

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

CALLWAVE COMMUNICATIONS, LLC,)	
)	CIVIL ACTION NO. 1:12-cv-01748-RGA
)	
)	
Plaintiff,)	SECOND AMENDED COMPLAINT FOR
)	PATENT INFRINGEMENT
)	
v.)	
)	
AT&T MOBILITY, LLC, AND)	JURY TRIAL DEMANDED
RINGCENTRAL, INC.,)	
)	
Defendants.)	
)	

STATEMENT OF JURISDICTION

1. This Court has subject matter jurisdiction over this case under 28 USC §§ 1331, and 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, and/or offer to sell in the United States of products, methods, processes, services and/or systems that infringe one or more claims of United States Patent Nos. 7,397,910; 7,555,110; 7,822,188; 8,325,901; 7,636,428; 8,351,591; 8,064,588; and, 7,839,987 (collectively the "Asserted Patents") (attached as Exhibits A-H, respectively).

3. This action for patent infringement involves Defendants' manufacture, use, sale, and/or offer for sale in 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, RingCentral Office and AT&T Office@Hand (the “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 of all substantial rights, title and interest in and to the Asserted Patents.

6. Defendant AT&T Mobility LLC (“AT&T”) is a Georgia corporation headquartered at 1025 Lenox Park Blvd., Atlanta, Georgia.

7. 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.

8. Defendant RingCentral, Inc. (“RingCentral”) is a California corporation headquartered at 1400 Fashion Island Boulevard #700, San Mateo, CA 94404.

9. 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.

10. Defendants’ disregard for Plaintiff’s property rights threatens Plaintiff’s relationships with potential licensees of Plaintiff’s patents, including the Asserted Patents. The

Defendant will derive a competitive advantage over any of Plaintiff's future licensees from infringing Plaintiff's patented technology.

JURISDICTION AND VENUE

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

12. Defendants are subject to personal jurisdiction in the State of Delaware because they are incorporated in, or, on information and belief, regularly transact business in this judicial district and, among other things, offer 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.

13. On its website, RingCentral offers infringing services for sale. RingCentral operates an interactive website that offers customers the ability to log-in and manage their accounts. RingCentral also offers for sale devices used to access the infringing services. On information and belief, this website is accessible from Delaware.

14. 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 committed acts of infringement in this district.

THE PATENTS-IN-SUIT

15. United States Patent No. 7,397,910 is entitled "Method and Apparatus for Providing Expanded Telecommunications Service" and relates, *inter alia*, to systems and methods of allowing a user to screen phone calls.

16. Unites States Patent No. 7,555,110 is entitled “Methods and Apparatus for Providing Expanded Telecommunications Service” and relates, *inter alia*, to systems and methods for allowing a user to screen phone calls.

17. United States Patent No. 7,822,188 is entitled “Methods and Apparatus for Providing Expanded Telecommunications Service” and relates, *inter alia*, to methods of placing calls from a call processing system in response to a request.

18. Unites States Patent No. 8,325,901 is entitled “Methods and Apparatus for Providing Expanded Telecommunications Service” and relates, *inter alia*, to systems and methods for allowing a user to screen phone calls.

19. United States Patent No. 7,636,428 is entitled “Systems and Methods for Call Screening” and relates, *inter alia*, to systems and methods of allowing a user to screen a call.

20. United States Patent No. 8,351,591 is entitled “Methods and Apparatus for Providing Expanded telecommunications Service” and relates, *inter alia*, to processing calls through a telecommunications system, including, at least, by storing in computer readable memory associated with a call processing system a first phone address associated with a first subscriber; storing in computer readable memory a plurality of phone addresses for the first subscriber; participating at the call processing system in a first call associated with the first subscriber, the first call associated with a second phone address different than the first phone address; placing a first outcall from the call processing system to a first called party, wherein the call processing system inserts at least a portion of the first phone address in a callerID field associated with signaling information associated with the first outcall; causing the first call and the first outcall to be bridged; participating at the call processing system in a second call

associated with the first subscriber, the second call involving a subscriber communication device associated with a third phone address different than the first phone address; placing a second outcall from the call processing system to a second called party, wherein the call processing system inserts at least a portion of the first phone address in a callerID field associated with signaling information associated with the second outcall; and causing the second call and the second outcall to be bridged.

21. United States Patent No. 8,064,588 is entitled “Systems and Method for Call Screening” and relates to, *inter alia*, systems and methods for allowing a user to screen a call.

