Patent, entitled “Interactive Nationwide Data Service Communication System for Stationary and Mobile Battery Operated Subscriber Units” after a full and fair examination. EON is the assignee of all rights,

title, and interest in and to the '546 Patent and possesses all rights of recovery under the '546 Patent, including the right to recover damages for past infringement.

11. Each of the Patents-in-Suit is valid and enforceable.

12. Upon information and belief, Sensus has been and is now infringing, directly and indirectly by way of inducement and/or contributory infringement, literally and/or under the doctrine of equivalents, the Patents-in-Suit in this District, the State of Texas, and elsewhere by making, using, offering for sale, and/or selling two-way communication networks and/or data systems that fall within the scope of at least one claim of each of the Patents-in-Suit.

13. Upon information and belief, Bell Industries has been and is now infringing, directly and indirectly by way of inducement and/or contributory infringement, literally and/or under the doctrine of equivalents, the Patents-in-Suit in the State of Texas and elsewhere by making, using, offering for sale, and/or selling two-way communication networks and/or data systems that fall within the scope of at least one claim of each of the Patents-in-Suit. Additionally, upon information and belief, Bell Industries has willfully infringed the Patents-In-Suit. Specifically, in the consolidated financials of Bell Industries and Bell Techlogix (Bell Industries' wholly owned subsidiary), as reported to the United States Securities and Exchange Commission in Bell Industries' Form 10-Q for the period ended March 31, 2009, Bell Industries details a December 1, 2008 Paging Equipment Processing and Distribution Statement of Work No. 1 ("Distribution Agreement"), pursuant to which Bell Techlogix provided paging equipment services to Velocita Wireless, LLC ("Velocita") in connection with Velocita's paging business. The Distribution Agreement was entered into on December 1, 2008. The Distribution Agreement was entered into more than two months after EON filed a patent infringement lawsuit

against SkyTel Corp (the entity that Bell Industries alleges it purchased its paging business from) in this Court and styled *Eon Corp. IP Holdings, LLC v. Verizon Clinton Center Drive Corp., et al*, Civil Action No. 6:08-cv-00385. Upon information and belief, Bell Industries had actual knowledge of the lawsuit against SkyTel Corp. and that, as a result, all actions taken pursuant to the Distribution Agreement constitute willful infringement.

14. Upon information and belief, Vehicle Manufacturers has been and is now infringing, directly and indirectly by way of inducement and/or contributory infringement, literally and/or under the doctrine of equivalents, the Patents-in-Suit in the State of Texas and elsewhere by making, using, offering for sale, and/or selling two-way communication networks and/or data systems that fall within the scope of at least one claim of each of the Patents-in-Suit.

15. EON has no adequate remedy at law against Defendants' acts of infringement and, unless Defendants are enjoined from their infringement of the Patents-in-Suit, will suffer irreparable harm.

16. EON is in compliance with the requirements of 35 U.S.C. §287.

17. Defendants, by way of their infringing activities, have caused and continue to cause EON to suffer damages in an amount to be determined at trial.

**PRAYER FOR RELIEF**

WHEREFORE, EON prays for the following relief:

A. A judgment in favor of EON that Defendants have infringed, directly and indirectly by way of inducement and/or contributory infringement, literally and/or under the

doctrine of equivalents, the Patents-in-Suit, and a judgment against Bell Industries, Inc. that Bell Industries, Inc. has willfully infringed the Patents-In-Suit;

B. A permanent injunction enjoining Defendants and their officers, directors, agents, servants, employees, affiliates, divisions, branches, subsidiaries, parents, and all others acting in concert or privity with any of them from infringing, inducing the infringement of, or contributing to the infringement of the Patents-in-Suit;

C. An award to EON of the damages to which it is entitled under 35 U.S.C. §284 for Defendants' past infringement and any continuing or future infringement up until the date Defendants are finally and permanently enjoined from further infringement, including compensatory damages;

E. A judgment and order requiring Defendants to pay the costs of this action (including all disbursements) as well as attorneys' fees as provided by 35 U.S.C. §285;

F. An award to EON of pre-judgment and post-judgment interest on its damages; and

G. Such other and further relief in law or in equity to which EON may be justly entitled.

**DEMAND FOR JURY TRIAL**

EON demands a trial by jury of any and all issues triable of right before a jury.

DATED: November 9, 2009.

Respectfully submitted,

JACKSON WALKER LLP

/s/ A.M. (Russ) Meyer, Jr.

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**ATTORNEYS FOR PLAINTIFF**

**EON CORP. IP HOLDINGS, LLC**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document by the Court's CM/ECF system in accordance with Local Rule CV-5(a)(3) on this 9<sup>th</sup> day of November, 2009. Any other counsel of record will be served by facsimile transmission.

/s/ A.M (Russ) Meyer, Jr.