

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

DIGITAL SIGNAL INNOVATIONS, LLC,

Plaintiff,

v.

TRADEHARBOR, INC.,

Defendant.

Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Digital Signal Innovations, LLC ("DSI" or "Plaintiff"), by way of Complaint against the above-named Defendant ("TradeHarbor" or "Defendant"), alleges the following:

NATURE OF THE ACTION

1. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*

THE PARTIES

2. DSI is a limited liability company organized under the laws of the State of Delaware with a place of business at 1209 Orange Street, Wilmington, Delaware 19801.

3. TradeHarbor is a corporation organized under the laws of the State of Delaware with its principal place of business at 4041 Forest Park Ave., Ste. 320, St. Louis, Missouri 63108.

JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code.

5. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338.

6. On information and belief, Defendant is subject to the jurisdiction of this Court because it is incorporated in this State. Moreover, on information and belief, Defendant has engaged in acts of patent infringement which have been committed in this Judicial District, and has regularly conducted and systematic business contacts in this State. As such, Defendant has purposefully availed itself of the privilege of conducting business within this Judicial District; has established sufficient minimum contacts with this Judicial District such that it should reasonably and fairly anticipate being haled into court in this Judicial District; has purposefully directed activities at residents of this State; and at least a portion of the patent infringement claims alleged herein arise out of or are related to one or more of the foregoing activities.

7. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(c) and 1400(b).

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 5,636,282

8. The allegations set forth in the foregoing paragraphs 1 through 7 are hereby realleged and incorporated herein by reference.

9. On June 3, 1997, United States Patent No. 5,636,282 ("the '282 Patent"), entitled "Method for Dial-In Access Security Using a Multimedia Modem," was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the '282 Patent is attached as Exhibit A to this Complaint.

10. DSI is the assignee and owner of the right, title and interest in and to the '282 Patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

11. In violation of 35 U.S.C. § 271(a), Defendant has directly infringed and continues to directly infringe, both literally and under the doctrine of equivalents, the '282 Patent by providing and using products and services that practice the subject matter claimed in one or more

claims of the '282 Patent in the United States, including within this Judicial District, without the authority of DSI. These products and services include without limitation TradeHarbor's Voice Signature product and service, and TradeHarbor's consulting services which utilize those products and services (collectively, "Accused Services and Products").

12. DSI provided actual notice to Defendant of its infringement of the '282 Patent in a letter sent by certified mail on November 2, 2012. Defendant has had actual knowledge of the '282 Patent and its infringement of that patent since at least the date Defendant received the notice letter.

13. Upon information and belief, Defendant has committed and continues to commit acts of contributory infringement of at least one claim of the '282 Patent under 35 U.S.C. § 271(c) by providing products, including the Accused Services and Products to others, including but not limited to its customers and partners, knowing or willfully blind to the fact that that these products constitute a material part of the invention, were especially made or especially adapted for use in an infringement of the '282 Patent, and have no substantial non-infringing uses.

14. In particular, the Accused Services and Products constitute a material part of the claimed invention at least because they implement a voice-channel authentication feature to access data. This feature is used by Defendant's partners and customers to perform all of the steps recited in one claim of the '282 Patent. The Accused Services and Products were made or especially adapted for use in an infringement of the '282 Patent and have no substantial non-infringing uses at least because they contain components whose only purpose is to practice the claimed method of providing voice-channel authentication to allow data access. The use of the voice authentication feature by Defendant's partners and customers constitutes direct infringement of at least one claim of the '282 Patent. Defendant has known or remained willfully

blind to these facts since at least the date it received the notice letter from DSI notifying Defendant that such activities infringed the '282 Patent.

15. Upon information and belief, Defendant has induced and continues to induce others to infringe at least one claim of the '282 Patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including but not limited to Defendant's partners and customers, whose use of the Accused Services and Products constitutes direct infringement of at least one claim of the '282 Patent.

16. In particular, Defendant's actions that aid and abet others such as its partners and customers to infringe include advertising and distributing the Accused Services and Products and providing instruction materials, training, and consulting services regarding the Accused Services and Products. On information and belief, Defendant has engaged in such actions with specific intent to cause infringement or with willful blindness to the resulting infringement because Defendant has had actual knowledge of the '282 Patent and that its acts were inducing its customers to infringe the '282 Patent since at least the date it received the notice letter from DSI notifying Defendant such activities infringed the '282 Patent.

17. Despite DSI's notice regarding the '282 Patent, Defendant has continued to infringe the '282 Patent. On information and belief, Defendant's infringement has been and continues to be willful.

18. DSI has been harmed by Defendant's infringing activities.

JURY DEMAND

DSI demands a trial by jury on all issues triable as such.

PRAYER FOR RELIEF

WHEREFORE, DSI respectfully requests that this Court enter judgment for DSI and against Defendant as follows:

- a. An adjudication that Defendant has infringed the '282 Patent;
- b. An award of damages to be paid by Defendant adequate to compensate DSI for Defendant's past infringement of the '282 Patent, and any continuing or future infringement through the date such judgment is entered, including interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;
- c. An order that Defendant pay an ongoing royalty in an amount to be determined for any continued infringement after the date judgment is entered;
- d. An award of treble damages under 35 U.S.C. § 284;
- e. A declaration finding this to be an exceptional case, and awarding DSI attorney fees under 35 U.S.C. § 285; and
- f. For such further relief at law and in equity as the Court may deem just and proper.

Dated: November 12, 2012

STAMOULIS & WEINBLATT LLC

/s/ Richard C. Weinblatt

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