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Cellco Partnership d/b/a Verizon Wireless;
Verizon Services Corp.; and
11 Verizon Business Network Services LLC

12 **UNITED STATES DISTRICT COURT**

13 **NORTHERN DISTRICT OF CALIFORNIA**

14
15 CELLCO PARTNERSHIP d/b/a Verizon
16 Wireless;
17 VERIZON SERVICES CORP.; and
VERIZON BUSINESS NETWORK SERVICES
18 LLC,

19 Plaintiff,

20 v.

21 VOIP-PAL.COM, INC.,

22 Defendant.
23
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CASE NO. 5:21-cv-05275

**COMPLAINT FOR DECLARATORY
JUDGMENT OF NON-
INFRINGEMENT AND INVALIDITY**

DEMAND FOR JURY TRIAL

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1 Plaintiffs Cellco Partnership d/b/a Verizon Wireless (“Verizon Wireless”), Verizon
2 Services Corp., and Verizon Business Network Services LLC (collectively, “Verizon” or
3 “Plaintiffs”), by and through their counsel, file this Complaint against VoIP-Pal.com, Inc. (“VoIP-
4 Pal”) for declaratory judgment that Verizon does not infringe U.S. Patent No. 8,630,234 (the “’234
5 patent”) (Exhibit 1), that the ’234 patent is invalid, that Verizon does not infringe U.S. Patent No.
6 10,880,721 (the “’721 patent”) (Exhibit 2), and that the ’721 patent is invalid. The Honorable
7 Judge Lucy H. Koh of the Northern District of California has extensive experience with VoIP-
8 Pal’s patents, the technology claimed in its patents, and its litigation campaign against Verizon,
9 making it both logical and judicially efficient for the parties’ dispute to be heard in this Court.

10 INTRODUCTION

11 1. This is an action for a declaratory judgment arising under the patent laws of the
12 United States, Title 35 of the United States Code. Verizon seeks a declaratory judgment that it
13 does not infringe any claim of the ’234 and ’721 patents and that the ’234 and ’721 patents are
14 invalid. The action arises from a real and immediate controversy between Verizon and VoIP-Pal
15 as to whether Verizon infringes any claims of the ’234 and ’721 patents. The ’234 patent is
16 attached as Exhibit 1, and the ’721 patent is attached as Exhibit 2, both of which are entitled
17 “Mobile Gateway.”

18 2. This is not the first lawsuit between VoIP-Pal and a Verizon entity in this District.
19 As this Court has previously recognized, the parties have a long history. In 2016, VoIP-Pal filed
20 six lawsuits—one against Verizon entities, two against Apple, and three others against Amazon,
21 AT&T, and Twitter—collectively alleging infringement of six patents (“the 2016 cases”). After
22 its case against Twitter was transferred to this District, VoIP-Pal voluntarily consented to transfer
23 of the remaining cases to this District. (Exhibit 3) This Court subsequently found that all six
24 patents were invalid under 35 U.S.C. § 101 for claiming ineligible subject matter in two separate
25 Opinions. (Exhibits 4-5.) Both of this Court’s two decisions have already been affirmed by the
26 Federal Circuit pursuant to Fed. R. App. P. 36. (Exhibits 6-7)

27 3. Dissatisfied with this Court’s decisions, and in an apparent effort to avoid a
28 similar judgment, VoIP-Pal filed a cluster of lawsuits in 2020 against Verizon entities, Google,

1 Facebook, Apple, Amazon, and AT&T in the Western District of Texas, alleging infringement
2 of a seventh (and related) patent, the '606 patent, which is part of the same family as, shares a
3 common specification with, and contains similar claim language as, the six already-invalidated
4 patents.

