

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

BLUE SPIKE LLC;  
BLUE SPIKE INTERNATIONAL LTD.;  
WISTARIA TRADING LTD.

Plaintiffs,

v.

RCN TELECOM SERVICES, LLC

Defendant.

**Civil Action No. 1:20-cv-06605**

**JURY TRIAL DEMANDED**

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Blue Spike LLC (“Blue Spike LLC”), Plaintiff Blue Spike International Ltd. (“Blue Spike Int.”), and Plaintiff Wistaria Trading Ltd. (“Wistaria”) (collectively, “Plaintiffs” or “Blue Spike”), for its Complaint against Defendant, RCN Telecom Services, LLC (referred to herein as “RCN” or “Defendant”), allege the following:

**NATURE OF THE ACTION**

1. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*

**THE PARTIES**

2. Plaintiff Blue Spike LLC is a limited liability company organized under the laws of the State of Texas.

3. Plaintiff Blue Spike Int. is a limited liability company established in Ireland with a place of business at Unit 6, Bond House, Bridge Street, Dublin 8. Blue Spike Int. was recently acquired by Blue Spike Inc., a Florida corporation.

4. Plaintiff Wistaria Trading Ltd. is a Bermuda corporation with a place of business at Clarendon House, 2 Church St., Hamilton HM 11, Bermuda.

5. Collectively, all substantive rights to the patents in suit reside with the Plaintiffs, including the rights to grant sublicenses, to exclude others from practicing the inventions taught therein, and to sue and obtain damages and other relief for past and future acts of infringement.

6. On information and belief, Defendant RCN Telecom Services, LLC is a Delaware limited liability company with its principal place of business located at 650 College Road East, Suite 3100, Princeton, NJ 08540.

7. On information and belief, Defendant has places of business at least at the following locations: 2640 West Bradley Place Chicago, IL 60618; 1808 W Montrose, Chicago, IL 60640; 4638 S Cottage Grove, Chicago, IL 60653; and 2735 N Clark St, Chicago, IL 60614.

8. On information and belief, RCN sells, offers to sell, and/or uses products and services throughout the United States, including in this judicial district, and introduces infringing products and services into the stream of commerce knowing that they would be sold and/or used in this judicial district and elsewhere in the United States.

9. On information and belief, RCN designs, develops, manufactures, sells, offers to sell, and/or imports products, devices, systems, and/or components of systems through certain accused instrumentalities (as discussed further below) that either infringe or support the infringement of the patents asserted in this action.

10. Plaintiffs seek monetary damages and prejudgment interest for RCN's past and ongoing direct and indirect infringement of the Patents in suit.

#### **JURISDICTION AND VENUE**

11. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code.

12. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

13. Venue is proper in this judicial district under 28 U.S.C. § 1400(b).

14. This Court has personal jurisdiction over RCN under the laws of the State of Illinois and this judicial District, due at least to its substantial business in Illinois and this judicial District, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in the State of Illinois. Venue is also proper in this district because RCN has a regular and established place of business in this District. For instance, RCN has offices and customer care representatives in this judicial District. For example, RCN has offices in this District located at 2640 West Bradley Place Chicago, IL 60618, employs persons within the State of Illinois and this District (*See, e.g.*, <https://www.rcn.com/images/pdfs/careers/2020/Chicago-IL.pdf> (RCN's Chicago, IL FCC Employment Report); and <https://recruiting.ultipro.com/RCN1000RCN/JobBoard/624d6141-f4fa-4f19-8493-34034c8044c3/?q=&o=postedDateDesc&w=&wc=&we=&wpst=&f4=r9VIW16QeVmBBIc4EWbh5Q> (RCN seeking an "Enterprise Account Executive" in Chicago, IL) (last visited Nov. 5, 2020)), and advertises and conducts business within the State of Illinois and this District (*See, e.g.*, <https://www.rcn.com/chicago/shop/> (last visited Nov. 5, 2020)).

15. Defendant is additionally subject to this Court's general and specific personal jurisdiction because Defendant has sufficient minimum contacts within the State of Illinois and this district, pursuant to due process and/or the Illinois Long Arm Statute, 735 ILCS § 5/2-209. On information and belief, Defendant transact business in the State of Illinois and this district; Defendant committed the tort of patent infringement in the State of Illinois and this district;

Defendant own, use, and/or possess real estate in the State of Illinois and this district, including at least at 2640 West Bradley Place Chicago, IL 60618; Plaintiffs' causes of action arise directly from Defendant's business contacts and other activities in the State of Illinois and this district; and Defendant distribute, make available, import, sell and offer to sell products and services throughout the United States, including in this judicial district, and introduced infringing products and services into the stream of commerce knowing that they would be used and sold in this judicial district and elsewhere in the United States.

16. Furthermore, personal jurisdiction over RCN in this action comports with due process. RCN has conducted and regularly conducts business within the United States and this District. RCN has purposefully availed itself of the privileges of conducting business in the United States, and more specifically in the State of Illinois and this District. RCN has sought protection and benefit from the laws of the State of Illinois by making available products and services through accused instrumentalities that infringe the Patents in suit with the awareness and/or intent that they will be used (or visited) by consumers in this District. Having purposefully availed itself of the privilege of conducting business within this District, RCN should reasonably and fairly anticipate being brought into court here.

## **BACKGROUND**

### **The Invention**

17. Scott A. Moskowitz is the inventor of U.S. Patent Reissue No. 44,222 ("the '222 patent"). A true and correct copy of the '222 patent is attached as Exhibit A.

18. Scott A. Moskowitz is the inventor of U.S. Patent Reissue No. RE 44,307 ("the '307 patent"). A true and correct copy of the '307 patent is attached as Exhibit B.

19. Scott A. Moskowitz is the inventor of U.S. Patent No. 8,473,746 (“the ’746 patent”). A true and correct copy of the ’746 patent is attached as Exhibit C.

20. Scott A. Moskowitz is the inventor of U.S. Patent No. 8,224,705 (“the ’705 patent”). A true and correct copy of the ’705 patent is attached as Exhibit D.

21. Scott A. Moskowitz is the inventor of U.S. Patent No. 7,287,275 B2 (“the ’275 patent”) (collectively, with the ’222 patent, the ’307 patent, the ’746 patent, and the ’705 patent (the “Packet Transfer patents”). A true and correct copy of the ’275 patent is attached as Exhibit E.

22. Scott A. Moskowitz and Marc Cooperman are the inventors of U.S. Patent No. 9,021,602 (“the ’602 patent”). A true and correct copy of the ’602 patent is attached as Exhibit F.

23. On March 24, 2018, the ’602 patent expired.

24. Scott A. Moskowitz is the inventor of U.S. Patent No. 9,104,842 (“the ’842 patent”) (collectively, with the ’602 patent, the “Watermarking patents”). A true and correct copy of the ’842 patent is attached as Exhibit G.

25. Scott A. Moskowitz and Michael Berry are the inventors of U.S. Patent No. 8,739,295 (“the ’295 patent”). A true and correct copy of the ’295 patent is attached as Exhibit H.

26. On August 4, 2020, the ’295 patent expired.

27. Scott A. Moskowitz and Michael Berry are the inventors of U.S. Patent No. 7,475,246 (“the ’246 patent”) (collectively, with the ’295 patent, the “Secure Server patents”). A true and correct copy of the ’246 patent is attached as Exhibit I.

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