22. United States Patent No. 7,839,987 is entitled “Methods and Systems for Creating a Dynamic Call Log and Contact Records” and relates to, *inter alia*, creating a dynamic call log and contact records.

EXEMPLARY ACCUSED PRODUCTS

23. RingCentral “Office,” a service offered by RingCentral, is a unified telephony product that provides, among other functionality, Voice-Over-Internet Protocol services (“VOIP”) and call screening capabilities.

24. On information and belief, AT&T Office@Hand by RingCentral is a service provided by RingCentral and sold through AT&T. Office@Hand is a unified telephony product that provides, among other functionality, the ability to place calls from a call processing system in response to a request, VOIP, and call screening capabilities.

25. On information and belief, AT&T and RingCentral cooperate to integrate, market, provide, offer, and sell Office@Hand.

DIRECT INFRINGEMENT OF UNITED STATES PATENT NO. 7,397,910

26. Paragraphs 1 through 25 are incorporated by reference as if fully restated herein.

27. Plaintiff CallWave is the assignee and lawful owner of all right, title and interest in and to the 7,397,910 Patent.

28. RingCentral uses, practices, and/or provides RingCentral Office in the United States.

29. AT&T uses, practices, and/or provides Office@Hand in the United States. On information and belief, RingCentral uses, practices, and/or provides Office@Hand in the United States.

30. Ring Central's use, practice, and/or provision of Office and, on information and belief, Office@Hand each infringes one or more claims of the 7,397,910 Patent. AT&T's use, practice, and/or provision of Office@Hand infringes one or more of the claims of the 7,397,910 Patent.

31. Defendants have infringed one or more of the claims of the 7,397,910 Patent through the aforesaid acts, and will continue to do so unless enjoined by this Court.

32. On December 27, 2012, CallWave provided, and on information and belief, RingCentral received a copy of the original Complaint (D.I. 1), providing notice of RingCentral's infringement of the 7,397,910, and 7,555,110 Patents.

33. On information and belief, RingCentral has been willfully infringing the 7,397,910 Patent since at least December 27, 2012, and RingCentral continues to willfully infringe.

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

DIRECT INFRINGEMENT OF UNITED STATES PATENT NO. 7,555,110

35. Paragraphs 1 through 34 are incorporated by reference as if fully restated herein.

36. Plaintiff CallWave is the assignee and lawful owner of all right, title and interest in and to the 7,555,110 Patent.

37. RingCentral uses, practices, and/or provides RingCentral Office in the United States.

38. AT&T uses, practices, and/or provides Office@Hand in the United States. On information and belief, RingCentral uses, practices, and/or provides Office@Hand in the United States.

39. Ring Central's use, practice, and/or provision of Office and, on information and belief, Office@Hand each infringes one or more claims of the 7,555,110 Patent. AT&T's use, practice, and/or provision of Office@Hand infringes one or more of the claims of the 7,555,110 Patent.

40. Defendants have infringed one or more of the claims of the 7,555,110 Patent through the aforesaid acts, and will continue to do so unless enjoined by this Court.

41. On information and belief, RingCentral has been willfully infringing the 7,555,110 Patent since at least December 27, 2012, and RingCentral continues to willfully infringe.

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

DIRECT INFRINGEMENT OF UNITED STATES PATENT NO. 7,822,188

43. Paragraphs 1 through 42 are incorporated by reference as if fully restated herein.

44. Plaintiff CallWave is the assignee and lawful owner of all right, title and interest in and to the 7,822,188 Patent.

45. RingCentral uses, practices, and/or provides RingCentral Office in the United States.

46. AT&T uses, practices, and/or provides Office@Hand in the United States. On information and belief, RingCentral uses, practices, and/or provides Office@Hand in the United States.

47. Ring Central's use, practice, and/or provision of Office and on information and belief, Office@Hand each infringes one or more claims of the 7,822,188 Patent. AT&T's use, practice, and/or provision of Office@Hand infringes one or more of the claims of the 7,822,188 Patent.

48. Defendants have infringed one or more of the claims of the 7,822,188 Patent through the aforesaid acts, and will continue to do so unless enjoined by this Court.

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

DIRECT INFRINGEMENT OF UNITED STATES PATENT NO. 8,325,901

50. Paragraphs 1 through 49 are incorporated by reference as if fully restated herein.

51. Plaintiff CallWave is the assignee and lawful owner of all right, title and interest in and to the 8,325,901 Patent.

52. RingCentral uses, practices, and/or provides RingCentral Office in the United States.

53. AT&T uses, practices, and/or provides Office@Hand in the United States. On information and belief, RingCentral uses, practices, and/or provides Office@Hand in the United States.