5 4. Within weeks, Apple, Twitter, AT&T, and Verizon Wireless filed declaratory
6 judgment complaints in the Northern District of California, alleging noninfringement and
7 invalidity of VoIP-Pal's seventh patent, the '606 patent. VoIP-Pal moved to dismiss those
8 complaints under the first-to-file rule, arguing that its Western District of Texas complaints were
9 the first-filed cases. VoIP-Pal also sought dismissal for, *inter alia*, lack of personal jurisdiction
10 and improper venue. The Court declined to apply the first-to-file rule in the interests of judicial
11 efficiency. (Exhibit 8.) In particular, the Court noted that VoIP-Pal's argument "completely
12 ignores the history of disputes between the parties whether Plaintiffs infringe Defendant's family
13 of patents related to communications over internet protocol, including a set of cases filed in 2016
14 and another set filed in 2018, all of which were adjudicated by this Court." (*Id.* at 11.) The Court
15 also found that VoIP-Pal had no meaningful ties to the Western District of Texas and "decline[d]
16 to apply the first-to-file rule to permit [VoIP-Pal] to forum shop." (*Id.* at 13.) Accordingly, the
17 Court denied VoIP-Pal's motions. The Apple, Twitter, and AT&T declaratory-judgment cases
18 are still pending in this District. VoIP-Pal and Verizon agreed to a stipulation of dismissal on
19 May 26, 2021. (Case No. 20-cv-3092-LHK, Dkt. No. 73.)

20 5. One month later, still desperate to avoid this Court's jurisdiction, VoIP-Pal filed
21 yet another set of complaints against Verizon, AT&T, Apple, Google, Facebook, Amazon, and
22 T-Mobile in the Western District of Texas on June 25, 2021. (*See e.g.*, Exhibit 9.) VoIP-Pal
23 asserted another patent family. However, the '234 and '721 patents relate to the same subject
24 matter as VoIP-Pal's previous seven patents: call routing functionality based on callee identifiers.
25 The '234 and '721 patents share an inventor (Johan Emil Viktor Björsell) with all of VoIP-Pal's
26 previously asserted patents and, according to VoIP-Pal, again "originated from breakthrough
27 work and development in the internet protocol communications field" and reflect "significant
28 improvements to communications technology by the invention of novel methods, processes and

1 apparatuses that facilitate communications across and between internet protocol based
2 communication systems and other networks, such as internally controlled systems and external
3 networks (e.g., across private networks and between private networks and public networks),
4 including providing access to and routing through internet protocol based communication
5 systems.” (Exhibit 9 at 5.)

6 6. Similarly, VoIP-Pal accuses the same technology of infringement. For example,
7 in both the 2016 Northern District of California case and the 2020 Western District of Texas
8 case, VoIP-Pal accused Verizon’s “Wi-Fi Calling” of infringement. (Case No. 18-cv-6054, Dkt.
9 No. 10-9; Case No. 20-cv-327, Dkt. No. 1-2.) In the 2021 Western District of Texas, VoIP-Pal
10 accuses Verizon’s “Voice over WiFi or VoWiFi” of infringement. (Case No. 21-cv-672, Dkt.
11 No. 1-4, 1-5.) (*See* Exhibits 10-13.)

12 7. VoIP-Pal’s forum shopping attempts should be disregarded, and in the interests
13 of justice and judicial efficiency, any dispute between VoIP-Pal and Verizon concerning the ’234
14 and ’721 patents should be adjudicated in this District.

15 8. Verizon believes that it does not infringe the ’234 and ’721 patents, and it has not
16 infringed any claims of the ’234 and ’721 patents, and that the claims of the ’234 and ’721 patents
17 are invalid.

18 9. VoIP-Pal’s actions have created a real and immediate controversy between VoIP-
19 Pal and Verizon as to whether Verizon’s products and/or services infringe any claims of the ’234
20 and ’721 patents, and whether the claims of the ’234 and ’721 patents are invalid. The facts and
21 allegations recited herein show that there is a real, immediate, and justiciable controversy
22 concerning these issues.

23 THE PARTIES

24 10. Plaintiff Cellco Partnership d/b/a Verizon Wireless is a Delaware general
25 partnership with its principal place of business at One Verizon Way, Basking Ridge, New Jersey
26 07920.

27 11. Plaintiff Verizon Services Corp. is a Delaware corporation with its principal place
28 of business at 22001 Loudoun County Pkwy., Ashburn, Virginia 20147.

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