

Q & A for Voip-Pal.com Inc. Legal Action

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For additional information, please contact the following
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On February 9th, 2016 Voip-Pal initiated a suit for patent infringement in the Federal District Court in Las Vegas, Nevada against Apple Inc. The case number is: 2:16-CV-00260.

On February 10th, 2016, Voip-Pal initiated a suit for patent infringement in the Federal District Court in Las Vegas, Nevada against AT&T Inc. (AT&T) and Verizon Wireless (Verizon). The case number is 2:16-CV-00271.

The cases were filed by **Alverson, Taylor, Mortensen & Sanders**, a leading litigation firm in Nevada.

Voip-Pal.com, Inc. has been incorporated in Nevada since 2006.

1.) Who is Voip-Pal? I have never heard of your company before.

Voip-Pal.com Inc. (“Voip-Pal”) is a publicly traded company, incorporated in Nevada, which acquired Digifonica International Limited (“Digifonica”) in 2013. Former members of the Digifonica board – Dr. Colin Tucker, Prof. Edwin Candy, Dr. Thomas Sawyer, and Digifonica co-founder Emil Malak – became directors of Voip-Pal, following the acquisition.

We have assembled an outstanding team of legal experts and engineers who will be supporting this litigation. We are represented by:

- **Alverson Taylor Mortensen & Sanders** – Provides full legal services in the fields of civil litigation and numerous other specialties; one of the largest law firms in Nevada, providing legal representation in all courts and forums throughout the state.
- **Knobbe Martens** – One of the leading technology intellectual property law firms in the United States; we are fortunate to have had John Carson overseeing all of our applications and discussions with the USPTO.
- **Smart & Biggar** – The leading technology intellectual property law firm in Canada; we are fortunate to have had John Knox overseeing all of our initial patent applications.
- **Dr. Ryan Thomas, JD, PhD** – General Counsel for Voip-Pal; over 30 years of experience in business, law and higher education.

The legal team is supported by the engineering and technical expertise of:

- **Dr. Colin Tucker PhD** – Chairman of the Board & Director Dr. Tucker is the former Director and CEO of Hutchison 3G, and **one of the three founding directors of Orange plc, a company that was brought from a startup company in 1991 with a handful of staff to an enterprise with revenues of £3bn p.a. operating in 6 countries by 2000. Orange plc was ultimately sold to France Telecom for 25BB Euro.**
- **Professor Ed Candy, PhD** – Director Professor Ed Candy is the former Technology Director of Hutchison 3G, serving as 3 Group Technology Director for Hutchison 3G from 2000 to 2009, where **he was primarily responsible for the technology of the world's most advanced 3G Networks operating across nine countries.**
- **Dr. Pentti Huttunen, PhD** - Director of Research and Development at Mobiliya Technologies. Dr Huttunen has been a part of Digifonica since 2006. He is an engineer and a co-inventor on several Digifonica patents. He earned a Masters Degree and a PhD in Computer Science from Lappeenranta University of Technology in Finland.
- **Dr. Alex Krapyvny PhD** – Dr. Krapyvny is one of the founders of Digifonica and has worked with Digifonica/Voip-Pal as an engineer since 2003. He is a graduate of Zaporozhye State University in the Ukraine and Moscow State University in Russia. He has a Master's Degree in Theoretical Physics and a PhD in Mathematics. Dr Krapyvny has served as a technical consultant on software applications for Digifonica and Voip-Pal.
- **Dr. Thomas Sawyer** – Dr. Sawyer is former Chairman and CEO of NACT Telecommunications, Inc. and former Chief Technology Officer of Global Light Telecommunications, Inc. Dr. Sawyer brings over forty-five years of technical and managerial experience in high-technology industries, government, and university faculties along with in-depth community relations experience at local, state, and federal levels. **He has served as a senior advisor to four U.S. Presidents: Nixon, Ford, Reagan, and George H. W. Bush.** Dr. Sawyer is the former Chairman and CEO of Voip-Pal and currently serves as a consultant to the Board of Directors.

For complete biographies, please visit our website: www.voip-pal.com

2.) How can your company afford such an expensive legal action, given that you are not currently generating income?

We are fortunate to have a contingency agreement with Alverson, Taylor, Mortensen & Sanders a top Nevada litigation firm.

