

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

CASSIDIAN COMMUNICATIONS, INC.,

Plaintiff,

v.

BANDWIDTH.COM, INC.,

Defendant.

CASE NO.: 6:13-cv- 217-orl-31GJK

JURY TRIAL REQUESTED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Cassidian Communications, Inc. hereby sues Defendant Bandwidth.com, Inc. (including its inetwork division) and alleges as follows:

PARTIES

1. Plaintiff Cassidian Communications, Inc. (“Cassidian”) is a California corporation registered to conduct business in the State of Florida and having its principal place of business at 45205 Rio Nedo in Temecula, California, 92590.

2. Upon information and belief, Defendant Bandwidth.com, Inc. (“Bandwidth”) is a Delaware corporation having its principal place of business at 4001 Weston Parkway, Cary, North Carolina, 27513.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code, § 100 *et seq.* Accordingly, this Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. Bandwidth is subject to personal jurisdiction in this State. Bandwidth has established minimum contacts with the State of Florida, including in this judicial district, has

regularly conducted and continues to regularly conduct business in the State of Florida, and has purposefully availed itself of the privilege of conducting business activities within the State of Florida. Bandwidth's activities include, upon information and belief, the use, offer for sale, sale, and/or purchase in the State of Florida of emergency communications systems that infringe one or more claims of Cassidian's patent, causing injury to Cassidian in Florida and this judicial district. Therefore, the exercise of personal jurisdiction over Bandwidth is appropriate under applicable jurisdictional statutes and would not offend traditional notions of fair play and substantial justice.

5. Venue is proper in the Middle District of Florida pursuant to 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b) because, *inter alia*, Bandwidth is subject to personal jurisdiction in this judicial district.

STATEMENT OF FACTS

6. Cassidian is the sole and exclusive owner of all rights, title and interest in and to United States Patent No. 6,774,858, titled *System and Method for Supporting Multiple Call Centers*, which the United States Patent and Trademark Office ("USPTO") duly and legally issued on June 1, 2004.

7. A true and correct copy of United States Patent No. 6,774,858 is attached hereto as **Exhibit 1**.

8. The USPTO re-examined United States Patent No. 6,774,858 and, on December 2, 2008, issued its Reexamination Certificate (the "Reexamination Certificate" and, together with United States Patent No. 6,774,858, the "'858 Patent").

9. True and correct copies of the USPTO's Reexamination Certificate and its assignment of record for the '858 Patent are attached hereto as **Exhibit 2** and **Exhibit 3**, respectively.

10. The '858 Patent discloses technologies for handling emergency communications, for example telephone calls to 9-1-1, including the routing of those calls to the appropriate Public Safety Answering Point ("PSAP") based on the location of the caller.

11. Upon information and belief, Bandwidth makes, uses, and sells, or offers to make, use, or sell – or otherwise provides throughout the United States and within the geographical area covered by the United States District Court for the Middle District of Florida – products and services that practice the systems and methods described by the claims of the '858 Patent.

12. Upon information and belief, on November 24, 2010, Cassidian – which was then known as Plant Equipment, Inc., d/b/a PlantCML – provided Dash Carrier Services – a company acquired by Bandwidth in February 2011 and otherwise its predecessor in interest – with written notice of the '858 Patent. On or about March 7, 2011, Cassidian provided Bandwidth with a second written notice of the '858 Patent. Upon information and belief, Bandwidth had actual knowledge of the '858 Patent prior to both of the foregoing written notice dates.

13. Next Generation 9-1-1 ("NG-911") is a combined public sector and industry initiative to upgrade emergency communications networks in the United States from legacy narrowband, circuit switched networks to broadband, packet switched technologies capable of carrying voice and large amounts of varying data types.

14. The National Emergency Number Association ("NENA") is a professional organization comprised of members of the public safety community with a focus on 9-1-1 policy, technology, operations and education issues. NENA also formulates and promulgates emergency communications standards for the industry. On June 16, 2011, NENA's Executive Board members approved the i3 standard for implementation of NG9-1-1 systems.

15. Upon information and belief, Bandwidth provides i3-compliant NG9-1-1 call routing systems and services to its customers.

16. On or about September 14, 2012, Bandwidth responded to the State of Florida's Request for Information concerning Florida Statewide NG-911 Routing Services (the "Florida RFI").

17. Bandwidth's response to the Florida RFI offered "an end-to-end, turnkey NG9-11 managed call routing service" with "[a]ll hardware, software, network and services proposed in the solution" being "provided by inetwork as a package" and with inetwork taking "full responsibility for the NG9-1-1 components" it provides. Bandwidth further responded by offering "a complete, end-to-end managed service. As such, inetwork includes all billable elements into one invoice."

18. Bandwidth is registered to do business in the State of Florida and maintains a registered agent at 2731 Executive Park Drive, Suite 4, Weston, Florida, 33331. Upon information and belief, Bandwidth's website domain host is also located in the State of Florida.

