

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

PARALLEL IRON, LLC,

Plaintiff

v.

AT&T INC.; AT&T OPERATIONS, INC.;
AT&T SERVICES, INC.; T-MOBILE USA,
INC.; VERIZON SERVICES CORP.;
VERIZON CORPORATE RESOURCES
GROUP, LLC; VERIZON
COMMUNICATIONS INC.; VMWARE,
INC.,

Defendants.

C.A. No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Parallel Iron, LLC files this complaint for patent infringement against Defendants AT&T Inc., AT&T Operations, Inc., AT&T Services, Inc., T-Mobile USA, Inc., Verizon Services Corp., Verizon Corporate Resources Group, LLC, Verizon Communications Inc., and VMware, Inc.:

PARTIES

1. Plaintiff Parallel Iron, LLC (“Parallel Iron”) is a Delaware limited liability company.

2. Defendant AT&T Inc. is a Delaware corporation with a principal place of business at 208 South Akard Street, Dallas, Texas 75202. AT&T Inc. has appointed The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801, as its agent for service of process.

3. Defendant AT&T Operations, Inc. (“AT&T Operations”) is a Delaware corporation with a principal place of business at 530 McCullough Avenue, San Antonio, Texas

78205. AT&T Operations has appointed The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801, as its agent for service of process. AT&T Operations was formerly known as SBC Operations, Inc., and is a wholly owned subsidiary of AT&T Inc.

4. Defendant AT&T Services, Inc. (“AT&T Services”) is a Delaware corporation with a principal place of business at 175 East Houston, San Antonio, Texas 78205. AT&T Services has appointed The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801, as its agent for service of process. AT&T Services was formerly known as SBC Services, Inc., and is a wholly owned subsidiary of AT&T Inc.

5. Defendant T-Mobile USA, Inc. (“T-Mobile”) is a Delaware corporation with a principal place of business at 12920 South East 38th Street, Bellevue, Washington 98006. T-Mobile has appointed Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808, as its agent for service of process.

6. Defendant Verizon Services Corp. (“Verizon Services”) is a Delaware corporation with a principle place of business at 1320 North Court House Road, Arlington, Virginia 22201. Verizon Services has appointed The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801, as its agent for service of process. Defendant Verizon Services has involvement with or responsibilities for Verizon’s FiOS fiber optic systems within the overall Verizon corporate structure.

7. Defendant Verizon Corporate Resources Group, LLC (“Verizon Corporate Resources Group”) is a Delaware corporation with a principle place of business at One Verizon Way, Basking Ridge, New Jersey 07920. Verizon Corporate Resources Group has appointed The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington,

Delaware 19801, as its agent for service of process. Defendant Verizon Corporate Resources Group is affiliated with Verizon Services and has involvement with or responsibilities for Verizon's FiOS fiber optic systems within the overall Verizon corporate structure.

8. Defendant Verizon Communications Inc. ("Verizon Communications") is a Delaware corporation with a principle place of business at 140 West Street, New York, New York 10007. Verizon Communications has appointed The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801, as its agent for service of process.

9. Defendant VMware, Inc. ("VMware") is a Delaware corporation with a principal place of business at 3401 Hillview Avenue, Palo Alto, California 94304. VMware has appointed The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801, as its agent for service of process. Hereinafter, AT&T Inc., AT&T Operations, AT&T Services, T-Mobile, Verizon Services, Verizon Corporate Resources Group, Verizon Communications, and VMware are collectively referred to as "Defendants."

JURISDICTION AND VENUE

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

11. This Court has personal jurisdiction over Defendants because, among other reasons, Defendants are incorporated under the laws of the State of Delaware and have established minimum contacts with the forum state of Delaware. Defendants, directly and/or through third-party intermediaries, make, use, import, offer for sale, and/or sell products and services within the State of Delaware. Additionally, on information and belief, Defendants have

committed and continue to commit acts of direct and indirect infringement in this District by making, using, importing, offering for sale, and/or selling infringing products, and inducing others to perform method steps claimed by Parallel Iron's patent in Delaware.

12. The defendants are properly joined in this matter because defendants AT&T, Verizon and TMobile are all using the same vSphere software, which is provided by defendant VMWare, and thus Parallel Iron's right to relief is at least with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences regarding vSphere software, and questions of law or fact common to all Defendants will arise in the action.