Alverson Taylor Mortensen & Sanders will be supported by the following firms and attorneys:

- Knobbe Martens Leading IP law firm in the United States
- Smart & Biggar Leading IP law firm in Canada
- Dr. Ryan Thomas, JD, PhD General Counsel for Voip-Pal

Our legal team has extensive experience in patent law and litigation, and has overseen the patent application process with the USPTO. We are extremely confident that our patents will be upheld.

3.) Why have you filed this lawsuit?

Given the fundamental nature of our patents, we believe that it is in the best interest of our company to reach out to companies that have been and are currently using our technology, and attempt to work together to both protect their significant investments in strategic plans, while recognizing the value of our company's patented technology.

Regrettably, the three companies against which suits were filed, were unwilling to engage in discussion of licensing our intellectual property and technology. We have initiated the litigation as the logical next step to protect our interests. At the same time, we remain open to having meaningful negotiations with the three defendants. To that end, the company has decided to use some or all of the ninety days allowed under federal law to serve notice of a legal action in order to provide a window of opportunity for us to engage discussions that might lead to a license or sale of the protected intellectual property.

4.) Isn't this an example of a patent troll trying to hold a large company hostage?

Absolutely not. Digifonica began designing this system back in 2004, at the beginning of the internet communications explosion. At that time, the company had the vision that the Internet would one day become the dominant form of telecommunications capable of business and personal uses that would expand its impact and utility dramatically.

We designed, built and tested super-nodes and nodes in Canada, England, and Norway, spending more than \$17 million on development and execution in the process. At one time, we had more than twenty (20) engineers working on the software design and implementation. The platform offered a white-label VoIP service for a number of businesses to customize and run their own VoIP service. Digifonica operated, supported, and maintained the platform for all of its customers and subscribers. The company also operated a call centre to handle subscriber related issues. In addition to residential customers Digifonica offered wholesale services to businesses.

Due to the Great Recession in the mid 2000's, Digifonica was unable to continue supporting the platform, while it was continuing its significant investment in protecting the intellectual property it had developed. After developing our core patents in classification, routing and billing, mobile gateways and uninterrupted transmission with moving endpoints, the company developed surveillance and emergency contact (911) patents to ensure that the suite would comply with all applicable governmental requirements. The rapid adoption by manufacturers, telephony and social networking companies of many of technologies that the company developed and patented, confirmed our vision about the value of these patents, but resulted in wide usage without any royalties to repay the company's investments. **The infringing companies are making billions of dollars using technology that were conceived, designed, built, tested and patented by Digifonica.**

5.) We can see from the exhibits that you have had detailed correspondence with Apple, and they have still refuted your claims. Considering this, why are you taking legal action?

As you can see from the correspondence, we first initiated a dialogue with Apple in May 2014, and this dialogue continued through December 2014 without progress. At the time of initial contact, we already had a pending continuation in place with the USPTO, so we decided to focus our efforts on pursuing this important continuation patent that we believed would confirm our assertions regarding the patents in question. The notice of allowance for the continuation patent was received in August 2015, and we received the patent in November 2015. Unfortunately, when we presented the suite with the new patent to Apple, it was ignored.

6.) How can you justify damages of \$7,024,877,386.00?

In order to understand the monetization models, you must understand the **fundamental** nature of our patents.

7.) What do you mean by “fundamental?”

Every day, billions of calls, messages and payments are made (using existing applications, products and services) that utilize our patented technology. Further, given the current preferred method of routing Internet-based communications, which classifies calls using our **“caller attributes,”** we believe that our patents are not limited solely to mobile devices. (Please refer to question #8)

8.) What distinguishes the current routing technology that you have developed from older approaches?

Initially, Voice over Internet Protocol (VoIP) had connectivity, quality and reliability issues associated with the “multiple-hop” nature of Internet communication where an Internet communication begins in a local network then may “hop” through dozens of other networks before reaching the desired endpoint. This was vastly different from the “dedicated line” technology used by traditional phone systems, which involved connecting a continuous connection from caller to callee.