19. Upon information and belief, Bandwidth has sold and implemented a comprehensive i3-compliant NG9-1-1 routing system and services for the State of Alabama (the "Alabama System").

COUNT I

(Infringement of the '858 Patent)

20. Cassidian incorporates by reference the allegations of Paragraphs 1 through 19 above as if fully set forth herein.

21. Upon information and belief, in violation of 35 U.S.C. § 271(a), Bandwidth is and has been – for example and without limitation to proof of other infringing acts – directly infringing, by making, using, selling, and/or offering to sell in the United States, without

authority, systems or processes that practice the inventions claimed in the '858 Patent, including without limitation, Bandwidth's comprehensive i3-compliant NG9-1-1 routing system and services offered to the State of Florida and Bandwidth's Alabama System.

22. Upon information and belief, Bandwidth exerts sufficient control and direction over any subcontractors in implementing its comprehensive i3-compliant NG9-1-1 routing system and services that infringement of the '858 Patent can be attributed to Bandwidth.

23. Bandwidth has had actual knowledge of the '858 Patent since November 24, 2010 or before (and, in any event, by no later than March 7, 2011).

24. Upon information and belief, in violation of 35 U.S.C. § 271(b), Bandwidth is and has been – for example and without limitation to proof of other infringing acts – inducing the infringement of the '858 Patent by, knowingly and with intent, actively inducing customers to use Bandwidth's infringing systems and services, including without limitation Bandwidth's comprehensive i3-compliant NG9-1-1 routing system and services offered to the State of Florida and Bandwidth's Alabama System, in a manner that constitutes direct infringement of one or more claims of the '858 Patent.

25. Upon information and belief, in violation of 35 U.S.C. § 271(c), Bandwidth is and has been – for example and without limitation to proof of other infringing acts – contributing to the infringement of the '858 Patent by, knowingly and with intent, actively encouraging customers to use Bandwidth's infringing systems and services, including without limitation Bandwidth's comprehensive i3-compliant NG9-1-1 routing system and services offered to the State of Florida and Bandwidth's Alabama System, in a manner that constitutes direct infringement of one or more claims of the '858 Patent.

26. Upon information and belief, Bandwidth sells or offers to sell NG9-1-1 systems and services for use in practicing the inventions claimed in the '858 Patent, which

systems and services are material to practicing those inventions; Bandwidth's NG9-1-1 systems and services are especially made or especially adapted for use in the infringement of the '858 Patent; and Bandwidth's NG9-1-1 systems and services have no substantial non-infringing uses.

27. Upon information and belief, Bandwidth lacks any justifiable belief that there is no infringement or that the infringed claims are invalid. Bandwidth has therefore continued its actions despite an objectively high likelihood that its actions constitute infringement of a valid patent, making Bandwidth's infringement of the '858 Patent willful. As a result, Cassidian is entitled to an award of exemplary damages, attorneys' fees, and costs in bringing this action.

28. Upon information and belief, Bandwidth intends to continue its unlawful infringing activity related to the '858 Patent.

29. Bandwidth's acts of infringement have caused damage to Cassidian, and Cassidian is entitled to recover from Bandwidth the damages sustained by Cassidian as a result of Bandwidth's wrongful acts in an amount subject to proof at trial.

DAMAGES

30. As a result of Bandwidth's acts of infringement, Cassidian has suffered and will continue to suffer actual and consequential damages; however, Cassidian does not yet know the full extent of the infringement and its extent cannot be ascertained except through discovery and special accounting. To the fullest extent permitted by law, Cassidian seeks recovery of damages for at least lost profits, reasonable royalties, unjust enrichment, and any other benefits received by Bandwidth as a result of using the misappropriated technology. Cassidian further seeks any other damages to which it would be entitled in law or in equity.

ATTORNEYS' FEES

31. Cassidian is entitled to recover its reasonable and necessary attorneys' fees under applicable law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Cassidian respectfully requests that this Honorable Court enter such preliminary and final orders and judgments against Defendant Bandwidth as are necessary to provide Cassidian with the following relief:

- a. A judgment that Bandwidth infringes one or more claims of the '858 Patent;
- b. Actual economic damages;
- c. Exemplary treble damages as allowed by law;
- d. An injunction;
- e. Attorneys' fees;
- f. Pre-judgment interest as allowed by law;
- g. Costs of suit; and
- h. Such other and further relief in law or in equity to which Cassidian may show itself justly entitled.

DEMAND FOR JURY TRIAL

Cassidian respectfully demands a trial by jury as to all matters so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure.

Dated: February 8, 2013

/s/ Thomas A. Zehnder _____
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*(Motion to Appear Pro Hac Vice Forthcoming)

Counsel for Plaintiff Cassidian Communications, Inc.

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Exhibit Index to Plaintiff's Complaint

<u>Exhibit</u>	<u>Description</u>
1	United States Patent No. 6,744,858
2	USPTO's Reexamination Certificate (for United States Patent No. 6,744,858)
3	USPTO Patent Assignment of Record (for United States Patent No. 6,744,858)