

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

TELINIT TECHNOLOGIES, LLC

Plaintiff,

v.

GENBAND INC.

Defendant.

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CIVIL ACTION NO. 2:12-cv-659

JURY TRIAL DEMANDED

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. United States Code (“U.S.C.”) to prevent and enjoin Defendant GENBAND Inc. (hereinafter “GENBAND” or “Defendant”) from infringing and profiting, in an illegal and unauthorized manner and without authorization and/or This is an action for patent infringement under the Patent Laws of the United States, Title 35 of the consent from Telinit, from U.S. Patent No. 6,192,123 (the “123 patent”, attached hereto as Exhibit “A”) 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. Upon information and belief, Defendant GENBAND is a Delaware corporation with a principal place of business at 2801 Network Blvd, Suite 300, Frisco, Texas 75034. Upon

information and belief, GENBAND maintains a registered agent at C T Corporation System, 2711 Centerville Road Suite 400, Wilmington, Delaware, 19808.

JURISDICTION AND VENUE

4. The 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.*

5. This Court has personal jurisdiction over GENBAND by virtue of its 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 raised, as alleged herein.

6. Upon information and belief, GENBAND 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.

7. Upon information and belief, GENBAND maintains a corporate headquarters within the Eastern District of Texas.

8. Upon information and belief, GENBAND has conducted and does 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 offers for sale, sells, advertises (including the use of interactive web pages with promotional material) products or services, or uses or induces others to use services or products in Texas that infringe the '123 Patent, knowingly induces others to infringe and/or contribute to infringement of the '123 Patent

occurring within Texas and elsewhere.

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

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

FACTUAL ALLEGATIONS

11. 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". Telinit is presently the owner of the 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. The '123 patent is valid and enforceable.

12. The '123 patent contains two independent claims and six dependent claims. GENBAND uses methods that perform one or more steps of the claims, and also makes, uses and sells or offers for sale products that encompass one or more of the claims.

13. The invention claimed in the '123 patent includes a system and process for initiating a telephone call using a data network request, that request signaling a switch, and that switch triggering a means of monitoring and providing status updates to a user of the telephone system.

14. The above described network-based method and process of connecting and monitoring communication by telephony is often accomplished when a user of a computer encounters a web-based interface with a button that it can push in order to be connected with another person, such as another user of the service or a contact stored in a compatible computer application. Meanwhile, the status of their call is monitored for such things as quality and connectivity.

GENBAND'S PRODUCTS

15. GENBAND is a company offering IP multimedia applications and infrastructure products and solutions for fixed wire line, mobile, and cable network service providers. GENBAND's products allow users to call contacts either by manually inputting a telephone number into a telephonic interface or accessing a contact's phone number from a database connected to a compatible computer application. These various web-based applications and web-based software can be collectively referred to as "GENBAND's Products".

16. The GENBAND Products are systems and components of devices for initiating telephone calls on a voice network in response to requests from a data network.

17. GENBAND products facilitate communication between devices such as cellular phones and computers.

18. When deployed with such devices, the GENBAND Products provide an interface that solicits generation of a network request to initiate telephone call connections based on a user telephone number that it then connects with stored telephone numbers. Call status is monitored by GENBAND Products and reported to users based on the status of such calls.

Genband's Web Applications

19. The web applications infringing the '123 Patent include, but are not limited to,

products called “GENCom Unified Communications Mobile Client for Business”, “GENCom UC mobile for consumers”, and “GENBAND Internet Explorer Click-to-call” and provide GENBAND customers with access to functionality (for example, via a web-based API) that GENBAND Customers use to provide web-based services to third parties (hereinafter “GENBAND Users”).

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

21. The GENBAND Servers are accessible over a data network, and perform functions such as receiving data requests over the network enabling GENBAND Users and third parties to initiate telephony communications with each other. The requests include a user telephone number, such as telephone numbers identifying the GENBAND Users and/or third parties.

22. The GENBAND Servers also identify stored telephone numbers, such as by handling requests to initiate telephone calls with GENBAND Users at a pre-designated GENBAND User telephone number and/or with third parties.

23. The GENBAND 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 GENBAND User telephone number and/or third parties.

24. The GENBAND Servers monitor call status and indications of status changes, including providing status indications to GENBAND Customers, GENBAND Users and/or third parties, for example, the call status is monitored and reported to the user with visual and audio signals.

25. The GENBAND Servers also include input components designed to receive data requests over the network enabling GENBAND Users and third parties to initiate telephony communications with each other. Those requests include a user telephone number, such as telephone numbers identifying the GENBAND User and/or third party.

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

27. The GENBAND 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 GENBAND User telephone number and/or third parties.

28. The GENBAND 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.

Web-based Software Products

29. GENBAND makes and sells web-based software that infringes the '123 Patent including, but not limited to, that software sold as "Multimedia Office Client", "Personal Communicator PC Client", "PhoneEasy IP Attendant Console", "A2—communication server", "C3 Gateway controller", "C20 Converged Softswitch", "C15 Compact Softswitch", "Safari C3 VoIP switch", "G2 Compact Gateway", "G6 Universal Gateway", "G9 Converged Gateway", "mG15K Media Gateway", "mG9K Media Gateway", "S2 Security Gateway", and "S3 Session Border Controller" (hereinafter "Client Software").

30. This Client Software is designed to communicate with servers believed to be owned and/or controlled by GENBAND (hereinafter “GENBAND Servers”).

