

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

DRIDEN MULTICOMMUNICATIONS, LLC

Plaintiff,

v.

EARTHLINK, INC.

Defendant.

Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Driden Multicommunications, LLC ("Driden" or "Plaintiff"), by way of Complaint against the above-named Defendant ("EarthLink" 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. Plaintiff Driden 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. Defendant EarthLink is a corporation organized under the laws of the State of Delaware with its principal place of business at 1375 Peachtree Street, Atlanta, GA 30309.

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 or organized 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. 5,841,840

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

9. On November 24, 1998, United States Patent No. 5,841,840 ("the '840 Patent"), entitled "Multiple Line Modem and Method for Providing Voice on Demand," was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the '840 Patent is attached as Exhibit A to this Complaint.

10. Driden is the assignee and owner of the right, title and interest in and to the '840 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, Defendant has directly infringed, both literally and under the doctrine of equivalents, the '840 Patent by providing and using products and services that practice the subject matter claimed in one or more claims of the '840 Patent in the United States, including within this Judicial District, without the authority of Driden. These products and services include without limitation EarthLink's DSL and standalone DSL services, including High-Speed Internet, DSL Internet, and Freestanding DSL Internet, as well as EarthLink's customer premises and central office equipment, operations support system, and customer services that provision Defendant's DSL and standalone DSL services (collectively, "Accused Services and Products").

12. Driden has been harmed by Defendant's infringing activities.

JURY DEMAND

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

PRAYER FOR RELIEF

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

- a. An adjudication that Defendant has infringed the '840 Patent;
- b. An award of damages to be paid by Defendant adequate to compensate Driden for Defendant's past infringement of the '840 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; and

d. For such further relief at law and in equity as the Court may deem just and proper.

Dated: November 14, 2012

STAMOULIS & WEINBLATT LLC

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