Important advances were made when additional information or “attributes” about callers and callees were collected so that Internet routing could be based upon a classification system that considered whether the caller and the callee were within the same network. To that initial “network” attribute, there were other attributes added that allowed the classification system to adapt to missing information and allowed missing or incorrect information to be inferred and updated from other attributes. **The Voip-Pal patents added the abilities to add, adapt, infer and update caller and callee attributes, thereby increasing versatility, reliability and quality of Internet communication.**

In our legal action, we have provided 16 claim charts that deal with only two patents of our ten patent suite, and more charts will be added. These claim charts clearly demonstrate that our patents have been and are being used and infringed upon. We welcome technical analysts within the telecommunications and information technology industries to perform their own independent analysis, which we believe will confirm our assertions.

We have written to more than 50 companies informing them of our 10 patent suite.

(Please see the attached patent tables for the United States and Canada)

9.) We appreciate that the patents have widespread application, but \$7,024,377,386 combined damages (Apple \$2,836,710,031; Verizon \$2,382,872,100; and AT&T \$1,804,795,745) is an extraordinary amount. Please explain your rationale for these figures.

As a benchmark/comparison for the royalty rate assumptions in our analysis, we have analyzed ten (10) recent major court decisions (and settlements) on damages for patent infringement, as detailed in the table below. The weighted average of the damage award/settlements as a percentage of infringing device/services estimated profits is 9.88%. **The royalty monetization analyses the Company has prepared utilize a royalty rate of one and one quarter percent (1.25%) of apportioned profits of infringing devices and services, which, again, is over 87% less than the weighted average of the below detailed court awarded damages rates.**

| Case # | Plaintiff | Defendant | Adj. Settlement / Court Award (\$) | Award / Settlement % of Relevant Profit |
|-------------------------|----------------------------|--------------------------------|---------------------------------------|--|
| 6:12-CV-00855 | VirnetX | Apple | \$625,633,841 | 0.48% |
| 14-CV-62 | WARF | Apple | 234,300,000 | 0.50% |
| 07CV113 | i4i | Microsoft | 290,640,316 | 0.73% |
| 607CV80 (LED) | VirnetX | Microsoft | 200,000,000 | 2.24% |
| 08-C-78-C | WARF | Intel | 110,000,000 | 3.61% |
| 12-CV-00630-LHK | Apple Inc. | Samsung Electronics Ltd. Inc. | 119,625,000 | 14.27% |
| 11-CV-01846-LHK | Apple Inc. | Samsung Electronics Ltd. Inc. | 547,860,041 | 19.18% |
| 09-CV-00290-NBF | Carnegie Mellon University | Marvell Technology Group, Ltd. | 278,406,046 | 22.57% |
| 11-CV-0367 | Summit 6, LLC | Samsung Electronics Ltd. Inc. | 15,000,000 | 25.86% |
| 10-CV-0248 | ActiveVideo Networks | Verizon Communications | 115,000,000 | 40.77% |
| WEIGHTED AVERAGE | | | | 9.88% |

We recognize that the 1.25% royalty rate is almost twice the amount awarded in the recent VirnetX litigation. The basis for this difference is the relative frequency of use of the Voip-Pal classification and routing patents as compared to the four Virnetx patents, which deal with creating a Virtual Private Network (VPN), which is typically used for a video conferencing or some other form of secure communication. The data that was available on the usage of the VPN patents suggested that they would be used approximately one fourth as often as the Voip-Pal classification and routing patents, which are used with almost all cellular and WiFi voice and message communications.

Apple Royalty Monetization Analysis

The Apple Royalty Monetization analyzes Apple's estimated historical profit from iPhone, iPad and Mac devices (for conservatism, we have excluded any figures from of iPod, Watch or Apple TV, and iTunes/App Store). For each device analyzed, an apportionment percentage rate is assigned as follows, based upon estimated consumer usage of key infringing features for each device, including iMessage, voice calling, WiFi calling and Facetime: iPhone, 55%; iPad, 35%; and Mac, 10%.

This results in an estimated apportioned profit figure per device. The 1.25% royalty rate is then applied to such apportioned profits to arrive at the stated figure.

The analysis does not reflect any amounts for royalties that may be owed to Voip-Pal by Apple for iPod, Watch, Apple TV, and iTunes and App Store revenues.

As an overall methodology note, we have applied these apportionments and rates to Apple figures on a global basis, based upon (i) the place of device invention/design and (ii) the location of company data centers that handle various data communications. In terms of invention and design, all of Apple's devices are designed in Cupertino, California (notably Apple's headquarters is in close proximity to the Silicon Valley USPTO). As far as data center locations, all of Apple's data centers are located within the United States Maiden, NC; Newark, Cupertino, and Santa Clara, CA; Reno, NV; and Prineville, OR.

