

**FILED**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA**

2012 JAN -4 P 3:58

CLERK US DISTRICT COURT  
ALEXANDRIA, VIRGINIA

INNOVATIVE COMMUNICATIONS )  
TECHNOLOGIES, INC., )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
VIVOX, INC., )  
 )  
Defendant. )  
 )

Case No. 2:12CV7  
RGD/FBS

**JURY TRIAL DEMANDED**

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Innovative Communications Technologies, Inc. ("ICTI") for its Complaint against Defendant Vivox, Inc. ("Vivox" or "Defendant") alleges as follows:

**THE PARTIES**

1. Plaintiff ICTI is a Delaware corporation, with its principal place of business at 1655 Fort Myer Drive, #700, Arlington, VA 22209.
2. Defendant Vivox is a Delaware corporation with a principal place of business at 2-4 Mercer Road, Natick, MA 01760.
3. On information and belief, Defendant Vivox designs, develops, manufactures, and/or sells voice over internet protocol ("VoIP") products and/or services in the United States including Vivox's VoiceEverywhere Game Connect. For example, on information and belief, Vivox offers to sell and sells its VoIP products and/or services to game publishers to incorporate into online games.

**JURISDICTION AND VENUE**

4. This is an action for patent infringement that arises under the patent laws of the United States, Title 35 U.S.C. §1 *et seq.* and seeks damages and injunctive relief as provided in

35 U.S.C. § 281, §§ 283-285. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 and § 1338(a).

5. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b).

6. This Court has personal jurisdiction over Defendant because Defendant has done and is doing substantial business in this District, both generally and with respect to the allegations in this Complaint, and Defendant has committed one or more acts of infringement in this District.

### THE ASSERTED PATENTS

7. ICTI is the assignee of United States Patent Nos. 6,108,704; 6,513,066; 6,701,365; 6,131,121; and 6,009,469 (collectively, the “Asserted Patents”).

8. The Asserted Patents were previously litigated in *Net2Phone, Inc. v. eBay, Inc., et al.*, Civil Action No. 06-2469 (D.N.J.) (“Prior Litigation”).

9. In 2009, Skype, Inc. (“Skype”), one of the defendants in the Prior Litigation, requested that certain claims of the Asserted Patents be reexamined by the United States Patent and Trademark Office.

10. During reexamination, the Examiner considered over one thousand cited references.

11. During reexamination, the Examiner also considered Skype’s submissions, including its brief in support of its request for *ex parte* reexamination, a supporting declaration, claim charts, its comments on Net2Phone’s validity expert’s opinions, and the parties’ claim construction briefing from the prior litigation.

12. The Examiner confirmed the validity of numerous claims of the Asserted Patents, many without any amendments, over all of the cited references and over all of Skype's submissions.

**COUNT I**  
**INFRINGEMENT OF U.S. PATENT NO. 6,108,704**

13. ICTI incorporates paragraphs 1 through 12 as if fully set forth herein.

14. On August 22, 2000, United States Patent No. 6,108,704 ("the '704 Patent"), entitled "POINT-TO-POINT INTERNET PROTOCOL" (Exhibit A), duly and legally issued. ICTI owns all rights, title, and interest in and to the '704 Patent, including the right to sue for past infringement.

15. On October 26, 2010, an Ex Parte Reexamination Certificate (Exhibit B) duly and legally issued for the '704 Patent.

16. The claims of the '704 Patent are valid and enforceable.

17. Defendant Vivox has infringed and is infringing the '704 Patent, by at least selling, offering to sell, and using VoIP products and/or services, such as VoiceEverywhere Game Connect, that infringe one or more claims of the '704 Patent. Defendant Vivox has done so without authority and therefore has infringed the '704 Patent as set forth in 35 U.S.C. § 271.

