

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

<b>TELINIT TECHNOLOGIES, LLC</b>	§	
	§	
<b>Plaintiff,</b>	§	<b>CIVIL ACTION NO. 2:12-cv-661</b>
	§	
<b>v.</b>	§	<b>JURY TRIAL DEMANDED</b>
	§	
<b>TELEFÓNICA EUROPE PLC and JAJAH, INC.</b>	§	
	§	
<b>Defendants.</b>	§	

**COMPLAINT FOR PATENT INFRINGEMENT**

COMES NOW, Plaintiff Telinit Technologies, LLC (“Telinit”), through the undersigned attorneys, and respectfully alleges, states, and prays as follows:

**NATURE OF THE ACTION**

1. This is an action for patent infringement under the Patent Laws of the United States, Title 35 of the United States Code (“U.S.C.”), involving U.S. Patent 6,192,123 (hereinafter the “‘123 Patent”, attached hereto as Exhibit “A”) in which Plaintiff Telinit Technologies, LLC (hereinafter “Telinit”) makes the following allegations against defendants Telefónica Europe plc (hereinafter “Telefónica Europe”) and JaJah, Inc. (hereinafter “JaJah”) (collectively “Defendants”) to prevent and enjoin Defendants from infringing and profiting, in an illegal and unauthorized manner and without authorization or consent from the ‘123 Patent pursuant to 35 U.S.C. § 271, and to recover damages, attorneys fees, and costs.

## **THE PARTIES**

2. Plaintiff Telinit is a Texas corporation with its principal place of business at 2500 Dallas Parkway, Suite 260, Plano, Texas 75093-4871.

3. Defendant JaJah is a Delaware corporation with a principal place of business at 2513 East Charleston Road, Suite 102, Mountain View, California, 94043. JaJah maintains a registered agent at PHS Corporate Services, Inc., 1313 Market Street, Suite 5100, Wilmington, Delaware, 19801.

4. Defendant Telefónica Europe is a U.K. public limited company with a principal place of business at 260 Bath Road, Slough, Berkshire, SL1 4DX.

5. Defendant Telefónica Europe acquired JaJah on or around December of 2009 in order to develop and deliver new products to its customers, leverage the JaJah platform and “leverage people and R&D expertise in Israel and Silicon Valley.” (*See* Exhibit “B”). JaJah is still a wholly-owned subsidiary of Telefónica Europe.

6. Defendants are in the business of manufacturing, distributing and/or selling network-based telephony initiation systems and/or services throughout the United States, including in this judicial jurisdiction.

## **JURISDICTION AND VENUE**

7. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§1331 and 1338(a) because the action arises under the Patent Laws of the United States, 35 U.S.C. §§ 1 *et seq.*

8. This Court has personal jurisdiction over Defendants by virtue of their systematic and continuous contacts with this jurisdiction, as alleged herein, as well as because of the injury to Telinit, and the cause of action Telinit has risen, as alleged herein.

9. Each of the Defendants is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to its substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this Judicial District.

10. Defendants have conducted and do conduct business within the state of Texas, including the geographic region within the Eastern District of Texas, directly or through intermediaries, resellers or agents, or offer for sale, sell, advertise (including the use of interactive web pages with promotional material) products or services, or use or induce others to use services or products in Texas that infringe the '123 Patent, knowingly induce others to infringe and/or contribute to infringement of the '123 Patent occurring within Texas and elsewhere.

11. In addition to the Defendants' continuously and systematically conducting business in Texas, the causes of action against Defendants are connected (but not limited) to Defendants' purposeful acts committed in the state of Texas, including the geographic region within the Eastern District of Texas, including Defendants' making, using, offering for sale, or selling network-based telephony initiation systems which include features that fall within the scope of at least one claim of the '123 Patent.

12. Venue lies in this judicial district pursuant to 28 U.S.C. §§1391 and 1400(b).

### **JOINDER**

13. Defendants are properly joined under 35 U.S.C. § 299(a)(1) because a right to relief is asserted against the parties jointly, severally, and in the alternative with respect to the

same transactions, occurrences, or series of transactions or occurrences relating to the making, using, importing into the United States, offering for sale, and/or selling the same accused products. Specifically, as alleged in detail below, Defendants are alleged to infringe the ‘123 Patent with respect to a number of user-initiated web-based telephony products.

