IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CALLWAVE COMMUNICATIONS, LLC, Plaintiff, v. T-MOBILE USA, INC. and GOOGLE INC., Defendants.	)	C.A. No. 12-1703-RGA

T-MOBILE USA, INC.'S ANSWER AND DEMAND FOR JURY TRIAL

In response to the allegations of the First Amended Complaint for Patent Infringement ("Complaint") [D.I. 18] filed by plaintiff CallWave Communications LLC ("CallWave"), defendant T-Mobile USA, Inc. ("T-Mobile") responds as follows:

STATEMENT OF JURISDICTION[1]

1. T-Mobile admits this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a), but denies that T-Mobile has infringed, or is infringing, any claims of the United States Patent Nos. 6,771,970 ("the '970 patent") or 7,907,933 ("the '933 patent").

NATURE OF THE ACTION

2. T-Mobile admits that this action purports to allege claims for patent infringement against T-Mobile, but denies that it has infringed, or is infringing, any claims of the '970 patent or the '933 patent (collectively "the Asserted Patents"). T-Mobile further admits that the '970

[1] For the ease of reference, T-Mobile repeats the headings set forth in the Complaint. By doing so, T-Mobile makes no admission as to the truth of any factual allegations contained in or implied by those headings, and expressly denies any such allegation.

patent was attached as Exhibit A and the '933 patent was attached as Exhibit B to the Complaint. T-Mobile denies all other allegations of paragraph 2 of the Complaint.

3. T-Mobile admits this is an action for patent infringement, and that CallWave's allegations appear to be directed, in part, towards T-Mobile's consumer telephony services, but denies that it has infringed, or is infringing, any claims of the Asserted Patents. T-Mobile denies all other allegations of paragraph 3 of the Complaint.

THE PARTIES

4. T-Mobile lacks knowledge and information sufficient to admit or deny the allegations of paragraph 4 of the Complaint and on that basis denies them.

5. T-Mobile lacks knowledge and information sufficient to admit or deny the allegations of paragraph 5 of the Complaint and on that basis denies them.

6. T-Mobile lacks knowledge and information sufficient to admit or deny the allegations of paragraph 6 of the Complaint and on that basis denies them.

7. T-Mobile lacks knowledge and information sufficient to admit or deny the allegations of paragraph 7 of the Complaint and on that basis denies them.

8. T-Mobile admits that it is a Delaware corporation having a place of business at 12920 S.E. 38th Street, Bellevue, Washington 98006. T-Mobile denies all remaining allegations of paragraph 8 of the Complaint.

9. T-Mobile admits that it is in the business of providing mobile telephony services. T-Mobile denies all remaining allegations of paragraph 9 of the Complaint.

10. T-Mobile denies the allegations of paragraph 10 of the Complaint.

11. T-Mobile denies the allegations of paragraph 11 of the Complaint.

JURISDICTION AND VENUE

12. T-Mobile admits that this Court has subject matter jurisdiction over this action as it relates to T-Mobile pursuant to 28 U.S.C. §§ 1331 and 1338(a), but denies that it has infringed, or is infringing, any claims of the Asserted Patents. T-Mobile lacks knowledge and information sufficient to admit or deny the allegations of paragraph 12 of the Complaint as it relates to Google Inc. ("Google"), and on that basis denies those allegations.

13. T-Mobile admits that it is subject to personal jurisdiction in this Court for purposes of this action. T-Mobile lacks knowledge and information sufficient to admit or deny the allegations of paragraph 13 of the Complaint as it relates to Google, and on that basis denies those allegations. T-Mobile denies the remaining allegations of paragraph 13 of the Complaint.

14. T-Mobile admits that venue is proper in this Court for purposes of this action as it relates to T-Mobile. T-Mobile lacks knowledge and information sufficient to admit or deny the allegations of paragraph 14 of the Complaint as it relates to Google, and on that basis denies those allegations. T-Mobile denies the remaining allegations of paragraph 14 of the Complaint.