**COUNT II**  
**INFRINGEMENT OF U.S. PATENT NO. 6,513,066**

18. ICTI incorporates paragraphs 1 through 12 as if fully set forth herein.

19. On January 28, 2003, United States Patent No. 6,513,066 ("the '066 Patent"), entitled "ESTABLISHING A POINT-TO-POINT INTERNET COMMUNICATION" (Exhibit C), duly and legally issued. ICTI owns all rights, title, and interest in and to the '066 Patent, including the right to sue for past infringement.

20. On November 23, 2010, an Ex Parte Reexamination Certificate (Exhibit D) duly and legally issued for the '066 Patent.

21. The claims of the '066 Patent are valid and enforceable.

22. Defendant Vivox has infringed and is infringing the '066 Patent, by at least selling, offering to sell, and using VoIP products and/or services, such as VoiceEverywhere Game Connect, that infringe one or more claims of the '066 Patent. Defendant Vivox has done so without authority and therefore has infringed the '066 Patent as set forth in 35 U.S.C. § 271.

**COUNT III  
INFRINGEMENT OF U.S. PATENT NO. 6,701,365**

23. ICTI incorporates paragraphs 1 through 12 as if fully set forth herein.

24. On March 2, 2004, United States Patent No. 6,701,365 ("the '365 Patent"), entitled "POINT-TO-POINT INTERNET PROTOCOL" (Exhibit E), duly and legally issued. ICTI owns all rights, title, and interest in and to the '365 Patent, including the right to sue for past infringement.

25. On August 3, 2010, an Ex Parte Reexamination Certificate (Exhibit F) duly and legally issued for the '365 Patent.

26. The claims of the '365 Patent are valid and enforceable.

27. Defendant Vivox has infringed and is infringing the '365 Patent, by at least selling, offering to sell, and using VoIP products and/or services, such as VoiceEverywhere Game Connect, that infringe one or more claims of the '365 Patent. Defendant Vivox has done so without authority and therefore has infringed the '365 Patent as set forth in 35 U.S.C. § 271.

**COUNT IV  
INFRINGEMENT OF U.S. PATENT NO. 6,131,121**

28. ICTI incorporates paragraphs 1 through 12 as if fully set forth herein.

29. On October 10, 2000, United States Patent No. 6,131,121 (“the ’121 Patent”), entitled “POINT-TO-POINT COMPUTER NETWORK COMMUNICATION UTILITY UTILIZING DYNAMICALLY ASSIGNED NETWORK PROTOCOL ADDRESSES” (Exhibit G), duly and legally issued. ICTI owns all rights, title, and interest in and to the ’121 Patent, including the right to sue for past infringement.

30. On December 14, 2010, an Ex Parte Reexamination Certificate (Exhibit H) duly and legally issued for the ’121 Patent.

31. The claims of the ’121 Patent are valid and enforceable.

32. Defendant Vivox has infringed and is infringing the ’121 Patent, by at least selling, offering to sell, and using VoIP products and/or services, such as VoiceEverywhere Game Connect, that infringe one or more claims of the ’121 Patent. Defendant Vivox has done so without authority and therefore has infringed the ’121 Patent as set forth in 35 U.S.C. § 271.

**COUNT V  
INFRINGEMENT OF U.S. PATENT NO. 6,009,469**

33. ICTI incorporates paragraphs 1 through 12 as if fully set forth herein.

34. On December 28, 1999, United States Patent No. 6,009,469 (“the ’469 Patent”), entitled “GRAPHIC USER INTERFACE FOR INTERNET TELEPHONY APPLICATION” (Exhibit I), duly and legally issued. ICTI owns all rights, title, and interest in and to the ’469 Patent, including the right to sue for past infringement.

35. On May 10, 2011, an Ex Parte Reexamination Certificate (Exhibit J) duly and legally issued for the ’469 Patent.

36. The claims of the ’469 Patent are valid and enforceable.

37. Defendant Vivox has infringed and is infringing the ’469 Patent, by at least selling, offering to sell, and using VoIP products and/or services, such as VoiceEverywhere

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