14. Defendants are properly joined under 35 U.S.C. § 299(a)(2). Questions of fact will arise that are common to all defendants, including for example, whether the overlapping user-initiated web-based telephony products alleged to infringe have features that meet the features of one or more claims of the ‘123 Patent, and what reasonable royalty will be adequate to compensate the owner of the ‘123 Patent for its infringement.

*Joinder of JaJah and Telefónica Europe*

15. Defendant JaJah and Defendant Telefónica Europe (collectively, “JaJah Group”) offer the same telephony services that infringe on the ‘123 Patent by virtue of Telefónica Europe’s ownership of JaJah.

16. Defendants offer the telephony services which infringe on the ‘123 Patent. For example, JaJah Group offers a variety of white label, web-based telephony-initiation services, such as JAJAH Web, JAJAH Direct, JAJAH Mobile Web, JAJAH Mobile VoIP, and JAJAH Conference Calls (collectively “JAJAH Telephony Products”), and JaJah Customers offer their respective users the ability to initiate telephone calls using one or more of the JAJAH Telephony Products.

17. At least one right to relief is asserted against these parties jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences relating to the making, using, importing into the United States, offering for sale, or selling of the same accused product or process.

18. At least one right to relief is asserted against these parties jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences relating to the making, using, importing into the United States, offering for sale, or selling of the same accused product and/or process.

19. Each one of the Defendants' products and services use, among other shared features: a platform, a web-based interface, a data network, a switch and a monitoring system.

20. At least one right to relief is asserted against these parties jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences relating to the making, using, importing into the United States, offering for sale, or selling of the same accused product or process.

21. Each Defendant has either directly or indirectly infringed on the '123 Patent by making, using, selling or offering to sell one or more of the abovementioned products or services. Consequently, questions of fact common to all defendants will arise in the action.

## **FACTUAL ALLEGATIONS**

### **BACKGROUND**

22. On February 20, 2001, the United States Patent and Trademark Office ("USPTO") duly and legally issued the '123 Patent, entitled "Method and apparatus for initiating telephone calls using a data network" after a full and fair examination. A true and correct copy of the '123 Patent is attached hereto as Exhibit "A".

23. Telinit is presently the owner by assignment of the '123 Patent, having received all right, title and interest in and to the '123 Patent from the previous assignee of record. Telinit possesses all rights of recovery under the '123 Patent, including the exclusive right to recover for past infringement.

24. The '123 Patent contains two independent claims and six dependent claims.

25. The inventions described in the '123 Patent include a system and process for initiating a telephone call using a data network request, signaling a switch, and monitoring and providing status updates to a user of the telephone system.

26. The invention described in Independent Claim 1 of the '123 Patent includes a process for receiving a data network request to initiate a telephone call, the request including a user telephone number. The inventive process identifies a stored telephone number corresponding to the request, signals a switch to make a call on a voice network to an instrument identified by the stored telephone number. Finally, the process also monitors call status and provides a user with an indication if the status changes.

27. The invention described in Independent Claim 5 includes a system having an input component to receive a data request to initiate a telephone call, the request including a user telephone number. The system also includes a processing component that identifies a stored telephone number corresponding to the request, a signaling component that signals a switch to make a call on the voice network to an instrument identified by the stored telephone number. Finally, a monitoring component monitors call status, and a status component provides a user with an indication if the status changes.

### **THE JAJAH PLATFORM**

28. Defendant JaJah is a wholly-owned subsidiary of Defendant Telefónica Europe (collectively "JaJah Group") that offers web-based telephony services that infringe the '123 Patent.

29. JaJah Telephony Products (including JAJAH Web, JAJAH Scheduled Calls, JAJAH Direct, JAJAH Mobile Web, JAJAH Mobile VoIP, and JAJAH Conference Calls)

provide JaJah Customers with access to functionality (for example, via a web-based API) that JaJah Customers use to provide web-based services to third parties (hereinafter “JaJah Users”).