54. Ring Central's use, practice, and/or provision of Office and, on information and belief, Office@Hand each infringes one or more claims of the 8,325,901 Patent. AT&T's use, practice, and/or provision of Office@Hand infringes one or more of the claims of the 8,325,901 Patent.

55. Defendants have infringed one or more of the claims of the 8,325,901 Patent through the aforesaid acts, and will continue to do so unless enjoined by this Court.

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

DIRECT INFRINGEMENT OF UNITED STATES PATENT NO. 7,636,428

57. Paragraphs 1 through 56 are incorporated by reference as if fully restated herein.

58. Plaintiff CallWave is the assignee and lawful owner of all right, title and interest in and to the 7,636,428 Patent.

59. RingCentral uses, practices, and/or provides RingCentral Office in the United States.

60. Ring Central's use, practice, and/or provision of Office infringes one or more claims of the 7,636,428 Patent.

61. Defendant Ring Central has infringed one or more of the claims of the 7,636,428 Patent through the aforesaid acts, and will continue to do so unless enjoined by this Court.

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

DIRECT INFRINGEMENT OF UNITED STATES PATENT NO. 8,351,591

63. Paragraphs 1 through 62 are incorporated by reference as if fully restated herein.

64. Plaintiff CallWave is the assignee and lawful owner of all right, title and interest in and to the 8,351,591 Patent.

65. RingCentral makes, uses, sells, offers to sell, practices, and/or provides RingCentral Office in the United States.

66. AT&T uses, practices, and/or provides Office@Hand in the United States. On information and belief, RingCentral uses, practices, and/or provides Office@Hand in the United States.

67. Ring Central Office and Defendants' Office@Hand each at hand infringe one or more claims of the 8,351,591 Patent. Ring Central's use, practice, and/or provision of Office and, on information and belief, Office@Hand each infringes one or more claims of the 8,351,591 Patent. AT&T's use, practice, and/or provision of Office@Hand infringes one or more of the claims of the 8,351,591 Patent.

68. Defendants have infringed one or more of the claims of the 8,351,591 Patent through the aforesaid acts, and will continue to do so unless enjoined by this Court.

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

DIRECT INFRINGEMENT OF UNITED STATES PATENT NO. 8,064,588

70. Paragraphs 1 through 69 are incorporated by reference as if fully restated herein.

71. Plaintiff CallWave is the assignee and lawful owner of all right, title and interest in and to the 8,064,588 Patent.

72. RingCentral makes, uses, sells, offers for sale, practices, and/or provides RingCentral Office in the United States.

73. AT&T uses, practices, and/or provides Office@Hand in the United States. On information and belief, RingCentral uses, practices, and/or provides Office@Hand in the United States.

74. Ring Central's Office and Defendant's Office@Hand each infringe one or more claims of the 8,064,588 Patent. Ring Central's use, practice, and/or provision of Office and, on information and belief, Office@Hand each infringes one or more claims of the 8,064,588 Patent. AT&T's use, practice, and/or provision of Office@Hand infringes one or more of the claims of the 8,064,588 Patent.

75. Defendants have infringed one or more of the claims of the 8,064,588 Patent through the aforesaid acts, and will continue to do so unless enjoined by this Court.

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

DIRECT INFRINGEMENT OF UNITED STATES PATENT NO. 7,839,987

77. Paragraphs 1 through 76 are incorporated by reference as if fully restated herein.

78. Plaintiff CallWave is the assignee and lawful owner of all right, title and interest in and to the 7,839,987 Patent.

79. RingCentral uses, practices, and/or provides RingCentral Office in the United States.

80. AT&T uses, practices, and/or provides Office@Hand in the United States. On information and belief, RingCentral uses, practices, and/or provides Office@Hand in the United States.

81. Ring Central's use, practice, and/or provision of Office and, on information and belief, Office@Hand each infringes one or more claims of the 7,839,987 Patent. AT&T's use, practice, and/or provision of Office@Hand infringes one or more of the claims of the 7,839,987 Patent.

82. Defendants have infringed one or more of the claims of the 7,839,987 Patent through the aforesaid acts, and will continue to do so unless enjoined by this Court.

83. 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:

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

85. 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;

86. 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;

87. That this court, pursuant to 35 U.S.C. § 284, treble the damage award due to RingCentral's willful infringement of CallWave's patents;

88. 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;

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

JURY DEMAND

90. 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: April 18, 2013

/s/ James G. McMillan, III
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