Verizon Royalty Monetization Analysis

The Verizon Royalty Monetization analysis illustrates Verizon's estimated historical wireless segment profits from sales of its wireless services (equipment sales are excluded for conservatism). Service margins are applied to wireless services sales over the period to arrive at wireless service profit. Since the Voip-Pal patents are utilized nearly every time a call is placed, apportionment of 100% is applied to such profits. The 1.25% royalty rate is then applied to apportioned profits to arrive at total royalties.

AT&T Royalty Monetization Analysis

The AT&T Royalty Monetization analysis illustrates AT&T's estimated historical wireless segment profits from sales of its wireless services (equipment sales are excluded for conservatism). Service margins are applied to wireless services sales over the period to arrive at wireless service profit. Since the Voip-Pal patents are utilized nearly every time a call is placed, apportionment of 100% is applied to such profits. The 1.25% royalty rate is then applied to apportioned profits to arrive at total royalties.

Royalty Monetization Conclusion

Apple, Verizon and AT&T have enjoyed significant increase in market value and sales of smartphones and related services since the arrival of the iPhone and ensuing smartphone explosion.

The table below details the total implied value to Voip-Pal from the Royalty Monetization analyses for Apple, Verizon and AT&T combined. The sum of the royalty monetization analysis for each of the three companies totals \$7.024 billion.

| <u>Company</u> | <u>Royalty on Apportioned Profits</u> | <u>Royalty Monetization</u> |
|----------------|---------------------------------------|-----------------------------|
| Apple | 1.25 % | \$ 2,836,710,031 |
| Verizon | 1.25 % | \$ 2,382,872,100 |
| AT&T | 1.25 % | \$ 1,804,795,745 |
| TOTAL | 1.25 % | \$ 7,024,377,876 |

The Size of the Consumer Mobile Market

It is of further importance to look at these figures within the framework of the broader consumer mobile market. Over the five-year period through 2015, Apple generated \$637.7 billion in revenue from the sale of over 1.0 billion iMessage-enabled devices (iPhone, iPad, Mac; excludes Watch and iPod), and consumers sent and received an estimated 4.5 trillion iMessages.

Global shipments of non-iOS (Android, Blackberry and Windows) smartphones from 2012 to 2015 were a staggering 3.64 billion units (4.35 billion smartphone units including iPhone).

We have demonstrably chosen conservative royalty rates for our analyses. However, the application of even the most conservative rates to the incredible profits of these three companies over time results in very substantial figures.

We of course recognize that FaceTime and iMessage are free features offered by Apple. However, subscribers purchase Apple devices expecting a range of services that are enabled by our patented technology, including messaging, voice, photo/video sharing, and the ability to download applications.

10.) Why would the companies in question and/or those you have put on notice purchase or license your intellectual property? Is it simply to avoid litigation?

No, this is certainly not the only reason. We own the intellectual property rights to a portfolio of patented, inter-operable Internet telephony/telecommunications technologies that we can offer individually or in a bundle to other companies. Our solutions are not only innovative (as has been recognized by patent offices), notably, they are compliant with important government regulations pertaining to telecommunications:

- 1.) E-911 (US 8,537,805) – Allows consumers to be properly identified and located in event of emergency.
- 2.) Lawful Intercept (US 8,422,507) – Law enforcement agencies must have the ability to intercept communications to protect the public interest. Microsoft has been, to date, unsuccessful in addressing this issue with Skype.
- 3.) Un-Interrupted Transmission (US 8,675,566) – Cities around the world are becoming Wi-Fi enabled. Our technology seamlessly connects subscribers to the strongest available signal to maintain the best quality of service.
- 4.) Mobile Gateway (US 8,630,234) – This solves the problem of excessive roaming charges by enabling long distance calls to be treated by networks as local calls, greatly reducing costs to consumers.

Our intellectual property assets may therefore be very attractive to any large company that wishes to break into the burgeoning Internet telephony/telecommunications market. Not only can we provide the proprietary intellectual property needed to quickly create a functional solution, but we also have a portfolio of patent assets to protect the solution against existing players.

Alternatively, one of the existing players (such as Apple, Verizon, or AT&T), may wish to expand and solidify its technological edge by licensing or cross-licensing the technology.