31. The GENBAND Servers are accessible over a data network, and perform functions such as receiving data requests over the network enabling subscribers and third parties to initiate telephony communications with each other. The requests include a user telephone number, such as telephone numbers identifying the Client Software subscriber.

32. The GENBAND Servers further identify stored telephone numbers, such as by maintaining contact lists that can be accessed from multiple Client Software installations, and by maintaining forwarding numbers associated with subscribers.

33. The GENBAND Servers signal a switch to call a voice network, such as a public switched telephone network (PSTN), to other telephone devices identified by stored telephone numbers, such as contact list phone numbers or alternate “forwarding” phone numbers designated by subscribers.

34. The GENBAND Servers additionally monitor call status and provide indications of status changes, including providing status indications to Client Software interfaces.

35. The GENBAND Servers have input components designed to receive data requests over the network enabling subscribers and third parties to initiate telephony communications with each other. Those requests include a user telephone number, such as telephone numbers identifying the Client Software subscriber.

36. The GENBAND Servers further include processing components designed to identify stored telephone numbers, such as by maintaining contact lists that can be accessed from multiple Client Software installations, and by maintaining forwarding numbers associated with subscribers.

37. The GENBAND Servers further 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 contact list phone numbers or alternate “forwarding” phone numbers designated by subscribers.

38. The GENBAND Servers have monitoring and status components to monitor call status and provide indications of status changes, including providing status indications to Client Software interfaces.

39. GENBAND’s Products use methods and processes for network-based communication initiation systems which include features that fall within the scope of at least one claim of the ‘123 Patent.

DIRECT INFRINGEMENT

40. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 11-39.

41. Taken together, either partially or entirely, the features included in GENBAND’s web applications including, but are limited to, products called “GENCom Unified Communications Mobile Client for Business”, “GENCom UC mobile for consumers”, and “GENBAND Internet Explorer Click-to-call” perform the process recited in one or more of Claims 1-4 of the '123 Patent.

42. Taken together, either partially or entirely, the features included in GENBAND’s web-based software products including, but not limited to, that software sold as “Multimedia Office Client”, “Personal Communicator PC Client”, “PhoneEasy IP Attendant Console”, “A2—communication server”, “C3 Gateway controller”, “C20 Converged Softswitch”, “C15 Compact Softswitch”, “Safari C3 VoIP switch”, “G2 Compact Gateway”, “G6 Universal Gateway”, “G9

Converged Gateway”, “mG15K Media Gateway”, “mG9K Media Gateway”, “S2 Security Gateway”, and “S3 Session Border Controller” perform the process recited in one or more of Claims 1-4 of the '123 Patent.

43. Taken together, either partially or entirely, the features included in GENBAND’s web applications including, but are limited to, products called “GENCom Unified Communications Mobile Client for Business”, “GENCom UC mobile for consumers”, and “GENBAND Internet Explorer Click-to-call” use the system described in one or more of Claims 5-8 of the '123 Patent.

44. Taken together, either partially or entirely, the features included in GENBAND’s web-based software products including, but not limited to, that software sold as “Multimedia Office Client”, “Personal Communicator PC Client”, “PhoneEasy IP Attendant Console”, “A2—communication server”, “C3 Gateway controller”, “C20 Converged Softswitch”, “C15 Compact Softswitch”, “Safari C3 VoIP switch”, “G2 Compact Gateway”, “G6 Universal Gateway”, “G9 Converged Gateway”, “mG15K Media Gateway”, “mG9K Media Gateway”, “S2 Security Gateway”, and “S3 Session Border Controller” use the system described in one or more of Claims 5-8 of the '123 Patent.

45. Upon information and belief GENBAND 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 cloud-based services for initiating telephony communications in violation of 35 USC 271(a).

INDUCING INFRINGEMENT

46. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 11-45.

47. GENBAND has had knowledge of its infringement at least as of service of the present complaint.

48. Furthermore, GENBAND has 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.

49. GENBAND indirectly infringes 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).

50. GENBAND indirectly infringes the apparatus claims of the '123 patent by actively inducing manufacturers to produce products that enable and implement GENBAND Products in violation of 35 USC 271(b).

51. Creation of software applications by third-parties enabling functionality including, without limitation, the function to make use of the services offered and sold by GENBAND make and use the system as well as perform the process identified in one or more of claims 1-8 of the '123 Patent.

CONTRIBUTORY INFRINGEMENT

52. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 11-51.

53. GENBAND contributes to the infringement of one or more of claims 1-8 of the '123 Patent in violation of 35 USC § 271(c).

54. With knowledge of the patent in suit, the GENBAND indirectly infringes 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.

55. Products sold by GENBAND for implementation of GENBAND Products are components of a patented device covered by one or more of claims 1-8 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. GENBAND has known that devices that implement GENBAND Products were especially made or especially adapted for use in infringement of the '123 Patent at least as of service of the present complaint.

57. In sum, all GENBAND indirectly infringes the '123 Patent by contributing to the direct infringement of one or more of claims 1-8 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 Defendant 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 Defendant, its 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 Defendant's past infringement and any continuing or future infringement up until the date that Defendant is finally and permanently enjoined from further infringement, including compensatory damages;
4. An assessment of pre-judgment and post-judgment interest and costs against Defendant, together with an award of such interest and costs, in accordance with 35 U.S.C. §284;
5. That Defendant 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,

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**ATTORNEYS FOR PLAINTIFF
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