

1 Lewis E. Hudnell, III (CASBN 218736)

lewis@hudnelllaw.com

2 Nicolas S. Gikkas (CASBN 189452)

nick@hudnelllaw.com

3 HUDNELL LAW GROUP P.C.

4 800 W. El Camino Real Suite 180

Mountain View, California 94040

5 Telephone: 650.564.3698

6 Facsimile: 347.772.3034

7 Attorneys for Defendant

VOIP-PAL.COM, INC.

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

13 TWITTER, INC.,

14 Plaintiff,

15 v.

16 VOIP-PAL.COM, INC.,

17 Defendant.

Case No. 3:21-CV-09773-JD

**DEFENDANT VOIP-PAL.COM, INC.'S
OPPOSITION TO PLAINTIFF TWITTER,
INC.'S MOTION FOR LEAVE TO FILE A
FIRST AMENDED COMPLAINT**

Honorable James Donato

Date: October 20, 2022

Time: 10:00 a.m.

Courtroom 11, 19th Floor

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF CONTENTS

I. INTRODUCTION 1

II. STATEMENT OF FACTS..... 1

III. ARGUMENT 3

A. The Court Should Exercise its Discretion and Deny Twitter's Motion under Fed. R. Civ.
P. 15(d). 3

B. VoIP-Pal Will Suffer Undue Prejudice..... 5

C. Twitter Unduly Delayed in Filing its Motion. 6

D. Other Factors Favor Denying Leave to Amend..... 7

IV. CONCLUSION 8

TABLE OF AUTHORITIES

Cases

Ferring B.V. v. Serenity Pharm., LLC, 2019 U.S. Dist. LEXIS 2673 (S.D.N.Y. Jan. 7, 2019)..... 6

Jackson v. Bank of Hawaii, 902 F.2d 1385 (9th Cir. 1990)..... 6

Prasco, LLC v. Medicis Pharmaceutical Corp., 537 F.3d 1329 (Fed. Cir. 2008)..... 4

Texchem Advanced Products Inc. Sdn. Bhd. v. e.PAK Int’l Inc., 5:12-cv-1341-JGB, Dkt. No. 121
(C.D. Cal. June 11, 2014)..... 6

VoIP-Pal.Com, Inc. v. Apple Inc., 375 F. Supp. 3d 1110 (N.D. Cal. 2019) 6

VoIP-Pal.com, Inc. v. Apple Inc., 411 F. Supp. 3d 926 (N.D. Cal. 2019) 6

Waterton Polymer Prods. USA, LLC v. EdiZONE, LLC, No. 2:12-CV-17 TS, 2014 U.S. Dist. LEXIS
51968 (D. Utah Apr. 14, 2014) 8

Statutes

35 U.S.C. § 1338..... 4

Other Authorities

NDCAL Guidelines for Professional Conduct..... 7

Rules

Fed. R. Civ. P. 15(a)(1)..... 3

Fed. R. Civ. P. 15(d) 4

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF ABBREVIATIONS

ABBREVIATION	TERM
VoIP-Pal	Defendant VoIP-Pal.com, Inc.
Twitter	Plaintiff Twitter, Inc.
Apple	Apple, Inc.
AT&T	AT&T Corp., AT&T Services, Inc., and AT&T Mobility LLC
Verizon	Cellco Partnership d/b/a Verizon Wireless
Meta Platforms	Meta Platforms, Inc.
WhatsApp	WhatsApp, Inc.
Google	Google LLC
The '234 patent	U.S. Patent No. 8,630,234
The '721 patent	U.S. Patent No. 10,880,721
The Mobile Gateway patents	The '234 and '721 patents
RBR	Routing, Billing, Rating
WDTX	Western District of Texas
NDCAL	Northern District of California
<i>Twitter I</i>	<i>Twitter, Inc. v. VoIP-Pal.com, Inc.</i> , No. 5:20-cv-2397-LHK (N.D. Cal.)
<i>Twitter II</i>	<i>Twitter, Inc. v. VoIP-Pal.com, Inc.</i> , No. 5:21-cv-2769-LHK (N.D. Cal.)
<i>Twitter III</i>	<i>Twitter, Inc. v. VoIP-Pal.com, Inc.</i> , No. 5:21-cv-9773-EJD (N.D. Cal.)
The 2016 NDCAL cases	<i>VoIP-Pal.com, Inc. v. Twitter, Inc.</i> , No. 5:18-cv-04523-LHK (N.D. Cal.); <i>VoIP-Pal.com, Inc. v. Verizon Wireless Services, LLC</i> , No. 18-cv-06054-LHK (N.D. Cal.); <i>VoIP-</i>