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

FACTUAL BACKGROUND

14. In this technological age, we take for granted the ability to access tremendous amounts of data through our computers and the Internet, a process that seems effortless and unremarkable. But this apparent effortlessness is an illusion, made possible only by technological wizardry. The amount of information that is used by many companies has outstripped the storage capacity of individual memory devices. The information must be stored across hundreds or thousands of individual memory devices and machines. The ability to keep track of information as it is distributed across numerous devices and machines, while still allowing users to access and retrieve it seamlessly upon request, is a feat that was impossible until recently. It was made possible by the innovations of technological pioneers like Melvin James Bullen, Steven Louis Dodd, William Thomas Lynch, and David James Herbison. Bullen, Dodd, Lynch and Herbison were, among others, members of a company dedicated to solving the difficult problems that limited the capacity of computer technology and the Internet, particularly problems concerning data storage. These engineers found innovative solutions for these

problems and patented several technologies for data storage, including the ones at issue in this case. Many of the data-access feats we take for granted today are possible because of the data-storage inventions of Bullen, Dodd, Lynch and Herbison. Bullen, Dodd, Lynch and Herbison invented revolutionary new ways of storing massive amounts of information across multiple memory devices that allow a storage system to track the information and quickly retrieve it, even when a memory device fails. In 2002, they applied for a patent covering their work, which the United States Patent Office issued in 2007 as U.S. Patent No. 7,197,662. Based on the same disclosure, the United States Patent Office issued U.S. Patent Nos. 7,543,177 and 7,958,388 in 2009 and 2011, respectively. They assigned their rights to these inventions to the company in which they were members.

15. Defendants are technology companies that have been using Parallel Iron's inventions, benefiting from the hard work of these engineers, without their consent, and without compensating them or their company.

COUNT I
INFRINGEMENT OF U.S. PATENT NO. 7,197,662

16. Parallel Iron realleges and incorporates by reference paragraphs 1-15 above.

17. Parallel Iron is the owner by assignment of United States Patent No. 7,197,662 ("the '662 patent") entitled "Methods and Systems for a Storage System." The '662 patent was duly and legally issued by the United States Patent and Trademark Office on March 27, 2007. A true and correct copy of the '662 patent is attached as Exhibit A.

18. Defendants make, use, offer for sale, sell and/or import into the United States products and/or services implementing VMware's vSphere ESX/ESXi 4.0/5.0 ("vSphere").

19. Upon information and belief, Defendants have infringed and continue to infringe the '662 patent in the State of Delaware, in this judicial district, and elsewhere in the United

States, by, among other things, making, using, importing, offering for sale and/or selling electronic data storage system products and/or services covered by one or more claims of the '662 patent. Such products and/or services include, by way of example and without limitation, those implementing vSphere, which are covered by one or more claims of the '662 patent, including but not limited to claim 14. By making, using, importing, offering for sale, and/or selling products and/or services that are covered by one or more claims of the '662 patent, Defendants have injured Parallel Iron and are thus liable to Parallel Iron for infringement of the '662 patent pursuant to 35 U.S.C. §271.

20. As a result of the Defendants' past infringement of the '662 patent, Parallel Iron has suffered monetary damages in an amount adequate to compensate for Defendants' past infringement, but in no event less than a reasonable royalty for Defendants' use of the invention, together with interest and costs as fixed by the Court. Parallel Iron will continue to suffer these monetary damages in the future unless Defendants' infringing activities are enjoined by this Court.

21. Parallel Iron will be irreparably harmed unless this Court issues a permanent injunction enjoining the infringement of '662 patent by the Defendants and their officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others who are in active concert or participation with them.

COUNT II
INFRINGEMENT OF U.S. PATENT NO. 7,958,388

22. Parallel Iron realleges and incorporates by reference paragraphs 1-15 above.

23. Parallel Iron is the owner by assignment of United States Patent No. 7,958,388 ("the '388 patent") entitled "Methods and Systems for a Storage System." The '388 patent was

duly and legally issued by the United States Patent and Trademark Office on June 7, 2011. A true and correct copy of the '388 patent is attached as Exhibit B.

24. Defendants make, use, offer for sale, sell and/or import into the United States products and/or services implementing VMware's vSphere ESX/ESXi 4.0/5.0 ("vSphere").