Supplementary Data: Historical Market Capitalization Comparison

| | Market Capitalization as of | | | | | | |
|----------|------------------------------------|-------------------|-------------------|-------------------|-------------------|-------------------|--------------------|
| | FY 2010 | FY 2011 | FY 2012 | FY 2013 | FY 2014 | FY 2015 | Feb 9, 2016 |
| Apple | \$238,470,000,000 | \$342,630,000,000 | \$591,980,000,000 | \$416,630,000,000 | \$596,250,000,000 | \$539,710,000,000 | \$527,400,000,000 |
| Verizon | \$173,220,000,000 | \$177,480,000,000 | \$189,260,000,000 | \$183,760,000,000 | \$176,770,000,000 | \$192,090,000,000 | \$203,930,000,000 |
| AT&T | \$100,690,000,000 | \$113,220,000,000 | \$124,000,000,000 | \$140,740,000,000 | \$198,610,000,000 | \$214,890,000,000 | \$225,260,000,000 |
| Voip-Pal | N/A | N/A | N/A | \$156,870,000 | \$66,990,000 | \$63,600,000 | \$89,730,000 |

VoIP-Pal.com, Inc., Active North American Patent Matters as of November 6, 2015

| Country Code | Filing Date/ National Phase Entry Date | Application/ Patent Number | Title\Subject | File Status |
|--------------|--|-------------------------------|---|-------------|
| US | 05/03/2010 | 8422507 | INTERCEPTING VOICE OVER IP COMMUNICATIONS AND OTHER DATA COMMUNICATIONS | Issued |
| US | 15/04/2013 | 9143608 | INTERCEPTING VOICE OVER IP COMMUNICATIONS AND OTHER DATA COMMUNICATIONS | Issued |
| US | 17/07/2015 | 14/802929 | INTERCEPTING VOICE OVER IP COMMUNICATIONS AND OTHER DATA COMMUNICATIONS | Pending |
| US | 01/03/2010 | 8542815 | PRODUCING ROUTING MESSAGES FOR VOICE OVER IP COMMUNICATIONS | Issued |
| US | 13/08/2013 | 9179005 | PRODUCING ROUTING MESSAGES FOR VOICE OVER IP COMMUNICATIONS | Issued |
| US | 17/09/2013 | 9137385 | DETERMINING A TIME TO PERMIT A COMMUNICATIONS | Issued |
| US | 17/09/2013 | 8774378 | ALLOCATING CHARGES FOR COMMUNICATIONS SERVICES | Issued |
| US | 07/07/2014 | 14/325181 | ALLOCATING CHARGES FOR COMMUNICATIONS SERVICES | Pending |
| US | 14/09/2015 | 14/853705 | DETERMINING A TIME TO PERMIT A COMMUNICATIONS SESSION TO BE CONDUCTED | Pending |
| US | 07/10/2015 | 14/877570 | PRODUCING ROUTING MESSAGES FOR VOICE OVER IP COMMUNICATIONS | Pending |
| US | 05/03/2010 | 8537805 | EMERGENCY ASSISTANCE CALLING FOR VOICE OVER IP COMMUNICATIONS SYSTEMS | Issued |
| US | 15/08/2013 | 13/968217 | EMERGENCY ASSISTANCE CALLING FOR VOICE OVER IP COMMUNICATIONS SYSTEMS | Pending |
| US | 27/01/2011 | 8630234 | MOBILE GATEWAY | Issued |
| US | 24/09/2013 | 14/035806 | MOBILE GATEWAY | Pending |
| US | 16/03/2012 | 8,675,566 | UNINTERRUPTED TRANSMISSION OF INTERNET PROTOCOL TRANSMISSIONS DURING ENDPOINT CHANGES | Issued |
| US | 27/11/2013 | 9154417 | UNINTERRUPTED TRANSMISSION OF INTERNET PROTOCOL TRANSMISSIONS DURING ENDPOINT CHANGES | Issued |
| US | 17/07/2015 | 14/802872 | UNINTERRUPTED TRANSMISSION OF INTERNET PROTOCOL TRANSMISSIONS DURING ENDPOINT CHANGES | Pending |
| | | | | |
| CA | 30/04/2009 | 2668025 | PRODUCING ROUTING MESSAGES FOR VOICE OVER IP COMMUNICATIONS (Combination of Patents US 8542815 and US 9179005) | Allowed |