30. JaJah Group provides access to functionality to JaJah Customers designed specifically to communicate with servers believed to be owned and/or controlled by JaJah (hereinafter “JaJah Servers”).

31. The JaJah Servers are accessible over a data network, and perform functions such as receiving data requests over the network enabling JaJah Users and third parties to initiate telephony communications with each other. The requests include a user telephone number, such as telephone numbers identifying the JaJah Users and/or third parties, for example, but not limited to, through use of the “JAJAH Web” feature.

32. The JaJah Servers also identify stored telephone numbers, such as by handling requests to initiate telephone calls with JaJah Users at a pre-designated JaJah User telephone number and/or with third parties, for example, but not limited to, through use of the “JAJAH Web” feature.

33. The JaJah Servers signal a switch to call a voice network, such as a PSTN, to other telephone devices identified by stored telephone numbers, such as by initiating telephone calls with a pre-designated JaJah User telephone number and/or third parties, for example, but not limited to, through use of the “JAJAH Web” feature.

34. The JaJah Servers monitor call status and indications of status changes, including providing status indications to JaJah Customers, JaJah Users and/or third parties, for example, the call status is monitored and reported to the user with the visual and audio signals. In addition, the call duration is monitored for billing purposes.

35. The JaJah Servers also include input components designed to receive data

requests over the network enabling JaJah Users and third parties to initiate telephony communications with each other. Those requests include a user telephone number, such as telephone numbers identifying the JaJah User and/or third party.

36. The JaJah Servers include processing components designed to identify stored telephone numbers, such as by handling requests to initiate telephone calls with JaJah Users at a pre-designated JaJah User telephone number and/or with third parties.

37. The JaJah Servers include a signaling component for signaling a switch to call a voice network, such as a PSTN, to other telephone devices identified by stored telephone numbers, such as by initiating telephone calls with a pre-designated JaJah User telephone number and/or third parties.

38. The JaJah Servers include monitoring and status components to monitor call status and provide indications of status changes, including providing status indications to Customers, Users and/or third parties.

### **DIRECT INFRINGEMENT**

39. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 1-38.

40. Taken together, either partially or entirely, the features included in JaJah's services for initiating telephony communications, including but not limited to JAJAH Web, JAJAH Direct, JAJAH Mobile Web, JAJAH Mobile VoIP, and JAJAH Conference Calls perform the process recited in one or more of Claims 1-4 of the '123 Patent.

41. Taken together, either partially or entirely, the features included in JaJah's services for initiating telephony communications, including but not limited to JAJAH Web, JAJAH Direct, JAJAH Mobile Web, JAJAH Mobile VoIP, and JAJAH Conference Calls use the

system described in one or more of Claims 5-8 of the '123 Patent.

42. JaJah directly infringes one or more of claims 1-8 of the '123 Patent by making, using, selling, offering to sell and/or importing the process and the system for services for initiating telephony communications in violation of 35 USC § 271(a). For example, Jajah offers its products through its website with specific pricing information of call rates for U.S.A. users.

43. Telefónica Europe directly infringes one or more of claims 1-8 of the '123 Patent by making, using, selling, offering to sell and/or importing the process and the system for services for initiating telephony communications, for example services branded under the name "JAJAH.Web" in violation of 35 USC § 271(a).

### **INDIRECT INFRINGEMENT**

#### **INDUCING INFRINGEMENT**

44. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 1-43.

45. Defendants have had knowledge of infringement of the '123 Patent at least as of the service of the present complaint.

46. Furthermore, Defendants have had knowledge of the '123 Patent since public records show that the '123 Patent has been cited as "Prior Art" by at least thirty-eight patents issued by the United States Patent and Trademark Office in the past eleven years.

47. Defendants indirectly infringe one or more claims of the '123 Patent by actively inducing the infringement of their respective customers, users, subscribers and licensees who directly infringe by performing the patented process in violation of 35 USC § 271(b).

48. JaJah actively induces others, such as their customers, users, subscribers, and licensees to provide access to functionality, including, without limitation, the JaJah Telephony Products.

