

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

Assurant, Inc.,

Plaintiff,

v.

Intellectual Ventures I LLC, Intellectual
Ventures II LLC, and Callahan Cellular
L.L.C.,

Defendants.

C.A. No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiff Assurant, Inc. (“Assurant”) brings this Complaint for Declaratory Judgment against Defendants Intellectual Ventures I LLC, Intellectual Ventures II LLC, and Callahan Cellular L.L.C. (collectively, “IV”) based on IV’s unjustified and unfounded allegations that Assurant’s operations directly and/or indirectly infringe certain patents purportedly held by IV. Assurant alleges as follows:

NATURE OF THE ACTION

1. This is an action under the patent laws of the United States, Title 35, United States Code, seeking a declaratory judgment against IV based on its accusations that Assurant infringes certain of its patents, including U.S. Patent Nos. 10,567,391 (“the ’391 Patent”), 8,332,844 (“the ’844 Patent”), 7,314,167 (“the ’167 Patent”), 7,949,785 (“the ’785 Patent”), and 7,712,080 (“the ’080 Patent”) (collectively, the “DJ Patents”), as set forth in Counts I-V, below.

2. On information and belief, Callahan Cellular L.L.C. is the assignee of the ’391 Patent.

3. On information and belief, Callahan Cellular L.L.C. possesses all rights, including enforcement, in the ’391 Patent.

4. On information and belief, Intellectual Ventures II LLC is the assignee of the '844 Patent and the '167 Patent.

5. On information and belief, Intellectual Ventures II LLC possess all rights, including enforcement, in the '844 Patent and the '167 Patent.

6. On information and belief, Intellectual Ventures I LLC is the assignee of the '785 Patent and the '080 Patent.

7. On information and belief, Intellectual Ventures I LLC possess all rights, including enforcement, in the '785 Patent and the '080 Patent.

THE PARTIES

8. On information and belief, Defendant Intellectual Ventures I LLC (“IV I”) is a Delaware limited liability company, with its principal place of business located at 3150 139th Avenue SE, Bellevue, Washington 98005.

9. On information and belief, Defendant Intellectual Ventures II LLC (“IV II”) is a Delaware limited liability company, with its principal place of business located at 3150 139th Avenue SE, Bellevue, Washington 98005.

10. On information and belief, Defendant Callahan Cellular L.L.C. (“Callahan”) is a Delaware limited liability company, with its principal place of business located at 2711 Centerville Road, Suite 400 Wilmington, Delaware 19808.

11. On information and belief, IV I, IV II, and Callahan have conspired to monetize the DJ patents, including but not limited to licensing the DJ Patents and/or engaging in litigation related to the DJ Patents.

12. On information and belief, IV I, IV II, and Callahan are owned and/or operated by a common entity, or are otherwise under common control.

13. On information and belief, Callahan has assigned hundreds of patents to IV I, IV II, and related entities.

14. On information and belief, many of the patents assigned by Callahan to IV I, IV II, or related entities have been subsequently asserted in litigation by IV I, IV II, and/or related entities.

15. By way of example, Callahan assigned U.S. Patent Nos. 7,016,963, 9,092,546 and 9,686,378 to IV II on September 18, 2018.

16. As part of the assignment, the same individual (Tracy Lemke) signed on behalf of both Callahan (as an Authorized Person) and IV II (as the Assistant Company Secretary).

17. Subsequently, IV II asserted each patent against VMware Inc. in the Western District of Texas. *See* Case Nos. 6-20-cv-00220, -00457.

18. As another example, Callahan assigned U.S. RE 42,153 to IV II on May 6, 2016.

19. As part of the assignment, Tracy Lemke signed on behalf of Callahan as an Authorized Person.

20. As alleged above, Tracy Lemke was the Assistant Company Secretary of IV II at the time of the assignment.

21. Subsequently, IV II asserted U.S. RE 42,153 against Arista Networks, Inc. and Hewlett Packard Enterprise Company in the Western District of Texas. *See* Case Nos. 6-20-cv-00749, 6-21-cv-00226.

22. As another example, Callahan assigned U.S. Patent No. 7,199,715 to IV II on August 4, 2016.

23. As part of the assignment, the same individual (Tracy Lemke) signed on behalf of both Callahan and IV II as an Authorized Person of both parties.

24. Subsequently, IV II asserted U.S. Patent No. 7,199,715 against FedEx Corporation in the Eastern District of Texas. *See* Case No. 2-16-cv-00980.

25. As another example, Callahan assigned U.S. Patent No. 6,782,370 to IV II on Feb. 15, 2016.

26. As part of the assignment, Tracy Lemke signed on behalf of Callahan as an Authorized Person.

27. As alleged above, Tracy Lemke was the Assistant Company Secretary of IV II at the time of the assignment.

28. Subsequently, IV II asserted U.S. Patent No. 6,782,370 against J Crew Group, Inc. and FTD Companies, Inc. in the Eastern District of Texas. *See* Case Nos. 6-16-cv-00195, -00196.

29. Assurant is a domestic corporation organized under the laws of the state of Delaware, with its principal place of business located at 260 Interstate N Cir SE, Atlanta, GA 30339.

30. Assurant is a leading global provider of comprehensive risk management solutions for the auto, lifestyle, and housing protection sectors. Assurant also helps businesses manage the risk of property damage, liability, and financial loss, theft, and natural disasters.

JURISDICTION AND VENUE

31. Assurant repeats the allegations in the preceding paragraphs as if fully set forth herein.

32. This Declaratory Judgment Complaint includes counts for declaratory relief under the patent laws of the United States, 35 U.S.C. §§ 1, *et seq.*

33. Pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, Assurant seeks a declaration from the Court that Assurant does not infringe the DJ Patents, described in the following paragraphs.

34. This Court has subject matter jurisdiction over the claims alleged in this action under 28 U.S.C. §§ 1331, 1338, 2201, and 2202 because this Court has exclusive jurisdiction over declaratory judgment claims arising under the patent laws of the United States pursuant to 28 U.S.C. §§ 1331, 1338, 2201, and 2202.

35. This Court can provide the declaratory relief sought in this Declaratory Judgment Complaint because an actual case and controversy exists between the parties within the scope of this Court's jurisdiction pursuant to 28 U.S.C. § 2201.

36. An actual case and controversy exists because IV has accused Assurant of infringing the DJ Patents and indicated its intention to take the steps necessary to protect its intellectual property rights. As discussed below, Assurant does not infringe and has not infringed the DJ Patents; and therefore, Assurant has the right to engage in the complained-of activity, to the extent it even conducts the complained-of activity at all, much less in the United States.

37. IV's actions have created a real, immediate, and justiciable dispute between Assurant and IV as to whether Assurant's operations infringe the DJ Patents.

38. IV's actions include threatening emails that Assurant is purportedly required to license the DJ Patents, specific allegations that Assurant infringes each of the DJ Patents, representations that IV intends to pursue future litigation against companies who do not license its patent portfolio, IV's warning that "if you plan to take a license, you do so sooner than later," and the history of litigation by IV against other entities it claims are in similar positions as Assurant.

39. On Wednesday, January 3, 2024, Steve Joroff contacted Assurant on behalf of IV to "initiate a dialogue concerning intellectual property and licensing matters with Assurant." A reproduction of that January 3, 2024, email from Mr. Joroff is depicted below. As the Vice

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