

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

CALLWAVE COMMUNICATIONS, LLC.,)	
)	
)	CIVIL ACTION NO. _____
)	
Plaintiff,)	COMPLAINT FOR PATENT
)	INFRINGEMENT
)	
v.)	
)	
AT&T INC., AT&T MOBILITY LLC,)	JURY TRIAL DEMANDED
RESEARCH IN MOTION LIMITED, AND)	
RESEARCH IN MOTION CORP.,)	
)	
Defendants.)	

STATEMENT OF JURISDICTION

1. This Court has subject matter jurisdiction over this case under 18 USC §§ 1331, 1338(a).

NATURE OF THE ACTION

2. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 271, *et seq.*, to obtain damages resulting from Defendants' unauthorized manufacture, use, sale, offer to sell and/or importation into the United States for subsequent use or sale of products, methods, processes, services and/or systems that infringe one or more claims of United States Patent Nos. 6,771,970 and 7,907,933 (collectively the "Asserted Patents") (attached as Exhibits A and B).

3. This action for patent infringement involves Defendants' manufacture, use, sale, offer for sale, and/or importation into the United States of infringing products, methods, processes, services and systems that are primarily used or primarily adapted for use in

consumer telephony services, including but not limited to the Defendants' family location and direct carrier billing services (collectively, "Accused Products").

THE PARTIES

4. Plaintiff CallWave Communications LLC ("CallWave") is a Delaware limited liability corporation with its principal place of business in Newton, Massachusetts.

5. Plaintiff CallWave is the assignee or exclusive licensee of all substantial rights, title and interest in and to the Asserted Patents.

6. Defendant AT&T Inc. is a Delaware corporation headquartered at 208 S Akard Street, Dallas, Texas.

7. Defendant AT&T Mobility LLC is a Georgia corporation headquartered at 1025 Lenox Park Blvd., Atlanta, Georgia. Collectively, AT&T Inc. and AT&T Mobility LLC will be referred to as "AT&T".

8. AT&T is in the business of providing communication functionalities including, but not limited to, mobile telephony services, location tracking, mapping and navigation services, and mobile app and content distribution and billing services.

9. Defendant Research In Motion Ltd. is a Canadian corporation headquartered at 295 Phillip Street, Waterloo Ontario, Canada.

10. Defendant Research In Motion Corp. is a Texas corporation headquartered at 122 W. John Carpenter Parkway, Suite 430, Irving Texas. Collectively, Research In Motion Ltd. and Research In Motion Corp. will be referred to as "RIM."

11. RIM is in the business of providing communication functionalities including, but not limited to, mobile telephony services, location tracking, mapping and navigation services, and mobile app distribution.

12. Plaintiff has been and will continue to be harmed by Defendants' infringement of the Asserted Patents. Moreover, Defendants' unauthorized and infringing uses of Plaintiff's patented systems and methods have threatened the value of this intellectual property because Defendants' conduct results in Plaintiff's loss of its lawful patent rights to exclude others from making, using, selling, offering to sell and/or importing the patented inventions.

13. Defendants' disregard for Plaintiff's property rights threatens Plaintiff's relationships with potential licensees of Plaintiff's patents, including the Asserted Patents. The Defendants will derive a competitive advantage over any of Plaintiff's future licensees from infringing Plaintiff's patented technology.

JURISDICTION AND VENUE

14. This Court has jurisdiction over the subject matter of this patent infringement action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

15. Defendants are subject to personal jurisdiction in the State of Delaware because they are incorporated in and/or regularly transact business in this judicial district by, among other things, on information and belief offering their products and services to customers, business affiliates and partners located in this judicial district. In addition, on information and belief the Defendants have committed acts of direct infringement of one or more of the claims of the Asserted Patents in this judicial district.

16. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b) because the Defendants are subject to personal jurisdiction in this district, and have on information and belief committed acts of infringement in this district.

THE PATENTS-IN-SUIT

17. United States Patent No. 6,771,970 is entitled “Location Determination System” and relates to systems and methods for locating mobile devices.

18. United States Patent No. 7,907,933 is entitled “Call Routing Apparatus” and relates to systems and methods of processing a payment over a network.

EXEMPLARY ACCUSED PRODUCTS

19. RIM’s Maps and Protect allow a user to locate one or more mobile devices. Protect locates the devices using GPS or other location services, and displays the location of the devices on a map. Maps allows users to determine the location of their mobile device, and displays the location on map.

20. RIM’s App World is an online mobile app marketplace. It allows for online purchases made on the App World marketplace over the AT&T network to be billed directly to the purchaser’s AT&T phone bill.

DIRECT INFRINGEMENT OF UNITED STATES PATENT NO. 6,771,970

21. Paragraphs 1 through 20 are incorporated by reference as if fully restated herein.

22. Plaintiff CallWave is the exclusive licensee of all substantial rights and interest in and to the 6,771,970 Patent.

23. RIM makes, uses, sells, offers to sell and/or imports into the United States for subsequent sale or use RIM’s Maps and Protect.

24. On information and belief, RIM’s Maps and Protect infringe, or employ systems, components and/or steps that make use of systems or processes that infringe, one or more of the claims of the 6,771,970 Patent.

25. RIM has infringed one or more of the claims of the 6,771,970 Patent through the aforesaid acts, and will continue to do so unless enjoined by this Court.

26. Plaintiff is entitled to recover damages adequate to compensate for the infringement.

DIRECT INFRINGEMENT OF UNITED STATES PATENT NO. 7,907,933

27. Paragraphs 1 through 26 are incorporated by reference as if fully restated herein.

28. Plaintiff CallWave is the assignee and lawful owner of all right, title and interest in and to the 7,907,933 Patent.

29. Defendants make, use, sell, offer to sell and/or import into the United States for subsequent sale or use products, services, methods or processes that include the direct carrier billing functionality of the RIM App World on the AT&T network.

30. On information and belief, RIM infringes the 7,907,933 patent by providing direct carrier billing functionality of the RIM App World on the AT&T network.

31. On information and belief, AT&T infringes the 7,907,933 patent by providing direct carrier billing functionality for purchases on the RIM App World on the AT&T network.

32. RIM products that contain App World include the Curve, Bold, Torch, and Playbook.

33. The Defendants have infringed one or more of the claims of the 7,907,933 Patent through the aforesaid acts, and will continue to do so unless enjoined by this Court.

34. Plaintiff is entitled to recover damages adequate to compensate for the infringement.

WHEREFORE, Plaintiff prays for judgment against the Defendants, granting Plaintiff the following relief:

35. That this Court adjudge and decree that Defendants have infringed the Asserted Patents;

36. That this Court order an accounting, including a post-verdict accounting, to determine the damages to be awarded to Plaintiff as a result of the Defendants' infringement;

37. That this Court, pursuant to 35 U.S.C. § 284, enter an award to Plaintiff of such damages as it shall prove at trial against the Defendants that is adequate to compensate Plaintiff for said infringement, said damages to be no less than a reasonable royalty together with interest and costs;

38. That this Court assess pre-judgment and post-judgment interest and costs against the Defendants, together with an award of such interest and costs, in accordance with 35 U.S.C. § 284;

39. Grant to Plaintiff such other, further, and different relief as may be just and proper.

JURY DEMAND

40. Plaintiff demands a trial by jury of all matters to which it is entitled to trial by jury pursuant to FED. R. CIV. P. 38.

Dated: December 28, 2012

/s/ Edmond D. Johnson
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