49. The use of such services, including, without limitation, the JaJah Telephony Products, performs the process identified in one or more of claims 1-4 of the '123 Patent. For example, Jajah's Dating Solution White Paper, posted on its website, instructs, among others, its customers, users, subscribers, and licensees to perform certain acts with the Jajah Platform for Dating; and Jajah's customers, users, subscribers, and licensees perform those acts for certain uses of the mentioned Platform for Dating.

50. Creation of software applications by others, including, without limitation, the function to make use of the JaJah Telephony Products, makes and uses the system identified in one or more of claims 5-8 of the '123 Patent.

### **CONTRIBUTORY INFRINGEMENT**

51. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 1-50.

52. With knowledge of the patent in suit, the Defendants indirectly infringe the '123 Patent by contributing to the direct infringement of a class of actors which includes the end-users of the software products, as well as customers, users, subscribers and licensees, by encouraging the class of actors to download, install, and operate products, aware of the fact that such acts amount to infringement of one or more claims of the '123 Patent.

53. JaJah offers to sell and sells services, including, without limitation, the services branded as "JAJAH.Web" that constitute components of a patented system covered by one or

more of claims 5-8 of the '123 Patent, constitute a material part of the invention and are not a staple article or commodity of commerce suitable for substantial noninfringing use.

54. JaJah has known such services, including, without limitation, the services branded as "JAJAH.Web" were especially made or especially adapted for use in infringement of the '123 Patent at least as of the service of the present complaint.

55. Telefónica Europe offers to sell and sells services, including, without limitation, the services branded as "JAJAH.Web" that constitute components of a patented system covered by one or more of claims 5-8 of the '123 Patent, constitute a material part of the invention and are not a staple article or commodity of commerce suitable for substantial noninfringing use.

56. Telefónica Europe has known such services, including, without limitation, the services branded as "JAJAH.Web" were especially made or especially adapted for use in infringement of the '123 Patent at least as of the service of the present complaint.

57. In sum, Defendants indirectly infringe the '123 Patent by contributing to the direct infringement of one or more of claims 5-8 of the '123 Patent in violation of 35 USC § 271(c).

#### **DEMAND FOR JURY TRIAL**

58. Telinit demands a trial by jury of any and all causes of action.

#### **PRAYER FOR RELIEF**

WHEREFORE, Telinit prays for the following relief:

1. That Defendants be adjudged to have infringed the '123 Patent, directly and/or indirectly, by way of inducement and/or contributory infringement, literally and/or under the doctrine of equivalents;

2. That Defendants, their officers, directors, agents, servants, employees, attorneys, affiliates, divisions, branches, parents, and those persons in active concert or participation with any of them, be preliminarily and permanently restrained and enjoined from directly and/or indirectly infringing the '123 Patent;

3. An award of damages pursuant to 35 U.S.C. §284 sufficient to compensate Telinit for the Defendants' past infringement and any continuing or future infringement up until the date that Defendants are finally and permanently enjoined from further infringement, including compensatory damages;

4. An assessment of pre-judgment and post-judgment interest and costs against Defendants, together with an award of such interest and costs, in accordance with 35 U.S.C. §284;

5. That Defendants be directed to pay enhanced damages, including Telinit's attorneys' fees incurred in connection with this lawsuit pursuant to 35 U.S.C. §285; and

6. That Telinit have such other and further relief as this Court may deem just and proper.

Dated: October 12, 2012

Respectfully Submitted,

By: /s/ William E. Davis, III  
William E. Davis, III  
Texas State Bar No. 24047416  
**The Davis Firm, PC**  
111 West Tyler Street  
Longview, Texas 75601  
Telephone: (903) 230-9090  
Facsimile: (903) 230-9661  
Email: [bdavis@badavisfirm.com](mailto:bdavis@badavisfirm.com)

*Of Counsel*

Eugenio J. Torres-Oyola  
USDC No. 215505

**Ferraiuoli LLC**

221 Plaza, 5th Floor

221 Ponce de León Avenue

San Juan, PR 00917

Telephone: (787) 766-7000

Facsimile: (787) 766-7001

**ATTORNEYS FOR PLAINTIFF  
TELINIT TECHNOLOGIES, LLC**