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Pal.com, Inc. v. AT&T Corp., No. 3:18-cv-06177-LHK (N.D. Cal.); and *VoIP-Pal.com, Inc. v. Apple, Inc.*, No. 3:18-cv-06217-LHK (N.D. Cal.)

The 2018 NDCAL cases

VoIP-Pal.com, Inc. v. Amazon.com, Inc., No. 5:18-cv-7020 (N.D. Cal.) and *VoIP-Pal.com, Inc. v. Apple Inc.*, No. 5:18-cv-6216 (N.D. Cal.)

The 2020 WDTX cases

VoIP-Pal.Com, Inc. v. Facebook, Inc., No. 6:20-cv-00267-ADA (W.D. Tex.); *VoIP-Pal.Com, Inc. v. Google, LLC*, No. 6:20-cv-00269-ADA (W.D. Tex.); *VoIP-Pal.Com, Inc. v. Amazon.com, Inc. et al.*, No. 6:20-cv-00272-ADA (W.D. Tex.); *VoIP-Pal.Com, Inc. v. Apple, Inc.*, No. 6:20-cv-00275-ADA (W.D. Tex.); *VoIP-Pal.Com, Inc. v. AT&T, Inc. et al.*, No. 6:20-cv-00325-ADA (W.D. Tex.); and *VoIP-Pal.Com, Inc. v. Verizon Communications, Inc. et al.*, No. 6:20-cv-00327-ADA (W.D. Tex.)

The 2020 NDCAL (RBR) actions

Twitter, Inc. v. VoIP-Pal.com, Inc., No. 5:20-cv-2397-LHK (N.D. Cal.); *Apple, Inc. v. VoIP-Pal.com, Inc.*, Case No. 5:20-cv-02460-LHK (N.D. Cal.); *AT&T Corp., et al. v. VoIP-Pal.com., Inc.*, Case No. 5:20-cv-02995-LHK (N.D. Cal.); and *Cellco Partnership d/b/a Verizon Wireless v. VoIP-Pal.com., Inc.*, Case No. 5:20-cv-03092-LHK (N.D. Cal.)

The 2021 WDTX cases

VoIP-Pal.com, Inc. v. Facebook, Inc., et al., Case No. 6:21-cv-665-ADA (W.D. Tex.); *VoIP-Pal.com, Inc. v. Google, LLC*, Case No. 6:21-cv-667-ADA (W.D. Tex.); *VoIP-Pal.com, Inc. v. Amazon.com, Inc., et al.*, Case No. 6:21-cv-668-ADA (W.D. Tex.); *VoIP-Pal.com, Inc. v. Apple, Inc.*, 6:21-cv-670-ADA (W.D. Tex.); *VoIP-Pal.com, Inc. v. AT&T Corp., et al.*, 6:21-cv-671-ADA (W.D. Tex.); *VoIP-Pal.com, Inc. v. Verizon Communications, Inc., et al.*, 6:21-cv-672-ADA (W.D. Tex.); *VoIP-Pal.com, Inc. v. T-Mobile US, Inc., et al.*, 6:21-cv-674-ADA (W.D. Tex.); *VoIP-Pal.com, Inc. v. Samsung*

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.