25. Upon information and belief, Defendants have infringed and continue to infringe the '388 patent in the State of Delaware, in this judicial district, and elsewhere in the United States, by, among other things, making, using, importing, offering for sale and/or selling electronic data storage system products and/or services covered by one or more claims of the '388 patent. Such products and/or services include, by way of example and without limitation, those implementing vSphere, which are covered by one or more claims of the '388 patent, including but not limited to claim 2. By making, using, importing, offering for sale, and/or selling products and/or services that are covered by one or more claims of the '388 patent, Defendants have injured Parallel Iron and are thus liable to Parallel Iron for infringement of the '388 patent pursuant to 35 U.S.C. §271.

26. As a result of Defendants' past infringement of the '388 patent, Parallel Iron has suffered monetary damages in an amount adequate to compensate for Defendants' past infringement, but in no event less than a reasonable royalty for Defendants' use of the invention, together with interest and costs as fixed by the Court. Parallel Iron will continue to suffer these monetary damages in the future unless Defendants' infringing activities are enjoined by this Court.

27. Parallel Iron will be irreparably harmed unless this Court issues a permanent injunction enjoining the infringement of '388 patent by the Defendants and their officers,

directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others who are in active concert or participation with it.

COUNT III
INFRINGEMENT OF U.S. PATENT NO. 7,543,177

28. Parallel Iron realleges and incorporates by reference paragraphs 1-15 above.

29. Parallel Iron is the owner by assignment of United States Patent No. 7,543,177 (“the ’177 patent”) entitled “Methods and Systems for a Storage System.” The ’177 patent was duly and legally issued by the United States Patent and Trademark Office on June 2, 2009. A true and correct copy of the ’177 patent is attached as Exhibit C.

30. Defendants make, use, offer for sale, sell and/or import into the United States products and/or services implementing VMware’s vSphere ESX/ESXi 4.0/5.0 (“vSphere”).

31. Upon information and belief, Defendants have infringed and continue to infringe the ’177 patent in the State of Delaware, in this judicial district, and elsewhere in the United States, by, among other things, making, using, importing, offering for sale and/or selling electronic data storage system products and/or services covered by one or more claims of the ’177 patent. Such products and/or services include, by way of example and without limitation, those implementing vSphere, which are covered by one or more claims of the ’177 patent. By making, using, importing, offering for sale, and/or selling products and/or services that are covered by one or more claims of the ’177 patent, Defendants have injured Parallel Iron and are thus liable to Parallel Iron for infringement of the ’177 patent pursuant to 35 U.S.C. §271.

32. As a result of Defendants’ past infringement of the ’177 patent, Parallel Iron has suffered monetary damages in an amount adequate to compensate for Defendants’ past infringement, but in no event less than a reasonable royalty for Defendants’ use of the invention, together with interest and costs as fixed by the Court. Parallel Iron will continue to suffer these

monetary damages in the future unless Defendants' infringing activities are enjoined by this Court.

33. Parallel Iron will be irreparably harmed unless this Court issues a permanent injunction enjoining the infringement of '177 patent by the Defendants and their officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others who are in active concert or participation with it.

PRAYER FOR RELIEF

For the above reasons, Parallel Iron respectfully requests that this Court enter:

- a. A judgment in favor of Parallel Iron that Defendants have infringed the '662 patent, the '388 patent, and the '177 patent;
- b. A permanent injunction enjoining Defendants and their officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert or participation with them, from infringing, inducing the infringement of, or contributing to the infringement of the '662 patent, the '388 patent, and the '177 patent;
- c. A judgment and order requiring Defendants to pay Parallel Iron its damages, costs, expenses, and prejudgment and post-judgment interest for Defendants' infringement of the '662 patent, the '388 patent, and the '177 patent as provided under 35 U.S.C. § 284; and
- d. Any and all other relief to which Parallel Iron may show itself to be entitled.

DEMAND FOR JURY TRIAL

Parallel Iron, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

February 22, 2013

BAYARD, P.A.

OF COUNSEL:

Marc Fenster
Alexander C.D. Giza
Paul A. Kroeger
Russ August & Kabat
12424 Wilshire Blvd., Suite 1200
Los Angeles, CA 90025
mfenster@raklaw.com
agiza@raklaw.com
pkroeger@raklaw.com
(310) 826-7474

/s/ Stephen B. Brauerman
Richard D. Kirk (rk0922)
Stephen B. Brauerman (sb4952)
Vanessa R. Tiradentes (vt5398)
222 Delaware Avenue, Suite 900
P.O. Box 25130
Wilmington, DE 19899
rkirk@bayardlaw.com
sbrauerman@bayardlaw.com
vtiradentes@bayardlaw.com
(302) 655-5000

Attorneys for Plaintiff Parallel Iron, LLC