IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

CYBERFONE SYSTEMS, LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civ. No. 11-827-SLR
	)	
CELLCO PARTNERSHIP, et al.,	)	
	)	
Defendants.	)	

CYBERFONE SYSTEMS, LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civ. No. 11-829-SLR
	)	
CNN INTERACTIVE GROUP, INC., et al.,	)	
	)	
Defendants.	)	

CYBERFONE SYSTEMS, LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civ. No. 11-831-SLR
	)	
AMAZON.COM, INC., et al.,	)	
	)	
Defendants.	)	

Richard D. Kirk, Esquire, Stephen B. Brauerman, Esquire and Vanessa R. Tiradentes, Esquire of Bayard, PA, Wilmington, Delaware. Counsel for Plaintiff. Of Counsel: Marc A. Fenster, Esquire, Bruce D. Kuyper, Esquire, Eric J. Carsten, Esquire and Fredricka Ung, Esquire of Russ, August & Kabat.

Jack B. Blumenfeld, Esquire, Karen Jacobs Louden, Esquire and Paul Saindon, Esquire of Morris, Nichols, Arsht & Tunnell LLP, Wilmington, Delaware. Counsel for

Moving Defendants.[1]

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MEMORANDUM OPINION

Dated: August 16, 2012
Wilmington, Delaware

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[1] Because the parties have authorized and stipulated to having Morris, Nichols, Arsht & Tunnell LLP file this motion (D.I. 267 in 11-827), and because other counsel have not been identified in the associated briefs, the court does not list them here.

ROBINSON, District Judge

I. INTRODUCTION

Plaintiff CyberFone Systems, LLC ("CyberFone" or "plaintiff"), previously named LVL Patent Group, LLC, is the assignee of U.S. Patent Nos. 6,044,382, 7,334,024 and 8,019,060 ("the '060 patent") relating to telecommunications technologies. CyberFone asserted infringement of combinations of these patents against a total of 175 defendants and 970 accused products across a span of 21 related cases. The '060 patent is asserted in all but five cases and is, in some instances, the only patent at issue.

On April 30, 2012, the court denied certain motions: (1) to sever and/or dismiss under Federal Rule of Civil Procedure 20; (2) to stay claims; (3) to dismiss direct infringement claims on the merits or based on the sufficiency of the pleadings; (4) to dismiss induced infringement claims based on the lack of pleading pre-suit knowledge. The court commensurately granted several motions to dismiss claims of contributory infringement.[2] (D.I. 183)[3]

Discovery is underway and will conclude in April 2013. (D.I. 154) A status conference was held on May 15, 2012, at which time the court granted defendants permission to file an early summary judgment motion related to their contention that the '060 patent is invalid under 35 U.S.C. § 101. (D.I. 199) That motion is presently before

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[2] There were 21 motions in total; based on the volume of motions, the court does not describe in detail their contents here (nor whether each was denied, denied in part, denied as moot, granted in part and denied in part, etcetera) and, instead, refers back to its prior order for the relevant details. (Civ. No. 11-827, D.I. 183)

[3] Unless provided otherwise, the court hereinafter references docket item numbers in Civ. No. 11-827.

the court. (D.I. 227 in 11-827; D.I. 147 in 11-829; D.I. 127 in 11-831)[4]

II. BACKGROUND

The '060 patent, entitled "Telephone/transaction entry device and system for entering transaction data into databases," was filed September 4, 2007 at U.S. Patent Application No. 11/849,952; it claims priority through a chain of continuation, divisional and continuation in part applications to May 19, 1995. The '060 patent issued September 13, 2011 and lists Rocco L. Martino as its sole inventor.

The invention of the '060 patent is described as a system for automatically capturing data at a point of transaction (e.g., a telephone in "transaction entry mode") and transmitting the data to one or more databases for processing and storage. ('060 patent, col. 1:27-42) A transaction entry device formats input data from a user into a data transaction, which is then transferred to an external (local or remote) database server. (*Id.*, col. 2:44-48; col. 3:12-15) The server "explodes" the data transaction into its component parts "on a system-specific basis so that each component part has a one-to-one correspondence with a file." (*Id.*, col. 2:47-51, col. 3:49-55) The specification states that "[t]he telephone/transaction entry device and the associated system for storing transaction data in accordance with the invention is unique in that it separates the user from the database and provides a simple, user friendly way to enter transaction data without requiring a local operating system to run various application programs." (*Id.*, col. 4:29-34) Further, "[s]ince all data is entered as data transactions determined by templates tailored to particular applications, the user applications may

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[4] Plaintiff's motion for leave to file a sur-reply is granted. (D.I. 262 in 11-827; D.I. 188 in 11-829; D.I. 160 in 11-831)

be generalized so that no unique user application programs need be written when a

new application is added." (*Id.*, col. 4:34-38)   The "system for entering data

transactions into databases in accordance with the invention" is described in figure 1 of
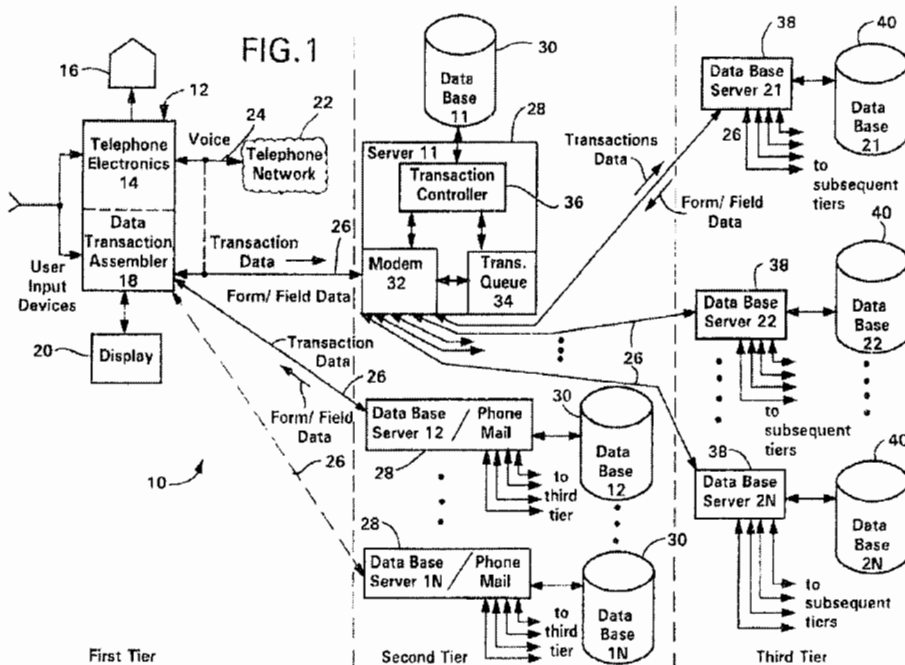
the '060 patent, reproduced below.

FIG.1

Figure 3 of the '060 patent, reproduced below, illustrates a data transaction being

"exploded" into its different subparts for storage "in a database-specific and file-specific

location." (*Id.*, col. 5:18-20)

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