

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

WAVPORT, L.L.C.,

Plaintiff,

vs.

TELLME NETWORKS, INC.; VERIZON
SERVICES CORPORATION; and AT&T
MOBILITY LLC,

Defendants.

Civil Action No. 5:07-cv-00072-DF

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT

For its First Amended Complaint, Plaintiff WavPort, L.L.C. (“WavPort”) alleges as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement. WavPort alleges that Tellme Networks, Inc., Verizon Services Corporation, and AT&T Mobility LLC (“Defendants”) infringe WavPort’s United States Patent No. 6,853,714 (“the ‘714 Patent”) by making, using, offering for sale, and selling an enhanced services system and/or using the system to provide enhanced telecommunications services to subscribers that, among other things, infringes on one or more claims of the ‘714 Patent. WavPort seeks damages, injunctive and other relief for Defendants’ willful infringement of the ‘714 Patent.

THE PARTIES

2. Plaintiff WavPort is a limited liability corporation organized and existing under the laws of the State of Texas, with its principal place of business in Dallas, Texas.

3. Defendant Tellme Networks, Inc., is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 1310 Villa Street, Mountain View, California 94041. Tellme Networks, Inc. may be served with process through its registered agent, The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801.

4. Defendant AT&T Mobility LLC is a Delaware corporation whose principal place of business is believed to be at 5565 Glenridge Connector, Atlanta, Georgia 30342. AT&T Mobility LLC may be served with process through its counsel, Roger Fulghum, Baker Botts, LLP, One Shell Plaza, 910 Louisiana, Houston, Texas 77002-4995.

5. Defendant Verizon Services Corporation is a Delaware corporation with its principal place of business believed to be in New York. Verizon Services Corporation may be served with process through its counsel, Edward George (Ted) Dane, Munger Tolles & Olson LLP-LA, 355 S. Grande Ave., 35th Floor, Los Angeles, CA 90071-1560.

JURISDICTION AND VENUE

6. This action arises under the United States Patent Laws, codified at 35 U.S.C. § 1, *et seq.*

7. This Court has exclusive subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

8. This Court has personal jurisdiction over Defendants because, upon information and belief, Defendants are transacting business and infringing the '714 Patent in the Eastern District of Texas.

9. Venue is proper in the Eastern District of Texas pursuant to 28 U.S.C. §§ 1391(b), (c) and 1400(b), because, upon information and belief, Defendants have committed acts of direct

and indirect infringement in the Eastern District of Texas and have transacted business in, and have established minimum contacts with, the Eastern District of Texas.

THE ‘714 PATENT

10. On February 8, 2005, United States Patent No. 6,853,714, entitled “Apparatus and Method for Providing Enhanced Telecommunications Services” was duly and lawfully issued by the United States Patent and Trademark Office. A true copy of the ‘714 Patent is attached as Exhibit A.

11. WavPort is the sole owner of the ‘714 Patent and holds the right to sue and recover for past, present, and future infringement thereof.

THE ACCUSED METHOD

12. Defendants make, use, offer for sale, and/or sell enhanced telecommunications services, which include enhanced telecommunications services provided by an enhanced services platform that has a voice activated interface, among other things, that enables subscribers to access enhanced telecommunications services.

COUNT 1: INFRINGEMENT OF THE ‘714 PATENT BY DEFENDANTS

13. The allegations of the preceding paragraphs of this Complaint are incorporated by reference as though fully set forth herein.

14. Defendants make, use, offer for sale, and/or sell enhanced telecommunications services, including enhanced telecommunications services provided with an enhanced services system that, among other things, provides enhanced telecommunications services to subscribers, that, among other things, infringes one or more claims of the ‘741 patent.

15. Defendants have induced and continue to induce infringement of the '714 Patent by inducing, aiding, and enabling others to make, use, sell, offer to sell, and/or import methods, services, and/or systems that are covered by one or more claims of the '714 Patent.

16. Defendants have committed and continue to commit acts of contributory infringement of the '714 Patent by making, using, selling, offering to sell, and/or importing methods, services, and/or systems that are covered by one or more claims of the '714 Patent.

17. Defendants had actual and/or constructive notice of the '714 Patent, but continued to make, use, offer to sell, sell, and/or import methods that are covered by one or more claims of the '714 Patent. Accordingly, Defendants' infringement of the '714 Patent has been, and continues to be, willful and deliberate.

18. Defendants' willful infringement of the '714 Patent makes this case exceptional pursuant to 35 U.S.C. § 285.

19. Defendants have caused and will continue to cause WavPort substantial damage and irreparable injury by virtue of their past and continuing infringement of the '714 Patent. WavPort will suffer further damage and irreparable injury unless and until Defendants are enjoined by this Court from continuing such infringement.

PRAYER FOR RELIEF

WHEREFORE, WavPort prays for relief against Defendants as follows:

a. Judgment that Defendants have infringed, induced others to infringe, and committed acts of contributory infringement with respect to the claims of the '714 Patent;

b. Judgment that Defendants' patent infringement has been, and continues to be, willful;

c. A permanent injunction enjoining Defendants, their officers, agents, servants, employees, and those persons in active concert or participation with any of them, from making, using, offering for sale, selling, or importing any method or system that is found to infringe the '714 Patent;

d. Awarding WavPort damages adequate to compensate for the infringement by Defendants, but in no event less than a reasonable royalty for the use made of the invention by Defendants, together with interest and costs under 35 U.S.C. § 284;

e. Trebling the aforesaid damages due to Defendants' willful infringement, pursuant to 35 U.S.C. § 284;

f. Awarding pre- and post-judgment interest on the damages assessed;

g. Declaring this case exceptional pursuant to 35 U.S.C. § 285, and awarding WavPort its reasonable attorneys' fees and expenses; and

h. Awarding to WavPort such other and further relief as the Court deems just.

JURY DEMAND

WavPort demands a trial by Jury.

DATED: November 21, 2007.

Respectfully submitted,

LOEWINSOHN FLEGLE DEARY, L.L.P.

/s/ Jim L. Flegle

David R. Deary
Texas Bar No. 05624900
Jim L. Flegle
Texas Bar No. 07118600
Carol E. Farquhar
Texas Bar No. 06828300
12377 Merit Drive, Suite 900
Dallas, Texas 75251-2224
(214) 572-1700 Telephone
(214) 572-1717 Telecopy

**ATTORNEYS FOR PLAINTIFF,
WAVPORT, L.L.C.**

CO-COUNSEL:

Greg Howison
Howison & Arnott, L.L.P.
Lincoln Centre
5420 LBJ Freeway, Suite 660
Dallas, Texas 75240-2318
(972) 680-6050 Telephone
(972) 479-0464 Telecopy

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A).

DATED: November 21, 2007

/s/ Jim L. Flegle

Jim L. Flegle