

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. _____

BROADNET TELESERVICES, LLC,

Plaintiff,

vs.

SHOUTPOINT, INC., and
VICTORY SOLUTIONS, LLC,

Defendants.

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Broadnet Teleservices, LLC (“Broadnet”), by and through its undersigned counsel, brings this action against Defendants Shoutpoint, Inc. (“Shoutpoint”) and Victory Solutions, LLC (“Victory Solutions”), and alleges as follows:

THE PARTIES

1. Plaintiff Broadnet is a limited liability company organized and existing under the laws of the state of Colorado with its principal place of business in Highlands Ranch, Colorado.
2. Defendant Victory Solutions is a limited liability company organized and existing under the laws of Ohio and has a principal place of business at 22299 Calverton Road, Shaker Heights, Ohio, 44122.
3. Defendant Shoutpoint is a corporation organized and existing under the laws of

California and has its principal place of business at 4695 MacArthur Ct., Suite 420, Newport Beach, California, 92660.

JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, Title 35, United States Code. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a).

5. Personal jurisdiction and venue are proper in this District pursuant to 28 U.S.C. §§ 1391(b)-(c) and 1400(b) because Defendants regularly conduct business in this District and are subject to jurisdiction here, because the acts of infringement which form the basis of this action occurred within this district, and because Defendants have harmed and continue to harm Broadnet in this District.

GENERAL ALLEGATIONS

Broadnet's Services and Patent

6. Broadnet is the leading provider of teleforum conference calls in the United States. Broadnet's teleforum services allow organizations or individuals, such as companies, elected officials, and political candidates, to host live, interactive calls to which very large numbers of people (*i.e.* in the thousands, tens of thousands, or even hundreds of thousands) are invited to participate.

7. Broadnet is the owner by assignment of all right, title, and interest in and to a valid and enforceable United States Patent, U.S. Patent No. 8,266,535 ("the '535 patent"). The '535 patent is titled "Teleforum Apparatus and Method," and issued on September 11, 2012. A

true and accurate copy of the '535 patent is attached hereto as Exhibit A.

8. The claims of the '535 patent generally relate to systems and methods for conducting teleforum conference calls. These calls may involve a large number of participants from a broad range of geographic areas. Geographically separate voice response units connected by a bridge invite multiple invitees to become teleforum participants, who may join the teleforum call. Generally, most participants are joined in "listen-only" mode. Participants who seek to actively participate (e.g., to ask the speaker a question during the call) may signal their request, at which point they are screened and then may be allowed to actively participate in the teleforum conference (collectively "the patented Broadnet Service").

9. At all times relevant hereto, Broadnet is and has been practicing the patented Broadnet Service.

Defendants and Their Infringing Services

10. Shoutpoint is a direct competitor of Broadnet in the business of providing and facilitating large teleforum conference calls across the United States ("the Shoutpoint Service").

11. The Shoutpoint Service is a platform for teleforum calls that involve large numbers of participants across a broad geographic area. The Shoutpoint Service is made up of an extensive dialing infrastructure that uses multiple providers across North America and beyond, connected by a network, to invite up to tens of thousands of people ("invitees") to become teleforum participants.

12. The Shoutpoint Service dials out to a list of phone numbers, and the called invitees receive a personalized message, inviting them to the teleforum.

13. In addition, the Shoutpoint Service allows participants to self-initiate an inbound

call to join the teleforum.

14. Participants of the Shoutpoint Service generally are joined to the teleforum in listen-only mode. However, the Shoutpoint Service allows participants to signal a request to actively participate in the teleforum, such as to ask a question.

15. The Shoutpoint Service provides call screeners who review the participants' questions and then pass the questions onto the host for answer.

16. Victory Solutions is a re-seller of the Shoutpoint Service and promotes, sells and offers to sell the infringing Shoutpoint Service under the name "Victory Town Halls."

17. The Shoutpoint Service marketed and sold by Defendants directly infringes at least independent claims 1, 13, 19, and 30 of Broadnet's '535 Patent.

18. At no time has Broadnet given Defendants permission, license or authorization to practice the '082 patent or use the patented Broadnet Service.

FIRST CLAIM FOR RELIEF
(Direct Infringement of the '535 Patent)

19. Broadnet repeats the allegations in the preceding paragraphs as though fully set forth herein.

20. By hosting, using, selling, and/or offering for sale the Shoutpoint Service, Defendants directly infringe at least independent claims 1, 13, 19, and 30 of the '535 patent.

21. Broadnet is being irreparably harmed by Defendants' continued infringement, and unless Defendants, and their agents, employees, representatives, affiliates and all others acting in concert with Defendants are enjoined from infringing the '535 patent, Broadnet will continue to be irreparably harmed.

22. Broadnet has no adequate remedy at law.

23. Defendants' infringement of the '535 patent is causing Broadnet injury, and Broadnet is entitled to recover damages in an amount to be proven at trial. Among other remedies, Broadnet is entitled to lost profits or, in the alternative, no less than a reasonable royalty.

24. Any use, sale, or other acts of infringement following Defendants' notice of the '535 patent will demonstrate objectively reckless conduct with respect to Broadnet's patent rights. As a result, any such continued infringement constitutes willful infringement of the '535 Patent and entitles Broadnet to treble damages and attorneys' fees as well as costs incurred in this action along with prejudgment interest under 35 U.S.C. §§ 284 and 285.

JURY TRIAL DEMAND

Broadnet demands a trial by jury on all claims and issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Broadnet requests that the Court enter Judgment in its favor and against Defendants Victory Solutions and Shoutpoint on all claims as follows:

A. finding, declaring, and adjudging that Defendants have infringed one or more claims of the '535 patent;

B. awarding Broadnet damages against Defendants in an amount adequate to compensate Broadnet for the infringement that has occurred, but in no event less than a reasonable royalty as permitted by 35 U.S.C. § 284;

C. enjoining Defendants and their officers, directors, agents, servants, affiliates, employees, subsidiaries, parents, and all others acting in concert with Defendants from any further use, sale, or marketing of the Shoutpoint Service or the Victory Town Hall service, or from otherwise infringing the '535 patent;

D. finding Defendants' infringement to be willful and awarding Broadnet three times the amount of Broadnet's actual damages pursuant to 35 U.S.C. § 284;

E. finding this to be an exceptional case under 35 U.S.C. § 285, and awarding Broadnet its costs (including expert witness fees), disbursements, and reasonable attorney's fees incurred in this action and such other relief as may be appropriate;

F. awarding Broadnet prejudgment and postjudgment interest as allowed by law; and

G. granting such other and further relief as this Court may deem just and proper.

DATED this 6th day of November, 2012.

Respectfully submitted,

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