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

TELINIT TECHNOLOGIES, LLC	§	
	§	
Plaintiff,	§	**CIVIL ACTION NO. 2:12-cv-664**
	§	
v.	§	**JURY TRIAL DEMANDED**
	§	
YAHOO! INC.	§	
	§	
Defendant.	§	

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 defendant Yahoo! Inc. (hereinafter "Yahoo!" or "Defendant") to prevent and enjoin Yahoo! 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 is a Delaware corporation with a principal place of business at 701 First Avenue, Sunnyvale, California, 94089. Yahoo! maintains a registered agent within this state at C T Corporation System, 350 North St. Paul Street, Suite 2900, Dallas, Texas, 75201.

4.   Defendant is 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

5.   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*.

6.   This Court has personal jurisdiction over Defendant 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 risen, as alleged herein.

7.   Defendant 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.

8.   Defendant 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 contributes to infringement of the '123 Patent occurring within Texas and elsewhere.

9.   In addition to the Defendant continuously and systematically conducting business in Texas, the causes of action against Defendant are connected (but not limited) to Defendant's purposeful acts committed in the state of Texas, including the geographic region within the Eastern District of Texas, including Defendant's 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.

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

11.   Defendant Yahoo! offers its users a web-based telephony service branded under the name Yahoo! Voice.

FACTUAL ALLEGATIONS

12.   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".

13.   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.

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

15.   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.

16.   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.

17.   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.

18.   Upon information and belief, Yahoo! offers telephony initiation services (including integration with telephony products) to allow users of Yahoo! Voice ("Yahoo! Users") to contact and be contacted by other Yahoo! Users and third parties through the Yahoo! Messenger interface.

19.   Yahoo! provides access to functionality to Yahoo! Users designed specifically to communicate with servers believed to be owned and/or controlled by Yahoo! (hereinafter "Yahoo! Servers").

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

21.   The Yahoo! Servers also identify stored telephone numbers, such as by managing contact lists accessible via various instances of the Yahoo! Messenger interface.

22.   The Yahoo! Servers signal a switch to call a voice network, such as signaling certain servers known for providing access to a PSTN, to other telephone devices identified by stored telephone numbers, such as by initiating telephone calls with a Yahoo! User and/or other Yahoo! Users or third parties.

23.   The Yahoo! Servers monitor call status and indications of status changes, including providing status indications to Yahoo! Users.

24.   The Yahoo! Servers also include input components designed to receive data requests over the network enabling Yahoo! Users to initiate telephony communications with other Yahoo! Users and third parties. The requests include a user telephone number, such as telephone numbers identifying the Yahoo! Users.

25.   The Yahoo! Servers include processing components designed to identify stored telephone numbers, such as by managing contact lists accessible via various instances of the Yahoo! Messenger interface.

26.   The Yahoo! Servers include a signaling component for signaling a switch to call a voice network, such as signaling certain servers known for providing access to a PSTN, to other telephone devices identified by stored telephone numbers, such as by initiating telephone calls with a Yahoo! User and/or other Yahoo! Users or third parties.

27.   The Yahoo! Servers include monitoring and status components to monitor call status and provide indications of status changes, including providing status indications to Yahoo! Users.

DIRECT INFRINGEMENT

28.   Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 1-27.

29.   Taken together, either partially or entirely, the features included in Yahoo!'s cloud-based services for initiating telephony communications, including but not limited to, services branded under the name "Yahoo! Voice" perform the process recited in one or more of Claims 1-4 of the '123 Patent.

30.   Taken together, either partially or entirely, the features included in Yahoo!'s cloud-based services for initiating telephony communications, including but not limited to, services branded under the name "Yahoo! Voice" use the system described in one or more of Claims 5-8 of the '123 Patent.

31.   Yahoo! directly infringes one or more of claims 1-8 of the '123 Patent by 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). For example, Yahoo! offers Yahoo! Voice through its website with specific pricing information of call rates for U.S.A. users.

INDIRECT INFRINGEMENT

INDUCING INFRINGEMENT

32.   Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 1-31.

33.   Defendant has prior knowledge of infringement of the '123 Patent from one or more prior owners of the '123 Patent.

34.   Defendant has had knowledge of infringement of the '123 Patent at least as of the service of the present complaint.

35.   Furthermore, Defendant 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.

36.   Moreover, Defendant has had knowledge of the '123 Patent at least as of April 2004, when the '123 Patent was cited by the U.S.P.T.O. as pertinent prior art in the prosecution of U.S. Patent Application No. 09/858,853, assigned to Yahoo!, Inc. (latter issued as U.S. Patent No. 6,728,731).   Yahoo! subsequently submitted the '123 Patent as prior art during the prosecution of U.S. Patent Application No. 10/796,829, assigned to Yahoo!, Inc. (issued in April 2007 as U.S. Patent No. 7,026,745).

37.   Defendant 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).

38.   Creation of software applications by others with Defendant's knowledge and intent including, without limitation, instructions on how to make use of the Yahoo! Voice product, makes and uses the system identified in one or more of claims 5-8 of the '123 Patent.

CONTRIBUTORY INFRINGEMENT

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

40. With knowledge of the patent in suit, the Defendant 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.

41. Yahoo! offers to sell and sells services, including, without limitation, the services branded as "Yahoo! Voice" 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.

42. Yahoo! has known such services, including, without limitation, the services branded as "Yahoo! Voice" was especially made or especially adapted for use in infringement of the '123 Patent subsequently to receiving prior notice of relevance of the '123 Patent to its own systems.

43. Yahoo! has known such services, including, without limitation, the services branded as "Yahoo! Voice" were especially made or especially adapted for use in infringement of the '123 Patent at least as of April 2004, when the '123 Patent was cited by the U.S.P.T.O. as pertinent prior art in U.S. Patent Application No. 09/858,853, assigned to Yahoo!, Inc. (latter issued as U.S. Patent No. 6,728,731). Yahoo! subsequently submitted the '123 Patent as prior art in the prosecution of U.S. Patent Application No. 10/796,829, assigned to Yahoo!, Inc. (issued in April 2007 as U.S. Patent No. 7,026,745).

44. In sum, Defendant indirectly infringes 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 U.S.C. § 271(c).

DEMAND FOR JURY TRIAL

45.   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,

                                            By: /s/ William E. Davis, III
                                            William E. Davis, III

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