

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

BANDWIDTH MANAGEMENT  
INNOVATIONS, LLC,

Plaintiff,

v.

CELLCO PARTNERSHIP  
D/B/A VERIZON WIRELESS,

Defendant.

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Civil Case No. \_\_\_\_\_

**JURY TRIAL DEMANDED**

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Bandwidth Management Innovations, LLC, by way of its Complaint for Patent Infringement (“Complaint”) against Defendant Cellco Partnership d/b/a Verizon Wireless (“Verizon”), alleges as follows:

**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 Bandwidth Management Innovations, LLC (“BMI”) is a Delaware limited liability company with a place of business at 1220 N. Market Street, Suite 806, Wilmington, Delaware 19801.

3. Upon information and belief, Defendant Verizon is a partnership organized under the laws of Delaware with its principal place of business at One Verizon Way, Basking Ridge, New Jersey 07920.

**JURISDICTION AND VENUE**

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).
5. Venue is proper in this Judicial District under 28 U.S.C. §§ 1391(c) and 1400(b).
6. On information and belief, Verizon is subject to the jurisdiction of this Court by reason of its acts of patent infringement which have been committed in this Judicial District, and by virtue of its regularly conducted and systematic business contacts in this State. As such, Verizon 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.

**THE PATENT-IN-SUIT**

7. On November 30, 2004, U.S. Patent No. 6,826,620 (the “‘620 Patent”), entitled “Network Congestion Control System and Method,” was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the ‘620 Patent is attached as Exhibit A to this Complaint. BMI is the assignee and owner of the right, title and interest in and to the ‘620 Patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

**COUNT I – INFRINGEMENT OF U.S. PATENT NO. 6,826,620**

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

9. In violation of 35 U.S.C. § 271, Verizon has directly infringed and continues to directly infringe, both literally and under the doctrine of equivalents, at least claim 1 of the '620 Patent through its use of network congestion control methods, including the Verizon Network Optimization Policy ("VNOP"), in the operation of Verizon's communications networks (the "Infringing Instrumentalities"), including its 3G network, without the authority of BMI.

10. BMI provided actual notice to Verizon of its infringement of the '620 Patent in a letter sent by certified mail on December 20, 2012.

11. Verizon has had actual knowledge of the '620 Patent and its infringement of that patent since at least the date that Verizon received the December 20, 2012 letter.

12. Upon information and belief, Verizon has induced and continues to induce others to infringe at least claim 1 of the '620 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, Verizon's customers whose use in the United States of customer devices with the Infringing Instrumentalities in conjunction with Verizon's operation of the Infringing Instrumentalities constitutes direct infringement of the '620 Patent.

13. In particular, Verizon's actions that aid and abet others to infringe include requiring customer devices that use the Infringing Instrumentalities to comply with Verizon's network congestion control methods, including the VNOP. On information and belief, Verizon has engaged in such actions with specific intent to cause infringement or with willful blindness to the resulting infringement because Verizon has had actual knowledge of the '620 Patent and that its acts were inducing others to infringe the '620 Patent since at least the date it received the notice letter from BMI notifying Verizon that it was infringing the '620 Patent.

14. BMI has been harmed by Verizon's infringing activities.

15. BMI provided notice of infringement of the '620 Patent to Verizon, but Verizon thereafter continued to infringe the patent. On information and belief, Verizon's infringement has been and continues to be willful.

**JURY DEMAND**

16. BMI demands a jury trial on all issues and claims so triable.

**PRAYER FOR RELIEF**

**WHEREFORE**, BMI prays for judgment as follows:

- a. An adjudication that Verizon has infringed the '620 Patent;
- b. An award of damages to be paid by Verizon adequate to compensate BMI for Verizon's past infringement of the '620 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 Verizon 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 BMI 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.

Respectfully submitted,

Dated: February 4, 2013

STAMOULIS & WEINBLATT LLC

/s/ Richard C. Weinblatt

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