THE PATENTS-IN-SUIT

15. T-Mobile admits that United States Patent No. 6,771,970 is entitled "LOCATION DETERMINATION SYSTEM." The remaining allegations of paragraph 15 of the Complaint call for a legal conclusion, and on that basis T-Mobile denies them.

16. T-Mobile admits that United States Patent No. 7,907,933 is entitled "CALL ROUTING APPARATUS." The remaining allegations of paragraph 16 of the Complaint call for a legal conclusion, and on that basis T-Mobile denies them.

EXEMPLARY ACCUSED PRODUCTS

17. T-Mobile denies the allegations of paragraph 17 of the Complaint.

18. T-Mobile lacks knowledge and information sufficient to admit or deny the allegations in the first sentence in paragraph 18 of the Complaint, and on that basis denies them. T-Mobile admits that T-Mobile subscribers can elect to have purchases made on the Google Play Store billed directly to the subscriber's T-Mobile bill. T-Mobile denies the remaining allegations of paragraph 18 of the Complaint.

19. T-Mobile admits that T-Mobile subscribers can elect to have purchases made on the Google Play Store billed directly to the subscriber's T-Mobile bill. T-Mobile denies the remaining allegations of paragraph 19 of the Complaint.

DIRECT INFRINGEMENT OF UNITED STATES PATENT NO. 6,771,970

20. T-Mobile incorporates by reference its responses to paragraphs 1 through 19 of the Complaint as though fully restated herein.

21. T-Mobile lacks knowledge and information sufficient to admit or deny the allegations in paragraph 21 of the Complaint, and on that basis denies them.

22. T-Mobile admits that its users can download the Family Where app in the United States. T-Mobile denies the remaining allegations of paragraph 22 of the Complaint.

23. T-Mobile denies the allegations of paragraph 23 of the Complaint.

24. T-Mobile denies the allegations of paragraph 24 of the Complaint.

25. T-Mobile admits that on or around January 4, 2013, CallWave sent a letter ("the T-Mobile Letter") attaching a copy of the original complaint in this matter to T-Mobile and that the original complaint included allegations of infringement of the '970 and '933 patents. T-Mobile denies all remaining allegations of paragraph 25 of the Complaint.

26. The Court has dismissed CallWave's allegations of willful infringement. *See* Order (dated January 28, 2014) [D.I. 63] at 6. Thus, the allegations in this paragraph 26 of the

Complaint do not require a response. Nevertheless, T-Mobile denies the allegations of paragraph 26 of the Complaint.

27. The Court has dismissed CallWave's allegations of indirect infringement. *See* Order (dated January 28, 2014) [D.I. 63] at 6. Thus, the allegations in this paragraph 27 of the Complaint do not require a response. Nevertheless, T-Mobile admits that the T-Mobile Letter stated that CallWave believes that T-Mobile may be inducing its vendors and/or business partners to infringe the '970 patent, but denies that T-Mobile is inducing anyone to infringe the '970 patent. T-Mobile admits that it has a contractual relationship with a business partner for the business partner to provide services in connection with the Family Where app, but denies that T-Mobile has induced that business partner to infringe the '970 patent. T-Mobile denies the remaining allegations of paragraph 27 of the Complaint.

28. The Court has dismissed CallWave's allegations of indirect infringement. *See* Order (dated January 28, 2014) [D.I. 63] at 6. Thus, the allegations in this paragraph 28 of the Complaint do not require a response. Nevertheless, T-Mobile lacks knowledge and information sufficient to admit or deny the allegations of paragraph 28 of the Complaint and on that basis denies them.

29. The Court has dismissed CallWave's allegations of indirect infringement. *See* Order (dated January 28, 2014) [D.I. 63] at 6. Thus, the allegations in this paragraph 29 of the Complaint do not require a response. Nevertheless, T-Mobile denies the allegations of paragraph 29 of the Complaint.

30. The Court has dismissed CallWave's allegations of indirect infringement. *See* Order (dated January 28, 2014) [D.I. 63] at 6. Thus, the allegations in this paragraph 30 of the

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